REEL NO. 44-52

END

FIRST

SIDE

COUNTER NUMBER 78522

HOUR 8.25

OPERATOR'S INITIALS LS

RELIEVING OPERATOR _____

*All proved [illegible] ter not [illegible] to the [illegible] Court being [illegible] should be [illegible] out and [illegible] by the President.

[illegible] District

[illegible] Field.
[illegible] Major-General
[illegible] Division.

[illegible] Pt Coy
R.C.E.
[illegible] 3 Div Pet Coy
[illegible]
CH.O.O (M.G.

[illegible] Advocate.
[illegible] CH.O.O.
[illegible] the summary
[illegible]
[illegible] available.
[illegible] the Court.
[illegible] Procedure 22
[illegible] CH.O.O.
[illegible] CH.O.O.

[illegible] read over in
[illegible] names.
[illegible] the officers

[illegible] with the decision
[illegible]
[illegible] (if any).

Question by [illegible] President [illegible] accused.

Answer by [illegible] accused.

[illegible]

CHARGE SHEET

C-20964 Pte. Leblance, E.R.J. of the 1st Battalion Cameron Highlanders of Ottawa (M.G.) is charged with the following:-

1st CHARGE
Sec 15(1) A.A.

Whilst on Active Service, while ~~in custody~~ CONFINED TO BARRACKS, absenting himself without leave,

in that he,

on 2 Aug 42, absented himself without leave from 1400 hrs until apprehended at WATFORD at 1100 hrs on 18 Aug 42 by the Regt'l Police, 3rd Res Med Regt, R.A. and also incurring cost of transportation to the sum of 10s10d (Total time A.W.L. 15 days, 21 hrs.)

(W.S. MacKenzie) Major
A/Officer Commanding
1st Bn., C.H. of O(MG)

In the Field
GLT/MJD

To be tried by Field General Court-Martial.

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

28 AUG 42

1st Battalion Cameron Highlanders of Ottawa (MG)

CHO/5-8
28 Aug 42

TO WHOM IT MAY CONCERN:

This is to certify that I have medically examined C-20964 Pte Leblanc, E.R.J. and find him medically fit to undergo trial by Court Martial.

CAMERON HIGHLANDERS OF OTTAWA
ORDERLY ROOM
AUG 28
C.A.S.F.

.....Major
(Medical Officer)
1st Bn., C.H. of O(MG)

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-20964 Private E.R.J. LEBLANC, 1st Bn Cameron Highlanders of Ottawa (MG).	Charge Section 15(1) Army Act	GUILTY	GUILTY. 60 DAYS DETENTION AND TO MAKE GOOD THE SUM OF TEN SHILLINGS AND TEN PENCE BY BEING PLACED UNDER STOPPAGE OF PAY TO THAT AMOUNT. Dated in the field this 28th day of August 1942	Confirmed C.B.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) C B Price (Signed) [signature] Major

(C.B.Price) Major-General.
Commanding 3rd Canadian Division. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn. 3. The Judge Advocate

* Omit if not applicable.

Signed this 28th day of August 1942

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

[signature]
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 1st day of September 1942

C B Price
Confirming Officer.

Promulgated and extracts taken in the case of C-20964 Pte E R J Leblanc

(a) (Dated) 3 Sep 1942 (Signed) [signature] Lt-Col.
COMMANDING LT-COL.
CAMERON HIGHLANDERS OF OTTAWA, (M.G.) C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C-20964 Pte E.R.J. Leblanc
C.H.of O. (MG)

Army Form A.3. 69W "G"

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of August, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint ...~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely ...]~~

PROCEEDINGS REVIEWED.
Gm Graham Capt
Convening officer (C.M.G.) C.H.of O.
19 Sep 42

Judge-Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank	Name	Regiment
Major	V.C. Hamilton	~~H.Q. R.C.H. 3 Cdn Div.~~ 3rd Cdn Fld. Park Coy RCE

Members.

Rank	Name	Regiment
Captain	J.C. Wyland	3 Cdn Div Petrol Coy, RCASC.
Lieutenant	D. McClymont	C.H. of O. (MG)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed. C B Price
(C.B.Price) Major-General.
Commanding 3rd Canadian Division.
Convening Officer.

Pte Leblanc A-F J.

O. H. M. S.

M. F. B. 270

I desire the convening officer to detail an officer to represent me at my forth coming trial by Court Martial.

I desire the services of Lieut ~~A.C.Sim~~ W.J. Ripley .....if he is avaiable.

E L Le Blanc

List of witnesses in the case of F66729 Pte LeBlanc, E.L.

For the Prosecution:

Lieut W.A.Nelson C.B.Highrs
F55219 Sgt Moss, W.G. "

For the Defence:

NIL

SUMMARY OF EVIDENCE

Summary of evidence in the case of F66729,Pte LeBLANC,Evert Lorne,B Coy. Cape Breton Highlanders;C.A.,C.M.F.,charged with one offence under Sec. 12-1-A of the Army Act.

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

First Witness: Lieut. W.A.Nelson ;Cape Breton Highlanders,having been duly sworn,states:

I am Lieut W.A.Nelson,in command of 11 Platoon,B Coy. Cape Breton Highlanders.I was in command of that platoon on the 10 Dec. 44.,and F66729 Pte LeBlanc E.L. was a member.At approx. 1400 hrs. 10 Dec.44,I gave the orders for the Lamone River Crossing to the men who were to paddle the assaulting companies across.LeBlanc was detailed by me to a spare boat crew.Every man was given exact instructions in regard routes to the river and zero hour. At approx. 1730 hrs. 10 Dec.44,I placed Pte LeBlanc on guard at the boat off-loading point,with instructions to watch the boats LeBlanc told me his nerves were bad and that he couldn't stay on guard,but as there was no enemy fire at that time I did not replace him.C Company,to which Pte LeBlanc E.L. was attached,moved to the F.U.P. at approx. 1815 hrs 10 Dec.44.All the paddlers knew they were to move to the river bank with the leading assaulting Company. After the leading company was across the river,I reorganized all paddlers in a house beside the river,searching the bank and all dug-outs to ensure nobody was forgotten.I checked all the men and found that LeBlanc was not present,I reported his absence to Company Headquarters.I did not see him again until he reported to the platoon on 12th Dec. 44 at about 1330 hours.

W.A.Nelson.....

The accused declines to cross examine the witness.

Second Witness:F55219 Sgt Moss W.G.,B Coy. Cape Breton highlanders, having been duly sworn states:

I am F55219 Sgt. Moss W.G.,11 Platoon B Coy. Cape Breton Highlanders.I recognize here F66729 Pte LeBlanc E.L. as a member of 11 Platoon. I was present at platoon headquarters when LeBlanc reported in at 1330 hrs 12 Dec.44.LeBlanc had not been present with the platoon from the time we crossed the Lamone River on 10 Dec. 44 until he reported in on the 12 DEC.44.

W.G.Moss.....

The accused declines to cross examine the witness.

The accused was warned as follows.
Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so,but whatever you say or any evidence that you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

E.L.LeBlanc.....

I certify that R.P.4 has been complied with.

Taken by me in the field,in the presence and hearing of the accused this 17th day of January 1945.

W.A.Nelson Lieut.....
Officer taking Summary

W. T. Ridge Lt EX "Z"

No F66729 Name LeBlanc, E. L. Sqn, Battery, or Company — Corps CIC Date of enlistment 22 Feb 43 GC Badges — Service Pro[illegible] Pay 1.50

MFM 6 (AFB 122) 40/PAS/136 (3488)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No Entries.					

"Duplicate created from MFM 4 - 4 Apr 45. Record of conduct in Canada prior to TOS Cdn Army Overseas 29 Jul 43 not available"

J Wright Lieut
Officer i/c Records (GF)
Cdn Sec 2 Ech HQ 21 A Gp.

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. P66729 Rank PTE Name LeBLANC E. L. of C.B.HIGHRS. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

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

Signed this 18TH day of April 1945

B. Mck F

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

	Date of Promotion.
In the rank of	years.
In the rank of	years.
In the rank of	years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a Trial by field general court-martial the information may be collected from such sources as are available and the paragraph(s) concerned amended accordingly.*)

W J Ridge
EX "Y"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F66729	PTE	LeBlanc E.L.	Cape Breton Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised spotted acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last ... months.	* Since Enlistment.
For	nil	times.
For		times.
For		times.
For		times.
For		times.

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

or

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

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for nil days ~~in civil custody~~, and 36 days in military custody, making a total of 36 days, of which 14 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 Years ,9 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 22 February 1943

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

~~8. The accused is entitled to deferred pay or gratuity in respect of ..... service.~~

~~9. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, ~~no military decoration or military award~~ (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CANADIAN VOLUNTARY SERVICE MEDAL & CLASP.

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....~~

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of ..... dated ..... and in his regiment (or corps or department) the rank of ..... dated .....~~

(71823) W1.12882/144 1125,000 6/42 A.&E.W.Ltd. Gp.698

SUMMING UP BY JA

1. Duty of JA to advise on law.

2. Court is sole judge of facts.

3. Credibility of witnesses is for Court. May believe or disbelieve whole or part of a witness's evidence.

4. Accused innocent until proven guilty.

5. Burden of proof is on Prosecution.

6. Accused entitled to benefit of reasonable doubt.

7. Reasonable doubt defined.

8. Desertion is absence without leave coupled with intention of quitting the service entirely or of avoiding some important particular service.

9. Must be satisfied accused had knowledge of the particular service and intended to avoid it. Intent may be inferred from acts of accused.

10. Court may find accused guilty of desertion or guilty of AWL or may acquit him.

11. Refers to RP 44(D).

12. President, Prosecutor and Defending Offr state they wish nothing added to JA's direction.

John A Fraser Capt

Closing address of Prosecutor :-

Pl was in picture. If man wanted to get to river crossing he would have little difficulty.

Closing address of Defending Offr

Evidence shows Leblanc was nervous. Had been caught in our own barrage. Evidence of two witnesses differed. Leblanc might have missed Coy HQ in dark. Tope was in ploughed field and would be hard to see. If he had reached river bank he would have had a hard time finding Coy objective, if alone. Coy moved next morning. Might easily take two days to find his pl, if he became lost.

E3

Plea in Mitigation

Leblanc in action with WNSR from Ortona to Hitler Line. He was pinned down for two hours by enemy and our artillery fire at Hitler Line. Most of Coy HQ including Leblanc was wounded. Came to C.B.H in Sept 44 from hospital. Again wounded in Senio attack. As crime sheet shows, his behaviour has been good.

accused looked normal. He said he was nervous. On night of 10th I was with B Coy HQ. Right hand crossing was taped. The tape ran by a road. It was not always easy to see tape. I could not see more than 10 feet ahead. It was pretty dark. There was quite a bit of shell fire. I had trouble trying to round up men that night. B Coy objective was in a group of houses about 300 yds from river bank. It would be hard to find if someone was on his own. We left our objective on the morning of 11th and went ½ mile to 1 mile away. There were other units in the area.

Questioned by Court:- I don't think you could see a man skylined on far bank of river. B Coy HQ crossed about 2300 hrs. It was also dark about 1930 hrs. There were no searchlights but I can't be positive. I ran into Mr Nelson in the dark one time that night.

(RP 83(B) complied with)

charge of left hand site. Leblanc was ~~on duty~~ Pl should have been on the right hand site. My checks covered both sites. I think it was Leblanc who told me about being shelled in the Kitler line. I don't think Leblanc ever saw MO re his nervousness. I have no doubt every man knew his duty and where to go

Question by JA :- The accused gave me no explanation when he surrendered. I can't recall any.

(RP 83 B complied with)

Second Witness Prosecution F 55 219 Sgt Mass W.G., B Coy C B Highrs, having been duly sworn, states.

On morning of 12 Dec 44 at 1330 hrs I was on duty at Pl H.Q when Pte Leblanc, the accused, reported to H.Q. It was the first time I had seen him since we crossed the Lamone River on the night of the 10th. I don't remember Leblanc making any explanation when he returned.

Cross Examination :- I was not with " Pl when Lamone was crossed. Both Lt Nelson and myself were present on 12th

The tape ran alongside a hedgerow straight to the river bank. There were some houses nearby en route. I could see 50-75 yards on the way down to the river. Boats were stacked on both sides of tape in pl. lots. near log HQ. When I got to the river I could see next pl 50 yds behind. Searchlights were on all the time. I could have seen a man standing on the bank across the river, if he had moved. If he kept still he might have blended into the houses. The river was about 25 yds wide. From top of one bank to the other was about 90 yds. I searched in about 20 slit trenches on side of ~~across~~ the river from which we started. I didn't know the accused was missing till check was complete. I didn't call for Leblanc. The only ones in the slit trenches were paddlers or members of covering party. When we got to our Coy objective across the river, after all the paddling operation was over, Leblanc was not present.

Question by Court: I made my first search to reorganize paddlers for next crossing. Leblanc was missing then. The next check was after the second Coy crossed. The reorganization was carried out and searches made on the side of the river from which the assault commenced. There were two crossing sites. I was in

F.O.L with the Coy HQ. I left about 1815 with forward pl, losing touch with all paddles except those with forward pl. After C Coy was across the river, I made a search with a Sgt and collected all the paddles into one house. I made a thorough check and could not find Leblanc. This was about 2100 hrs. after we took B Coy across the river we reorganized in another house about 2200 or 2230 hrs and Leblanc was not present then either. Later I had my pl back. I didn't see Leblanc again till he reported to me and Sgt Moss on 12 Dec 44 at about 1330 hrs.

Cross Examination: Distance from obb loading point to river was about 900 yds. Obb loading point was about 30 yds from C Coy H.Q. Accused said "can't stay out there. My nerves are too bad" He was only one on guard there but others were around. I could see from Coy H.Q to the boats. Route was taped to the river. Most of the route was a ploughed field. Leblanc was detailed to go with Coy H.Q as boat crew. I have had Leblanc in the line before. He had appeared nervous before. He told me he had been caught in one of our own barrages in Kitchener Line.

D3 ①

First Witness Prosecution — Lieut W.A. Nelson, Cape Breton Highrs. having been duly sworn, states

I have commanded 11 Pl B Coy C D Highrs since June 44. on 10 Dec 44 the accused, whom I recognize was in my pl. About 1400 hrs that day I gave operational orders to pl for crossing of Lamone River in Italy. The crossing was to be that night, zero hr being 1930 hrs. Pte Leblanc was present then and was detailed by me to be a member of a spare boat crew and to work with C Coy. The pl. were paddlers. Every man was put in picture as to time and place on the map. The spare crews and myself arrived at C Coy HQ at about 1730 hrs that night and 5 or 10 minutes afterwards I detailed Leblanc to stand guard at a spot where boats ~~had been~~ were off loaded from vehicles. Shortly after I was called away from Coy HQ & I saw Leblanc near the HQ. Leblanc told me he could not stay out there because his nerves were bad. There was no enemy fire around there at the time and I considered it unnecessary to change him with another man. I told him to stay at the boats until coy left for the F.U.P. Leblanc had previous orders to cross to

CHARGE SHEET

The accused, F 66729 Pte Evert Lorne LEBLANC, of B Coy Cape Breton Highlanders, a soldierin the Canadian Army Overseas is charged with:

First Charge
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

in that he

in the Field in ITALY, after having been warned to take part in an operation against the enemy at the LAMONE River, with intent to avoid so taking part, absented himself without leave from 1800 hrs 10 Dec 44 until 1330 hrs 12 Dec 44.

In the Field
17 Jan 45

.....(R.B. Somerville) Lt Col
Officer Commanding
Cape Breton Highlanders

"To be tried by Field General Court Martial"

(I S Johnston) Brig
Comd 11 Cdn Inf Bde

Field
18 Apr 45

W J Ridge

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
F 66729	Pte		Evert Lorne	LEBLANC	CBH

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(s) attached and on (*date*) 16 Apr 45 endorsed by me, (~~a true copy of which is hereto annexed~~) " To be tried by Field General Court-Martial ".

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

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

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

4. ~~And I hereby direct that the Offr detailed as Judge-Advocate of the General Court-Martial shall be the Offr detailed hereunder.~~

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

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	W J RIDGE		PERTH

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J M DENT		PERTH
Capt	D A SMITH		I R C

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	H BOOKBINDER		P L F

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	J A BOURNE		HQ 5 Cdn Armd Div

On Active Service in the Fd

in Holland (Country.)

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 16 Apr 45

Commanding 11 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA381 (In lieu of AFA3) W/P & S/1697 (2nd)

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

W.J.R.
20/4/45.

I have to-day examined F 66729 Pte Leblanc E. L. and found him fit to undergo trial by court-martial.

M Quadagni Capt
R.C.A.M.C.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 37(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

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

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereupon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans DO NEITHER. Do you intend to call witnesses on your behalf?
Ans NO SIR. ~~Are they witnesses as to character only?~~ Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

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

Accused: F 66729 PTE EVERT LORNE LEBLANC, C.B. HIGHAS.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 12(1)(a)	NOT GUILTY	GUILTY	EXCEPT THAT ABSENCE COMMENCED AT 2100 HRS 10 DEC 44.
2nd				
3rd				
4th				
5th				
6th				

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

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

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

Time in confinement awaiting present trial—a total of 43 days, of which 14 days were spent in hospital.(1)

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

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR ONE YEAR

(Sgd) [signature] Judge-Advocate, if any. 20 APR 45 Date awarded. (Sgd) W.J. Ridge Maj. President. (RP 45, 50.)

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

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

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

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

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

Confirm the finding and sentence of the Court.

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) Wm. D. Johnston Brig.

Date 22 Apr 45. Commanding 11 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
F 66729 Pte EVERT LORNE LEBLANC	24 Apr 45	[signature] Major. C.B. HIGHAS.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5I-113.

RECEIVED 28 MAY 45 JAG Hq. (Overseas)

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA3) 40/P & S. 1668 (3864)

Convened by Brig I S Johnston, DSO ED Comd 11 Cdn Inf Bde dated 18 APR 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 66729	Pte		Evert Lorne	LEBLANC	C.B.H.

PROCEEDINGS REVIEWED 24 may 45 [illegible] Lt. REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED 21 May 45 Lt. Col. Dep. JAG 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 20 APRIL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1345 hours trial commences.

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

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

A5. President to accused: Do you object to [illegible] as interpreter? Ans

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans

The shorthand writer is sworn.(1)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	MAJOR	W.J. RIDGE		PERTH R.
Member	CAPT	J.M. DENT		PERTH R.
Member	CAPT	D.A. SMITH		1.R.C.
Judge-Advocate	CAPT	J.A. BOURNE	ADJA	5 CDN ARMD DIV
Prosecutor	LT.	B.A. NUNN		C.B. HIGHAS
Defending Offr	LT.	G.S. WORRELL MC		C.B. HIGHAS

COURT ADJOURNS AT 1350 HRS. COURT REASSEMBLES AT 1430 HRS.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

30 April 45 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. WJR

5 J. 113

Pte Leblanc E L.

11. [illegible] Permanent Force unit

[illegible] dated.....

12. [illegible]

.....Date of promotion.

[illegible] .....

[illegible] .....

[illegible] .....

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number 6-37063 Rank Tpr. Bde

Name LeBlanc, Edward Joseph of H.Q. Sqn, 1 Cdn Army Tank [illegible]

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

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

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

Signed this THIRTIETH day of DECEMBER, 1942 [signature] Major

O. C., H. Q. SQUADRON

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

M.P.R. 555
40/P & S/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G-37063	Tpr	LeBlanc, Edward Joseph, H.Q. Sqn, 1 Cdn Army Tank Bde.	

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

	Within last 12 months	Since enlistment
For Sec 40 A.A.	2 times	2 times
For Dec 15 A.A.	times	1 times
For	times	times
For	times	times

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

or,

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

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

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.~~

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and one days in military custody, making a total of one days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 yrs 22 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 16 May, 1941

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

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

9. ~~The accused is in possession of or entitled to an air force decoration, an air force reward or is in possession of or entitled to State any air force decoration or reward military~~

10. ~~If the accused is a warrant officer, the accused before he was made a warrant officer has had the regimental rank of~~

First conduct sheet destroyed 16 Nov 4[illegible].

No. G37063 Name LeBlanc, E.J. Sqn., Battery, or Company H.Q. Corps C.A.C.

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

Date of enlistment 16 May 1941 G.C. Badges n/a Service or Proficiency Pay n/a

Sheet No. 2 Signature O.C. Company, etc. Character

M.F.M. 6 (A F B 122) 1733M—7-41 (1219-20) H.Q. 1772-39-1662

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 Dec 1941	Tpr		W.O.A.S. AWL from place of duty without permission. Sec 15 A.A.	A/Cpl F. Sargent	Admonished Forfd 5 days pay		J.M. Forgie Major	
Field	13 Feb 1942	Tpr		W.O.A.S. neglect to the prejudice etc. in that he on the 13 Feb 42 after being duly warned by TQMS Toder to check vehs at gate, failed to do so. Sec 40 A.A.	TQMS Toder	4 days C.B.	15 Feb 42	A. Woodhouse, Capt	
Field	20 Mar 1942	Tpr		W.O.A.S. the accused is charged with neglect to the prejudice, etc in that he appeared on parade for guard with a dirty rifle No. K-39508. Sec 40 A.A.	SSM Cathie Sgt Slifka	6 extra Guards	21 Mar 42	R.J.R. Donabie, Capt	

Certified true Copy
G.G. Gray Capt

(P.T.O.)

If possible, may an officer be assigned to me to represent me.

E J LeBlanc

G-37063 Tpr LeBlanc, E.J.

LIST OF EXHIBITS

Exhibit "A"	one kit bag
Exhibit "B"	one undershirt
Exhibit "C"	one pair socks
Exhibit "D"	one tea towel

Fourth Witness for Prosecution

Capt Little, W.B., R.C.A.P.C., att to H.Q. Sqn, 1 Cdn Army Tank Bde, having been duly sworn states:-

There is used in the Pay Office and old tea towel as a duster and also for cleaning machines. It is marked with ink from the Roneo machine.

Question 1

Do you recognize this tea towel which has been produced as Exhibit "D"?.

Answer

Yes. It is the tea towel used in the Pay Office for dusting and cleaning machines.

The accused declines to cross-examine the witness.

Capt W.B. Little.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

"At no time did I put laundry in my kit bag that did not belong to me. The exhibits of laundry and the tea towel have never been seen by me before tonight.

E J LeBlanc
G-37063 Tpr LeBlanc, E.J.
H.Q. Sqn, 1 Cdn Army Tank Bde.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of four (4) pages was taken down by me in the presence of the accused and that the Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

(G.J. Gray) Capt
Capt
H.Q. Sqn, 1 Cdn Army Tank Bde

In the Field
29 December, 1942.

Third Witness for Prosecution

M-27130 Sgt Cousineau, E.W., H.Q. Sqn, 1 Cdn Army Tank Bde, having been duly sworn states:-

I am 27130 Sgt Cousineau, E.W. I put a bundle of laundry in the laundry basket at H.Q. Sqn on Tuesday December 8th, 1942. On Saturday Dec 12th, 1942 I called for my laundry and was informed by L/Cpl Carr, who was in charge of the laundry, that there was no laundry for me, nor was there any record of my laundry on the list that came back from Wilson's Laundry. On Monday, Dec 14th, 1942 I went into Wilson's Laundry to try and trace my laundry. There I was told that all laundry picked up at H.Q. Sqn was checked in and that no bundle was received from me. I came back to H.Q. Sqn and reported my laundry missing to the O.C., H.Q. Sqn. On thursday, December 17th, 1942 I was asked by Sgt Weatherby to accompany Tpr Albert down to Mrs Taylor's house. On my arrival there, after a conversation with Mrs Taylor, she showed me some laundry, some of which I indentified as my laundry because of the laundry marks on them. I also identified a tea towel which I used as a duster in the Pay Office. This I identified because of the ink marks on it due to having cleaned the Roneo machine with it. Among the articles I recognized due to the laundry marks were an undershirt and one pair of socks. The laundry mark was M.215. I have at present other laundry with that same mark on it.

Cross-examined by the accused.

Question 1

What were the contents of the parcel of laundry you say you lost?

Answer

Two khaki dress shirts, three undershirts, two pair of underwear shorts, nine handerchiefs, three pairs of socks, two hand towels, and a tea towel, also another khaki shirt.

Question 2

What did you bring back from Mrs Taylors house?

Answer

Nothing.

Question 3

Was the laundry you recognized at Mrs Taylors', part of the laundry you had lost?

ANSWER

Yes.

Question 4

Did you recognize all the laundry at Mrs Taylors' that you had lost?

Answer

No.

M-27130 Sgt Cousineau, E.W.

Second Witness for Prosecution

Mrs. A.E. Taylor, 5 Park Crescent, Rottingdean, having been duly sworn states:-

I am Mrs. A.E. Taylor, 5 Park Crescent, Rottingdean. On the 14th December, 1942 a kit bag, which I produce as Exhibit "A", which contained laundry, was brought to me for washing. On the kit bag was the name E.J. LeBlanc. I turned the kit bag up and emptied the laundry on the floor. Amongst the laundry I found a Wilson's Laundry list with the name of Sgt Cousineau on it. From the amount of laundry and the laundry slip this appeared strange to me, as there was much more than usual. I thought he was sending laundry that did not belong to him. For example, instead of the usual one or two towels I received in the last two weeks washing there were ten towels.

My husband always takes the laundry back to the men but on December 16th Tpr LeBlanc came to my house for the first time. I asked what the sergeants list was doing in his laundry and he said as near as I can remember, "Have you still got the list?" I got up and looked for it but couldn't find it. He then said, "If you find it destroy it and don't mention it to Freddy Albert". I said I would give it to my husband but he said not to do that, but to destroy it. Again as he left the house he said if I found the list destroy it.

The next morning Sgt Cousineau, together with Tpr Albert came to my house. After conversation with Sgt Cousineau I showed him the laundry, some of which he identified as belonging to him. These which he identified as his and which I now produce are one undershirt, which is marked "Exhibit "B", one pair of socks, which is marked Exhibit "C", and one tea towel, which is marked Exhibit "D". On the undershirt and the pair of socks were laundry marks which Sgt Cousineau identified.

Cross-examined by the accused.

Question 1

Did you say I asked you to destroy the laundry list?

Answer

Yes.

Question 2

Was there anybody else in the room?

Answer

No, only the two of us.

Question 3

Did you say there were ten towels in two of my laundries?

Answer

Yes.

Question 4

Were they all my marking?

Answer

No.

Florence M Taylor

Mrs. A.E. Taylor.

Summary of Evidence in the Case of G-37063 Tpr LeBlanc, E.J. H.Q. Sqn, 1 Cdn Army Tank Bde.

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

First Witness for Prosecution

Mr. A.E. Taylor, 5 Park Crescent, Rottingdean having been duly sworn states:-

I am Mr. A.E. Taylor. On the 14th Dec, 1942 Tpr E.J. LeBlanc gave me a kit bag with laundry in it to take home to my wife to wash. The kit bag had Tpr E.J. LeBlanc's name and number marked on the bottom. I have collected it many times and I know it. I took it home, gave it to my wife and while I stood watching she turned the laundry out on the floor. Amongst the laundry I saw a laundry slip from Wilson's Laundry. On this slip was the name of a Sgt. I cannot pronounce the name. It started C O U .

Question 1.

Did you examine the slip?

Answer

Yes.

Cross-examined by the accused.

Question 1

When the laundry was turned out on the floor was it all in one bundle?

Answer

Yes.

Question 2

Did you say Sgt Cousineau's Laundry slip was in it?

Answer

Yes.

Question 3

How many towels were in the laundry?

Answer

I'm not certain, but I think there were five.

A.E. Taylor.

A.E. Taylor.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused not guilty of the first charge and guilty of the second charge.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. H. O. Hansen. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce a certified true copy of the accused's AFB 6 and AFB. 365

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked K & L signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes I have it

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. I believe they are.

[Instruction.—If by reason of the nature of the offence of the accused or a previous conviction, the finding of the Court renders him liable to any exceptional punishment or addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. - None. The Responding Officer is satisfied as to the correctness of the statement and copy of the accused's conduct sheet.

Question to the accused.

Do you wish to address the Court? *Answer.* I have spoken to my defending officer. (See p. 6.)

The Court is closed for the consideration of the sentence.

F

W.b.b. Sentence.

W.b.b. ~~The Court sentence the accused~~ Sentence.

The Defending Officer in anticipation of sentence, asked the Court to consider the accused's record of service and requested that a fair sentence in all the circumstances.

In the Field
2 Jan 43.
W. b. Babb Capt.
Judge Advocate.

X

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined G-37063 Trooper Edward Joseph LeBlanc H.Q. Sqn, 1 Cdn Army Tank Bde and, in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date 2 Jan 43

(Medical Officer)

The Prosecutor did not make a final address to the Court.

The Defending Officer addressed the Court, submitted that the case was purely circumstantial that the accused's story was to be believed in preference to that of Mrs. Taylor. The accused is entitled to the benefit of any reasonable doubt.

The Judge Advocate in summing up referred to MML p 22 paras 34 and 37, MML p. 81 para 42 MML p. 124 para. 66. and advised the Court that the accused was entitled to the benefit of any reasonable doubt.

GBB ~~The Court~~

GBB

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

First Witness for the Defence } G. 37063 Tpr. LeBlanc, E. J. the accused, already sworn is examined by the Defending Officer:

I admit asking Mrs Taylor if she had this list of Sgt. Cousineau's. I asked her if she still had the list. She said "no." I figured if I could get hold of the list I would inform Sgt. Cousineau and he could get his laundry back. I never have seen Sgt. Cousineau's laundry. I was on pass on Dec. 16th. I consequently did not have a change to see Sgt. Cousineau. because I was on pass and had a date that night. I did not at any time ask Mrs. Taylor to destroy the list if it was found. My kit was inspected by Capt. Gray, ~~[illegible]~~ S.M. Weatherby and Sgt Cousineau. None of the allegedly stolen clothes were found in my kit.

Cross examined:

I have known Mrs. Taylor for 6 mos. last year. Recently I've started sending my laundry to Mrs Taylor. I've always paid Mrs. Taylor for my laundry. We are good friends. I did not tell Mrs. Taylor to destroy the "~~list~~" slip. There was no sense giving the "slip" ~~list~~ to Sgt. Cousineau without the laundry. The last thing I said to Mrs. Taylor was - "You get hold of the laundry list and let me know."

Re-examined.

I got back from pass ~~at~~ "between 2230 and" 2300 hrs. on 16 Dec 42 I was first placed on charge on 17 Dec. 42. So I had no chance to tell Sgt. Cousineau about his laundry. Some of the parcels of laundry are wrapped in brown paper and some are tied by shirt sleeves.

By the Court:

Tpr Albert is a cook with the Hwy. Support Sqn. Formerly he was with this unit. I went to Mrs. Taylor's because I had some time to put in before meeting my lady friend.

R.P. 83(6) complied with.

D

The prosecution is closed.

Defence.

R.P 40(A) Complied with.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes sir

Question. Do you intend to call any other witness in your defence?

Answer. No sir

Question. ~~Is he a witness as to character only? —Answer.~~ N.A.A.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

N.A.A. The evidence of the accused ~~(and of the witnesses for the defence including witnesses as to character)~~ is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

By the Court:

In my laundry on 8 Dec 42, I had 2 dress shirts, 1 army issue shirt, 3 vests, 9 handkfs, 3 pr. of socks, 2 prs. pants, 2 handtowels and a sea towel. Some other of the missing articles have turned up. My parcel was securely wrapped up. It was not likely to come undone. We had a kit inspection. The accused's kit at the unit was searched. Sgt. Weatherby was A/SM. at the time I had the conversation with him regarding my loss of laundry.

R.P. 83(B) complied with.

Fourth Witness for the Prosecution } Capt. G. B. Little, R.C.A.P.C., attached HQ, Cdn Army Th. Bde.,

being duly sworn is examined by the Prosecutor:

I am the Bde paymaster. There is a Roneo mimeographing machine in the Office. The pay sergeant, Sgt. Cousineau has access to this machine. I identify this towel (Exhibit J.). I have used it on occasions.

No cross examination.

R. P. 83(B) complied with.

G.B.B.

did not give me any that day. I did not know Sgt. Cousmians until 15 Dec. 42.
R.P. 83 (B) complied with.

Third Witness for the Prosecution } M. 27130 Sgt. Cousmians E.W., HQ, Sgn & Cdn Army Th. Bde.
being duly sworn is examined by the Prosecutor.

I recognise the accused. On 8 Dec 42 I brought a bundle of laundry of mine and put it in the basket kept for the men's laundry. On 12 Dec 42 I called for my laundry at the unit post office where it is picked up. There was no laundry for me. L/Cpl. Carr in charge checked with the list he had got from Wilson's laundry and there was none for me. The following Monday I checked at Wilson's laundry in Brighton and ascertained they had received no laundry for me. I reported this. On 17 Dec. 42 I had a conversation with Sgt. Weatherby and as a result of that I accompanied Tpr. Albert to the home of Mrs. Taylor in Rottingdean. There I discovered some of my laundry. I recognise this shirt (Exhibit H) and these socks (Exhibit I) by the laundry mark M215 and the towel (Exhibit J.) which was used to clean the Dorco machine in the pay office where I work by the inkstains on it, as my property. They were all in Mrs. Taylor's house. I reported the matter to Major Humber. I send my laundry to Wilson's laundry as do the majority of men in the unit. The M215 stamp is a Seafox laundry mark. In my laundry on 8 Dec 42 there were two hand towels and the tea towel (Exhibit J.)

Cross examined:
The baskets are outside L/Cpl. Carr's office in the hall. We do our laundry up as neatly as possible and place it in these baskets. I do mine up pretty carefully. I put a typewritten list in the inside of my laundry. Anyone could go by where these baskets are kept. I did not give my laundry to L/Cpl. Carr.

Re examined:
The laundry baskets are subject to access by others. Someone could pass by, pick out a bundle and keep on going.

Second Witness for the Prosecution } Albert Edward Taylor. 5 Park Crescent, Rottingdean.

being duly sworn is examined by the Prosecutor.

I recognise the accused. On 14 Dec '42 I collected the washing from 180, Sqn. about between 7.30 and 8 o'clock. The accused gave me his washing I took it home to the wife. The accused gave me this kit bag (Exhibit B) which I recognise. The wife turned the kit bag out. She picked the washing up and carried each piece separately and made a list up of what was in the bag. As she was picking it up a Wilson's laundry slip fell out. ~~The accused~~ My wife dumped out the laundry. It was not in separate bundles. It was all together. I was having my breakfast at the time. I looked at the Wilson's laundry slip. I noticed Sgt. Cousineau's name on the slip but I did not pay much attention to the articles listed on it. WBB

Cross examined:
The accused brought the laundry down to me in the kitchen personally. If someone gave me a loose bundle of laundry I should fold it up and put it in a kit bag if there was room in one for it. I usually get three kit bags at a time. My wife does about 8 men's laundry. I do not wash up the men's laundry. It is done up for me. Sometimes it is tied up in brown paper. Sometimes it is just tied up with string. My wife knows out the laundry. I do not. I have never heard my wife remark about a piece of another man's washing in another man's laundry. My wife leaves the laundry accumulating on the floor until she begins washing. When I pick up the laundry there are usually only the three kitchen staff present. I put the men laundry in the kit bag. I take particular notice that they are tied up either with, string or by the shirt sleeves. WBB WBB

Re-examined:
We only do eight laundries and I am familiar with them. I do not recall any laundry ever getting mixed up.
By the Judge Advocate:
Sgt. Cousineau has never given me any laundry. WBB

He also asked me not to mention it to Mr. Albert. The accused said you know what the army will make of it. The following morning Sgt. Cousineau and Mr. Albert came to my house. I showed him the washing after some conversation. It was packed in Mr. le Blanc's bag (Exhibit G1). Sgt Cousineau recognised some of his things in it. He recognised two socks, a tea cloth and socks. I produce one undershirt (Exhibit H1). marked M215. I do not wash laundry with ink. It fell out of the bag (Exhibit G1) when I emptied the laundry on the floor. I produce a pair of socks (Exhibit I) which also fell out of the bag (Exhibit G1) at the same time. On a piece of tape inside the socks was a number under M215. I also produce a towel (Exhibit J) which also dropped out of the bag at the same time. Sgt. Cousineau recognised it also.

Cross examined:

I recognise the accused as Mr. le Blanc. I was receiving three bit bags of laundry when I received that one on 14 Dec. 42. I do laundry for between 8 to 10 men of this unit. My husband brings it to me every Monday morning. My boy helps him. My husband uses a bicycle to transport the laundry. When my husband comes in he generally puts the laundry down for me to check. There have been occasions on which two men's laundry are in one bit bag. There is never been any loose laundry in a bit bag belonging to another man. It was tied 16 Dec 42 that I had the conversation with the accused regarding the washing. The last words he said when he left were "If you find that list destroy it." Once when the accused came back from holiday I had one big washing for him. He had two towels that time. There were 5 towels in each of the last two bags of laundry from the accused. I check the laundry separately and carefully. Mr. Taylor was present when I opened and checked the laundry he was having he returned his breakfast. I do the checking. He doesn't do it at all. I grasp the laundry all comes separately. Sometimes my husband puts one of the separate parcels on the top of a bit bag of another laundry.

R.P. 93(6) complied with.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

L.R.L. L.R.L. L.R.L.

The prosecutor makes an opening address ~~[hands in a written address which is read, marked~~ , ~~signed by the President, and attached to the proceedings.]~~

The prosecutor proceeds to call witnesses.

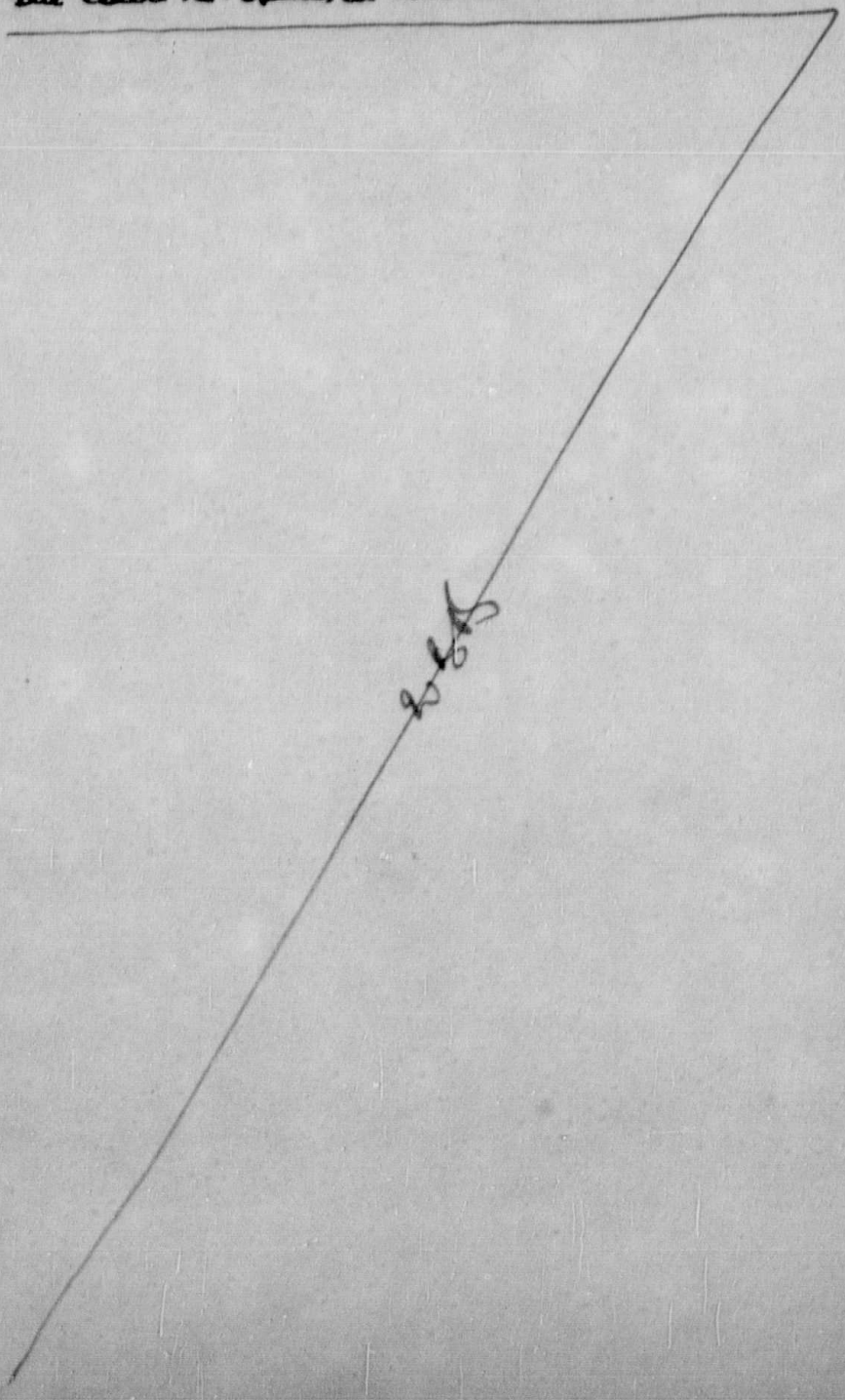
First witness for prosecution. Mrs. Florence Hannah Taylor, 5 Park Crescent, Rottingdean.

being duly sworn, is examined by the prosecutor.

On 11th Dec. 42 I turned out the laundry of Mr. Leblanc and a slip with Sgt. Cousineau's name fell out. This was a slip from Wilson's laundry in Brighton. It fell out with the clothes. I produce a bag (Exhibit 91) which I recognise. It was given to me by my husband, Albert Edward Taylor, who collects the laundry. I have received laundry from Mr. Leblanc before. As a rule it consisted of one or two towels, a set of underwear, a shirt and sometimes socks. This time there was more laundry than usual: 5 towels, 6 vests 5 prs. of pants, 4 handkerchiefs and 1 shirt, 4 prs. of socks. On Mr. Leblanc's laundry I have my own private mark, which I put on the laundry. On the other clothes there was another laundry mark H215. I had a conversation with Mr. Leblanc, when I recognise on 16 Dec. 42 regarding the laundry. I asked him what the laundry slip was doing in his bag. He asked me if I had still got it. I got up to look for it but unfortunately I couldn't find it. He then said if I found it would I destroy it.

(2)

The Court is closed to consider their decision.
The Court overrule the plea
The Court is re-opened and the above decision is made known to the accused.
The Court adjourns at 1230 hrs
The Court re-opens at 1330. hrs.



Second Witness for the Defence } Major C. H. Humber. HQ. Sqn 1 Cdn. Army Tk. Bde.

being duly sworn is examined by the Defending Officer:

The accused was up before me, ~~as~~ O.C. HQ Sqn. 1 Cdn. Army Tk. Bde. in company orderly room. He was charged under sec. 18(4) of the Army Act. I awarded the accused 28 days field punishment. I do not recollect if at any time the accused was asked if he pleaded not guilty or guilty. The punishment which I awarded was null and void for the reason that I did not have the authority to award the punishment I had tried to award. On the ~~afternoon~~ "morning" of 29 Dec. 42. I advised the accused accordingly and that the award was not operative. ~~I did not~~. I realized shortly after purporting to make the award that it was null and void, without authority from Brigadier Wyman. I then saw him that morning to try and get the authority but he would not grant it. I then had the accused paraded before me this was before lunch I think - and told him that the award I had purported to make was inoperative and that he was being remanded for the taking of a summary of evidence. I do not recollect ever telling the accused that he was being remanded because new evidence was going to be taken.

No cross examination.

By the Court:

I have the powers of a Commanding Officer. The Charge sheet which was read out to the accused when he appeared before me in company orderly room has disappeared or been mislaid. The accused was charged with theft of "laundry" belonging to Sgt. Cousineau. The items supposedly stolen were not detailed in the charge sheet.

R.P. 83(B) complied with.

The Defending Officer addressed the Court, reviewing the authorities he had already mentioned

The Prosecutor replied, stating that the award purporting to have been awarded by Maj. Humber was no award and that the accused had consequently not been previously convicted.

The Judge Advocate, in summing up referred to A.A. 46, pr. 15 thereto and the Cdn. law as set out in Bruneau R.O. 2036.

The accused, before the plea of "not guilty" offers a plea in bar of trial on the ground that the accused has already been tried for the same offence and received an award 28 C.B. by his C.O., Major C.H. Humber.

The Defending officer referred to A.A.46(7), R.P. 36(A)(i) and M.M.L. ch. IV. p.40.

First Witness for the Defence, S. 37063 Gnr. Le Blanc E.J., the accused having been duly sworn is examined by the Defending Officer.

On 29 Dec. 42 I reported to the Orderly room and was paraded to Maj. Humber. He reads out the charge to me. He asked me if I would accept his punishment. I told him "I didn't know for sure." He said I want to know if you will accept my punishment and I said "Yes". He sentenced me to 28 days field punishment. This happened about 1030 hrs. In the afternoon at about 1400 hrs I was again paraded before Maj. Humber who told me the 28 days were remanded until further evidence came up from the Bde. Commander. I was in close arrest from the time I was paraded in the morning of 29th Dec. 42.

Cross examined:
When I was before Maj. Humber I did not plead either "guilty" or "not guilty".

Re examined:
The first time I knew of the charge was on 14 Dec. 42. I was never asked at any time prior to appearing on this Court to plead guilty or not guilty.

By the Judge Advocate.
I was charged with stealing some laundry belonging to Sgt. Louisson. I do not recall what section of the army act the charge was laid under. R.P. 83(B) complied with.

B

The President, members and judge-advocate are duly sworn.

DLB. The following officers under instruction are duly sworn.

Lieut. Dr. A. Richardson, HQ Sqn 1 Edn. Army Tha Bde.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

not guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

not guilty. *Answer.*

See p. B2. for plea in bar of trial.

DLB. ~~Are you guilty or not guilty of the third charge against you, which you have heard read~~? *Question.*

Answer.

DLB. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read~~? *Question.*

Answer.

DLB. ~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

W.R.B.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 2nd day of January 1943 by order of Brigadier R. A. Wyman E.D.

Commanding 1 Cdn. Army Tank Bde.

dated the 31st day of December 1942.

President.

Major R. B. Kerr
11 Cdn. Army Tank Regt.

Members.

Capt. John Cross
14 Cdn Army Tank Regt.

Capt. W. R. Hoag.
1 Cdn Army Tank Bde. Con. REASE.

Capt. W. B. Bate. ADJA 1 Cdn Corps, Judge Advocate.

Trial of* 6.37063. Tpr. Edward Joseph Le Blanc
1 Cdn Sgn 1 Cdn Army Tank Bde.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

W.R.B. ~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

W.R.B. , ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut D. W. Hanna 14 Cdn. Army Tk. Regt.

W.R.B. ~~Counsel‡ or~~ defending officer† Lieut R. E. Sidenberg R.E. A.M.C. 2 Cdn W. Fd. Amb.

At 11.05 ~~o'clock~~ hrs the Trial commences.

The order convening the Court is read, and is marked A1, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274 Wt.W16839/78. 25,000 sets. 6/40. S. & H., Ltd. 1667/11. Forms A/9/22.

B2.
Pres. F. J. C. M.
W. B. Bates Capt
Judge Advocate

CHARGE SHEET

The accused, G-37063 Tpr Edward Joseph LeBlanc, H.Q. Sqn, 1 Cdn Army Tank Bde, a soldier of the Canadian Army Overseas is charged with when on Active Service:-

First Charge
Sec 18(4)
Army Act

STEALING PROPERTY BELONGING TO A PERSON
SUBJECT TO MILITARY LAW
in that he in the field

on or about 8 December, 1942 stole one undershirt, one pair socks and one tea towel the property of M-27130 Sgt E.W. Cousineau, H.Q. Sqn, 1 Cdn Army Tank Bde, a person subject to Military Law.

Second Charge
(alternative)
Sec 40
Army Act

AN ACT TO THE PREJUDICE OF GOOD ORDER
AND MILITARY DISCIPLINE
IN THAT HE IN THE FIELD

on or about 8 December, 1942 was improperly in possession of one undershirt, one pair socks and one tea towel, the property of M-27130 Sgt E.W. Cousineau, H.Q. Sqn, 1 Cdn Army Tank Bde.

C. Humber
(C.H. Humber)
Major
T/O.C., H.Q. Sqn , 1 Cdn Army Tank Bde

Field
29 December, 1942

To be tried by a Field General Court Martial.

R. A. Wyman
(R. A. Wyman)
Brigadier,
Comd., 1 Cdn Army Tank Bde.

In the Field.
31 Dec 42.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-37063 Tpr Edward, Joseph LEBLANC. H.Q. Sqn, 1 Cdn Army Tank Bde.	FIRST CHARGE A.A. Sec 18 (4) See attached Charge Sheet for particulars	NOT GUILTY	NOT GUILTY	and find on plea in bar of trial [illegible]
	SECOND CHARGE A.A. Sec 40. See attached Charge Sheet for particulars.	NOT GUILTY	GUILTY	Finding and sentence are confirmed. To be promulgated on as strong a parade of his unit as possible
		PLEA IN BARDF TRIAL	OVERRULED	
			TO BE IMPRISONED WITH HARD LABOUR FOR 50 DAYS.	2 Jan 43 R.B. Kerr Mj. W.B. Hoblecaps Judge Advocate

BRIGADIER
COMD'G 1st CAN. ARMY TANK BDE
3 JAN 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No sir.

Signed (Sgd) [illegible]
Commanding
BRIGADIER
COMD'G 1st CAN. ARMY TANK BDE
W.B. Hoblecaps
Judge Advocate

(R. B. Kerr) Major
11 Cdn Army Tank Regt.

(*a*) Appointment acting rank or [illegible] appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 2nd day of January 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~ Judge Advocate) W.B.H.
*(4. The officers under instruction) R.B.K.

were duly sworn.

* Omit if not applicable.

Signed this 2nd day of January 1943.

W.B. Hoblecaps
Judge Advocate.

R.B. Kerr Maj.
President of the Court Martial.
(R. B. Kerr) Major,
11 Cdn Army Tank Regt.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.
(R. B. Kerr) Major
11 Cdn Army Tank Regt.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

* I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 3rd day of January 1943

R.A. Ryman
Confirming Officer.
(R. A. Ryman) Brigadier
Comd., 1 Cdn Army Tank Bde.

Promulgated and extracts taken in the case of C-37063 Tpr Edward Joseph, LEBLANC. H.Q. Sqn, 1 Cdn Army Tank Bde.

(*a*) (Dated) 4 Jan 43 (Signed) [illegible] Major
O.C., H.Q. SQUADRON
1 CAN. ARMY TANK BDE

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W-41

Correspondence to be PINNED here.

A1.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTY-FIRST day of DECEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 1 CDN ARMY TANK BDE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1.—Three Officers to form the Court.)~~

~~*(2.—A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

Proceedings Reviewed

J. C. Campbell Maj.

for Reviewing Officer (J.A.G.) M.H.Q.

2 Feb 43.

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NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	R. B. KERR	11 CDN ARMY TANK REGT.

Members.

Rank.	Name.	Regiment.
CAPTAIN	JOHN CROSS	14 CDN ARMY TANK REGT.
CAPTAIN	W. R. HOAG	1 CDN ARMY TANK BDE COY (83 Coy) R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

~~A.~~B.J.A. Capt W.B. Bate
H.Q., 1 Cdn Corps

*Signed [signature]
Commanding
SPIGATOR
1 CDN ARMY TANK BDE.
Convening Officer

W-41

Tph LEBLANC, E.J.

TEMPORARY SHEET

No G-13245 Name LEBLANC E.J. Sqn. Battery, or Company Corps C.I.C. Date of enlistment GC Badges Service or Proficiency Pay

MFM 6 (M 122) 40/P[illegible]/136 (3488)

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc G H James Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Sep	44	Pte	A.A. Sec.15(1) AWL from 1900 hrs 24 Sep 44 until 1200 hrs 25 Sep 44. (Absent: 17 hrs)	B-43439 Cpl Privett C.F. C-48828 Cpl Rettallick, E.R.	7 days C.B.	25 Sep 44	Maj HW Caldwell	

Certified True and Correct Copy of Original Document in my possession:

G H James

(G.H. James) Lt,
Officer IC Records, 1 R Regt C.

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

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

Signed this 16th day of Nov 44.

G.H. James

(G.H. James) Lt,
Officer IC Records, 1 R Regt C.

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

Date of Promotion.

In the rank of _____ years. N/A

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
G-13245	Pte	Leblanc, E.J.	1 R Regt C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For Sec 15(1) A.A.	1 times	1 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct,

or

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

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~*or* The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~26~~ 37 days in military custody, making a total of ~~26~~ 37 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years

6. The date of his ~~attestation~~ specified in his record of service is 17 Sep 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 2 mos

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 2 mos service.

9. The accused is entitled to reckon 2 yrs 2 mos service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of an authority for his present rank, *or* is in possession of an authority for his present rank, but has forfeited it.~~

11. ~~(If the accused is a commissioned officer) The accused holds the following relinquished rank~~

12. ~~(If the case is of desertion) The accused absented himself~~ ~~and he was arrested (or surrendered) on the~~

Wt.5767/1519 20M. 5/40. P. Ltd. T54-1.

IN THE CASE OF REGT. NO.
G132H5 PTE. LEBLANC. E.J.
A. COY. ROYAL. REGT. OF CAN.
2ND. CDN. DIV.

EVIDENCE

WHILE ON DUTY IN THE CITY OF ANTWERP AT APPROX. 2330 HRS 21 OCT. 44. I WAS INFORMED BY MRS. BOATREWNS OF 25 RUE ITALIELIE, ANTWERP, THAT A CDN. SOLDIER HAD BEEN STAYING AT HER HOUSE SINCE MONDAY 16 OCT. 44. I WENT TO HER HOUSE ACCOMPANIED BY CPL. DYER AND FOUND THE A/M SOLDIER I PLACED HIM UNDER CLOSE ARREST AND ESCORTED HIM TO THE CITY GUARD ROOM AND OBTAINED A LIVE BODY RECEIPT

R.J. Young CPL.
(B812[illegible] R.J. YOUNG. R.S.)

I HAVE READ OVER AND CORROBORATE THE ABOVE STATEMENT

[signature] CPL.
([illegible] CPL. L. DYER.)

REMARKS

RESULTS OF CHARGE TO BE FORWARDED TO D.A.P.M. H.Q. 2 CDN. DIV.

ANTWERP 13-10

EXHIBIT "A"

CHARGE

Army Form B 252
(See King's Regulations)

ROYAL REGT. OF CAN. Regiment

A. COY Battery / Squadron / Troop or Company

A. Coy

CHARGE against No. G13245 Rank Pte

Name LEBLANC. E.J.

Place ANTWERP Date of Offence 21 OCT 44

OFFENCE W.O.A.S

1. AWL from ——— until apprehended by Cpl. YOUNG and Cpl. DYER of 7 PROV Coy at 2330 hrs 21 Oct 44

M.E. Schlosser Sgt
Antwerp Oct. 7 P.C.

Names of Witnesses :—

D81242 CPL YOUNG R.J. 7 PROV. Coy

D16599 CPL DYER G.L. 7 PROV. Coy

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

J.M. P.

Adjutant.

P.T.O.

30188. Wt.W31374/1961. 2,000,000 10/42. K. & H., Ltd. G637/47.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. G-13245 Pte. Leblanc, E. J. 1 R. Regt. C is Pt. to undergo trial by Court-Martial today.

IN THE FIELD

24 Nov 44

J. M. B.

Medical Officer

G-13245. - LeBlanc Edward Joseph.

J. M. B.

Private LeBlanc is 25 yrs of age and single. Called up in April 41 signed for active service in Sept. 42. Transferred from Artillery after over 3 yrs service in that branch of the army. While it is the duty of a soldier to accept this sort of treatment LeBlanc was not particularly happy about leaving the service he had had long training for and being sent to the Infantry. He had a good record while serving in Canada being up for office only once and forfeiting 1 days pay for being late in from a leave owing to train connection difficulties. He served with the Royal Regt from the end of July until 9 Oct. 44 at which time the Bn were in position north of Assendrecht. While living in cold wet slit trenches he picked up a cold in his kidneys and reporting sick to the R.A.P. on two occasions was maddened by the treatment he received and in disgust went absent without leave to Antwerp. I would plea for lenient treatment in this case as LeBlanc was led to his action which he regrets by a series of incidents which he felt weren't very fair to a soldier who was trying to do his best. He was over his huff and was going to surrender himself the next day when he was picked up.

SUMMARY OF EVIDENCE IN THE CASE OF No G-13245 Pte Edward Joseph Leblanc, 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas.

The accused is infm of his rights.

The CO directs that the evidence be taken on oath;

FIRST WITNESS for the prosecution: Lt A.C. Gillespie, 1 Bn The Royal Regiment of Canada, sworn, states:

I am Lt A.C. Gillespie, pl offr of #3 pl, "A" Coy, 1 Bn The Royal Regiment of Canada and, the accused, G-13245 Pte Leblanc, E.J., whom I now recognize, is a member of my pl. At 1200 hrs on 15 Oct 44, I noticed the accused was missing from the pl. I made enquiries concerning him and searched for him, but was unable to locate him and reported his absence to the Coy Comd.

Accused declines to cross-examine.

J.W.S. A.C. Gillespie

(A.C. Gillespie) Lt.

SECOND WITNESS for the prosecution: M-8871 L/Cpl Delaney, G.L., 1 Bn The Royal Regiment of Canada, sworn, states:

I am M-8871 L/Cpl Delaney, G.L., a member of 6 sec, #3 pl, "A" Coy, 1 Bn The Royal Regiment of Canada and, the accused, G-13245 Pte Leblanc, E.J., whom I now recognize, was a member of my sec. At about 1200 hrs, 15 Oct 44, I noticed the accused had not returned from sick parade. I did not see him again for about two weeks.

Accused declines to cross-examine.

G.L. Delaney

(G.L. Delaney) L/Cpl.

THIRD WITNESS for the prosecution: Lt G.H. James, Asst-Adjt 1 Bn The Royal Regiment of Canada, sworn, states:

I present:

Army Form B 252 purporting to be signed by Sjt M.E. Schlosser, Det 7 Pro C, Cdn Pro C (Att as Exhibit 'A'), which relates to the accused, whom I now recognize.

Accused declines to cross-examine.

Exhibit X J.W. Pigott Major

G.H. James

(G.H. James) Lt.

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

"I do not wish to make a statement."

The accused does not wish to call witnesses in his defence at this point.

A.H. Krieger Lt.

CERTIFIED THAT RP 4 complied with.
In the field,
16 Nov 44

(A.H. Krieger) Lt,
Offr detailed to take the Summary.

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-13245	Pte		Edward Joseph	LEBLANC	R Regt C

J. M. P.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 28 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	J M PIGGOTT	RHLI
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

A Capt to be detailed by OC Essex Scot

A Capt to be detailed by OC RHLI
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

A Capt to be detailed by OC R Regt C
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in HOLLAND (Country.) (FM CARELDO) (Signed personally. RP 105 fn 2) Brig (Rank.)

Date 28 Nov 44 Commanding 4 CDN INF BDE
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 2) 40/P & S/1697 (6143)

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

CHARGE SHEET

The accused, No G-13245 Pte Edward Joseph Leblanc, 1 Bn The Royal Regiment of Canada, a soldier of the Canadian Army Overseas, on active service, is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,
in that he,
in the field, on 15 Oct 44, absented himself without leave from 1200 hrs 15 Oct 44 until apprehended in Antwerp 2330 hrs, 21 Oct 44 (Absent 6 days 11 hrs 30 mins).

In the Field
16 Nov 44.

(R.M. Lendrum) Lt-Col
Commanding, 1 Bn R Regt C.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(E.L. CABELDU) Brig
Comd - 4 CDN INF BDE

IN THE FIELD
28 Nov 44

N.Z.M.P.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

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

President to accused : Do you wish to make a statement ? Ans no.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his plea of Guilty to Not Guilty on the charge(s). The accused is (not) so informed, and he (then) (re-) affirms his (their) plea(s) of Guilty to the charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex X, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

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

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

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans no
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 6, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 60(1), KR Can 564. 2. RP 53. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: G-13245 Pte Ewart, Joseph, LEBLANC., 1 Bn R FROT C., C.A.(O's).

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

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

~~To undergo [illegible] for~~ beginning on (date) ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 26 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court: Twelve months detention

(Sgd): _____ Judge-Advocate, if any. Date awarded: Nov-29/44 (Sgd) Jos M. Pigott Major President. (RP 45, 50.)

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

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

Date _____ (Sgd) _____ Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks and further ordered:~~ (1. AA 57A [illegible])

(Sgd) _____

Date 10 Dec 44 Commanding 4 Cdn Inf Bde Confirming Officer.

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

Accused.	Date.	Signature of Offr.
G-13245 PTE LE BLANC, E.J.	11 Dec 44.	Lt. 1 Bn R FROT C., C.A.(O's).

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 30 JAN 1945 Judge Advocate General

RECORDED AT CMHQ IN AB 160 4N-31

CFA96 (To Issue of AFA3) 40/P & S/1698 (40/01) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig FN CABELDU Comd 4 CDN INF BDE dated 26 Nov 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-13245	Pte	Edward Joseph	LEBLANC	1 Bn R Frnt C

PROCEEDINGS REVIEWED 2 Dec 44 [illegible] REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS REVIEWED Date 13 Jan 45 [illegible] Capt Deputy Judge Advocate General No. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) Nov 29/44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1015 hours trial commences.

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

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

A5. President to accused: ~~Do you object to [illegible] as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

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

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

President	Major	J. M. Pigott	R.H.L.I.
Member	Capt.	F. J. Thauvette	Essex Scot
Member	Capt.	V.H. Ekstrande	R.H.C.I.
Judge-Advocate			
Prosecutor	Lieut.	A.H. Reagers	R.R.C.
Defending Offr	Lieut.	C. M. Ross	R.R.C.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

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

A8. The accused 613245 Pte Edward LeBlanc before arraignment make(s) (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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4N-31

Pte. Leblanc E. L.

SUMMARY OF EVIDENCE (CONTINUED)

In the case of B-144237 Pte Leblanc E.A.,of the Cdn Inf Corps,on the strength of 4 Cdn Inf Trg Regt

THIRD WITNESS FOR THE PROSECUTION

B-104047 Pte Verreault G.,of the Cdn Inf Corps,on strength of 4 Cdn Inf Trg Regt,having been duly sworn,states as follows:

" At 1315 hrs 31 Jul 45 I went on duty to relieve the rear sentry at 4 CITR guard room.I remained there until 1345 hrs,being relieved by Pte Leblanc E.A.I went to the shift commander's office and remained there until about 1515 hours when I heard somebody shouting that some some prisonners had escaped. Pte Berthelet told me to stay in his office where I was going to watch that no one escaped through the front. While I was in the shift commander's office,between 1345 hrs and 1515 hrs,I did not see any prisoners escape through the front."

The accused declines to cross-examine this witness.

G Verreault Pte
(G.VERREAULT)

The accused was then cautioned as follows: " Do you wish to make any statement or to give evidence on oath ? You are not obliged to make any statement or to say anything unless you wish to do so,but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make any statement and reserves his defense.

I certify that the foregoing Summary of Evidence,consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) & (f) have been duly complied with.

LIEU
(J.R.Mathieu)
Officer detailed to take the Summary of Evidence.

In the field
15 Aug 45

SUMMARY OF EVIDENCE.

In the case of R-144237 Pte Leblanc E.A. of the Cdn Inf Corps, on the strength of 4 Cdn Inf Trg Regt.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

D-56219 Sgt Brais J.N., of the Cdn Inf Corps, on the strength of 4 Cdn Inf Trg Regt, having been duly sworn, states as follows:

" I am NCO i/c 4 CITR Guard Room. At 1515 hrs 31 Jul 45, H-46526 Sgt Faulkner C.K., who had been sent along with 9 other Sgts to give me assistance, shouted to me: "Hey, Sergeant, some of your men are escaping" or words to that effect. I immediately gave the alarm and checked on the rear sentry post, where the accused, whom I now recognize, was at his post, standing up. He had been detailed to that post by Pte Berthelet who was in charge of that shift. The roll was then called and the following prisoners were missing:

C-21582	Pte O'callaghan C.P.
K-51489	Pte Worthington J.H.
D-46709	Pte Fryer W.S.
D-186502	Pte L'abbé H.
K-53763	Pte Ferguson A.E.
K-45833	Pte Foster A.E.
C-475	Pte Chaters R.

The responsibility of the rear sentry guard was to observe the entire area of the barbed wire enclosure which measures about 40 feet by 40 feet and see that no prisoners escaped.

The accused declines to cross-examine this witness.

J.N. Brais Sgt
(J.N.BRAIS)

SECOND WITNESS FOR THE PROSECUTION

D-61764 Pte Berthelet M., of the Cdn Inf Corps, on strength of 4 Cdn Inf Trg Regt, having been duly sworn, states as follows:

" On 31 Jul 45 I was on duty at 4 CITR guard room, in charge of the 0745 hrs to 1545 hrs shift. At 1510 hrs Pte Paquette was on duty at the rear post. He was relieved by Pte Verreault and then, sometime after Pte Leblanc came to my office saying: " I am going to the rear to relieve Verreault." To which I answered that that was all right. When Pte Verreault returned to my office, I asked him who was in the back. He replied: " Leblanc." At about 1505 hrs I heard somebody shouting, catching these words: " Sergeant " and " Running ". I went into the enclosure immediately and counted the prisonners. There were 22, when at noon time there were 29 of them. I saw a hole in the rear left hand corner of the eclosure, a hole made through the barbed wire and big enough for any man to pass through it. I was in my office continually during my tour of duty and the prisonners did not escape through the front; they escaped from the rear. If they had escaped by the front, they would have had to go through my office, which they did not. Before starting to count the men, I looked for the accused and he was at his post.

The accused declines to cross-examine this witness.

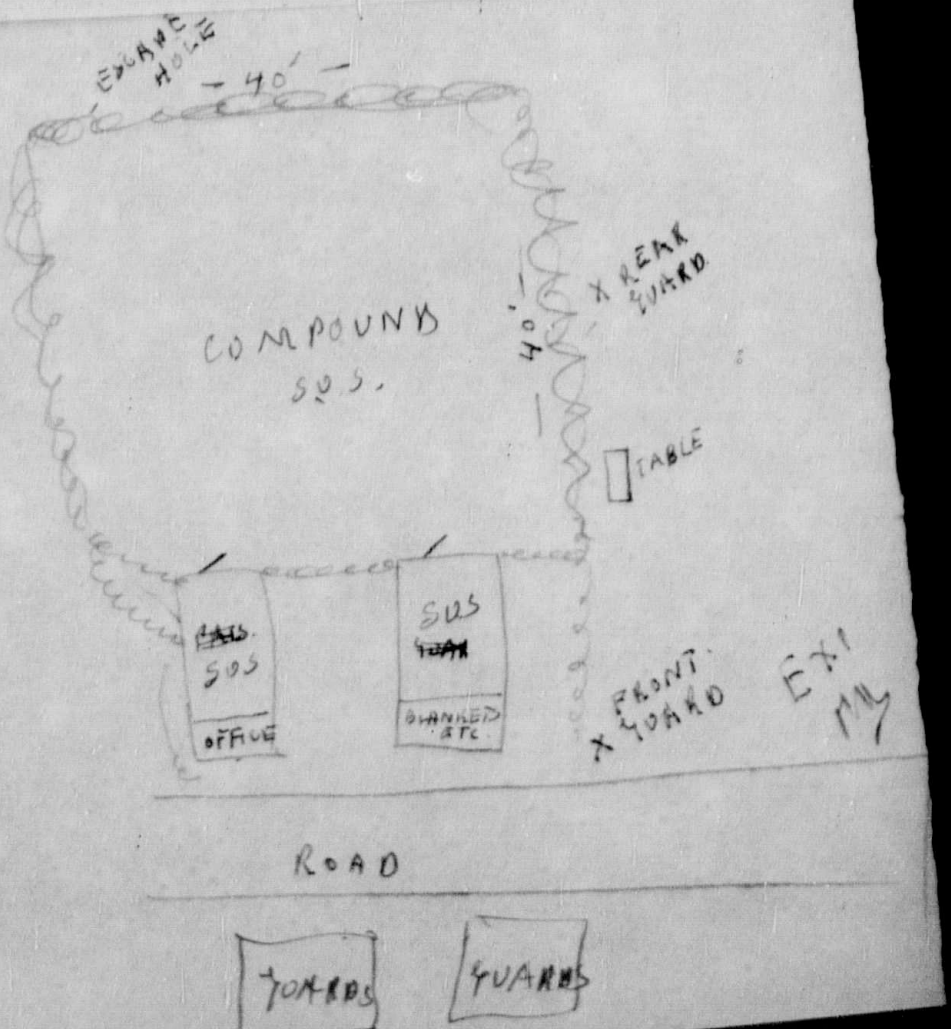
M Berthelet Pte
(M.BERTHELET.)

Medical Offr's Certificate
K R (Jun) para 557

I certify that I have this morning examined No: B-144237 Pte. (Rank)
LEBLANC, E.A. (Name) of C.G.C. and in my opinion he is
fit to undergo trial by Court Martial.

Station 4-C.I.T.R.
Date 22-8-45

SGD [signature] (Medical Offr)



Q. Are you allowed to do anything except watch during your tour of duty?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THE DEFENCE IS CLOSED

STATEMENT BY THE PROSECUTOR ON THE FINDING

At the time of the escape all the prisoners were in the compound, the accused was the only gd in the rear part of the compound and he was solely responsible to see that the prisoners did not escape. Seven of the prisoners got away, and the only conclusion is that the accused is guilty of the charge.

STATEMENT BY THE DEFENDING OFFR ON THE FINDING

First of all, I'll say that the Prosecution have not succeeded in proving the charge against the accused. He is accused of allowing 7 prisoners to escape and none of the witnesses can swear that 7 prisoners escaped during his tour of duty. There is doubt I'm sure in the minds of the Court as to this, and you cannot condemn a man of the charge as it is now laid.

Secondly, nobody could prove that when the accused took over the 29 prisoners were there. The roll call was made at 1310, a check by numbers, and the accused took over at a quarter to two, 1345, so, some of the prisoners must have escaped during Pacquette's duty tour or during Verreault's, and you must remember that the accused is accused of allowing to escape 7 prisoners and you must judge him according to what has been proven against him. You cannot allow yourself to think that this might have happened during his tour of duty because you have no proof of that and the Prosecution have not proven it. Besides, remember the apparent mess of the administration there at the dtn bks, and remember also that no orders were given whatsoever to the RPs, and you cannot accuse a man of not carrying out a duty if he did not get an orders about it. It would have been different if he had been told to inspect the wire, but nobody told him and nobody could prove that the hole was not made during the tour of duty of another RP, and therefore it is not proven that 7 prisoners escaped during the accused's tour of duty. Shifts were relieved by themselves, and there was no proper authority to relieve them. I must also call to your attention that a week later 3 other men again escaped. This is certainly not the responsibility of the accused and there must be something wrong there. Besides that, some of the witnesses said that there were no prisoners in the hut and Pte Verreault swore that there were some men in the hut. Besides that, the accused was unafraid to be cross-examined by the Prosecution and gave evidence under oath, and said that 3 prisoners escaped, but I know this to be under very bad ci cumstances. Even the Sgt says the wire could have very well been loosened before, and remember too, the wire was not cut. Finally, the Sgt admitted to this Court that the compound was absolutely no good or words to that effect to gd prisoners, so I ask the Court to give a decision of not guilty because I'm sure it would be absolutely unfair to have the accused's shoulderscarry this responsibility when so many others are concerned, as he is simply a helpless Pte surrounded by bad circumstances.

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE COURT FINDS THE ACCUSED NOT GUILTY OF THE CHARGE.

is marked on Exhibit 1.

Q. Did you receive any orders where to stand?
A. No, we never had any orders and we used to stand at that corner.

Q. Can you see the whole compound from there?
A. Not good.

Q. Did you notice anyone working at the fence?
A. No.

Q. Did you have an order to inspect the fence every time you took over?
A. No, when I heard the shout I was turning around to the front trying to call some RPs, as some SUS were making a noise in one of the living huts, and I called for the RPs to see to it, and my back was turned to the compound.

Q. Was there anybody else around the compound to help you?
A. I was the only one in the back.

Q. When you heard someone call what did you see?
A. I turned around and saw three taking to the bush about 100 yds from the compound.

Q. Why were these men making a noise in the hut?
A. I imagine they wanted to go to the lavatories.

Q. Do you think they were trying to distract your attention?
A. I don't know, I never had any experience in an escape like that before.

Q. How long a time was your head turned away from the compound?
A. About 7-8 mins, because there was nobody in front and I was calling all that time for someone.

Q. Did the Pte IC make a roll call that afternoon?
A. No.

Q. Was a roll call made in the morning?
A. It was never a custom to make a roll call, they just checked up.

Q. Anything else to say?
A. I stayed at my post until 4 o'clock, Sir.

Q. How long do you usually stay at one time at that post?
A. There were no set hours, we switched around, the longest one stays there is usually an hour.

CROSS-EXAMINED

Q. How long have you been an RP?
A. Six months altogether, 3 months in this gd room.

Q. When you first came here did you get any orders what to do?
A. We were not supposed to do any gd around the compound, we were just escorts, but that day there was supposed to be a break and we were put on gd.

Q. How long were you standing in the one spot before the men escaped?
A. About 15 mins.

Q. How many were in the enclosure before you turned around?
A. Quite a bunch, Sir.

Q. Where did the shout come from?
A. From the front.

RE-EXAMINED

Q. What was Schadt doing when you came back?
A. Standing around, Sir.

THIRD WITNESS

E.104047 Pte VERREAULT G, 4 CITR, having been duly sworn, states:

On the afternoon of 31 Jul 45 I was in the compound at the back about 1310 hrs doing gd duty, until about 1345 hrs, until I was replaced by the accused whom I now recognize. When I was relieved some prisoners were in the compound and some were in the huts, 29 altogether.

Q. Did any escape while you were on gd?
A. I don't know, but I didn't see any get out while I was on gd.

Q. What were you doing?
A. I was doing sentry duty around the compound, walking up and down the right side of the compound.

Q. Did you see any of the prisoners doing anything with the wire while you were on gd?
A. No.

Q. Were the prisoners counted when you were relieved by accused?
A. Not as far as I know.

Q. Was the wire intact when you left?
A. It seemed to be in good order, Sir.

CROSS-EXAMINED

Q. Were all the prisoners in the compound when you took over?
A. Yes.

Q. Where were you during the accused's tour of duty?
A. In the office in front.

Q. Did you hear any noise during his tour?
A. No, except when the alarm was given.

Q. Can you swear that all prisoners were there when you took over?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH KR 83(B)

THE PROSECUTION IS CLOSED

- DEFENCE -

FIRST WITNESS

The ACCUSED, having been duly sworn, states:

Q. Will you tell the Court about the events that took place during the afternoon of 31 Jul 45?
A. Yes, as it was my turn to have a tour of duty behind the Gd House I relieved Pte Verreault about 1400 hrs. During the hour that I was there about 25 past 2 I was replaced by Pte Shadt for the next 25 mins by permission of Sgt Brais in order to change battledress in my hut because I had an order to change it on account of I had scabies. Sgt Brais was in front of the office when I asked him and he said "yes, you may go", and I told him I had an RP to replace me. I changed and I went back in the back and told Shadt that I was taking over. The time then would be about a quarter to three. I didn't inspect the wire when I returned. The reason I went to change my battledress at that time was because I thought it would be a good time when I had an RP to replace me.
Q. Where were you standing when you came back?
A. In the corner where we always stand, around where the table

SECOND WITNESS

D.61764 Pte BERTHELET M, 4 CITR, having been duly sworn, states:

I recognize the accused and on the afternoon of 31 Jul 45 I was IC of the shift from 0745 hrs till 1545 hrs. All was under control in the morning and at 1310 hrs Pte Pacquette who was on the rear post, asked me to be relieved. At the time I was opening the door to send the prisoners into the compound. He asked me this across the enclosure, he being on his post. To relieve him I sent Pte Verrault. A few mins after the accused came in the office and said "I'm going in the back". I told him Pte Verreault was there and he said "I'll release him". Then Verreault walked in the office and I asked him where the accused was and he said he was in the back. About 1500 hrs I heard someone shout "sgt, running", so I said to Verreault to WATCH THE DOOR AND I went in the dtn compound and I saw a hole in the left in the corner of the rear of the compound through the bottom of the barbed wire. I counted the men, there were 22 in the enclosure, and after dinner before I sent them out, about 1310 hrs, there were 29 men present. While I counted the men in the enclosure the accused was standing up at the rear post.

CROSS-EXAMINED

Q. You made a roll call at 1310 hrs?
A. I counted the men, Sir.

Q. Pacquette was on duty then, relieved by Verreault, and then by the accused?
A. Yes.

Q. Can you swear that the men escaped while the accused was on duty?
A. No, I cannot swear to that, but he was there at the time I counted the men.

Q. Did you know that the accused had permission to absent himself and to be replaced during his tour of duty?
A. No.

Q. Did you make an inspection of the wire?
A. No.

Q. Did you check with the Cpl?
A. Yes, at a quarter past 3.

Q. Did you see the accused then?
A. Yes.

Q. As an NCO did you not give any orders to the Ptes of whom you were in charge?
A. That was my first experiment and I didn't know what I was to do.

QUESTIONS BY THE COURT:

Q. Did you have another patrol in front of the dtn hks?
A. Yes, but he couldn't see the compound well. The front sentry doesn't get a very good view of the compound only between the huts.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

Q. Where did you tell the accused to stand?
A. It was not a question of standing, it was a question of watching.

Q. Is one man sufficient to keep a close watch on the compound as it was then?
A. No, they couldn't give me the men I wanted, and that was all I had.

Q. Do you think it was possible for the men to make a hole without the gd seeing them?
A. Impossible if the gd is watching and doing his duty.

Q. Have you any orders about the duties of a sentry?
A. No.

Q. Had you inspected the wire yourself that day?
A. That morning and every morning.

Q. Do you know if the men made any attempt to distract the attention of the accused while they escaped?
A. I don't know, but they could have done so.

Q. How many men did he guard?
A. 34.

Q. Can you say that he was on duty when it happened?
A. Yes, I saw him standing toward the front of the compound after they escaped.

Q. How many sentries could you have placed around the compound?
A. They sent me 30 after the escape.

Q. Did you place any of them around?
A. They didn't want to do it because they were Sgts.

Q. When did you make a roll call?
A. I sent the Cpl to make it.

Q. Do you remember the accused coming to you to ask you if he could go and change his battledress that day about 1430 hrs?
A. No.

Q. Did he speak to you outside your office?
A. I don't remember, maybe he did.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

TRIAL OF

B.144237 Pte LEBLANC EA 4 CITR

-PROSECUTION-

FIRST WITNESS

D.56219 Sgt BRAIS JN, 4 CITR, having been duly sworn, states:

I recognize the accused. On 31 Jul 45 I was the Pro Sgt of 4 CITR and at approx 1515 hrs I was informed by another Sgt that some of my men were escaping at the back of the compound. I already checked to see if there were any gds at the back and also gave a holler to send someone after the men that had escaped, then I went and reported this to the Adjt and he told me to get the name of the gd at the back of the compound and this I found to be the accused. There are three shifts split up in 8 hrs and there were 6 to 7 men per shift. The man at the back of the compound watches that nobody escapes. According to the one IC of the shift the accused started on duty around 2 o'clock and should or probably would have been relieved at 4. The men who escaped were O'Callaghan, Worthington, Fryer, L'Abbe, Ferguson, Foster and Chaters.

THE WITNESS WAS ASKED TO PREPARE A CHART OF THE AREA, WHICH HE DID.

BOTH THE PROSECUTOR AND DEF OFFR SAID THEY WERE SATISFIED WITH THE CHART.

CHART MARKED EXHIBIT 1

Q. Did you see these men escape?
A. I saw the last three, Sir, but I didn't recognize who they were.

Q. How did they get out?
A. In the corner at the back of the compound we found a hole where they had spread the concertina wire through which they sneaked.

Q. Was the wire cut?
A. No, it was twisted.

CROSS-EXAMINED

Q. Didn't you say at the Summary that you had required the services of 9 other NCOs to help you?
A. Yes, because I didn't have any men and before that happened I told all my men to do their best as I felt there was going to be an escape. Three men had told me to watch out and watch my step, that I was going to lose 13 men, so I got some good NCOs.

Q. What were these NCOs doing at 1515 hrs?
A. Taking their stuff to move away, they weren't staying on.

Q. Where was Sgt Faulkner?
A. At the corner of the compound at the front and from there he could see them running away after they got out.

Q. Would you say the compound is inadequate to keep prisoners in?
A. Yes.

Q. Did any escape after that date?
A. Yes, a couple of days later 5 did.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate auth. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-144237	Pte		Emery Austin	LEBLANC	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 20 Aug 45 endorsed by me, (or by an offr of my staff for me) " To be tried by Field General Court-Martial ".

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

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

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

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

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

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

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

PRESIDENT.

LT COL (Rank.)	D L REDMAN, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Comd	9 Cdn Repat Dep
Lieutenant (Rank.)	to be detailed by Comd (Named or detailed. RP 106.)	4 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Comd (Named or detailed, if any. RP 106.)	4 CITR (Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(K G Blackader)

Date 20 Aug 45

Commanding D Gp Cdn Rft Units

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-144237	Pte	Emery Austin	LEBLANC	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has(have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Aug 45 endorsed by me, "~~or by an offr of my authority~~" To be tried by Field General Court-Martial";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to superior qualified offr~~ (Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Bn Offr as President, for the reasons I have stated above.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint and adjge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

D L REDMAN, VD — HQ CRU
(Must be named. RP 106.) (Unit.)

MEMBERS.

LT COL (Rank.) — to be detailed by Comd — 9 Cdn Repat Dep (Unit.)

Captain — to be detailed by Comd — 4 CITR (Unit.)

Lieutenant (Rank.) — to be detailed by Comd (Named or detailed. RP 106.) — 4 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.) — to be detailed by Comd (Named or detailed, if any. RP 106.) — ~~NONE ADVOCATE~~ (Unit.)

(Rank.) (Must be named, if any. RP 106.)

On Active Service in the Fd

in England (Country.)

Date 20 Aug 45

K G Blackader (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

(K G Blackader)
Commanding 3 Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A (CPAS file (HQ) or APAS 40-P & Q (Last 1 digit))

CHARGE SHEET

The accused No.B-144237 Private Emery Austin LEBLANC,of the Canadian Infantry Corps,on the strength of 4 Canadian Infantry Training Regiment,a soldier of the Canadian Army Overseas,is charged with:

FIRST CHARGE
ARMY ACT
Sec 20 (2)

WHEN ON ACTIVE SERVICE,WITHOUT REASONABLE EXCUSE,ALLOWING TO ESCAPE PERSONS WHOM IT WAS HIS DUTY TO GUARD,

in that he,

in the field,at 4 Canadian Infantry Training Regiment,on the 31st day of July 1945,at approximately 1515 hours,being on duty outside the guard room enclosure to guard soldiers under custody who were inside said enclosure,did allow the following soldiers under custody to escape:

C-21562	Pte O'Callaghan C.P.
K-51489	Pte Worthington J.H.
D-46709	Pte Fryer W.S.
D-186502	Pte L'Abbé H.
K-53763	Pte Ferguson A.W.
K-45833	Pte Foster A.E.
C-475	Pte Chalers R.

(H.C. CLARK) Colonel
Commander
4 Cdn Inf Trg Regt

IN THE FIELD
16 August 45

To be tried by Field General Court Martial.

(H G Blackader) Brig
Cond
D Gp Cdn Rft Units

IN THE FIELD
20 Aug 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

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

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 91(C).*)

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give Evidence. Do you intend to call witnesses on your behalf? Ans. NO-SIR. ~~Are they witnesses as to character only? Ans.~~
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, ~~44~~ and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : B-144237 Pte Emery Austin LEBLANC - CIC - 4 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 20(2)	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

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

~~At present under sentence~~ for ..... ~~beginning on (date)~~ .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial - a total of ..... days, of which ..... days were spent in hospital~~.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~ :

The accused was Released

(Sgd) ..... 22 Aug 45 (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

AUG 25 1945

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date ..... (Sgd) .....
Commanding .....
Confirming Officer.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 5 SEP 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 p 5R-146

FIELD GENERAL COURT-MARTIAL

CFAMS (To lieu of AFAMS) 40/P & R/1666 (4-44) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd D G Sp CRU dated 20 Aug 45.

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-144237	Pte		Emery Austin	LEBLANC	CIC 4 CITR

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

At Held in the Fd in (country) ..... on (date) 22 AUG 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (✓) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (✓) brought before the Court. At 1330 hours trial commences.

A4. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1) The accused is (✓) fit to undergo trial by court-martial.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~
~~The Interpreter is sworn.~~(1) Do you object to PTE 126 SGT AH SINCLAIR as shorthand writer ? Ans NO
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO SIR (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	F.C. TWIST	9 CDN REPAT DEPOT
Member	LT	F.R. HUXTABLE	4 CITA
~~Judge-Advocate~~			
Prosecutor	CAPT	A.H. DAVIS	4 CITA
Defending Offr	CAPT	V. MCRAE	4 CITA

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (✓) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5 R-146
Pt. Leblanc, E.A.

ARMY FORM B 116.

No. 2 Cdn. Inf. Holding Unit REGIMENT.

STATION Camp 102, Witley, Surrey Date 13th Jan. 1941

Application for a Field General *Court-Martial.*

SIR,

I have the honour to submit three charges against No. E-4537 Pte. Emilien Leblanc, Royal 22nd Regiment, from Field Unit of the unit under my command, and request you will obtain the sanction of Comm. Officer, Cdn. Base Units that a Field Gen. Court-Martial may be assembled for his trial at Camp 102, Witley, Surrey

The Case was investigated by (*a*) Major W.E. Morgan, M.C., Lt.-Col. F. S. Mathewson, D.S.O. and Lieut. G.M. Graham

A Court of Inquiry was held on (*b*) 12th November, 1940 (date) at in the Field (Station).

President	Major L.P. Payan, R. 22nd Regt	Ranks, Names and Corps.
Members	Lieut. G. Gauvreau, R. 22nd R.	
	Lieut. S.G. Parent, R. 22nd R.	

The accused is now at Bordon His General Character is (*c*) indifferent

I enclose the following documents (*d*) :—

1. Two Charge Sheets (in duplicate) (*e*).
2. Summary of Evidence, original (*f*) and one copy.
3. Original Exhibits (*g*). Three ~~xxxx~~.
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
5. List of Exhibits (*h*).
6. ~~xxxxxxxxxxxxx~~
7. Statement as to character (A.F.B. 296) and regimental and company, etc., conduct sheets of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (*h*). [R.P. 14 (B)].

Prosecutor:

Capt. W.R. Moore
2 C.I.H.U.

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer F.S. Mathewson Lt.

To Commanding Officer
"A" Group, Holding Units

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. E-4537 Pte. E. Leblanc, Royal 22nd Regiment is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer H.H. Mader Major

* Insert "fit" or "unfit."

(*a*) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence [R.P. 19 (B) (iii)].
(*b*) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges ; otherwise to be struck out [R.P. 19 (B) (iii)].
(*c*) To be filled in by the Commanding Officer.
(*d*) Any items not applicable to be struck out.
(*e*) One copy to be sent to the President ; one copy to be filed with the application for trial.
(*f*) Original summary of evidence to be sent to the President.
(*g*) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(*h*) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 46 (B) the fact should be recorded at the top of this form.

(11362) Wt.[illegible] [illegible] [illegible] A.& E.W.Ltd. Gp.[illegible]
(13400) Wt.[illegible] [illegible] [illegible] " " Forms/B116/12

STATEMENT OF **EVIDENCE** IN CASE OF

No. E-4537 PTE. LEBLANC. E.
"B." COMPANY.
ROYAL CANB. REGT. (FRENCH CANADIAN)
LONDON.

Sir,

At LIVERPOOL on the 11th December 1940, at about 11.00 hrs, I was on duty in CHURCH St. Y.M.C.A. where I had occasion to check the above named soldier. Whilst questioning him he stated he was granted two days leave from his unit in London, but could not give his address other than above. I asked to see his pass and he said "I have no pass" Consequently I arrested and conveyed him to C.M.P. Guard Room, ARGYLE ST. LIVERPOOL, and handed him over to the Guard Commander & he placed in close arrest. (statement attached).

LIVERPOOL
12.12.1940

James J. Millington. L/Cpl.
C.M. Police

Sir, I have read over and corroborate the above statement.

LIVERPOOL
12.12.1940.

J. Stanley L/Cpl.
C.M. Police.

REMARKS

TO BE RETURNED COMPLETED TO

CHARGE WEST LANCS AREA H.Q. Army Form B 252

(See King's Regulations)

Royal 22nd (French Canadian) Regiment

B Company Battery / Squadron / Troop or Company

CHARGE against No. E 4587 Rank Sta

Name LEBLANC · E

Place LIVERPOOL Date of Offence 12 12 1940

OFFENCE W.O.A.S. 15(1)

ABSENT FROM UNTIL APPREHENDED BY THE MILITARY POLICE AT LIVERPOOL AT ABOUT 1100 HRS. on the 12.12.1940.

[signature]

DAPM WEST LANCS AREA 6/12/1942

Names of Witnesses :—

L. Cpl. Merriman D. E.W. Police

L. Cpl. Stanley E.W. Police

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

[signature] Adjutant.

Wt.W.19025 261 2,000,000 7/40 K. & H. Ltd. G607/47

P.T.O

W. 52843/1218 4/40 1,000,000 S.P.Co. 51-6627

Place	Date of offence	Rank	Cause of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order for trial with particulars	By whom awarded	Remarks
Camp	26-8-40	Pte.		W.O.A.S. A.W.L. from 2230 hours 16-8-40 to 1400 hours 23-8-40. Total 6days 2 hours	C.S.M. Bouchard Cpl. Cagne	7 days pay 14 days det.	28-8-40	Lt.-Col. Flynn	
Caterham	30-9-40	"		W.O.A.S. A.W.L. from 2200 hours 30-9-40 until apprehended at 1620 hours 6-10-40 Total 5 days 8 hours 20 min.	C.S.M. Bouchard Cpl. Anderson	6 days pay 14 days C.B. 14 days F.P. 3 months R.P.	10-9-40	Lt.-Col. Flynn	

Certified true Copy
[illegible] Lieut

W. 52843/1218 4/40 1,000,000 S.P.Co. 51-6627

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Certified true Copy
[illegible] Lieut

No. E-4537 Name Leblanc, Emilien Sgt., Barr., or Company Corps R. 22nd R. (C.A.S.F.) Date of enlistment Sheet No.

Date of last entry in Company Conduct Sheet No. and date of last drunk G.C. Badges Long Service and G.C. Pay Signature of C. Company, etc.

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order (forwarding with trial)	By whom awarded	Remarks
Albuhera Barracks	30-5-40	Pte.		A.W.L. from 2300 hours 30-5-40 to 1600 hours 2-6-40. Total absent 2days 17 hours.	Cpl. Michaud	14 days C.B.	4-6-40	Lt.-Col. Keine	3 days pay
Louisburg Barracks	22-6-40	"		W.O.A.S. did feign sickness to a Medical Officer.	L/Cpl. Courcelles	3 days C.B.	22-6-40	Capt. Derome	
Camp	12-7-40	"		Absenting himself from 1906 hours 12-7-40 to 1115 hours 16-7-40. Total absent 3 days 17 hours 15 minutes.	Cpl. Bacon	15 days detention	24-7-40	Lt.-Col. Flynn	
				A.W.L. from 1616 hours 16-7-40 till apprehended in London by L/Cpl. Brooks, C.M. Police at	Cpl. Anderson L/Cpl. Brooks	7 days pay			

[P.T.O.

No. E-4537 Name Leblanc, Emilien Sgt., Barr., or Company Corps R. 22nd R. (C.A.S.F.) Date of enlistment Sheet No.

Date of last entry in Company Conduct Sheet No. and date of last drunk G.C. Badges Long Service and G.C. Pay Signature of C. Company, etc.

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[P.T.O.

Army Form B.122

No. E-4537 Name Leblanc, Emilien (Sqn., Batty., or Company) Corps R. 22nd R. (C.A.S.F.) (Date of enlistment) Sheet No.

(Date of last entry in Company Conduct Sheet) (No. and date of last drunk) (G.C. Badges) (Long Service and G.C. Pay) (Signature of O.C. Company, etc.)

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order commuting sentence	By whom awarded	Remarks
Albuhera Barracks	30-5-40	Pte.		A.W.L. from 2300 hours 30-5-40 to 1600 hours 2-6-40. Total absent 2days 17 hours.	Cpl. Michaud	14 days C.B.	4-6-40	Lt.-Col. Keine	3 days pay
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				A.W.L. from 1616 hours 16-7-40 till apprehended in London by L/Cpl. Brooks, C.M. Police at	Cpl. Anderson L/Cpl. Brooks				

[P.T.O.

Army Form B.122

No. E-4537 Name Leblanc, Emilien (Sqn., Batty., or Company) Corps R. 22nd R. (C.A.S.F.) (Date of enlistment) Sheet No.

(Date of last entry in Company Conduct Sheet) (No. and date of last drunk) (G.C. Badges) (Long Service and G.C. Pay) (Signature of O.C. Company, etc.)

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order commuting sentence	By whom awarded	Remarks
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				A.W.L. from 1616 hours 16-7-40 till apprehended in London by L/Cpl. Brooks, C.M. Police at	Cpl. Anderson L/Cpl. Brooks				

[P.T.O.

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

~~The accused~~ at the present time is under sentence for

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges for days in Civil Custody,

and 27 days in Military Custody.

Total 27 days.

Of which days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 6/Nov. '39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1Y M05.

8. The accused is entitled to deferred pay or gratuity in respect of 1Y M05 ~~years~~ service.

9. The accused is entitled to reckon 1Y M05 ~~years~~ service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decorations ~~or~~ military reward [*or* is in possession of *or* entitled to

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , and in his regiment (*or corps or department*) the rank of dated ; dated

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

Date of Promotion.

In the rank of years

In the rank of years

In the rank of years

[Instructions.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*]

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

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

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

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this JAN 1 5 1941 day of

[signature] Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

EH537 PTE LE BLANC, EMILIEN of the ROYAL 22ND. REGIMENT. (FIELD)

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A. W. L.	5 times	5 times.
For Feigning sickness to Mo.	1 times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

~~or,~~

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

2. The accused has not been previously convicted,

~~or,~~

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

Wt. 43643/864 50,000 2/40 W. S. Ltd. 11—6004

RECORD OF THE DECLARATION OF A COURT OF INQUIRY

ON THE ILLEGAL ABSENCE OF A SOLDIER.

Record of the Declaration of a Court of Inquiry assembled in the Field on 12 Nov 40, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, equipments, Instruments, Regimental Necessaries, or Clothing of No. H.4537 Pte. Leblanc E, Royal 22e Regiment, C.A.S.F.

DECLARATION.

The Court declare that No. H.4537 Pte. Leblanc E., at 0530 hrs. absented himself without leave from his duty on 20-10-40, and that he is still absent and that on 12 Nov 40, he was deficient and is still deficient of the following articles:-

Sec. Clo. Div. C.S.	2 prs of socks	£ .	3.	2
	1 towel		1.	9
	1 spoon table		1.	3½
	1 razor safety			5½
	1 shirt angola drab		15.	0
Sec. Clo. Div. C.D.	1 pr. boots ankle	1.	1.	0
	1 waist belt		4.	7
Sec. A.1	1 mess tin (rec)		2.	3
	1 " " (cov)			2½
Sec. C.E.	1 great coat	2.	8.	6
" A.2	1 gas mask		17.	9½
	TOTAL.	£ 5.	15.	0

Names of President and members:-

Major L.P. Payan, R 22e R.
Lieut. G. Gauvreau, "
" S.G. Parent, "

Commandant Royal 22e Régiment

APPROVE.

(PERCY FLYNN) , Lieut.-Col.,
Commanding Royal 22e Regiment,
Canadian Active Service Force.

4 Copies

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. E 4532 Rank Pte

Name Leblanc E Regiment R 22 E R

is fit

to undergo trial by Court-Martial.

16/1/41

[illegible] Mac Major

M.O. Signature.

Name

[illegible]

Statement of EVIDENCE in the case of
E-4537 Pte. LeBlanc E.
R.22 R., #2 Infantry Holding Unit,

Sir,

At London on 12-11-40 at about 1315 hrs. While on duty at Waterloo Station the m/n soldier surrendered himself as being A.W.L. I placed him under arrest and escorted him to C.P.C.H.Q. and handed him over to the N.C.O. i/c of the cells to be detained.

LONDON,
12-11-40

W. Rodway ....Cpl.
Canadian Provost Corps.

Sir,

I have read over and corroborate the above statement.

LONDON,
12 Nov 40

W. C. Sherrett ....L/Cpl.
Canadian Provost Corps.

21-22

L

CRIME.

R.22 R. No. 2 Infantry Holding Unit.
SQUADRON, BATTERY OR COMPANY

Bordon

CHARGE against No. E-4537 Pte. LeBlanc E.

Place	Date of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awarded
London	12-11-40	W.O.A.S. was Absent without Leave from ..... until surrender ing at about 1330 hrs. 12-11-40.	Cpl. Rodway W. Canadian Provost Corps. L/Cpl. Sherrett W.P., Canadian Provost Corps.		

[signature] CAPT.
O.C. No. 6 COMPANY.
CANADIAN PROVOST CORPS.

years

Service
Number of good conduct badges
Date of last entry in company conduct book
Character
Date of last entry for an act of drunkenness
Number of cases of drunkenness within the last 12 months

Commanding.

4 copies

M. F. B. 264
750m. —7-18
H. Q. 1772-39-90.

LIST OF EXHIBITS

in the case of

No. E-4537, Pte. Leblanc, Emilien, Royal 22nd Regt. Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Active Service Force.

(a) Declaration of Court of Inquiry

(b) Certificate of Surrender

(c) Statement of L/Cpl. Nullman and L/Cpl. Stanley, Liverpool.

LIST OF WITNESSES

in the case of

No. E-4537, Pte. Leblanc, Emilien, Royal 22nd Regiment Field Unit (No, 2 Canadian Infantry Holding Unit), a soldier of the Canadian Active Service Force.

PROSECUTION

Lieut. H. DeVeber — No. 2 C.I.H.U.

No. F-54635, Pte. Bartholemew, E.H. — No. 2 C.I.H.U.

No. D-106064, L/Cpl. Patry, L. — "

DEFENCE

Nil.

Third Witness for Prosecution.

No. D-106064, L/Cpl. Patry, L., being duly sworn, states:

I was on duty at Detention Room, Bordon, on the night of 29t November, 1940, from 1600 - 2400 hours. Pte. Bartholemew was in charge. Accused was a prisoner on that evening because I saw him. About 1930 hours, I went to the toilet and discovered a hole in the roof through which it was possible for a man to get. We then checked the prisoners and found the accused missing. We searvhed the building but could not find him. We then reported to Sgt. Allen, Provost Sergeant.

L Patry .....L/Cpl.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Witley, Surrey
11 Jan., 1941.

G.W. Graham .....Lieut.
Officer detailed by C.O. # 2 C.I.H.U.
to take Summary of Evidence.

SUMMARY OF EVIDENCE

in the case of

No. E-4537, Pte. Leblanc, Emilien, Royal 22nd Regiment Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Active Service Force.

Charge Sheet No. 1

First Witness for Prosecution. Lieut. H. DeVeber, being duly sworn, stated:

I am Acting records Officer of No. 2 Cdn. Inf. Holding Unit. I produce herewith:

(a) Declaration of Court of Inquiry

(b) Certificate of Surrender

(c) Statement by L/Cpl. Mullman and L/Cpl. Stanley, C.M.P., Liverpool.

All concern the accused whom I recognize.

H. DeVeber .....Lieut.

Accused declines to cross-examine this witness.

Charge Sheet No. 2

Second Witness for Prosecution. No. F-54635, Pte. Bartholemew, E.H., being duly sworn, states:

On the night of 29th November, 1940, I was in charge of the shift on guard at Bordon Detention Room from 1600 - 2400 hours. At about 1930 hours, I made a check on all prisoners and found that Pte. Leblanc, E. the accused, was missing. My previous check eas at supper time, about 1730 hours, and the accused was then present as a prisoner. When I found the accised was missing, I searched the building and did not discover him. On going into the toilet, I found an opening in the roof through which it was possible for the accised to have escaped. I then reported to Sgt. Allen, Provost Sergeant, at 2000 hours.

E.H. Bartholomew Pte.

Accused declines to cross-examine this witness.

Q11 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of these entries?
A11 - They are, sir.

The accused declines to cross-examine this witness.

Q12 - Do you wish to address the Court?
A12 - (Defending Officer) I have nothing to say, sir, except the accused apparently recognizes his conduct has not been very manly and on pleading guilty to all the charges he wishes to prove that it is his desire to soldier in future.

The Court is closed for the consideration of the sentence.

B-4557, Pte. Leblanc, E., R22eR. Fd. Unit, No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey on the 16th day of January, 1941.

The order convening the court, the charge-sheet and the summary of evidence are laid before the court.

At 1000 hrs the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.W.H.C., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.

Prosecutor - Before the accused pleads to the second charge, I might say that I understand that he has certain articles of equipment for which he is charged as being deficient. If that is so the defence may agree to plead guilty to an amended charge, if the court agrees, and we will thereby save the time of the court.

The defence is able to produce certain of the articles with which the accused is charged as being deficient.

Q4 - Are you guilty or not guilty of the second charge as amended, and which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you which you have heard read?
A5 - Guilty, sir.

R.P. 35(B) is complied with by the court.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q6 - Do you wish to make any statement in mitigation of punishment?
A6 - No, sir.
Q7 - Do you wish to give evidence yourself or to call any witnesses as to character?
A7 - No, sir.

Lieut. W.H. Beber, Records Officer, No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the President.

Q8 - Have you any evidence to produce as to the character and particulars of service of the accused?
A8 - I produce certified true copies of A.F.B. 294 and M.F.W. 6 of the accused.
A9 - Is the accused the person named in the statement which you have heard read?
A9 - He is, sir.
Q10 - Have you compared the contents of the above statement with the regimental books?
A10 - I have, sir.

CHARGE SHEET NO. 2

The accused, No. E-4537, Pte. Leblanc, Emilien, Royal 22nd Regiment Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Active Service Force, is charged with:

First Charge
Section 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

while under close confinement at Louisburg Barracks, Bordon, Hants, at about 1930 hours, 29th November, 1940, absented himself without leave until apprehended by Military Police at Liverpool, at about 1100 hours, 12th December, 1940.

Total absence 12 days 15 hours 30 minutes.

F.S. Mathewson

Camp 102,
Witley, Surrey
13th January, 1941.

(F.S. MATHEWSON, Lieut. Col.
Commanding
No. 2 Canadian Inf. Holding Unit.

To be tried by Field General Court-Martial

15-1-41 ...[signature]... Brigadier
Commanding Can Base Units

Louis Leene
[illegible]

CHARGE SHEET NO. 1.

The accused No. E-4537, Pte. Leblanc, Emilien, Royal 22nd Regt. Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Active Service Force, is charged with:

First Charge Section 15 (1) Army Act. When on active service, absenting himself without leave,

in that he,

in the Field, at 0800 hours, 20th October, 1940, absented himself without leave from his unit until he surrendered himself to the Military Police in London at about 1315 hours, 12th November, 1940.
Total absence 23 days 5 hours 15 minutes.

Second Charge Section 24 (2) Army Act. Losing by neglect his clothing, equipment and regimental necessaries,

in that he,

in the Field, on the 12th November, 1940, was deficient of: 2 prs socks, 2s 2d; 1 towel, 1s 9d; 1 tablespoon, 3½d; 1 safety razor, 5½d; 1 shirt angola drab, 15s; ~~1 pr boots, ankle, 21s;~~ 1 waist belt, 4s 7d; 1 mess tin 2s 3d; 1 mess tin cover, 2½d; 1 greatcoat, 48s 6d; ~~1 respirator, complete, 17s 9d;~~ Total, £5. 15. 0.

F.E. MATHESON, Lieut. Col.
Commanding
No. 2 Cdn. Inf. Holding Unit.

Camp 102,
Witley, Surrey
13th January, 1941.

To be tried by Field General Court-Martial

15-1-41 ..... Brigadier
Commanding Cdn Base Units

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
[redacted] E-4537	Charge sheet No.1			
PTE. LEBLANC, E.,	First Charge	GUILTY	GUILTY	Confirmed R
([redacted]. Fd. Unit)	A.A. Sec. 15(1) as per charge sheet			
No. 2 Cdn. Inf. Hldg. Unit, C.A.S.F.	Second Charge	GUILTY	GUILTY	Not confirmed due to alteration of charge by Court R
	A.A. Sec. 24(2) as per charge sheet			
	Charge Sheet No.2 First Charge	GUILTY	GUILTY	Confirmed. R
	A.A. Sec. 15(1) as per charge sheet			
	TO UNDERGO DETENTION FOR A PERIOD OF SIX MONTHS AND TO UNDERGO STOPPAGES OF PAY UNTIL THE AMOUNT OF £3-16-2½ HAS BEEN RECOVERED.			I confirm that part of the sentence relating to detention but mitigate it to one of 120 days detention. That part relating to stoppages is not confirmed R

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— 1

(Signed) L. F. Rupp Brigadier (Signed) Louis Reene F.C.O.

Commanding Canadian Base Units, C.A.S.F. President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of January, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~[illegible]~~ Court Stenographer LK
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 16th day of January 1941.

Louis Reene F.C.O.
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ R

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 31st day of January 1941.

L. F. Rupp Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of E 4537 Pte Leblanc E. (R22²R)

(a) (Dated) 4/2/41 (Signed) P. E. Bilanger Major Lieut. Col. Officer Commanding No. 2. Cdn. Inf. Holding Unit C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here.

Original

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this 15th day of January, 1941.

A. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, C.A.S.F.

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted] 10

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[redacted]

PROCEEDINGS CHECKED IN AND FOUND TO BE IN ORDER.

(A. W. EMBURY) MAJOR, J.A.G.3., C.M.H.Q.

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Lieut.-Col.	Louis Keene, E.D.	Lorne Scots

Members.

Rank.	Name.	Regiment.
Captain	H.R. Cleveland	No. 1 Eng. H.U.
Lieut.	T.A. Somerville	No. 1 Cdn. Eng. H.U.
Lieut.	W.J. Fordyce	No. 1 Cdn. Gen. H.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed L. F. Page Brigadier

Commanding CANADIAN BASE UNITS, C.A.S.F.

Convening Officer.

363

10-2-314

R 4537 Pte Leblanc E.

2 Chn. Inf H. U.

LIST OF WITNESSES FOR PROSECUTION

AND DEFENCE

PROSECUTION: E-4487 L/Sgt. Boisseau, L.

E57641 L/Cpl. Pitre, A.

Lieut. C.E. Levesque.

I certify that I have been served with a true copy of the Summary of Evidence taken prior to my trial by F.G.C.M. I furthermore acknowledge the receipt of a true copy of the charge sheet upon which I am being brought into Court-Martial.

I require the services of an officer to represent me at my trial.

I require the services of Lt. Hermitage if he is available.

"Emilien Leblanc" Pte.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of E.4537 Private Emilien LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

1st Witness: For the Prosecution.

Lieut. C.E. Levesque, Royal 22e Regiment, posted to "A" Coy having been duly sworn states:-

" I am Lieut. C.E. Levesque, Royal 22e Regiment, posted to "A" Coy. I am commanding No.9 Platoon to which Pte. Leblanc whom I now recognize belongs. On October 22nd 1943, Pte. Leblanc was released from Detention to carry on with his duties as rifleman. Each man of the platoon was advised that contact with the enemy could be expected at any moment. Pte. Leblanc was present when this advise was given. At about 1800 hrs the coy was on a move towards the enemy and the accused left the ranks without permission and he reported back to my Platoon Sgt. at 1030 hrs November the 3rd 1943.

"Charles E. Levesque" Lieut.

The accused declines to cross examine the witness.

2nd Witness: For the Prosecution.

E.4487 L/Sgt. Boisseau, L. Royal 22e Regiment, posted to "A" Coy, having been duly sworn states:-

" I am E-4487 L/Sgt. Boisseau, L. Royal 22e Regiment, posted to "A" Coy No. 9 Platoon. On October 22nd 1943, Pte. Leblanc whom I now recognize was sent back to my Platoon from Detention. He was advised with all the others that contact with the enemy could be expected at any moment. At about 1830 hrs our coy was on the move towards the enemy and the accused left the ranks without permission. He reported back to me at about 1030 hrs on November the 2nd 1943.

"L.Boisseau" L/Sgt.

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify the foregoing summary of evidence consisting of one page (1) was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"Charles Lapare" Lieut.
Officer taking Summary.

In the Field
3rd November 1943

SUMMARY OF EVIDENCE

In the case of E.4537 Private Emilien LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer, this Summary of Evidence has been taken under oath.

1st Witness: For the Prosectu

E.4487 L/Sgt. Boisseau, L. Royal 22e Regiment, poted to "A" Coy, having been duly sworn states:-

" I am E-4487 L/Sgt. Boisseau, L. Royal 22e Regiment posted to "A" Coy No. 9 Platoom. On October 9th 1943, when advancing towards the enemy Pte. Leblanc, E. whom I now recogize left ehe platoon without permission at about 1030 hrs October the 9th 1943. In the morning Lieut. Levesque told the men that no one could leave the platoon without his permission. Pte. Leblanc reported himself at 1000 hrs October the 14th 1943.

"L. Boisseau" L/Sgt.

The accused declines to cross examine the witness.

2nd Witness: For the Prosecution.

E.57641 L/Spl. A. Pitre, Royal 22e Regiment, posted to "A" coy, having been duly sworn states:-

" I am E.57641 L/Cpl. A. Pitre, Royal 22e Regiment, posted to "A" Coy. No. 9 Platoon. On October the 9th 1943, Pte. Leblanc a man of my section who I now recoginzed, When advancing towards the enemy, came to me and said that he could not advance any farther, for he had no control of himself. This is during the shelling. It was around 1030 hrs. He then left the platoon on his own without any permission.

"A. Pitre" L/Cpl

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing summary of evidence consisting of one page (1) was taken down by me in the presence and hearing of the accused, and that rules of procedure 4(c),(d),(e),(f) and (g) were duly complied with.

"B. Pelletier" Lieut.
Officer taking Summary.

In the Field,
18th October 1943.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number E-4537 Rank Pte. Unit

Name LEBLANC, Emilien of Royal 22e Regiment. Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.C.C.M.	Field 16Jan41	AA 15(1) AA 15 (1) AA 24(2)	120 dys Det	
	11 Nov 41	Civil Offence	N/A	
	9 Apr 42	Civil Offence	415 dys pay	Remition 121 days.
		Released from Det Bks 26 May 43.		

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

Signed this 18 day of October 1943

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

"D.C. Young" Capt.

" E 1 "

M.F.B. 175
12M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number E-4537 Rank Private Name LEBLANC E. Regiment (or unit)

Royal 22e Regiment.

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

	Within last 12 months		Since enlistment or appointment	
For	A.A. 15(1)	- times	12	times
For	A.A. 40	- times	1	times
For	A.A. 8(2)	- times	1	times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or.

~~[illegible]~~

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

2. ~~[illegible]~~

or.

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

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

~~[illegible]~~

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 1 days in Air Force military custody, making a total of 1 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~[illegible]~~

6. The date of his ~~[illegible]~~ attestation specified in his record of service is 7 Nov 1939 ~~[illegible]~~

7. The service which the accused is allowed to reckon towards discharge is 2 years 13 days.

7a. The accused is entitled to deferred pay or gratuity in respect of 2yrs /13 dys

8. The accused is entitled to reckon 2yrs/13 dys service for the purpose of determining his pension, etc.

9. ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

"R. Waterman" Major.

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 577

I certify that I have this morning examined No. E-4537 Rank Pte. Name LEBLANC, E. of Royal 22e Regiment and in my opinion he is fit to undergo Trial by Court-Martial.

Station In the Field

Date 9th Nov 1943. "Guy Latour" Capt. Medical Officer

"R. Waterman" Major.

F

SENTENCE

The Court sentence the accused E-4537 Pte. Emilien LEBLANC Sentence
R. 22e R.

To suffer Penal Servitude for the term of four years.

"R. Waterman" Major.

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused

is guilty of deserting His Majesty's Service.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Capt. G. Gauireau R. 22e R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. Yes

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

Question by the President — Is the accused the person named in the statement which you have read? Answer by the Witness. yes

Question — Have you compared the contents of the above statement with the regimental books? Answer. Yes

Question — Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

~~Proceedings in accordance~~ "RW"

Do you wish to address the Court? Answer No.

The Court is closed for the consideration of the sentence.

"R. Waterman" Major.

Closing address by Defence "G. Hermitage" Lt.

E-4538 Pte. Leblanc.

It has been proved that in previous battles the accused has faced the enemy as brave as any soldier.

Due to recent heavy bombing the accused has lost his nerve.

The fact that he has returned to his unit without being forced proves or rather shows of his attempts.

The accused regrets the trouble he has caused the court.

"R. Waterman" Major.

D 1

First Witness for the Defence — E-4487 L/Sgt. Boisseau, L., R. 22e R., having been duly sworn, states:-

Q. - Were you a Cpl in charge of a section in the same Platoon when in Sicily?

A. - Yes.

Q. - When in contact with the enemy in Sicily did your Platoon have any trouble with the accused?

A. - No trouble at all.

Prosecution declines to cross examine

R.P. 83(b) complied with.

"R. Waterman" Major.

The prosecution is closed.

DEFENCE

Accused advised of rights under R. P. 40

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer No.

Question Do you intend to call any other witness in your defence?

Answer Yes

Question Is he a witness as to character only? Answer. No.

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40(C)(iv) and 41(A)(i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, markde and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

No closing address by Prosecution "RW"

(Where any evidence is given for the defence)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see overleaf).

- - - - - - -

(Where the accused does not give evidence upon oath).

Question to the accused. Have you anything to say in your defence?

Answer No [redacted]

"RW"

"R. Waterman" Major.

- -

- In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above).

under close arrest and a charge of Desertion was laid against him. On 22 Oct 43 as his case had not yet been through Bde., he was temporarily released from close arrest. The accused then reported to me at about 1600 hours, at which time we were moving forward toward the enemy. At about 1800 hours we debussed. The accused was there. Everyone could hear me when I said

"R. Waterman" Major

C 4

that we were going into the front line. At that moment we could already hear enemy shelling. We had left about a half hour when my sgt informed me that the accused had left without obtaining permission. He reported back to my Platoon at 1030 hours, the 3rd or 4th Nov 43.

Cross-examination by Defence

Q. - Did the accused report to you or Capt. Young on being attached to your company.

A. - As we had already embussed the accused embussed in another truck, I think with the Coy Comd, but I was advised that he had to report to me.

Q. - Was the accused armed?

A. - At the debussing point the accused was not armed. As he was with two other men coming from Detention I disarmed my No. 1 Mortar man and offered the rifle to one of these three. Inasmuch as I can remember the other Leblanc took the rifle. The accused could have been used as runner, or used by the Coy Comd for any other purpose.

R.P. 83(b) complied with.

"R. Waterman" Major.

Q. - Is it possible that someone gave him a message to take to the rear?

A. - No sir, it is not possible.

Re-examination bythe Defence

Q. - How much ammunition did the accused have for his rifle?

A. - A filled magazine.

R.P. 83(b) complied with.

Second Witness for the Prosecution. E-57641 Cpl. PITRE, A. R. 22e R. having been duly sworn states:-

At about 1030 hours, 9 Oct 43 the accused, before leaving my company came to me and told me that he could not advance any farther, because he had lost control of himself. This was during shelling. Then he left the section without permission.

Cross-examination by Defence

Q. - When the accused informed you of his condition did you order him to stay.

A. - He was not told to stay, and he was not told to go.

"R. Waterman" Major.

C 3

Q. - Did the accused look unduly nervous or upset?

A. - He seemed very nervous.

Q. - Have you been in action with the accused before?

A. - Not in the same section.

R.P. 83(b) complied with.

Third Witness for the Prosecution Lieut. C.E. Levesque, R. 22e R., having been duly sworn states:-

On 9 Oct 43 I formed up my Platoon at 0530 hours. All men were present. I advised them we were moving, and I added that no one could leave the Platoon without my own permission. At 1030 hours, 9 Oct 43 we had been and were still under heavy enemy shell-fire. My platoon Sgt. reported to me at that moment that the accused had left without permission. He reported [redacted] back a few days later--I do not remember the date. He was placed

Case of E-4537 Pte. LEBLANC, E.

First Witness for the Prosecution.

E-4487 L/Sgt. Boisseau, L., R. 22e R., having been duly sworn, states:-

" On 9 Oct 43 when advancing toward the enemy the accused left the Platoon without permission after being told by Lt. Levesque that no one could leave without permission. The accused left at about 1030 hrs, 9 Oct 43 He reported to me on 14 Oct 43 at 1000 hours. The accused returned from Close Arrest to rejoin the Platoon on 22 Oct 43. When advancing again toward the enemy, he left the Platoon again at 1830 hours, 22 Oct 43, when expecting to meet the enemy atany time. He reported to me at 1030 hours, 2 Nov 43.

Question by Prosecutor:-

Q. - Were you in actual contact with the enemy when the accused left the first time?

A. - No, not yet. We were being shelled.

Q. - What time did the shelling start that day?

A. - It was about 1000 hours.

Q. - How long did it last?

A. - About one and a half hours.

No Cross-examination by Defence

The Defence declines to cross-examine.

Cross-Examination by the Court

Q. - Was the accused armed on each occasion with a rifle?

"R. Waterman" Major

A. - Yes.

Q. - Did you personally see him leave on either of the occasions?

A. - Yes, Sir.

Q. - Were you in a position to prevent him from leaving?

A. - No Sir.

Q. - When he left, did he go toward or away from the enemy?

A. - He went away from the enemy.

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have beenprejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer No, Sir.

~~[illegible]~~ "RW"

The prosecutor proceeds to call witnesses.

First witness) for) prosecution)

"R. Waterman" Major.

being duly sworn, is examined by the Prosecutor.

CIPHER MESSAGE IN

SIGS NO.7127

TO : FLAMBO FOR CANDEX

FROM: CANMILITRY A 4918 DEC

REFERENCE A 4615 AND YOUR ACA 1567. PARA 1 IN CASES LEBLANC D LEBLANC E DESLAURIERS R SENIOR OFFICER ENDORSED PROCEEDINGS 16 DECEMBER 43 QUOTE I CONFIRM THE FINDING OF THE COURT I VARY THE SENTENCE SO THAT IT SHALL READ AS FOLLOWS TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS AND I CONFIRM THE SENTENCE AS SO VARIED UNQUOTE. PARA 2. IN CASE BEAULIEU JR ENDORSEMENT SAME DATE QUOTE I DO NOT CONFIRM THE FINDING OR SENTENCE UNQUOTE

SMC/DIS/ACTION. CDN SEC

SMC/TOR/200400A CM

CHARGE SHEET "B2"

The accused, E-4537 Private Emilien LEBLANC a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service, is charged with:-

1st Charge
A.A. Sec 12 (1)(a) DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, on October the 9th, 1943, when under orders for a move towards the enemy, did absent himself from 1030 hrs. until he reported himself at about 1000 hrs on Oct. 14th, 1943, with the intention to avoid battle with the enamy.

2nd Charge
A.A. Sec 12 (1)(a) DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, on October 22nd 1943, during a move towards the enemy, did absent himself from 1800 hrs, until he reported himself at about 1030 hours on November 2nd, 1943, with the intention to avoid battle with the enemy.

"P.E. Bernatchez" Lt-Col.
J.P.E. Bernatchez
Commanding Officer
Royal 22e Regiment.

In the Field,
3rd November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson"
(T.G. Gibson), Brigadier
Commanding 3 Cdn Inf Bde.

In the Field
8 Nov 43.

"R. Waterman" Major.

The President, members [illegible] are duly sworn.

[illegible] "RW"

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer Not Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer Not Guilty

[illegible] "RW"

Answer

[illegible] "RW"

Answer

[illegible] "RW"

If the trial proceeds upon any charge to which there is a plea of "Not Guilty", the Court will not proceed upon the record of a plea of "Guilty", until after the finding on that other charge.

"R. Waterman" Major.

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Field General Court-Martial held at
on the ninth day of November 1943 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde

dated the 8th day of November 19 43

President

Major. R.S.E. Waterman West N.S.R.

Members

Capt. J.W.K. Smeltzer West N.S.R.

Capt. W.R. Moore West N.S.R.

Trial of E-4537 Private Emilien Leblanc
R. 22e R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

"RW"

"RW"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Capt. G. Gauireau, R. 22e R.

Counsel or defending officer Lt. F. Hermitage R. 22e R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No Sir

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R. Waterman" Major.

COUNTER NUMBER 78403

HOUR 15:50

OPERATOR'S INITIALS CR

RELIEVING OPERATOR LB

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4537 Pte. LEBLANC, E. Royal 22e Regiment.	First Charge A.A. Sec 12 (1)(a)	Not Guilty "RW"	Guilty "RW"	I reserve confirmation of the finding and sentence for superior authority 10 Nov 43
	Second Charge A.A. Sec 12 (1)(a)	Not Guilty "RW"	Guilty "RW"	"T.G. Gibson" Brig.
			To suffer Penal Servitude for the term of four years. "RW"	I confirm the findings of the Court I vary the sentence so that it shall read as follows "to be imprisoned with hard labour for two years and I confirm the sentence as so varied" P.J. Montague Major General Senior Officer Canadian Military Headquarters 18 Dec 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (to be recorded on separate sheet if necessary) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "R. Waterman" Major

Commanding 3 Cdn Inf Bde West N.S.R.
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Ninth day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~xxxxxxxxxxxxxx~~
~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ "RW"

were duly sworn.

*Omit if not applicable.

Signed this Ninth day of November 19 43.

"R. Waterman" Major.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

✓ ~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ P.J.M.

Signed this 18 day of Dec 19 43.

"P.J. Montague" Major General
Confirming Officer.
Senior Officer
Canadian Military Headquarters

Promulgated and extracts taken in the case of E 4537 Pte Leblanc E., R.R.

(a) (Dated) 21 December 43 (Signed) [signature] Capt. Adjutant
1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here

Certified true Copy
Kindeau Capt 20/CM/1
(R. CORDEAU)

XX-69

~~M-116~~

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [illegible] "TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major.	R.S.E. Waterman	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt.	J.W.K. Smeltzer	West N.S.R.
Capt.	W.R. Moore	West N.S.R.
Lieut.	F. Brunet	R. 22e R.

(Waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde.
Convening Officer.

XX-69 (Can PS)

PTE LEBLANC E

See Z-10 for last case

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of Jan 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~ N.A.
4. ~~The officers under instruction~~ N.A.

* Omit if not applicable.

were duly sworn.

Signed this 25th day of Jan 1943

H. D. Threlfold major

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of N.A.~~ 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 25th day of January 1943.

J. A. Stewart Lt. Colonel

Confirming Officer.

Promulgated and extracts taken in the case of K-4537 Pte. Leblanc, E. (R22eR)

Promulgated in Part II D.O. 24 dated 27 Jan 43

(a) (Dated) 25 Jan 43 (Signed) A. S. Pearson Colonel

(A.S. Pearson) Colonel, 1 CDIRU

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W. & Co., Ltd. Gp. 746.2

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-4537 Rank Private Name Leblanc, E. of R 22e R 1 CDIRU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	Field 5 Feb 41	(1) Army Act 15 (1) (2) Army Act 24 (2) (3) Army Act 15 (1)	120 days detention & stoppages of pay to the amount of £3.16.3½	40 days
Civil Court	Field 9 Apr 42	Civil Charge	12 months imprisonment with hard labour	121 days

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

Signed this 25th day of June 1943

H. J. Atkinson Lt

Officer having custody of original documents

~~In the rank of~~ Date of Promotion

In the rank of years

In the rank of years

~~In the rank of~~ years

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that on the case of a trial by field general court-martial the information may be collected from rank sources as are available and the paragraphs concerned amended accordingly.)

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4537	Private	Leblanc, E.	Royal 22e Regiment, 1 CDIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For Army Act 15 (1)	times	14 times.
For Army Act 8 (2)	times	1 times.
For Army Act 40	times	2 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

~~There are no entries in the conduct sheets of the accused~~ ~~N/A~~

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number on entries in the conduct sheets, per offence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. ~~The accused has not been previously convicted as~~ ~~N/A~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence as~~ ~~N/A~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 6 days, in civil custody, and 6 days in military custody, making a total of 6 days, of which ~~1~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 7 Nov 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 318 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 318 days service.

9. The accused is entitled to reckon 1 year 318 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~beyond the following~~

~~and has been recommended for~~ ~~N/A~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer was held the regimental~~

~~rank of~~ dated

12. (*In the case of an officer.*) The accused holds in the army the rank of dated

~~and has been confirmed in that rank (Supplement) the rank of~~ dated

Printed by authority of HIS MAJESTY'S STATIONERY OFFICE

L.A. Thistlethwaite
Paymaster.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Sep 40	Pte		AA 15-1 AWL from 2230 hrs 30 Sep 40 to 1620 hrs 6 Oct 40 (5 days 17 hrs 50 min)	CSM Bouchard Cpl Anderson	14 days FP 3 months restricted pay	10-Sep 40	Lt-Col Flynn	Forf 6 days pay for AWL
"	16 Jan 41	Pte		(1) AA 15-1 (2) AA 24-2 (3) AA 15-1		6 months detn mitigated to 120 days detn Stoppages of pay i.a.w.	5 Feb 41	FGCM	Forf 65 days pay Rem 40 days 5 Apr 41
"	12 Apr 41	Pte		AA 15-1 AWL from 2200 hrs 12 Apr 41 to 2030 hrs 13 Apr 41 (22 hrs 30 min)	L/C Lepage Sgt Laraby	7 days CB	14 Apr 41	Lieut Gauthier	Forf 1 days pay for AWL
"	15 Apr 41	Pte		AA 15-1 Breaking out of barracks when detailed for guard duty & absenting himself 3 days 15 hrs 15 min.	Sgt Gauthier Cpl Richard	21 days detention	21 Apr 41	Lt-Col Mathewson	Forf 4 days pay for AWL

Certified true copy .....

Officer having custody of original documents

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Jul 41	Pte		AA 15-1 AWL from 2230 hrs 30 Jul 41 to 1945 hrs13 Aug 41 (13 days 21 hrs 15 min)		27 days detn	15 Aug 41	Lt-Col Mathewson	Forf 14 days pay for AWL
"	11 Sep 41	Pte		AA 15-1 AWL from 1330 hrs 11 Sep 41 to 1215 hrs 12 Sep 41 (23 hrs 15 min) (2) AA 40 In possession of AFB 295 knowing it to be false (3) Knowingly making false statement	Sgt Isabelle	14 days detn	15 Sep 41	Lt-Col Mathewson	Forf 1 days pay for AWL
"		Pte		AA 15-1 AWL		21 days FP 21 days pay	11 Nov 41		Forf 5 days pay
"		Pte		Civil charge		12 months IHL	9 Apr 42	Civil Court	Forf 47 days pay Rem 121 days 9 Dec 42

Certified true copy consisting of one sheet

.....

Officer having custody of original documents

Last Sheet Destroyed 7 May 40

No. E4537 Name Leblanc, E. Sqn., Battery, or Company — Corps R 22e R — Date of enlistment 7 Nov '39 — G.C. Badges N/A — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 2 Mar '40 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature O.C. Company, etc. G.A. Turcot, Major — Character

M.F.M. 6 (A.F.R. 122) 125M. 7-41 (1918-39) H.Q. 1779-39-1853

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 May 40	Pte		AA 15-1 AWL from 2300 hrs 30 May 40 to 1600 hrs 2 Jun 40 (2 days 17 hours)	Cpl Michaud	14 days CB	4 Jun 40	Lt-Col Keene	Forf 3 days pay for AWL
"	12 Jul 40	Pte		AA 15-1 AWL from 1900 hrs 12 Jul 40 to 1115 hrs 16 Jul 40 (3 days 16 hrs 15 min) (2) AA 15-1 AWL from 1600 hrs 16 Jul 40 to 1505 hrs 19 Jul 40 (2 days 23 hrs 5 min)	Cpl Bacon Cpl Adusar L/C Brock	14 days detn	24 Jul 40	Lt-Col Flynn	Forf 7 days pay for AWL
"	16 Aug 40	Pte		AA 15-1 AWL from 2230 hrs 16 Aug 40 to 1430 hrs 23 Aug 40 (6 days 16 hrs)	CSM Bouchard Cpl Gagne	14 days detn	28 Aug 40	Lt-Col Flynn	Forf 7 days pay for AWL

Certified true copy ..... W.F. Anderson Maj.
Officer having custody of original documents

(P.T.O.)

No. E-4537 Name Leblanc, E. Sqn., Battery, or Company — Corps R 22e R — Date of enlistment 7 Nov '39 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. G.A. Turcot, Major — Character

M.F.M. 6 (A.F.R. 122) 125M. 7-41 (1918-39) H.Q. 1779-39-1853

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Apr 41	Pte		AA 8-2 Using insubordinate language to an NCO	Sgt Miville L/C Sinard	7 days CB	15 Apr 41	Lieut Gauthier	
"	13 May 41	Pte		AA 15-1 AWL from 2200 hrs 13 May 41 to 0920 hrs 19 May 41 (5 days 11 hrs 20 min)	Cpl Isabelle L/C Goulet	14 days detn	20 May 41	Lt-Col Mathewson	Forf 6 days pay for AWL
"	3 Jun 41	Pte		AA 15-1 AWL from 1330 hrs 3 Jun 41 to 1600 hrs 8 Jun 41 (5 days 2 hrs 30 min)	Sgt Gauthier	21 days detn	11 Jun 41	Major Belanger	Forf 6 days pay for AWL
"	6 Jul 41	Pte		AA 15-1 AWL from church parade	Sgt Dupere	3days CB	8 Jul 41	Lieut Dumais	
"	15 Jul 41	Pte		AA 15-1 AWL from 2230 hrs 15 Jul 41 to 2015 hrs 17 Jul 41 (1 day 21 hrs 45 min)	CSM Ayre L/C Rutter	168 hrs detn	21 Jul 41	Lt-Col Mathewson	Forf 2 days pay for AWL

Certified true copy ..... W.F. Anderson Maj.
Officer having custody of original documents

(P.T.O.)

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No. E-4537. Rank Pte. Name LeBlanc E.

Unit #1 C.D.I.R.U. was arrested at London (Place)

at 0110 (Hour) on 19-Jan-43 (Date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxxxx.
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable).

London
19-Jan-43. H. B. Theobald Major
President

Wood Capt.
Officer i/c Detention Room,
No. 6 Coy., Canadian Provost Corps.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment T.C.D.I.R.U.

PASS L. D. Chevalier President Magn.

Army Form Bank (In pads of 100)

No. E4537 (Rank) 76 (Name) Leblanc Cn

has permission to be absent from his †quarters/duty, from

06⁰⁰ hrs 11/1/43 to 06⁰⁰ hrs 25/1/43

for the purpose of proceeding to London

(Station) Field

(Date) 8 Jan 43

Paul J. Godey Lt. Cant.

Commanding

RECORDS OFFICER T.C.D.I.R.U.

† Delete whichever is not applicable.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable to locate [illegible] or is necessary to enable purchase of a rail ticket at [illegible]

RECORDS OFFICE T.C.D.I.R.U.

CROWN COPYRIGHT RESERVED

W1. 4570/272 1200. 2/42 L.P.S. 51-4000

CHARGE

Army Form B 252
(See King's Regulations)

#1 C.D.I.R.U. Regiment
Battery / Squadron / Troop or / Company

CHARGE against No. E-4557 Rank Pte.

Name LeBlanc E.

Place London Date of Offence 19-Jan-43

OFFENCE W.O.A.S. being in possession of a document purporting it to be a genuine leave pass well knowing it to be false when checked by the Cdn. Provost Corps at the Westminster Y.M.C.A. at about 0110 hrs. on the 19-Jan-43.

Names of Witnesses :—

Cpl. Power R.A. Cdn. Provost Corps.

L/Cpl. Anderson. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

30005 Wt.W3467/0/1406. 1,500,000 10/41 K. & H., Ltd. G627/47

P.T.O.

Statement of **EVIDENCE** in the case of
E-4537 Pte. Leblanc E.
#1 C.D.I.R.U.

Sir:-

At London at about 0110 hrs. on the 19-Jan-43 I was on duty in company with L/C pl. Anderson at the Westminster Y.M.C.A. when I saw the a/m soldier. I approached him and asked to see his pass. He produced one which I thought was not genuine. I questioned him further on the matter and he admitted that he was A.W.L. and the pass was not genuine. I then escorted him to #6 Coy. H.Q.s where I handed him over to the N.C.O.i/C of cells to be detained.

London
19-Jan-43

.....Cpl.
(R-91329 Power R.A.)

Sir:-

I have read over and corroborate the above statement.

London
19-Jan-43.

.....L/Cpl.
(H-29066 Anderson G.S.)

REMARKS

H. D. Chevalier Major
President

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Witley, Surrey,
this 22nd day of,
January 1943

L. Tellard

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial.

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut C. Pelardeau, R 22e R, 1 CDIRU if he is available.

Dated at Witley, Surrey,
this 22nd day of
January 1943

L. Tellard

A. D. Theobald Maj
President

SUMMARY OF EVIDENCE

In the case of No E-4537, Private Emilien LEBLANC, of the Royal 22e Regiment, on the strength of 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

FOURTH WITNESS FOR THE PROSECUTION DOCUMENTARY

A statement by L/Cpl Anderson, G.S. (H-29066), Canadian Provost Corps, is then read to the accused. This statement refers to the statement of Cpl Power, R.A.

"Sir:-
I have read over and corroborate the above statement."

(Signed) G.S. Anderson, L/Cpl.

London
19 Jan 43

A statement of this witness' evidence purporting to have been signed by him, has been read to the accused and is included in this Summary of Evidence. Due to the loss of time involved, the attendance of this witness can not, in my opinion, be readily procured. The accused does not require the presence of this witness for cross-examination.

A. J. B. LaMarsh .....Lieut.
(Officer taking Summary)

The accused, having been duly cautioned in French in accordance with RP 4 (E) and CARO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, this 22nd day of January, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

A. J. B. LaMarsh .....Lieut.
(Officer taking Summary)

Algonquin Camp,
Witley, Surrey,
22nd day of January, 1943.

AJB/JLN

H. D. Theobald Major
President

SUMMARY OF EVIDENCE

In the case of No E-4537, Private Emilien LEBLANC, of the Royal 22e Regiment, on the strength of 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

FIRST WITNESS FOR THE PROSECUTION.

Capt J. Coles, of the Prince Edward Island Highlanders, Adjutant, 3rd Brigade Wing, 1 CDIRU, having been duly sworn, states:

I am Capt J. Coles, of the Prince Edward Island Highlanders, Adjutant, 3rd Brigade Wing, 1 CDIRU. I produce herewith the following documents concerning the accused, whom I now recognise:

(a) Certificate in accordance with PC 2797 of 10 Apr 42, dated 19 Jan 43.
(b) Statement of Cpl Power, R.A. and L/Cpl Anderson, G.S., of the Canadian Provost Corps, dated 19 Jan 43.
(c) Leave pass, dated 8 Jan 43

The accused declines to cross-examine this witness.

J Coles .....Capt.

SECOND WITNESS FOR THE PROSECUTION.

E-5402 A/Cpl Riopel, E., of the Royal 22e Regiment, 1 CD IRU, having been duly sworn, states:

I am E-5402 A/Cpl Riopel, E., of the Royal 22e Regiment Company, 1 CDIRU. On 13 Jan 43, the accused, whom I now recognise was in possession of a pass which expired at 2359 hrs. He failed to return at the time of expiration of his pass. I placed his name on the Absentee Report. From then on, until 2200 hrs 18 Jan 43, I made a roll call of the Company daily at 0630 and 2200 hrs. Pte Leblanc failed to answer his name at any such roll call.

The accused declines to cross-examine this witness.

E. Riopel .....A/Cpl.

THIRD WITNESS FOR THE PROSECUTION. DOCUMENTARY.

F-21329 Cpl Power, R.A., Canadian Provost Corps, made the following statement, which is read to the accused:

"Sir:-
At London at about 0110 hrs on the 19 Jan 43, I was on duty in company with L/Cpl Anderson at the Westminster YMCA when I saw the a/m soldier. I approached him and asked to see his pass. He produced one which I thought was not genuine. I questioned him further on the matter and he admitted that he was AWL and the pass was not genuine. I then escorted him to #6 Coy. HQ where I handed him over to the NCO i/c of cells to be detained.

London (Signed) R.A. Power, L/Cpl.
19 Jan 43

A statement of this Witness' evidence, purporting to have been signed by him, has been read to the accused and is included in this Summary of Evidence. Due to the loss of time involved, the attendance of this witness can not, in my opinion, be readily procured. The accused does not require the presence of this witness for cross-examination.

B J Blakeney .....Lieut.
(Officer taking Summary)

L.D.Y.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Jasper Camp, Whitley. ON THE 25 DAY OF Jan. XX 43.

TRIAL OF:-No.E-4537 Pte Emilien LEBLANC. Unit R. 22nd R. #1 CDIRU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. A.J. Blakeney. (Unit) C. & Y. Reg't.

Defending Officer:- (Name) Lt. C. Falardeau. (Unit) R. 22nd R.

At 1005 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No.

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. Major. N.D. Theobald.....(Unit) 5 CIRU (AD).

Members .Capt. J.M. Tremblay.....(Unit) Edmn. Reg't.

.Lieut. H.A. Welch.....(Unit) R.H.L.I.

N.D.T. ~~The officers under instruction are duly sworn.~~ N.D.T.

Q2 Do you object to A-11932 Cpl. N.C. Elgear..acting as shorthand writer? A2 - NO.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lt. A.J. Blakeney.....(Unit) C & Y Reg't...sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - NO.

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - NO.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

N.D.T. ~~See attached Statement.~~ N.D.T.

The accused was only absent 5 days. He is an old soldier, from 1st Division. Enlisted 7th Nov. 1939.

N. D. Theobald major

President.

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

25 Jan 43

I certify that I have this morning examined No. E-4537 Pte Leblanc, E. (R22R)

No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion,

he is fit ~~unfit~~ to undergo trial by Court-Martial.

A.O. Williams Capt.
(Medical Officer)

L. D. Theobald Maj
President.

CHARGE SHEET

The accused, No E-4537, Private Emilien LEBLANC, of the Royal 22e Regiment, on the strength of 1 Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

When on active service, absenting himself without leave,

in that he,

at Algonquin Camp, Witley, Surrey, on failing to return at the expiration of his leave, did absent himself without leave from 2359 hours on the 13 Jan 43, until he was apprehended by the Canadian Provost Corps in London at 0110 hours on the 19 Jan 43.
(Total absence 5 days 1 hour 11 minutes).

SECOND CHARGE
SECTION 40
ARMY ACT

Conduct to the prejudice of good order and military discipline,

in that he,

in London, on the 19 Jan 43, was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

.....Col
(A.S. PEARSON), Commander
1 Cdn Div Inf Reinf Unit

Algonquin Camp,
Witley, Surrey,
22nd day of January, 1943.

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Colonel,
Commanding,
1st Group Cdn. Reinf. Units,
C. A. (O).
Convening Officer.

Witley, Surrey.
23 Jan. 1943.

President

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4537 Pte. Emilien LEBLANC R. 22e R. 1 C.D.I.R.U.	FIRST CHARGE A.A. Sec. 15(1)	Guilty	Guilty to undergo detention for 90 days	Confirmed J.R. Stewart Lough
	SECOND CHARGE A.A. Sec. 40	Guilty	~~Guilty to undergo detention for 30 days. Both sentences to run concurrently~~ H.D.C. H.D.C. 25 Jan 43 H. D. Theobald major President.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.R. Stewart Lough Colonel (Signed) H. D. Theobald major

Commanding "A" Group Cdn. Reinf. Units, Westnie R. 5 C.I.R.U. (A.A.)
Convening Officer (e) C.A.(O). President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

E-4537 Pte. Emilien LEBLANC
R. 22e R. - 1 C.D.I.R.U. Z-10

DO-24/27-1-43

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 23rd day of Jan, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" Group Cdn. Reinf. Units, C.A.(O).

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

* Omit if not applicable.

Proceedings Reviewed

Reviewing Officer

for 10 Mar 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.		Regiment.
Major	N.D. THEOBALD	(Westmr. R.)	5 C.I.R.U.(Arm'd. Div.)

Members.

Rank.	Name.		Regiment.
Capt.	J.M. Tremblay	(Edmn. Regt.)	1 C.D.I.R.U.
Lieut.	H.A. Welch	(R.H.L.I.)	2 C.D.I.R.U.
Waiting Member Lieut.	S.D. Schafran	(R.H.C.)	2 C.D.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.A. Stewart Lough Colonel

Commanding "A" Group Cdn. Reinf. Units

Convening Officer

Z 10

PIE LEBLANC E

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E6161 Rank Private Name Damien L E BLANC of Royal 22nd Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
	Not	Applicable		

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

Signed this 18 day of October 1943

D. C. Young Capt.

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

In the rank of N/A years. Date of Promotion.

In the rank of years.

In the rank of years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

E.1. ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E 6161	Private	Damien LE BLANC	Royal 22e Regiment

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be extracted from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with the statement, but not inserted to the prisoner/man.

† See para. 671, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each category, and to any recognised special acts of gallantry or distinguished conduct.

Instructions as to the charge or endorsement on the margin of conduct sheets will be understood to be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15.(1)	One times	Three times.
For N/A	times	times.
For N/A	times	times.
For N/A	times	times.
For N/A	times	times.

Number of instances of gallantry or distinguished conduct Nil

or

~~The following entries in the conduct sheet of the accused~~

2. The accused has not been previously convicted, *or*

~~Previous enlistment of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 1 days in military custody, making a total of 1 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 21 May 1941.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 111 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 111 days service.

9. The accused is entitled to reckon 2 yrs 111 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military ~~award~~ ~~or is a person who is entitled to wear any military decoration or award.~~

11. ~~(If not the case of an officer.)~~ The accused ~~before he was made a prisoner of war~~ last held the regimental rank of

12. ~~(In the case of an officer.)~~ The accused holds in the Army the rank of dated and in his regiment (or corps or department) the rank of dated

~~(Name, initials and rank of officer.)~~

Lieutenant

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	Nov 1 42	Pt		A.A. Sec 15 (1) W.O.A.S. absent without leave 18 May 42 from 1245 hrs to 1500 hrs	Lt. G. Dube Sgt Bould G	7 dys. C.B.	25 Nov 42	Lt Col Matheson	
				Certified true Copy	Delfoung Capt O.C. "A" Coy.				
						Paterman Maj'r			

No. E-6141 Name LEBLANC, B Sqn., Battery, or Company A Corps R 22 R (C 202) Date of enlistment 21-5-41 G.C. Badges Service or Proficiency Pay E 2

M.F.M. 6 (A.F.B. 120) 175M—7-41 (1212-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. [illegible] Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
Valcartier	18 Mar 42	Pte		Absenting himself without leave fr 15 (1) AA In that he absented himself without leave from A(1) TCA 15 on the 18 Mar 42 at 2200 hrs until he was apprehended by military authorities at Camp Bolton N.B. at 2015 hrs on the 16th. April 1942 Total 28 dys 22 hrs 15 mins Cost of apprehension Capt Bolton and return $22.65	Documentary C/Cpl Sullivan C/Cpl Sallingham C/Sm Shields C/Sgt Theoret	Fourteen Days Detention	22-5-42	Lt Col. Chouinard	Forf 28 dys Pay and all under Fr Rs) Stoppages $22.63 Costs of apprehension
Valcartier	9 Sept 42	Pte		AWL Absence Without leave from 0800 hrs 9 Sept 42 until 1220 hrs 13 Sept 42 Absence 4 dys 14 hrs	Cpl Beaudry	7 dys C.B. 5 dys Pay		C. G. Morin Major	

(P.T.O.)

F

Sentence.

The Court sentence the accused E 6161 Pte Damien Leblanc Sentence.
to ~~undergo~~ suffer four years penal servitude

Katerman
Major

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

is guilty of Deserting His Majesty's Service.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Capt. R. J. Picard, R22eR. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E. 1., signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes.

[illegible]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir!

The Court is closed for the consideration of the sentence.

D. 3. 9 NOV. 43

CLOSING ADDRESS by Prosecution

The prosecution, on the first charge against the accused, has shown clearly that he absented himself without leave from his platoon at 10 30 hrs 9 OCT. 43. That the platoon was under shell fire. Both the pl. Commander and pl. Sgt state so clearly. The evidence also shows that the accused had been warned by the pl. commander himself that if he ran away he would be considered a deserter. The accused left anyway. The court therefore should find him GUILTY. of Desertion.

R. J. Picard Capt

Paterman major

D2

Question: Were you with the Accused at all times during the M.T. move? and whilst the Boy proceeded on foot?

Answer: Yes, at all times.

The Prosecution declines to cross-examine.

Question by the Court:—

Were you present when the Accused left your unit?

Answer: Yes, I was present.

Question: Did you make any attempt to prevent him from leaving. He was old enough to know what he was doing.

A.P. 8 2(b) Complied with.

The ~~Prosecution~~ (Mkd) Defence closes.

Katerman

D.

First Witness for the Defence:—

E6161, Pte. LeBLANC, D., the Accused, elects to make a statement not on Oath.

I am E6161, Pte. LeBlanc, D., R22 Regt. On the night of 22 Oct. 43 my Coy debussed from Motor Transport. At this time I advised Lieut. Levesque and Sgt. Boisseau of my Platoon that I had neither rifle nor ammunition, to which Sgt. Boisseau answered that we could proceed with the Coy without fear for if there was any fighting he would be defended by those who had weapons. I answered that if any fighting was encountered I did not ~~[illegible]~~ (JWKS) ~~[illegible]~~ ~~[illegible]~~ anyone to defend me. ~~[illegible]~~ (JWKS) ~~[illegible]~~ ~~I would leave the area~~ (JWKS)

A.P. 83 (1) Complied with

Second Witness for the Defence

E4537, Pte. LeBlanc, E., R22 Regt, having been duly sworn, states:

I am in the same Platoon as the Accused.

Question:— On 22 Oct 43 when the Company debussed, do you recall whether the Accused was armed or not?

Answer: He was not armed.

Question: Do you recall whether a rifle and ammunition was given to the Accused at any time for his personal protection?

Answer: I do not recall that these were given as far as I know.

D

The prosecution is closed.

Defence.

accused advised of rights under R P 10

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. Yes.

Question. Is he a witness as to character only? *Answer.* No.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

Defence declines to make a closing address.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. No Sir! ~~The accused in his defence says:~~ —

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

Instruction. * In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Question: The second time, did you see him leave?
Answer: Yes, sir.
Question: Did he go toward the enemy, or away from the enemy?
Answer: He went away from the enemy.
Question: Are you quite sure that there were no enemy in the direction the Accused went?
Answer: I am not sure.
Question: Did he have a rifle with him the last time he left?
Answer: No, sir. The last time he left he had no rifle.
Question: Where was his rifle?
Answer: On boy transport.

Defence declines to Cross-Examine.

Question by the Court:—
Did you make any attempt to prevent the Accused from leaving the Platoon?
Answer: By verbal warning only.

R.P. 83(b) Complied with.

Prosecution closes.

Waterman
Major

Question: Is there any possibility that there may have been enemy to your rear towards which the Accused may have been running?
Answer: No, sir. There was no possibility of that.
Question: At the time of his running away, was the Accused armed?
Answer: Yes.
R.P 53 (1) complied with.

Second Witness for the Prosecution:

E4487, L/Sgt. Boisseau, L., R 22 Regt, having been duly sworn, states:

On 9 Oct. 43 at about 1030 hours when advancing toward the enemy the Accused left the Platoon without permission after being told by Lieut. Levesque that no one should leave the Platoon without permission. The Accused reported himself at 1000 hours, 14 Oct. 43. On 22 Oct. 43 when again advancing toward the enemy, the Accused being returned to his Platoon from Detention, we were expecting to meet the enemy. The Accused left the Platoon without permission at about 1830 hours, 22 Oct. 43. He reported himself on 2 Nov. 43.

Question by Prosecutor:
The first time the accused left his Platoon, did you see him leave the Platoon?
Answer: No, sir.

we had advanced in trucks, I again made sure that the Accused was present in my Platoon. He was there. I advised them all that their going away would be considered as Desertion, or words to that effect, and told them we were going directly into the front line. We could hear enemy shelling at that moment. At 1830 hours the Accused had disappeared without permission. Moreover, he left with one of his companions' rifle, the 2" Mortar man's which I had lent him for his own personal defence. He reported back to my Platoon at about 1030 hours the 3rd Nov. 43.

No Cross-examination by Defence.

Question by the Court:-

In your evidence you state that the accused ran away. Were you personally an eye-witness to this act?

Answer: Yes.

Question: In which direction did he run, toward the enemy, or away from the enemy?

Answer: Away from the enemy.

Question: Could it be that he was acting as a runner delivering a message?

Answer: No, sir. It was impossible.

Question: Why was it impossible?

Answer: Because only I could have detailed him to act as such.

C.1

Case of E6161 Pte. LEBLANC, D.

First Witness for the Prosecution:—

Lieut. C. Levesque, R 22e Regt, "A" Coy, having been duly sworn, states, —

The Accused whom I now recognize belongs to my Platoon. On 9 Oct. 43 I made sure that all men of my Platoon were present. The Accused was there. I advised them all that the company was moving forward towards the enemy and that I didn't want anyone to leave the Platoon without my own permission. During the route march which followed Pte. LeBlanc left for a few minutes. I told him personally that if he left the Platoon I would consider him a deserter. He replied, "Yes, sir, I know." At 1030 hours we were under enemy shelling. The Accused ran away without permission. He reported back on 14 Oct. 43 at about 1030 hours. Our company was then at rest. The Accused was put in close arrest. The first Summary of Evidence was taken and a charge of Desertion was laid against the Accused. On 22 Oct. 43 as his case had not yet been handled by Bde, the Accused was temporarily released from Detention and sent back to his company. Before leaving the Guard Room he was told by Major Allard, 2 i c Royal 22e Regt, that his good behaviour in the next operation would make this charge of Desertion drop. The same date, after

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir!

~~The prosecutor makes an opening address (hands in a written address which is read, marked , signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

Answer. No Sir! Not Guilty.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question

Answer. No Sir! Not Guilty.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question.

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the Ninth day of November 1943. by order of Brigadier T. G. Gibson.

Commanding 3rd Cdn Inf Bde

dated the 8th day of November 1943.

President.

Major R. S. E. Waterman. West. N.S.R.

Members

Capt. J. W. K. Smeltzer. West. N.S.R.

Capt. W. R. Moore. West. N.S.R.

Trial of* E 6161. Private Damien Leblanc R22eR. ~~Judge Advocate.~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~ Rw

~~, waiting member takes his place as a member of the Court~~ Rw

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. R. J. Picard. R22eR.

Counsel‡ or defending officer† Lt. R. Lafleche. R22eR.

At 0900 hrs o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Waterman Major

[illegible]

E.3.

MEDICAL OFFICERS CERTIFICATE

KR (CAM) [illegible]

I certify that I have this morning examined

No. F.6161.. Rank. Pte.. Name. Lebhane D.....

of. Royal 22e Regt... and in my opinion he is

fit/~~unfit~~ to undergo Trial by Court Martial.

Station. In the Field.

Date. 9th. Nov. 1943

[signature]
Medical Officer

Katerman [illegible]

E. 3.

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 557

I certify that I have this morning examined

No. [illegible] Rank Pte. Name Lehhane D.

of Royal 22e Regt. and in my opinion he is

fit/~~unfit~~ to undergo Trial by Court Martial.

Station In the Field.

Date 9th Nov 1943

[signature]
Medical Officer

B.2.

CHARGE SHEET.

The accused, E-6161 Private Damien LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, on Active Service, is charged with:

1st Charge.
A.A. Sec. 12 (1) (a)

DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the Field, on October 9th, 1943, when under orders for a move towards the enemy did absent himself from 1030 hours until he reported himself at about 1000 hrs. October 14th, 1943, with the intention to avoid battle with the enemy.

2nd Charge.
A.A. Sec. 12 (1) (a)

DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the Field, on October 22nd, 1943, during a move towards the enemy, did absent himself from 1800 hrs. until he reported himself at about 1030 hours November 2nd 1943, with the intention to avoid battle with the enemy.

Lt.-Col.
A.D.C.
Commanding Officer,
Royal 22e Regiment.

In the Field,
3rd Nov. 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field,
8 Nov 43.

(T.G. Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E 6161 Private LEBLANC Damien. R 22e R	First Charge AA Sec 12 (1)(a)	Not Guilty	Guilty	I reserve confirmation of the finding and sentence for superior authority. 10 Nov 43. [signature] Brig
	Second Charge AA Sec 12(1)(a)	Not Guilty	Guilty. To suffer Penal servitude for the term of four years	I confirm the finding of the Court. I vary the sentence so that it shall read as follows "To be imprisoned with hard labour for two years." and I confirm the sentence as so varied. [signature] (P. J. Montague) Major General Senior Officer Canadian Military Headquarters 18 DEC 1943

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] Brigadier, (Signed) [signature] Major,

Commanding 3 Cdn Inf Bde. West N.S.R.

Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Ninth day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(3. ~~The Interpreter~~) [initials]

*(4. ~~The officers under instruction~~)

~~were duly sworn.~~ [initials]

*Or if not applicable.

Signed this Ninth day of November 1943.

[signature]

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 702 M.M.L. 1929.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I ~~direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) [initials]

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 18th day of December 1943.

[signature] (P. J. Montague) Major General Senior Officer Canadian Military Headquarters 23 DEC 1943

Confirming Officer.

Promulgated and extracts taken in the case of

Certified that F.G.C.M. Proceedings in the case of E 6161 Pte Leblanc D., - R 22e R, have been duly Promulgated and extracts taken, on 21 Dec 43.

[signature] (J. L. Biswell) Capt., A/Adjutant, 4 Bn., 1 C.B.R.D.

need only sign once.

XX-70

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[illegible]~~ —

*(1. ~~[illegible]~~

*(2. ~~[illegible]~~

~~[illegible]~~

Proceedings Reviewed
18 Jan 44
[illegible]
Reviewing Officer (J.A.G.) C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.S.E. Waterman	West NSR

Members.

Rank.	Name.	Regiment.
Captain	J.W.K. Smeltzer	West NSR
Captain	W.R. Moore	West NSR
Lieutenant	F. Brunet	R 22e R

(Waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,

Commanding 3 Cdn Inf Bde.

Convening Officer.

"E 1"

M.F.R. 188
22M—5-42 (372-3)
H.Q. 1772-20-620
A.F.R. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number E-6161 Rank Pte. Name LEBLANC,D. Regiment (or unit)

Royal 22e Regiment.

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

	Within last 12 months		Since enlistment or appointment	
For	A.A. 15(1)	1 times	A.A. 15(1)	3 times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

~~[illegible]~~

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

2. The accused has not been previously convicted

or,

~~[illegible]~~

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

or,

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 1 days in Air Force military custody, making a total of 1 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~[illegible]~~

6. The date of his ~~[illegible]~~ attestation specified in his record of service is 21 May 1941 ~~[illegible]~~

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 111 days

8. The accused is entitled to reckon 2 yrs 111 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (~~[illegible]~~ military

~~[illegible]~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	18 Nov 42.	Pte.		A.A.Sec 15(1) WOAS absent without leave 18 May 42 from 1245 hrs to 1500 hrs.	Lt.A Darbe	7 days C.B.	25 Nov 42.	Lt-Col.Matewson	

CERTIFIED TRUE COPY

"D.C. Young" Capt.

O.C. "A" Coy.

"R.Waterman" Major.

M.F.M. 6
(A.F. B.177)
40/F & /5136 (2963)

No. E-6161 Name LEBLANC, D. Sqn., Battery, or Company A Corps R.22e.R (CAOS) Date of enlistment 21-5-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. D. C. Young Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ValCartier	18Mar 43	Pte		Absenting himself without leave 15(1) AA In that he absented himself without leave from A(1)T.C.A -15 on the 18 Mar 42 at 2200 hrs unitl he was apprehended by military authorities at Camp belton N.B. at 2015 hrs on the 10th Apr. 42. Total 28 days 22 hrs 15 mins. Cost of Apprehension Camp Bolton return $22.65	Documentary L/Cpl. Sullivan L/Cpl. Gallingham. CSM Shields S/Sgt. THeoret.	Fourteen days Detention.	22-5-42	Lt-Col. Chouinard	Forf 29 days/ pay and all under FR & I Stoppages $22.63 Cost of apprehension.
Valcartier	9 Sep 42.	Pte.		AWL absence without leave from 0800 hrs 9 Sep 42 until 1220 hrs 13 Sep 42 (Absence 4 days 14 hrs.)	Cpl.Beaudry	7 days C.B. 5 days pay.		E.G. Marian Major.	

(P.T.O.)

P T O

F

SENTENCE

The Court sentence the accused E-6161 Pte. Damien, LEBLANC Sentence to suffer Four Years Penal Servitude.

"R. Waterman" Major.

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused

is guilty of Deserting His Majesty's Service.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

- - - - - - -

The Court being re-opened, the accused is again brought before it.

Capt. R.J. Picard R.22e R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E 1 , signed by the President, and annexed to the proceedings.

Question by the President — Is the accused the person named in the statement which you have read? Answer by the Witness. Yes

Question — Have you compared the contents of the above statement with the regimental books? Answer. Yes

Question — Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused.

Nil

"EM"

Do you wish to address the Court? Answer No sir.

The Court is closed for the consideration of the sentence.

"R. Waterman" Major.

"D S" 9 Nov 43

CLOSING ADDRESS BY PROSECUTION

The prosecution, on the first charge against the accused, has shown clearly that he absented himself without leave from his platoon at 1030 hrs 9 Oct 43. That the Platoon was under shell fire. Both the Pl Commander and Pl Sgt state so clearly. The evidence also shows that the accused had been warned by the Pl commander himself that if he ran away he would be considered a deserter. The accused left anyway. The court therefore should find him GUILTY of Desertion.

"R.J. Picard" Capt.

"R. Waterman" Major.

D 1

First Witness for the Defence: E-6161 Pte. LEBLANC, D., the accused elects to make a statement not on oath.

"I am E-6161, Pte. Leblanc, D., R. 22e Regt., On the night of 22 Oct 43 my coy debussed from Motor Transport. At this time I advised Lieut. Levesque and Sgt. Boisseau of my Platoon that I had neither rifle nor ammunition, to which Sgt. Boisseau answered that we could proceed with the coy without fear for if there was any fighting he would be defended by those who had weapons. I answered that if any fighting was encountered I did not trust anyone to defend me.

R.P. 83(b) complied with.

Second Witness for the Defence E-4537 Pte. Leblanc, E., R. 22e R. having been duly sworn states:

" I am in the same platoon as the accused."

Q. - On 22 Oct 43 when the company debussed, do you recall whether the accused was armed or not?

A. - He was not armed.

Q. - Do you recall whether a rifle and ammunition was given to the accused at any time for his personal protection?

A. - I do not recall that these were given as far as I know.

"R. Waterman" Major.

D 2

Q. - Were you with the accused at all times during the M.T. move and whilst the coy proceeded on foot?

A. - Yes at all times.

The Prosecution declines to cross-examine

Question by the Court

Q. - Were you present when the accused left your unit?

A. - Yes, I was present.

Q. - Did you make any attempt to prevent him from leaving.

A. - He was old enough to know what he was doing.

R.P. 83(b) complied with.

The Defence closes. "R. Waterman" Major.

D

The prosecution is closed.

DEFENCE

Accused advised of rights under R.P. 40

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer Yes

Question Do you intend to call any other witness in your defence?

Answer Yes

Question Is he a witness as to character only? Answer. No.

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in whicy they are made. Any address which the accused is entitled to make pursuant to Rulesof Procedure 40(C)(iv) and 41(A)(i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, markde and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect. Defence declines to make a closing address. "RW"

- - - - - - -

(Where any evidence is given for the defence)

The evidence or the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see overleaf).

- - - - - - -

(Where the accused does not give evidence upon oath).

Question to the accused. Have you anything to say in your defence?

Answer No Sir. [redacted] "RW"

- -

- In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above).

"R. Waterman" Major

Q. - Where was his rifle?

A. - On coy transport.

Defence declines to Cross-examine

Question by the Court:

Q. - Did you make any attempt to prevent the accused from leaving the Platoon?

A. - By verbal warning only.

R.P. 83(b) complied with.

Prosecution closes.

"R. Waterman" Major

Question by the Court

Q. - Why was it impossible?

A. - Because only I could have detailed him to act as such.

C 3

Q. - Is there any possibility that there may have been enemy to your rear towards whom the accused may have been running?

A. - No, sir. There was no possibility of that.

Q. - At the time of his running away, was the accused armed?

A. - Yes.

R.P. 83 (b) Complied with.

Second Witness for the Prosecution.

E-4487 L/Sgt. Boisseau, L., Royal 22e. Regt., having been duly sworn, states:-

On 9 Oct 43 at about 1030 hours when advancing toward the enemy the accused left the Platoon without permission after being told by Lieut. Levesque that no one would leave the Platoon without permission. The accused reported himself at 1000 hours, 14 Oct 43. On 22 Oct 43 when again advancing toward the enemy, the accused being returned to his platoon from Detention, we were expecting to meet the enemy. The ac cused left the Platoon without permission at about 1830 hours, 22 Oct 43. He reported himself on 2 Nov 43.

Question by Prosecutor:

Q. - The first time the accused left his Platoon, did you see him leave the Platoon?

A. - No, sir.

C 4

Q. - The second time, did you see him leave?

A. - Yes, sir.

Q. - Did he go toward the enemy, or away from the enemy?

A. - He went away from the enemy.

Q. - Are you quite sure that there were no enemy in the direction the accused went?

A. - I am not sure.

Q. - Did he have a rifle with him the last time he left?

A. - No, sir. The last time he left he had no rifle.

Case of E-6161 Pte. LEBLANC, D.

First Witness: For the Prosecution. Lieut. C. Levesque, R. 22e R., "A" Coy, having been duly sworn, states,

The accused whom I now recognize belongs to my Platoon. On 9 Oct 43 I made sure that all men of my Platoon were present. The accused was there. I advised them all that the Company was moving forward towards the enemy and that I didn't want anyone to leave the Platoon without my own permission. During the route march which followed Pte. Leblanc left for a few minutes. I told him personally that if he left the Platoon I would consider him a deserter. He replied, "Yes, Sir, I know." At 1030 hours we were under enemy shelling. The accused ran away without permission. He reported back on 14 Oct 43 at about 1030 hours. Our Company was then at rest. The accused was put in close arrest. The first Summary of Evidence was taken and a charge of Desertion was laid against the accused. On 22 Oct 43 as his case had not yet been handled by Bde, the accused was temporarily released from Detention and sent back to his company. Before leaving the Guard Room he was told by Major Allard, 2/i-c Royal 22e Regt., that his good behaviour in the next operation would make this charge of Desertion drop. The same date, after

we had advanced in trucks, I again made sure that the accused was present in my platoon. He was there. I advised them all that their going away would be considered as Desertion, or words to that effect, and told them we were going directly into the front line. We could hear enemy shelling at that moment. At 1830 hrs the accused had disappeared without permission. Moreover, he left with one of his companions' rifle, the 2" Mortar man's which I had lent him for his own personal defence. He reported back to my Platoon at about 1030 hours the 3rd Nov 43.

No Cross-examination by Defence.

Question by the Court.

Q. - In your evidence you state that the accused ran away. Were you personally an eye-witness to this act?

A. - Yes.

Q. - In which direction did he run, toward the enemy, or away from the enemy?

A. - Away from the enemy.

Q. - Could it be that he was acting as a runner delivering a message?

A. - No, Sir it was impossible.

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have beenprejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer No. Sir.

~~The prosecutor proceeds to call witnesses.~~ "RW"

The prosecutor proceeds to call witnesses.

First witness for prosecution)

being duly sworn, is examined by the Prosecutor.

"R. Waterman" Major.

The President, members [illegible] are duly sworn.

[illegible]

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

No, Sir
Not Guilty. Answer

Are you guilty or not guilty of the second charge against you, which you have heard read?

No, Sir
Not Guilty Answer

[illegible] "RW"

Answer

[illegible] "RW"

Answer

[illegible]

"RW"

If the trial proceeds upon any charge to which there is a plea of "Not Guilty", the Court will not proceed upon the record of a plea of "Guilty", until after the finding on that other charge.

"R.Waterman" Major.

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Field General Court-Martial held at
on the Ninth day of November 19 43 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde

dated the 8th day of November 19 43

President

Major. R.S.E. Waterman West N.S.R.

Members

Capt. J.W.K. Smeltzer West N.S.R.

Capt. W.R. Moore West N.S.R.

Trial of Z-6161 Private Damien LEBLANC
Royal 22e Regt.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court, "RW"

, "RW"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Capt. R.J. Picard, R. 22e R.

Counsel or defending officer Lt. R. Lafleche, R.22e R.

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No.

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R.Waterman" Major.

"E 3"

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 557

I certify that I have this morning examined No. E-6161 Rank Pte. Name Leblanc, D. of Royal 22e Regiment and in my opinion he is fit to undergo Trial by Court Martial.

Station In the Field

Date 9th Nov 1943.

"Guy Latour" Capt.
Medical Officer.

"R. Waterman" Major.

CHARGE SHEET "B2"

The accused, E-6161 Private Damien LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service, is charged with:-

1st Charge
A.A. Sec 12 (1)(a) DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, on October the 9th, 1943, when under orders for a move towards the enemy, did absent himself from 1030 hrs. until he reported himself at about 1000 hrs on Oct. 14th, 1943, with the intention to avoid battle with the enemy.

2nd Charge
A.A. Sec 12 (1)(a) DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, on October 22nd 1943, during a move towards the enemy, did absent himself from 1800 hrs, until he reported himself at about 1030 hours on November 2nd, 1943, with the intention to avoid battle with the enemy.

"J.P.E. Hermatchez" Lt.-Col.
J.P.E. Hermatchez
Commanding Officer
Royal 22e Regiment.

In the Field,
3rd November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson"
(T.G. Gibson), Brigadier
Commanding 3 Cdn Inf Bde.

In the Field
8 Nov 43.

"R. Waterman" Major.

CIPHER MESSAGE IN

SIGS NO.7127

TO : FLAMBO FOR CANDEX

FROM: CANMILITRY A 4918 DEC

REFERENCE A 4615 AND YOUR ACA 1567. PARA 1 IN CASES LEBLANC D LEBLANC E DESLAURIERS R SENIOR OFFICER ENDORSED PROCEEDINGS 16 DECEMBER 43 QUOTE I CONFIRM THE FINDING OF THE COURT I VARY THE SENTENCE SO THAT IT SHALL READ AS FOLLOWS TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS AND I CONFIRM THE SENTENCE AS SO VARIED UNQUOTE. PARA 2. IN CASE BEAULIEU JR ENDORSEMENT SAME DATE QUOTE I DO NOT CONFIRM THE FINDING OR SENTENCE UNQUOTE

SEC/DIS/ACTION. CDN SEC

SEC/TOR/200400A CM

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-6161 Pte. LEBLANC, Damien R. 22e R.	First Charge AA Sec 12(1)(a)	Not Guilty	Guilty "RW"	I reserve confirmation of the findings and sentence for superior authority. 10 Nov 43. "T.G. Gibson" Brig.
	Second Charge AA Sec 12(1)(a)	Not Guilty	Guilty "RW"	I confirm the finding of the Court. I vary the sentence so that it shall read as follows "to be imprisoned with hard labour for two years and I confirm the sentence as varied. P.J. Montagu Major General Senior Officer Canadian Military Headquarters
			To suffer Penal Servitude for the term of four years. "RW"	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier, (Signed) "R.Waterman" Major

Commanding 3 Cdn Inf Bde — *Convening Officer* (*d*)

West N.S.R. — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the Ninth day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~xxxxxxxxxxxxxxx~~ "RW"
*~~xxxxxxxxxxxxxx

Certified True Copy
R Cordeau Capt
(R CORDEAU)

20/CM/2.

XX.70

Correspondence to be PINNED

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted] "TGG" [redacted] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

[redacted] "TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.S.E. Waterman	West N.S.R.

Members.

Rank.	Name.	Regiment.
Captain	J.W.K. Smeltzer	West N.S.R.
Captain	W.R. Moore	West N.S.R.
Lieutenant	F. Brunet	R. 22e R.

(Waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde.
Convening Officer.

XX-20

PTE LEBLANC D.

Note (1) (15)

What is your objection to Capt. H.J. Haining the Senior Member of this Court.
The accused in support of his objection to Capt. H.J. Haining makes the following statement: Capt H.J. Haining is the offr who took my Summary of Evidence. The Court allow the objection R.P. 19(B) (iii) Lieut A.D. Taylor West NSR Takes his place as a member of the Court.
No objection.

"LFT"

Pres.

Fourth Witness for the Prosecution

Capt. E.E. Smith Carleton & York Regt, C.A.O. having been duly sworn states:-

I am Capt. D.E. Smith, Adj Carleton & York Regt, C.A.O. I produce documentary evidence Certificate of arrest under A.A. Sec 163(i)(j) marked "A" and attached to the summary.

("D.E. Smith")

"LFT"
PRES

The accused declines to cross examine this witness.

(4)

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

~~The~~

Certified that Rule of Procedure 4(c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused this 10th day of June 44.

"H.J. Haining A/Capt"

List of witnesses in the Case of G-27578 Pte LeBlanc CJ

For the Prosecution G/21104 CSM Levesque L.H.
D71274 Sgt Pelletier, J.A.
G-17222 C.S.M. Wilson A.G.
Capt Smith, D.E.

For the Defence - Nil

List of Exhibits in the case of G-27578 Pte LeBlanc CJ.
Exhibit "A" Certificate of Arrest AA 163 (i) (j)

Certified that I have received free of charge a copy of the Summary of Evidence and all other documents relating to my trial by Court-Martial.
Certified that I have received free of charge a true copy of the Charge Sheet upon which I am being brought before Court Martial.

I desire the services of an officer to represent me at my trial.

("C.J. LeBlanc")

"LFT"
Pres.

Summary of Evidence in the case of G27578 Pte LeBlanc C.J. a soldier of the Carleton & York Regt - Canadian Army Overseas C.M.F.

Ex "A"

By direction of the Commanding Officer the evidence is taken on oath.

First Witness for Prosecution

G.21104 CQMS Levesque - L.H. - Carleton & York Regt. - CAO having been duly sworn states:-

I am G21104 CQMS - "A" Company Carleton & York Regt - C.A.O. On 16 Mar 44 at approx 1000 hrs. Pte LeBlanc C.J. reported to me upon arrival from Holding Unit. After checking all his equipment, I told him I was leaving for the front line at 1700 hrs on same day. At 1700 hrs when I was ready to leave Pte LeBlanc could not be found so I marked him AWL. from 1700 hrs 16 March 44.
Q. 1 When you warned Pte. LeBlanc C.J. of the time of your departure did you tell him to be present?

A.1 Yes.

("L.H. Levesque")

"LFT"
Pres

Accused proceeds to cross examine this witness:

Q.1 Did you check my equipment on my arrival from the Holding Unit.
A.1 Yes

Cross examination of witness by accused concludes.

Page 2 (10)

Second Witness for Prosecution

D71274 Sgt Pelletier - J.A. "D" Coy Carleton & York Regt having been duly sworn states:

I am D71274 Sgt. Pelletier J.A. "D" Coy Carleton & York Regt. C.A.O. On 3 May 44 while employed as Orderly Sgt. I was sent to Toro in order to pick up Pte LeBlanc - C.J. and place him under close arrest. At 1500 hrs that day, I arrested Pte LeBlanc C.J. and brought him back with me I turned him over to the Regimental Police of our Unit.

"J.A. Pelletier Sgt"

"LFT"
Pres

Accused declines to cross examine this witness.

Page 3 (11)

Third Witness for Prosecution

G.17222 C.S.M. Wilson - A.G. - Carleton & York Regt, C.A.O. having been duly sworn states.

I am G17222 C.S.M. Wilson - A.G. "D" Coy Carleton & York Regt. C.A.O. On 24 Apr 44 Pte LeBlanc C.J. was confined in "D" Coy lines pending investigation of a charge of absence without leave. At 2130 hrs 24 Apr 44 he escaped from confinement. I noticed his absence and reported same to Bn. H.Q. I was personally in charge of the prisoner at that time having despatched the runner of "D" Coy HQ on an errand who was acting as escort. Pte LeBlanc C.J. was under close arrest and I was acting as escort on three prisoners one of which was Pte LeBlanc C.J.

"Alex G. Wilson C.S.M."

The accused declines to cross examine this witness.

(8)

Plea in Mitigation
In the case of:

G-27578 Pte LeBlanc C J.

The reason for my going absent without leave is that I dont like serving in this Regiment. I have asked for transfer several times to the RCA and have had no satisfaction.

I have in the past been a good soldier. My records will show that after 4 years of service there were no entries until I joined this Regiment. I would still be a good soldier if I could have had satisfaction on my transfer request.

I ask for a light punishment in view of past good character and wish to state that if transfer could be granted after punishment for this offence is served I would serve as a good soldier.

"LFT"

"Pte. C.J. LeBlanc"

MEDICAL OFFICERS CERTIFICATE

KR(CAN) PARA 357

I certify that I have tis morning examined

No. G27578 Pte LeBlanc C.J.

Of the Carleton and York Regiment and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 24 Jun 44

"LFT"
Pres.

"LFT"
Pres
"H.R. Gikerson Capt.,
Medical Officer
R.M.O. Carlt & York Regiment.

(6)

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFA8) 40/P&S/1897 (2863)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G27578	Pte		Clarence Joseph	LeBLANC	Carlt & York R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Jun 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (an[illegible] "PEB"
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. [illegible] "PEB" attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible] "PEB"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	F Trudeau	R 22e R.

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
Capt	H J Haining	Carlt & York R
Lieut	G N Budreski	West NSR

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
Lieut	A D Taylor	West NSR

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Rank.	Name	Unit.

(Must be named, if any. RP 106.)

On Active Service in the Fd

in ITALY (Country.) "PE Bernatchez" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 18 Jun 44 Commanding 3 Cdn Inf Bde Convening Officer.

"LFT" Pres

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CHARGE SHEET

The accused G27578 Private Clarence Joseph LeBlanc, a soldier of the Carleton and York Regiment, Canadian Army Overseas, C.M.F. when on Active Service is charge with:

First Charge
Sec 15(1)AA

When on Active Service Absenting Himself Without Leave

in that he

in the Field, at 1700 hrs on 16 Mar 44, absented himself without leave until apprehended by the C.M.P. at TORO at 1030 hrs on 14 April 1944.

Total absence: 28 days 17 hrs 30 Mins.

Second Charge
Sec 15(1) AA

When on Active Service Absenting Himself Without Leave.

in that he

In the Field, when in confinement in his company lines under close arrest, absented himself without leave from 2130 hrs on 24 Apr 44 until apprehended at TORO at 1500 hrs on 3 May 44 by D71274 Sgt. Pelletier L.A.

Total absence: 8 Days 17 hrs 30 Mins.

In the Field

Date

"J P ENSOR ~~Fraser~~ Major"
T/Comd Carlt and York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

Date 18 June 44

"P.E. Bernatchez"
Brigadier
Comd 3 Cdn Inf Bde

"LFT"
Pres.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....

(1. RP 44(5). 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(3). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 4.)

E2. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes in Mitigation of Punishment.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

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

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 94(3). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 81, 727-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Certified True Copy

(D.M. Owen) Lieut

TTT-198

CFA80 (In lieu of AFA3)
40/P.A.S./1698 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig JPE Bernatchez DSO OBE Comd 3 Cdn Inf Bde dated 18 Jun 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G27578	Pte	Clarence Joseph	LeBLANC	Carlt & York R.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 24 Jun 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA "LFT" assemble, and the Court is closed.

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

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3) "LFT" "LFT"

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

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1410 hours trial commences. "LFT" "LFT"

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) "LFT" "LFT"

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

A5. "LFT" "LFT" "LFT"

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans I object to Capt H.J. Haining - see Notes (1) Page 15

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

A7. The President, Members, J, are sworn.(1) The following are the "LFT" ranks, names and units of the offrs comprising the Court, etc:

President	Major	L F Trudeau	R 22e R.
Member	Lieut	G N Budreski	West NSR
Member	Lieut	A.D. Taylor	West NSR
~~Judge Advocate~~ "LFT"			
Prosecutor	Lieut	W.P. McGrath	Carlt & York R.
Defending Offr	Lieut.	C.I. Kennedy	Carlt & York R.

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

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

A8. The accused G27578 Pte Clarence Joseph LeBlanc "LFT" on arraignment make(s) (no) plea (1)

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

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: G27578 Pte Clarence Joseph LeBLANC, Carlt & York R.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1)AA	Guilty	Guilty	
2nd	Sec 15(1)AA	Guilty	Guilty	
3rd				
4th				
5th				
6th				

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

"LFT" (1)

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

Time in confinement awaiting present trial—a total of 43 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo detention for a period of one year.

(Sgd) "LFT" 24 Jun 44. (Sgd) "LF Trudeau" Major
Date awarded. President. (RP 45, 50.)

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

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Findings and Sentence confirmed.

"PEB"

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

(Sgd) "pe Bernatchez" Brig

Date 30 June 44. Commanding 3 Cdn Inf Bde.
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
G27578 Pte LeBlanc C.J.	1 Jul 44	"E.D. Denby" Lt.-col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

"Ex "C"

No G-27578 Name LeBlanc CJ | Sqn, Battery, or Company D | Corps Infantry | Date of enlistment 21 Mar 40 | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/150 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc JB Rousseau Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award (or of order dispensing with trial)	By whom awarded	Remarks
Field	8 Apr 43	Pte		Sec 40 A.A. Slovenly dressed in public	Pte Therien Pte Babin	Forf 1 days pay	9 Apr 43	Lt.Col F.D. Tweedie FGCM	Forf 6 days pay for AWL for 2 days pay FR&I 149(1)(i)(c)
Field	29 Dec 43	Pte		Sec 15(1) AA AWL 1700 hrs 29 Dec 43 till apprehended at Paglieta at about 2100 hrs 3 Jan 44.	Lt Hartt at Capt Sharpe	45 days F.P. with Loss of Pay.	4 Feb 44		

Certified true copy of MFM 6 of G-27578 Pte LeBlanc CJ

D.E. Smith Capt
Adj and Offr i/c Records
Carlt & York Regiment.

(FTO)

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ..... and in his regiment (or corps) the rank of ..... dated .....

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

In the rank of ..... years.

In the rank of .....years

In the rank of .....years.

Note: - If any [illegible] above paragraphs cannot be [illegible] the regimental books, the [illegible] must be struck through.

SCHEDULE.

Of convictions by a court-martial, [illegible] any awards under Section [illegible] of the Act [illegible] has been dispensed [illegible]

Name ..... of .....

Note: A verbatim extract from the regimental books of this conviction and dispensation with trial must be inserted.

Description of court by which tried	Date & Place of Trial	Charge upon which convicted	Sentence of the court	Punishment Remitted
F. G. C. M.	FIELD 4 FEB 44	Sec 15(1) A.A. A.W.L.	45 days. F.P. with loss of pay	

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

Signed this 22 day of Jan. 44. D. E. Smith Capt

The above statement (with [illegible] convictions and of cases [illegible]) is read, marked ..... and annexed to the proceedings.

Ex 13.

(13)

M.F.B. 355

STATEMENT AS TO CHARACTER AND PARTICULARS
OF SERVICE OF ACCUSED

Number C275K Rank Pc Name LEBLANC, C. S. Carle + York R. Regiment (or unit)

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

	Within last 12 months	Since enlistment or appointment
For	Sec 15(1) AA. AWL ..... 1 times	Sec 15(1) AA. AWL ..... 1 times
For	~~Sec 40 AA~~ ..... times	Sec 40 AA ..... 1 times
For	..... times	..... times
For	..... times	..... times

Number of instances of gallantry or distinguished conduct

or,

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

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

2. The accused has not been previously convicted.

or,

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 43 days in Military Air Force custody, making a total of 43 days in custody, of which N/A days were spent in hospital.

5. The present age of the accusedaccording to his record of service is 24 years attestation paper is

6. The date of his ~~commission~~ specified in his record of service is ~~24 years~~ attestation 21 Mar 40 attestation paper

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

8. The accused is entitled to reckon 4 yrs 3 mos service for the purpose of determining his pension, etc.

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

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

HH Pres

Army Form B.122

No. G27578 Name Le Blanc. C.J Sq. Batty. or Company. D Corps Infantry Ex C Date of enlistment 21 Mar 40 Sheet No. 14

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. J B Rousseau, Capt

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Apr 43	Pte		Sec 40 A.A. Slovenly dressed in public	Pte Therien Pte Babin	Forf 1 days pay	9 Apr 43	Lt col F D Sweedie	
Field	29 Dec 43	Pte		Sec 15(1) AA AWL 1700 hrs 29 Dec 43 till apprehended at Paglieta at about 2100 hrs 3 Jan 44.	Lt Hartt Capt Sharpe	45 days F.P with loss of pay	4 Feb 44	F.G.C.M.	Forf 6 days pay for AWL. Forf 62 days pay FRET 149(1)(c)(1).

Certified true copy of AFMG of G 27578 Pte Le Blanc C. J.

D. E. Smith Capt.
Adjt. and Off. i/c Records
Cartt and Gold Regiment.

JH
Pres.

[P.T.O.

(12)

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that Rule of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused this 10th day of June 44

H J Haining A/Capt

List of Witnesses in the Case of G27578 Pte LeBlanc C.J.
For the Prosecution: G21104 C.S.M. Levesque - L.H.
D71274 Sgt. Pelletier, J.A.
G17222 C.S.M. Nelson, A.G.
Capt Smith, D.E.
For the Defence - Nil
List of Exhibits in the Case of G27578 Pte LeBlanc - C.J.
Exhibit A: Certificate of Arrest
AA 163 (a) (g)

Certified that I have received free of charge a copy of the Summary of Evidence and all other documents relating to my trial by Court Martial.
Certified that I have received free of charge a true copy of the charge sheet upon which I am being brought before Court Martial.
I desire the services of an officer to represent me at my trial

E. J. LeBlanc

HH
Pres

~~III~~ (11)

Sworn Witness for the Prosecution

G/7322 C.S.M. Nelson - A.G. - Carleton & York Regt - CAO having been duly sworn states

I am G/7322 C.S.M. Nelson - A.G. D Coy Carleton & York Regt. CAO. On 24 Apr 44 Pte LeBlanc C.J. was confined in D Coy lines pending investigation of a charge of Absent without leave. At 2130 hrs 24 Apr 44 he escaped from confinement. I noticed his absence and reported same to Br HQ. I was personally in charge of the prisoner at that time having dispatched the runner of D Coy HQ on an errand who was acting as escort. Pte LeBlanc C.J. was under close arrest and I was acting as escort on these prisoners one of which was Pte LeBlanc C.J.

A/Sgt Nelson CM.

The accused declines to cross examine this witness.

Sworn Witness for the Prosecution

Capt D. E. Smith Carleton & York Regt CAO having been duly sworn states:

I am Capt D. E. Smith. Adj Carleton & York Regt - C.A.O. I produce documentary evidence, Certificate of Arrest under A.A. Sec 163 (i) (j) marked 'A' and attached to the Summary

D. E. Smith

The accused declines to cross examine this witness.

(10)

Second Witness for Prosecution

D71274 Sgt. Pelletier J.A. D Coy Carleton & York Regt being duly sworn states:

I am D71274 Sgt. Pelletier J.A. D Coy Carleton & York Regt. C.A.O. On 3 May 44 while employed as Orderly Sgt. I was sent to Pro in order to pick up Pte. LeBlanc C.J. and place him under close arrest. At 1500 hrs that day, I arrested Pte LeBlanc C.J. and brought him back with me. I turned him over to the Regimental Police of our unit.

J.A. Pelletier Sgt.

III

Pres.

Accused declines to cross examine this witness.

(9)

Summary of Evidence in the case of G27578 Pte. LeBlanc, C.J. - a soldier of the Carleton & York Regt - Canadian Army Overseas - (C.M.D.)

Ex A

By direction of the Commanding Officer the Evidence is taken on oath.

- - - - - - - - -

First Witness for Prosecution

G21104 C.T.M.S. Livesque - L.H. - Carleton & York Regt - C.A.O. having been duly sworn states:
I am G21104 C.T.M.S. - A Company Carleton & York Regt - C.A.O. On 16 Mar 44 at approx 1000 hrs Pte LeBlanc C.J. reported to me upon arrival from Holding Unit. After checking all his equipment, I told him I was leaving for the front line at 1700 hrs on same day. At 1700 hrs when I was ready to leave Pte LeBlanc could not be found so I marked him A.W.L. from 1700 hrs 16 March 44.
Q. When you warned Pte LeBlanc C.J. of the time of your departure did you tell him to be present?
A. Yes

L.H. Livesque

Accused proceeds to cross examine this witness:
Q. Did you check my equipment on my arrival from the Holding Unit.
A. Yes.
Cross examination of witness by accused concludes.

HH Pres.

NOTE (1) (15)

What is your objection to Capt H.J. Haining the senior member of this Court.
The accused in support of his objection to Capt H.J. Haining. makes the following statement: Capt H.J. Haining is the Offr who took my Summary of Evidence
The Court allow the objection R.I.P. 19(B)(III)
Lieut A.D. Taylor. West N.S.R. takes his place as a member of the Court..
No objection.

Pres.

Please Mitigation
in the case of:
G.2.7.5.7.8 Pte LeBlanc L.J.

(8)

The reason for my going absent without leave is that I dont like serving in this Regiment. I have asked for transfer several times to the R.C.A. and have had no satisfaction.

I have in the past been a good soldier. My records will show that after 4 years of service there were no entries until I joined this Regiment. I would still be a good soldier if I could have had satisfaction on my transfer request.

I ask for a light punishment in view of past good character and wish to state that if transfer could be granted after punishment for this offence is served I would serve as a good soldier.

Pte. C. J. LeBlanc

HH/Pres

7

MEDICAL OFFICERS CERTIFICATE

KR(CAN) PARA 357

I certify that I have this morning examined

No. G.27578 PTE. LEBLANC C.J. .....

of the Carleton & York Regiment and in my opinion he is

fit ~~unfit~~ to undergo [illegible] by Court Martial.

Station [illegible]

Date 24 June 44 .....

[illegible] Capt.,
Medical Officer
R.M.O. Carlt & York Regiment.

HH Pres

HH Pres

(6)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1697 (2868)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G27575	Pte		Clarence Joseph	LeBLANC,	Carlt & York R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Jun 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ 1/83
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ 1/83
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ 1/83
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F Trudeau	R 22e R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H J Haining	Carlt& York R
Lieut	G N Budreski	West NSR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	A D Taylor	West NSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in [illegible] (Country.) — (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Date 18 Jun 44 — Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

HH Pres

(5)

Charge Sheet

The accused, G 27578 Private Clarence Joseph LeBlanc, a soldier of the Carleton and York Regiment, Canadian Army Overseas, C.M.F. when on Active Service, is charged with:

First Charge
Sec 15(1) AA.

When on Active Service Absenting Himself Without Leave in that he in the Field, at 1700 hrs on 16 Mar 44, absented himself without leave until apprehended by the C.M.P. at TORO at 1030 hrs on 14 April 1944.
Total absence: 28 days 17 hrs 30 mins.

Second Charge
Sec 15(1) AA.

When on Active Service Absenting Himself Without Leave in that he in the Field, when in confinement in his company lines under close arrest, absented himself without leave from 2130 hrs on 24 Apr 44 until apprehended at TORO at 1500 hrs on 3 May 44 by D 71274 Sgt Pelletier S.A.
Total absence: 8 days 17 hrs 30 mins.

In the Field

Date

[signature] Maj
Lt Col
T/ Comd Carlt. and York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
Date 18 June 44

[signature] Brigadier
Comd 3 Cdn Inf Bde

[initials] Pres.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

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

President to accused: Do you wish to make a statement? Ans. Nil. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on 2 and charge(s). The accused is (not) so informed, ~~and he changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly~~.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence to be read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Ans. ..... Do you intend to call witnesses on your behalf? Ans. .....
Are they witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 8.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf 405. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy [illegible] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.I. 182(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFR 355 or MFR 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/(2)
(1. *When several accused tried separately see RP 44(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 543-546, Overseas RO 309, 2323, MML p 81, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 132. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564.* 2. *RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: G27578 Pte Clarence Joseph LeBLANC, Carlt & York R

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1)	Guilty	Guilty	
2nd	Sec 15(1)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

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

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

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

Time in confinement awaiting present trial—a total of 43 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court: To undergo detention for a period of one year.

(Sgd) ~~Judge Advocate, if any~~ 24 Jun 44 (Sgd) President. (RP 45, 50.)

Date awarded.

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

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

Date 30 Jun 44 (Sgd) Commanding 3 Cdn Inf Bde

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
G27578 Pte LeBlanc C.J.	1 Jul 44.	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160.. TTT-198

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 43/P.A.S./1008 (2006)

Convened by Order of Brig JFE Bernatchez DSO OBE Comd 3 Cdn Inf Bde dated 18 Jun 44

RECEIVED 14 AUG 1944

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G27578	Pte		Clarence Joseph	LeBLANC	Carlt & York R

PROCEEDINGS REVIEWED

5

7 JUL 1944

REVIEWING OFFICER 1 CDN BDE HQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) on (date(s)) 24 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and such charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1410 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

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

A5. ~~President to accused: Do you object to~~ ~~an interpreter.~~ Ans

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer.~~ Ans

~~The shorthand writer is sworn.(1)~~

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans I object to Capt H.J. Fleming - see N Fmn (1) page 15

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

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

President	Major	L.F. Trudeau	R 22e R
Member	Lieut	H.N. Burbridge	West NS R
Member	Lieut	A.D. Taylor	West NS R
~~Judge Advocate~~			
Prosecutor	Lieut	W.T. McGrath	Carlt & York R
Defending Offr	Lieut	C.I. Kennedy	Carlt & York R

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 25, 27, 109, 111. Offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Duties of JA.)

A8. The accused G-27578 Pte Clarence Joseph LeBlanc ~~before~~ arraignment make(s) (no) ~~(a)~~ plea.

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

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

TTT-198.

Pte Le Blanc C.J.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ..... and in his regiment (or corps) the rank of ....., dated .....

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

In the rank of ..... years.

In the rank of ..... years

In the rank of ..... years.

Note: - If any matter in any of the above paragraphs cannot be obtained from the Regimental books, the paragraph must be struck through.

SCHEDULE.

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

Name ..... of ..... Regiment

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

Description of court by which tried	Date & Place of Trial	Charge upon which convicted	Sentence of the court	Punishment Remitted

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

Signed this 4th day of February 1944 [signature] Capt [signature]

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

Guinea Pig "D"

N.F.B. 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number 327578 Rank Pte. Name LeBlanc, C. J. Regiment (~~or unit~~) Carlt & York

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

	Within last 12 months	Since enlistment or appointment
For	Sec 40 AA (1) times	1 times
For	times	times
For	times	times
For	times	times

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

~~or,~~

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

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

2. The accused has not been previously convicted.

~~or,~~

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

A.F.A. 73

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

~~or,~~

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

4. The accused has been in confinement awaiting trial on the present charges, for NIL.. days in civil custody, and 32... days in Military custody, making a total of 32... days in custody, of which ...NIL... days were spent in hospital.

5. The present age of the accusedaccording to his record of service is 24 yrs. attestation paper is

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 4 yrs.

8. The accused is entitled to reckon 4 yrs. service for the purpose of determining his pension, etc.

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

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

"C"

No. C27578 Name Le Blanc, C.J. Sq., Batty., or Company HQ Corps Infantry Date of enlistment 21 Mar 40 Sheet No. 1

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges 1 | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8-4-43	Pte		Being slovenly dressed in public	Pte Kerien, E. Pte Klein A.	1 days pay		J. D. Tweedie	Lt. Col

Certified True Copy:

[signature]

Certified True Copy of MFM 6 ~~of form~~ C 27578 Pte. Le Blanc C.J.

[signature]

~~Officer i/c Records~~

Army Form B.122

[P.T.O.

Second and Last Page

To the Accused:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence (R.P. 4 G)

The accused declines to make any statement and reserves his defence

I certify that, the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e)(f) have been complied with.

D. E. Smith Lt
Officer Taking Summary

List of witnesses in the case of G 27578
Private Clarence Joseph Le Blanc
For the Prosecution - Lieut L. R. Hartt.
Lieut. (A/Capt.) B R. Sharpe.

For the Defence - Nil

List of exhibits in the case of G 27578
Private Le Blanc C. J.
Exhibit A - certificate of arrest under Sec. 163(1)(j)
Exhibit B - Statement of evidence of Cpl Warren C., CMP. A. A.

Certified that I have received a true copy of the Summary of Evidence ~~of~~ taken prior to my being tried by Field General Court-Martial.

Certified that I have received free of charge a true copy of the Charge Sheet upon which I am being brought before Court-Martial.

I desire the services of an officer to represent me at my trial by Court-Martial.

27 Jan 44
In the Field.

C J Le Blanc
G 27578 Pte Le Blanc C.J.

First P-S

Summary of Evidence in the case of G 27578 Private Clarence Joseph Le Blanc, a soldier of the Carleton and York Regt. Canadian Army Overseas.

By direction of the Commanding Officer this summary is taken under oath.

First Witness For Prosecution — Lieut. L.R. Hartt, Carleton and York Regt. C.A.O. having been duly sworn, states:

I am Lieut. L.R. Hartt, Intelligence officer, Carleton and York Regiment, C.A.O. On 29th. Dec. 43 the Carleton and York Regt. advanced across country in a northerly direction from cross-roads 312142. The accused was my batman at the time and moved with Battalion Headquarters personnel. The accused started off on the cross-country march with the battalion. At about 1700 hrs. when battalion headquarters took up a position for the night the accused was found absent by me.

Exhibit put in by Pros

L.R. Hartt
Lieut. L.R. Hartt

Second Witness For Prosecution — The accused declines to cross examine this witness.

Lieut. (A/Capt.) D.R. Sharpe, Carleton and York Regt., C.A.O., having been duly sworn states:

I am Lieut. (A/Capt.) D.R. Sharpe, Adjutant, Carleton and York Regt, C.A.O. I submit documentary evidence, certificate of arrest under section 163(1)(b) of the Army Act which is marked "A" and is attached to the Summary also statement of evidence marked "B".

The accused declines to cross examine this witness.

B

Statement of EVIDENCE in the case of:-

C.27578. PTE. C.J. LEBLANC.
CARLTON & YORK.
1 CANADIAN DIVISION.

Sir,

I have to report that at PAGLIETA on 3 JAN 44 at about 2100 HRS. I was called by a civilian to a house where he said there were some soldiers. Accompanied by L/C. McLAUGHLIN., CMP, I went into the house and found the above-named soldier who was asleep in bed.

I asked him what he was doing there and he told me that he had been absent from his unit for 5 days.

I conducted him to the guard room where he was put under close arrest.

He was sober.

Cpl. C.M.POLICE.

Field,
3 JAN 44

REMARKS

Sir,

I have read over and corroborate the above statement.

L/C. C.M.POLICE.

Field,
3 Jan 44.

CHARGE

Army Form B252
(See King's Regulations)

CARLTON & YORK. (1st CANADIAN DIVISION).

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. G.27578. Rank PTE.

Name LEBLANC. C.J.

Place ~~PAGLIETA~~. Dutchfield DBH

Date of Offence 29 Dec 43

OFFENCE W.O.A.S. Absent from 1600 hrs 29 Jan 43 until apprehended by the Military Police at about 2100 HRS. on 3 JAN 44.

Remanded to C.O. 4 Jan 44

Lang Fwd Capt. D.A.P.M. 112 Pro. Reg. Cmd 13. Corps

Names of Witnesses:—

Pm Jesson

7688182. CPL. WARREN. C. CMP.
2766894. L/C. McLAUGHLIN.J. CMP.
4986279. L/C. CLIFT. (NCO I/C GUARD)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Remanded for Summary of Evidence
L.D. Vanby
9 Jan 44

Adjutant.

P.T.O.

645/P.M.E.A.1—400,000—641.

A

CERTIFICATE OF ARREST UNDER SECTION 163(I)(II)ARMY ACT.

I certify that No.G.27578. PTE. LEBLANC.C.

CARLTON & YORK REGIMENT, 1 CANADIAN DIVISION was

arrested at PAGLIETA at 2100 HRS. ON 3 JAN 44.

Capt.,

D.A.P.M., 1st Provost Company, CMP.,

Officer into whose custody the above-named absentee was placed on arrest.

F

Sentence.

The Court sentence the accused see schedule

Sentence

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ F.

~~The Court find that the accused~~ F.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

*~~The Court being re-opened, the accused is again brought before it.~~

Evidence of character, &c.

Lieut. J. J. Power C.Y.R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, documentary

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked C&D, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

N/A

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No

Answer.

Evidence as to character.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

[The Court having been re-opened, the ~~accused~~ 78 CR is again brought before it, and the ~~charge~~ to which he has pleaded "Guilty" read to him again.]

The accused C-27578 Private Clarence Joseph LEBLANC CYR is found guilty of the charge on his.

†The summary ~~(or abstract)~~ of evidence is read, marked M signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, ~~which is read, marked~~, signed by the President, and attached to the proceedings.]

"I wish to tell the officers of the court that if I had not been arrested by the police I would still have been going. I have my own reasons which I do not wish to tell the Court."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

MEDICAL OFFICERS CERTIFICATE

KR (C.N) PARa 557

I certify that I have this morning examined

No C.21518 ... LEBLANC ... C.V. .....

of the Carleton & York Regiment and in my opinion he

is fit ~~unfit~~ to undergo Trial by Court Martial.

Station In The Field

Date ... 4 Feb 44

..... Capt
Medical Officer
R.M.O. Carlt & York Regt.

Charge Sheet B2

The accused, G 27578 Private Clarence Joseph Le Blanc, a soldier of the Carleton and York Regiment, Canadian Army Overseas, C.M.F., when on Active Service, is charged with:

First Charge
Sec. 15(1) A.A

When on Active Service Absenting Himself Without Leave.
~~in that he~~
In the Field did absent himself without leave from 1700 hrs. on the 29th. Dec. 43 until apprehended by Military Police at PAGLIETA at about 2100 hrs. on 3 Jan 44.
Total absence: 5 days. 4 hrs.

In the Field
27 Jan 44.

Lt. Col.
Commanding Carl't and York R.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
Date 3 Feb 44

Brigadier
Commanding 3 Cdn Inf. Bde.

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut. D.M. Owen, Seaforth of Canada

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a ~~Field General~~ Court-Martial held at ~~in the field~~ on the 4th day of February 1944 by order of Brigadier T. G. Gibson Commanding 3rd Canadian Infantry Brigade dated the 3rd day of February 1944

President.

Major R. J. GUIMOND R22eR.

Members.

Captain E. D Hervey WINSR

Captain G. L. Bastedo S.L.I.

~~Judge Advocate~~.

Trial of* G27578 Private Clarence Joseph LEBLANC CY R.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

The Court satisfy themselves that ~~_____~~ is not available to serve owing to ~~N/A~~, ~~waiting~~ member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. J. J. Power

Counsel‡ or defending officer† Lieut. G. Palmer

At 0915 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

D'd

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G27578 Pte Clarence Joseph LEBLANC, Carlt & York R	First Charge Sec 15(1) AA	Guilty	Guilty to suffer field punishment for a period of forty-five (45) days J. 4 Feb'44 and to forfeit all ordinary pay for a period of (45) forty-five days.	Confirmed

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on appropriate days if necessary*) :—

(Signed) ..... Brigadier (Signed) ..... Major
Commanding 2 Cdn Inf Bde
Convening Officer (a) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of February 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

Signed this 4th day of February 1944.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ..... day of ..... 19 .

N/A

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 7 day of Feb 1944

Confirming Officer.

Promulgated and extracts taken in the case of G27578 Pte C.J. LeBlanc

(a) (Dated) 9 Feb 44 (Signed) Comd Carleton & York R. Lt-Col

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

ENTERED IN RECORDS OF C.M. EEE-131

D94

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Third day of February, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~[illegible]~~

PROCEEDINGS REVIEWED
W. C. [illegible]
23 Mar 44 Rev 3
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	B.J. Guimond	R 22e R

Members.

Rank.	Name.	Regiment.
Captain	E.D. Hersey	West NSR
Captain	C.D. Bastedo	3 Cdn Inf Bde Sp Gp (Sask LI)
Waiting Lieut	D.M. Smith	West NSR

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding 3 Cdn Inf Bde
Convening Officer.

EEE-131

PTE LEBLANC C.J.



"X"

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-74055	L/Cpl.	LEBLANC, C.J.	85 Cdn Bridge Coy RCASC

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

	Within last 12 months	Since enlistment
For	A.A. Sec 20 (2) One times	A.A. Sec 20 (2) One times
For	times	times
For	times	times
For	times	times

~~Number of instances of [illegible] conduct~~

~~or,~~

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

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

2. The accused has not been previously convicted

~~or,~~

~~[illegible]~~

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

or,

~~[illegible]~~

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

5. The present age of the accused according to his record of service is 21 years 2 months

6. The date of his ~~[illegible]~~ attestation ~~[illegible]~~ ified in his record of service is Jan 1942

7. ~~[illegible]~~

8. ~~[illegible]~~

9. ~~[illegible]~~

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

"Y"

No. L-74055 Name LeBlanc, Conrad Joseph | Sqn., Battery, or Company | No. 12 District Depot CAAF Reinforcements Saskatoon | Corps | Date of enlistment 5/1/42 | O.C. Badges | Service or Proficiency Pay 20¢ | M.F.M. 6 1/1/43 (A.F. B.122) 40/P & /B136 (2962)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/5 Dec 43	A/L Cpl		A.A. Sec 20(2) in that he on the night of the 4-5 Dec did allow Pte LaFrance to escape from Guard Room	Documentary	Reprimanded	14 Dec 43	Major Alex Gagnon	

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(J.S. Higgins) Lieut & Adjt.
85 Cdn Bridge Coy R.C.A.S.C.

(P.T.O.)

LIST OF WITNESSES in the case of L-74055 Pte (A/L/Cpl) LeBlanc, C.J.
85 Cdn Bridge Coy RCASC

PROSECUTION

First Witness: B-81369 Pte. Alexander, FREEDMAN, 85 Cdn Bridge Coy RCASC

Second Witness: C-20787 Pte. Romeo, DESROCHES, 85 Cdn Bridge Coy RCASC

Third Witness: B-107557 Pte. James, Wilton, BAILEY, 85 Cdn Bridge Coy RCASC

Fourth Witness: B-81387 Pte. Frank, HERBERT, No. 9 Cdn Gen Hospital.

DEFENCE

nil

I, L-74055 Pte (A/L/Cpl) Leblanc C.J. desire the assignment of Capt R.G. Davidson, 85 Cdn Bridge Coy RCASC, to defend me at my trial by FGCM, if available.

Field
4 Jan 44

L-74055 Pte(A/L/Cpl) Leblanc CJ

CROWN WITNESS B-81387 Pte. Frank, HERBERT, formerly of the 85 Cdn Bridge Coy RCASC, having been duly sworn states:-

"I am B-81387 Pte. Frank, Herbert.

"I was writing a letter at about 1630 hrs on the 9 Dec 1943, in my hut in Coolhurst. L/Cpl. LeBlanc was fooling with someone on my bed. Suddenly my bed collapsed. I asked L/Cpl. LeBlanc in a nice way to get me a new bed. He refused to do so. I then tipped his bed over as a joke, and went back to my writing. L/Cpl. LeBlanc took off his jacket and then strode towards me and struck me. I fell against the stove. I asked him if it would not have been better to have gone outside and fought like gentlemen. He said that he didnt do things like that. I was taken to the R.A.M.C. Eventually I was taken to the hospital, with a cheek bone fractured in three places, and my eyes were injured.

Sgd. B-81387 Pte. Frank, T, Herbert

Questions by the accused:

Q.1 Did you see me take my tunic off?
A.1 No I saw you lay it on the table, I did not see you take it off.

Q.2 Did you see me walking towards you?
A.2 No, I did not.

Q.3 How many minutes after leaving my tunic on the table before I struck you?
A.3 About five seconds.

Q.4 Did you kick my bed?
A.4 Yes I kicked it, and then turned it over.

Q.5 After you turned my bed over did you hear me call you a name?
A.5 No.

The accused declined to further cross-examine the witness.

Question to the accused:

Do you wish to make any statements or give any evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused:

I do not wish to make any statement or give evidence at the present time.

Sgd. L-74055 L/Cpl. LeBlanc, C.I.

"I certify that the foregoing summary of evidence taken down by me in the presence and hearing of the jointly, and that rules of procedure 4 (C) (D) (E) (F) have been complied with.
Signed by me in the field, this 3rd day of Jan 19

(D.R. [illegible]) Ca
Officer Detailed
the Summary of Ev

Questions by the accused:

Q.1 Who's bed was I sitting on, when I told him to go fuck himself?
A.1 You were sitting on Cpl. Flynn's bed.

Q.2 What name did I call Pte. Herbert, when he upset my bed?
A.2. I have no recollection what you said.

Q.3 Did you see Pte Herbert kick my bed in an attempt to break it?
A.3 Yes, he kicked it once, but he had rubber boots on.

Q.4 Which hand did I hit Pte. Herbert with?
A.4 With your right hand.

Q.5 If I hit him with my right hand how did he manage to revolve to the right in the direction of the stove?
A.5 I think you hit him in the jaw first. I do not know.

Q.6 Did you see Pte. Herbert punch me?
A.6 No I did not.

The accused declined to further cross-examine the witness.

THIRD WITNESS B-107557 Pte. James, Wilton, BAILEY, 85 Cdn Bridge Coy RCASC having been duly sworn states:-

"I am B-107557 Pte. James, Wilton, Bailey.

On Thursday 9 Dec 1943, I was watching a game of checkers in my hut. Suddenly a bed caved in. L/Cpl. LeBlanc had been sitting on it. Pte. Freedman said " I guess you will have to get another bed". Pte. Herbert made a similar request. Then L/Cpl. LeBlanc told him to go and get one himself. Pte. Herbert then tipped over L/Cpl. LeBlanc's bed. L/Cpl. LeBlanc walked towards his own bed, took off his tunic saying " Alright Herbert". Pte. Herbert continued to write his letter. L/Cpl. LeBlanc then struck Pte. Herbert right in the face. Pte. Herbert appeared to be blinded, and fell towards the stove. Pte. Herbert said " You could at least have asked me to come out side! He then continued to state " I would be crazy to go out in my present condition". Pte. Herbert then washed the blood out of his eyes, while L/Cpl. LeBlanc got him a new bed.

Sgd. B-107557 Pte. J.W. Bailey

Questions by the accused:

Q. 1 Did you see Pte. Herbert kick my bed?
A. 1 I did not see anything, all I heard was the bed crush

Q. 2 Did you hear me call Pte. Herbert a name?
A. 2 I do not remember.

The accused declined to further cross-examine the witness

SUMMARY OF EVIDENCE in the case of L-74055 L/Cpl. Conrad, Joseph, Le Blanc, 85 Cdn Bridge Coy RCASC, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS B-81369 Pte. Alexander, FREEDMAN, of the 85 Cdn Bridge Coy RCASC, having been duly sworn states:-

" I am B-81369 Pte. Alexander, Freedman.

At 1615 hrs on Thursday the 9 Dec 1943, I was playing a game of checkers with one Pte. Doucet. My partner was sitting on the bed of B-81387 Pte. Frank, HERBERT. L/Cpl. LeBlanc came over and sat on Pte. Herberts bed, beside Pte. Doucet. Suddenly the bed collapsed. Then the soldiers in the hut started to tease L/Cpl. LeBlanc about having to get Pte. Herbert another bed. Pte. Herbert, who was writing a letter in another part of the hut, said " Alright, LeBlanc you will get me another bed". L/Cpl. LeBlanc replied " go get your own bed, you know where they are", or words to that effect. Immediately, Pte. Herbert upset L/Cpl. LeBlanc's bed. He said to L/Cpl. LeBlanc " You broke mine so I'll break yours" or words to that effect. L/Cpl. LeBlanc seen what had happened, took off his jacket and said " Alright Herbert" and walked towards him. Pte. Herbert continued to write. I heard a noise of scuffling, and Pte. Herbert was clutching at the stove pipe. Everything had happened so quickly, that nobody had a chance to intervene. Pte. Herbert said " That is a hell of a way to hit a man, the least you could have done was to ask me to step out side". L/Cpl. LeBlanc said "well come on outside now". Pte. Herbert said " I would be crazy to go outside now, as I can not see". Pte. Herbert was taken to the R.A.P. about an hour later.

Sgd. B-81369 Pte. A. Freedman

The accused declined to cross-examine the witness.

SECOND WITNESS C-20787 Pte. Romeo, DESROCHES, 85 Cdn Bridge Coy RCASC, having been duly sworn states:-

"I am C-20787 Pte. Romeo, Desroches.
On the 9 Dec 1943, I was watching Pte. Herbert write his letters. I heard a bed collapse. L/Cpl. LeBlanc was sitting on the said bed. I heard someone tell L/Cpl. LeBlanc that he would have to go and get a new bed for Pte. Herbert. L/Cpl. LeBlanc said " Go fuck yourself, get one yourself". Pte. Herbert said " O.K. ", and then came over and upset L/Cpl. LeBlanc's bed. Then L/Cpl. LeBlanc got up off the ground, took off his tunic and said " Alright, Herbert". Pte. Herbert kept on writing letters, and while he was doing this L/Cpl. LeBlanc walked over and struck him without any warning. Pte. Herbert fell over against the stove. The fight was over. Pte. Herbert said "You could have at least asked me outside". Then he said "its no use now, I cant see anything". He said this after he had been invited outside, by L/Cpl. LeBlanc. L/Cpl. LeBlanc got him a new bed.

Sgd. C-20787 Pte. R. Desroches

going to hit me. This happened on Wed Dec 8. — M.O. in hospital told me my jaw was fractured in 3 places. & I got this from Leblanc's fist as I hit the stove with my back

Re Exam

I was taken to the Hosp. 2 days after the incident. Friday.

Exam by court. — none.

R.P. 83(c) has been complied with.

Defence Witness

no witness

Defence address re mitigation of sentence.

1. Consider age and capabilities as N.C.O and time of service — provocation involved. — while no justification action was due to teasing by others and insubordinate action of Hubert's toward him — attention must be drawn to confusion of dates. Therefore question as to what actually did happen as outlined by witnesses.

R.P. 83(c) has been complied with.

NDI

4th witness After being duly sworn states
I am no B81387 F. T. Herbert HE and I
recognize the accused as L/cpl LaBlanc
I remember an incident between accused &
I that happened 8 Dec - 1630 hrs. - I was
writing a letter, sitting down, some in hut
were playing checkers & the accused was
sitting on my bed & facing & my bed
broke and I requested L/cpl LeBlanc in
a nice way to get me a new bed. & he
replied - "you know where they are, get one
yourself." I kicked LeBlancs bed & then turned
it over & then continued writing the letter
when I kicked the bed I was wearing
rubber boots. - When I returned to write
letter my back was to LeBlanc. LeBlanc
took off his tunic & struck me in the eye &
side of face & I did not strike him. I
did not know he was going to hit me
I was sitting down. I then fell on
being hit to the stove. I then said you could
have asked me to come outside & he replied
he didn't do things like that. & he then asked
me outside but I said I couldn't see
and wouldn't come out, I then went to
R.A.P. Then to hosp. as my cheek bone
was fractured in 3 places. and I am still
in the Hosp. and have been struck off the
strength of this unit but belong to R.U.

Cross. Exam
I kicked LeBlancs bed for a joke after he
refused to get me a bed. When it didn't
break I turned it over. I didn't say
alright LeBlanc you will get me a new bed.
but asked him in a nice way. When he
refused I kicked his bed. I did nothing about
protecting myself as I didn't think he was

(5)

~~[illegible]~~ the same bed that Pte ~~Leblanc~~ Daucet was sitting on, it block down as Pte Leblanc sat down. & L/Cpl. Leblanc was told he would have to get a new bed & he said you know where the beds are go get one yourself. Then Herbert turned ~~the~~ Leblanc's bed over. & ~~L/Cpl~~ Leblanc was at the other end of hut. Herbert then continued writing from a standing position. & L/Cpl Leblanc said OK H. & threw his tunic on bed & walked over & struck Herbert. I saw the blow struck ~~[illegible]~~ he struck Herbert. Herbert's Eye puffed up & blood flew & he fell against stone & couldn't see. H. said you could have at least taken me outside & was asked by Le B if he wanted to come outside & he said I can't see now. Then Pte Herbert went & washed, then L/Cpl Leblanc got him a new bed & then Pte Herbert went to the M.O.

Cross Exam

I did not see Herbert kick Le B bed but I think Freedman said for Le B. to get a new bed. –

Ans you said before that Herbert asked for a new bed. –

Ans – I don't think I said then as I think it was Freedman – ~~As~~ I definitely remember Freedman requesting the new bed. ~~I am not~~ I am not sure exact time or date when the incident happened. It was Wed or Thurs. but I don't know the day of month

Re Exam – non

Court Exam none

R of P. 83(c) will be complied with

(4)

Leblanc said Dr Herbert & walked to his own bed, took his tunic off and threw it on his bed & hit Herbert, and I saw the blow struck, Then Herbert went down & got up & he & Leblanc scrambled near the stove. Pte Herbert fell on the stove as he went by. Then Pte H. said Leblanc should have asked him outside & Leblanc wanted him then to come outside & finish it. & Herbert said I can't as I am blind That night Pte Herbert went to washroom & dinner then to the R.A.P.

Cross Exam -

~~Ans.~~ I saw Leblanc hit Herbert & side of his face & mouth & nose was bleeding this was after he fell against stove. but bleeding seemed to be inside of mouth.

Pte Herbert tried to break Leblancs bed. then turned it over then went around the bed. This Happened on the 9th Dec. I was told it was the 9th Dec two weeks after by Capt Stevens. as I didn't know what day the incident happened on

Re Examine - none

Exam by Court none

R.P. 83(c) been complied with

3rd Witness

after being duly sworn witness answers I ~~am~~ B10 75/5 Pte Bailey I.W. and recognize the accused L/Cpl Leblanc I remember an incident early in Dec just after Supper and think it happened on 8 Dec - bed on the & I was watching a game of checkers near Pte Ducet. - Cpl Leblanc ~~was sitting~~ at the bed behind me

Ques - When he took his turns off - could he not have been going to his bed

Ans - Yes.

Ques - This incident took place Wed.

Ans. - I think so - but not sure, but think so.

Ques - Was there anything to ~~[illegible]~~ you to ~~[illegible]~~ not was Wed

Ans - No.

Re-~~Exam~~ - none.

Exam by Court -

you speak of recommending this man to go to Mrs. why

~~Ans~~. His eye & left cheek was puffed up

When did that happen or was first noticed it -

Ans - this happened after incident happened.

Ques - An average intelligent person would be led to believe there was a fight or the man was hit

Ans - Yes Sir

Rule P. 83 (C) will be complied with

2nd Witness after being duly sworn. - ans.

My name C 20787 Pte Desroches R.

I recognize the accused. and remember incident on the day in question. I was sitting on my bed in hut. Pte Herbert was writing a letter sitting on L/Cpl Leblancs bed at table between the two beds. - L/Cpl Leblanc was then at the other End of hut sitting on Pte Herberts bed - & it broke down - when the bed broke some one said L/Cpl Leblanc will have to get H. another bed - & he replied - "Go & Fuck yourself & get yourself a bed" and Herbert ~~said~~ after getting up & kicking the bed he turned Jones (Leblancs bed) - Then Pte Herbert came around the table and stood up & kept on writing

alright Herbert & walked toward him..

Quest What happened next

Ans. - I was facing the other way. when I turned about I saw Pte Herbert clutching at the stove pipes

Ques - Did you hear any noise before

Ans - only a scuffle

Ques - Did anyone interven

Ans - no.

Ques - Did Pte Herbert make any remark

Ans - Pte H. said thats a hell of a way to hit a man.

Ques - Did Herbert make statement as to where incident should have taken place

Ans - "yes" the least you could have done was to ask me to step outside

Ques - Any reply

Ans - L/Cpl L. said come outside now

Ques - What did Pte H. say.

Ans. Pte H. said I would be crazy to go outside now I can't see

Ques - What was done c Pte Her. then

Ans - He went & washed face & laid down on bed.

Ques - Did he stay in hut.

Ans - yes but after supper was advised to see M O

Cross Exam

Ques - You said OK La Blanc you will get me another bed. What tone of voice did he us.

Ans - not the tone of an order.

Ques - Did you see La Blanc hit Herbert

Ans. - no.

(1) Ad.

F. G. C. M.

L 74055 Pte A/L/Cpl Conrad Joseph LeBlanc.
85 Can Br. Cay.

Defending officer asked following be recorded
No application for court-martial included in documents pertaining to this Court-martial.

Defence. Quest - name?
1st witness. B 81369 - Pt Freedman A.

Ques - 9 Dec 43 incident. Explain
Answer - yes.
Ques. What time
ans. 1630 hrs -
Ques what were you doing
Ans. Playing checkers c Pte Ducet who was sitting on Pte Herbert's bed
Ans. Was accused present
yes. & I recognize him now on right
Ques. What did he do
ans. Sat by Pte Ducet on Pte Herbert's bed.
Ques. Then what happened
Ans - Legs caved in on bed
Ques - What happened then
ans. They kidded L/Cpl Leblanc about getting another bed
Ques. Did Pte Herbert say anything
Ans - "alright Leblanc go & get me another bed
Que. . any reply
ans. yes. "go & get you own bed"
Que. . Then what happened.
Ans. Then Herbert got up & said you broke my bed so I will break yours & then upset Pte Leblanc's bed
Ques. Where then did Pte Herbert go
Ans - He went to a table and continued writing
Ques - Then what action did Leblanc take
Ans. - He removed his tunic & said

NOH.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2008)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 74055	Pte	A/L/Cpl	Conrad Joseph	LeBlanc	85 Cdn Br Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 8 Jan 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N. D. Hogg	69 Cdn Gen Tpt Coy RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	E.A. Rooke	66 Cdn Gen Tpt Coy RCASC
Capt	C.H. Wilson	86 Cdn Br Coy RCASC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	R.O. Jones	HQ First Cdn Army Tpt Coln

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

(R.T.Leah)Lt Col

Date 8 Jan 44

Commanding HQ First Cdn Army Tpt Coln
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

nd.

MEDICAL OFFICER'S CERTIFICATE
(K.R.(Can)para 557)

I certify that I have this morning examined No. L-74055 A/L/Cpl LeBlanc, C.J. of 85 Cdn Bridge Coy RCASC and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 17 Jan 44

[signature] Capt
(Medical Officer)

85 CDN BRIDGE COY
R.C.A.S.C.

M1.

CHARGE SHEET

The accused L-74055 L/Cpl. Conrad, Joseph, LeBlanc, 85 Cdn Bridge Coy RCASC, a soldier of the Canadian Army Overseas, is charged with, while on active service.

FIRST CHARGE BEING A NON-COMMISSIONED OFFICER, STRIKES A SOLDIER

Sec. 37(1) Army Act

in that he

in the field on or about the 9th Dec 1943 at about 1630 hrs did strike B-81587 Pte. Frank, HERBERT.

(Alex Cagnon) Capt
Officer Commanding,
85 Cdn Bridge Coy.,
R.C.A.S.C.

Field
3 Jan 1944

To be Tried by Field General Court Martial

(H.T.Lean) Lt.Col
Comd HQ First Cdn Army pt Coln RCASC

Field
8 Jan 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

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

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 4. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete wholly or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. NO. Are they witnesses as to character only? Ans.....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Y. respectively.(3)
(1. MFB 355 or AFB 2942. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 152, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: L 74055 Pte A/L/Cpl Conrad Joseph LeBlanc 85 Cdn Bn Coy RCASC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec. 37 (1)	Not guilty	Guilty.	
2nd				
3rd				
4th				
5th				
6th				

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

As present under sentence for ..... beginning on (date) ..... (1)

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

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

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

Sentence Awarded by the Court: L74055 PTE. A/L/CPL CONRAD Joseph LeBLANC To suffer Field Punishment for SIXTY DAYS.

(Sgd) N/A Judge-Advocate, if any. 17 JAN 44 Date awarded. (Sgd) N.D. Hogg Major President. (RP 45, 50)

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

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

Date ..... (Sgd) ..... Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Sending back finding or sentence for revision by Court: AA 54(3). Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence of the court, but remit twenty days Field Punishment

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

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

(Sgd) R.T. Leah (R. T. LEAH) Lieut-Col

Date 18 Jan 44 Commanding Comd First Cdn Army Tpt Coln Confirming Officer.

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

Accused. Date. Signature of Offr.

L-74055 Pte A/L/Cpl LeBlanc C.J. - 20 JAN 44 Geo. Cagnon Major

O.C. No. [illegible] Coy R.C.A.S.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

333-130 ND

CFA96 (In lieu of AFA3) 40/PAM/1668 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lieut Col R.T.Leah Comd Tpt Coln HQ First Cdn Army dated 8 Jan 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 74055	Pte	A/L/Cpl	Conrad Joseph	LeBlanc	85 Cdn Bn Br Coy RCASC

PROCEEDINGS REVIEWED [illegible] Capt 16 Jan 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q. Date

PROCEEDINGS REVIEWED 18 Jan 44 R.T. Leah Lieut-Col AAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

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

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

A5. President to accused: Do you object to ——— as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to ——— as shorthand writer? Ans N/A

The shorthand writer is sworn.(1) ND

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

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

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

President	MAJOR	N.D. Hogg	64 Cdn Bn TPT Coy RCASC
Member	CAPT	E.A. ROOKE	66 Cdn Bn TPT Coy RCASC
Member	CAPT	C.H. WILSON	86 Cdn Bn Coy RCASC
Judge-Advocate	—	—	—
Prosecutor	CAPT	D.S. STEPHENS	85 Cdn Bn Coy RCASC
Defending Offr	CAPT	R.B. DAVIDSON	85 Cdn Bn Coy RCASC

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

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

A8. The accused before arraignment make(s) (no) ND plea (2)

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

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) ND not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

332-130

L/CPL LEBLANC C.J.

I hereby state that I wish the Convening Officer to assign an Officer to represent me at my trial by Field General Court Martial

Date 6 Jan 45

A. L. LeBlanc

(B-96122 Pte. Leblanc, A.L.)

LIST OF WITNESSES FOR THE PROSECUTION

C- 92516	S/Sgt. Miller, H.J.S.K.	Roman Way Conval. Hospital.
M-106303	A/Cpl. Swensen, T.M.	Roman Way Conval. Hospital.

DEFENCE

NIL

Exhibit D

ARMY FORM B 296 (W.A.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
P-96122	Pte	LEBLANC, Arthur Louis	# 3 C.I.T.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec. 15(1) 8 9 times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet 11 June 42

Date of last entry in Field Conduct Sheet 15 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused was on the _____ day of _____ 19__ convicted by a civil court of _____ and sentenced to _____~~ N/A

~~_____~~ N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for _____ days in military custody, *i.e.*, Nil days in open arrest, 36 17 days in close arrest; of which _____ days were spent in hospital.

5. The present age of the accused is 24 yrs 16 days

6. The date of his attestation ~~enlistment~~ is 22 Dec 1941

7. The service which the accused is allowed to reckon is 3 yrs 8 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ Cdn Vol. Serv. Medal

9. ~~The accused was promoted to the rank of _____ on the _____ day of _____ 19__~~

Date of Promotion.

~~_____~~ N/A

~~_____~~ N/A

~~_____~~ N/A

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.20721/8701 M.500 9/44 A.& E.W.Ltd. Gp.698

C.16
10.1.45

MFM.6

Regimental No. F96122 Rank Pte Exhibit "C"

Name Le Blanc Arthur Louis

Sheet No. I

	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.	Rank Shown	Effective Date	Unit	Place	Authority DO Number	Authority Dated
(1)	AWL (from 9.6.42 to 11.6.42) Close arrest tot forf 6 dys ordinary Pay + 2 dys allow (FR 9 14 (1)(A)(1)(E))	Pte	11.6.42	14 ITC	Aldershot NS	142	12 June 42
(2)	AA Sec 15(1) Award 7 dys CB forf 2 dys Pay	Pte	30.4.43	7 CIRU	UK	75	5 May 43
(3)	AWL: AA15(1) (AWL 8 hrs 51 min) Award 7 dys FP + tot forf 8 dys Pay	Pte	29.6.43	NNSH	UK	34	9 July 43
(4)	AWL Sec 15(1) AA Award 3 dys CB	Pte	28.9.43	NNSH	UK	52	22 Oct 43
(5)	AWL AA Sec 15(1) Award 14 dys CB + tot forf 13 dys Pay	Pte	7.10.43	NNSH	UK	52	22 Oct 43
(6)	AA Sec 15(1) Admonished + forf 1 dys Pay	Pte	21.2.44	NNSH	UK	10	9 Mar 44
(7)	AA Sec 15(1) forf 11 dys Pay	Pte	22.8.44	1 Cdn Spec Hosp	UK	14	24 Aug 44
(8)	(AWL from 1300 hrs 30.9.44 to 1040 hrs 7.10.44 (no punishment published)	Pte	30.9.44 7.10.44	4 CIRU	UK	253 + 276	6 Oct + 23 Oct 44
NOTE	Above man was admitted Hillingdon County Hosp Mdsx 7 Oct 44 Punishment will take place on his discharge from hosp	—	—	—	—	—	—
(9)	AA 15(1) tot forf 8 dys Pay plus Stopp of Pay 16/7	Pte	24.11.44	Roman Way Conv Hosp	UK	48	28 Nov 44
(10)	AWL from 2200 hrs 5 Dec 44 AA15(1) tot forf 20 dys Pay	Pte	15.12.44	Roman Way Conv Hosp	UK	51 + 53	8 Dec + 5 Dec 44

Certified true Extract from MFM 2.

[signature]
(R.A.C. Johnson), Major
for Colonel
O.I.C. Records
Canadian Military Headquarters

4. ABSENT WITHOUT LEAVE (Patients) (Cont'd)

(g) A.W.L. from 1200 hrs 28 Dec 44. Still absent 1400 hrs 5 Jan 45 (8 days)
M- 15789 Pte. Swanson, C.A. # 1 C.I.T.R.

(h) A.W.L. from 1200 hrs 28 Dec 44. Still absent 1400 hrs 5 Jan 45 (8 days)
B- 20663 Cpl. Wood, R.B. # 2 C.I.T.R.

5. PUNISHMENTS (Patients)

(a) On 4 Jan 45 awarded a summary forfeiture of 10 days pay for an offence under A.A. Sec. 15(1) A.W.L. from 1200 hrs 28 Dec 44 to 1200 hrs 3 Jan 45 (Time absent: 6 days)
Forf: 6 days pay F.R.&.I. 149(1)(a)
Forf: 10 days pay F.R.&.I. 149(2)
Total forf: 16 days pay
M- 1029 Gnr. G[illegible]ck, G.M. # 2 C.A.R.U.

(b) On 4 Jan 45 awarded a summary forfeiture of 3 days pay for(1) an offence under A.A. Sec. 40(2) an offence under A.A. Sec. 11.
Forf: 3 days pay F.R.&.I. 149 (2)
D- 66144 Gnr. Hamel, G. # 2 C.A.R.U.

(c) On 4 Jan 45 awarded a summary forfeiture of 10 days pay for an offence under A.A. Sec. 15(1) A.W.L. fro[illegible]00 hrs 2[illegible] Dec 44 to 1200 hrs 3 Jan 45 (Time absent: 6 days)
Forf: 6 days pay F.R.&.I. 149(1)(a)
Forf: 10 days pay F.R.&.I. 149(2)
Total forf: 16 days pay
B-131171 Pte. Murr[illegible], J. # 3 C.I.T.R.

(d) AMENDMENT
Our D.O. # 38, Section B, para 8(a) dated 28 Nov 44 insofar as it refers to the w/n, is amended by adding
(1) after paragraph headed "CONFIRMATION" "A.W.L. from 2230 hrs 2 Jul 44 to 2215 hrs 4 Jul 44 (Time absent: 1 day 23 hrs 45 minutes)
(2) after 2 days pay F.R.&.I. 149(1)(a) "Completely concurrent with award of 19 Jun 44 vide Part II # 20, 7(b(b)) d/ 20 Jun 44 of 2 Cdn Medical Centre.
(3) After 17 days F.R.&.I. 149(1)(c)(i) "6 days concurrent with of 19 Jun 44 Part II # 20, 7(b(b)) d/ 20 Jun 44 of 2 Cdn Medical Centre.
(4) Total forfeiture to read "131 days pay"
B- 91566 Gnr. Shea, R.D. # 2 C.A.R.U.

6. CHANGE OF RELIGION

(a) Permitted to change his religious persuasion from Roman Catholic to Church of England
M- 12309 Cpl. Stevend, F. # 1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital)

7. HONOURS AND AWARDS

(a) Extract from Overseas R.O. # 5368 dated 30 Dec 44 is republished herewith:
" The King has been graciously pleased to approve the following award in recognition of gallant and distinguished services in the field
THE MILITARY MEDAL
B- 136447 L/Cpl. Marchand, G. # 4 C.I.T.R.

(b) Awarded the Commander-in-Chief's Certificate for Good Service
(Auth: 21 Army Group R.O. 672 d/ 8 Dec 4[illegible] # 4 C.I.T.R.
D- 59384 Cpl. Pelosse, A.
(Patients in Roman Way Convalescent Hospital)

(T.H.Coffey) Lt-Col.,
Officer Commanding,
Roman Way Convalescent Hospital.

Ex "A"

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)
DAILY ORDERS PART II
issued by
Lt-Col. T.H. Coffey - Officer Commanding

Last Order
1
d/ 3 Jan 45

This Order
2
d/ 5 Jan 45

SECTION "A" OFFICERS

Nil

SECTION "B" OTHER RANKS

1. STRENGTH DECREASE
(a) S.O.S. to Y-3 List, # 2 C.I.T.R. on admission to hospital w.e.f. 4 Jan 45
B- 75122 A/Sgt. McMurtry, W.J. C.I.O. # 2 C.I.T.R.

2. HOSPITAL
(a) Admitted to # 18 Cdn Gen Hospital, w.e.f. dates shown.
B- 75122 A/Sgt. McMurtry, W.J. 4 Jan 45
B- 67464 Pte. Grant, T.H. - 17 Cdn Base Dept. 30 Dec 44

3. LEAVE OF ABSENCE
(a) Granted 7 days P.L. plus 48 hrs with money allee in lieu of rations in accordance with Art. 789 F.R.&.I. (Overseas) w.e.f. dates shown. RETURNED
D- 86207 Pte. Jacobsen, F.N. 23 Nov 44 to 2 Dec
B- 45500 Sgt. Lampkman, E.W. 4 Dec 44 to 13 Dec 44
D- 86693 Pte. Quayle, H. 4 Dec 44 to 13 Dec 44

(b) Granted 7 days Sick Leave with Sick Leave allowances in accordance with Art. 793 F.R.&.I. (O's) w.e.f. dates shown.
(Auth: 10/Elliot [illegible]/1 (AMD 2) d/ 3 Jan 45) RETURNED
M-105894 Spr. El[illegible], J. - 1 C.E.R.U. - 28 Dec 44 to 4 Jan 45
(Patient in Roman Way Convalescent Hospital)

(c) Granted 7 days Sick Leave with Sick Leave allowances in accordance with Art. 793 F.R.&.I. (O's) with effect dates shown. (Auth: 11/Gen/1/11 (AMD 2) dated 19 Dec 44)
B-131171 Pte. Murray, R. - 1 C.I.T.R. - 21 Dec 44 to 28 Dec 44
M- 1029 Gnr. Grassick, G.M.- 2 C.A.R.U. - 21 Dec 44 to 28 Dec 44

4. ABSENT WITHOUT LEAVE (Patients)
(a) A.W.L. from 2200 hrs 23 Dec 44. Still absent 1400 hrs 31 Dec 44 (8 days)
C- 10560 Gnr. Broome, M. # 2 C.A.R.U.

(b) A.W.L. from 2200 hrs 2 Jan 45. Still absent 1400 hrs 5 Jan 45
D- 81857 Sgt. Hummell, A.H. # 1 C.A.C.R.U.

(c) A.W.L. from 2200 hrs 29 Dec 44. Still absent 1400 hrs 5 Jan 45.
M-101452 Pte. Lawton, W.J. # 1 C.I.T.R.

(d) A.W.L. from 2200 hrs 21 Dec 44. Still absent 2200 hrs 22 Dec 44.
F- 96122 Pte. Leblanc, A.L. # 3 C.I.T.R.

(e) A.W.L. from 2200 hrs 21 Dec 44. Still absent 2200 hrs 29 Dec 44 (8 days)
F- 96122 Pte. Leblanc, A.L. # 3 C.I.T.R.

(f) A.W.L. from 2200 hrs 21 Dec 44. Returned from a.w.l. 2330 hrs 3 Jan 45
(Time absent 13 days 1 hr 30 mins)
F- 96122 Pte. Leblanc, A.L. # 3 C.I.T.R.

True Certified Copy of Records

[illegible]

LIST OF EXHIBITS IN CASE OF P-96122, Pte. LEBLANC, Arthur Louis

Exhibit "A" - Roman Way Conval. Hospital, Part II Daily Order No. 3 dated 5 Jan 45.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to give any evidence unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence"

The accused declines to make a statement & reserves his defence

I certify that the foregoing Summary of Evidence consisting of ~~four~~ four pages was taken down by me in writing in the presence and hearing of the accused and that the Rules of Procedure 4 (c), (d), (e), (f), and (g), have been complied with

Signed this 5th day of January, 1945 at Roman Way Convalescent Hospital,

A. G. Drinton Maj.
Officer Detailed to take the Summary of Evidence.

Their Witness

May A.J. Duntow on strength Roman may Convalescent Hospital States.

I present Pt. II D.O. no 2 dated 3th January 1945 showing F 96122 Pte. Le Blanc. A.L. as being absent without Leave from 2200 hrs. 21 Dec 44 and returning 2330 hrs 3. January 1945

A.J. Duntow.

He was still absent at 0630 hrs. 3 Jan 45

H. T. Miller

The accused declines to cross examine this witness

Second Witness

M106303 A/Cpl Swenson, T.M. on strength Roman Way Convalescent Hospital, having been duly sworn. Stated as follows.

At about 2330 hrs. 3 Jan 45, while on duty, as Spider N.C.O. in F Spider, Pte Le Blanc, whom I now recognize, reported to me. I immediately phoned the Guard Room - an escort was sent to the F Spider and I handed Pte Le Blanc over & he was under close arrest.

T. M. Swenson

The accused declines to cross examine this witness.

Exhibit "B"

Summary of Evidence

Summary of Evidence in the case of F96122, Pte. Le Blanc, Arthur Lewis, No 3 C.I.T.R., a patient in Romon Way Convalescent Hospital, R.C.A.M.C., a Soldier in the Canadian Army, Overseas, charged under Section 15. Army Act.

By order of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness

D92516 S/Sgt. Miller, N. J. S. K. on staff of Romon Way Convalescent Hospital having been duly Sworn States as follows:

At about 2200 hrs, 21 Dec 44, while on duty, I checked Ward 6, Spider F, and found Bed No 2, unoccupied. I checked Spider nominal roll and found Bed No 2 was normally occupied by Pte. Le Blanc, whom I have recognize. This ward was checked at intervals, during the night, by me, and at 0630 hrs 22 Dec 44. Pte Le Blanc was not occupying his bed.

Roll calls were made each night at about 2200 hrs and Pte Le Blanc did not answer ~~to his~~ to his name.

Plea in Mitigation of Sentence by Defending Officer.

The accused has 3 years of reasonably good conduct. All his A.W.L.'s while with the field forces were short ones the longest being two days. His three long A.W.L.'s have occured ~~of~~ while he was in hospital and there has been very little time between them. There can be no doubt that something is wrong with the man and that something is causing him to go A.W.L. It would seem that he is very dissatisfied with his treatment in hospital and although it may be purely in his head such dissatisfaction is very real to him and without doubt the pain he says he suffers is very real to him also. If the Court can consider this together with the man's good service it is submitted that no harsh sentence should be awarded.

the Officer Commanding the hospital and he told me P.T. was good for me and that I would not get reboarded until I left the hospital. I went A.W.L. I was punished by forfeiture of pay and then I saw in Orders that there was Christmas leave for married men. I asked the M.O. for leave and he told me that since I had been A.W.L. I would not be able to go. I went A.W.L. to London and stayed there for Christmas and New Years. This is the offence for which I am now being tried

The above statement was given by the accused under Oath. Record Form E(1).

M. Brofohn Major.
President.

I joined the Army in Halifax N.S. on 22 Dec 1941
I landed in England on 21 July 42 I served
in France with the North Nova Scotia Regt
from D' day 6 June till I was wounded in
the abdomen on the 9 July 1944 by shell fire.
I returned to England on 21 July 1944 I was
in Hospitals No 11 and 23 and then in No 1
Special I was returned to my holding unit
at Aldershot on 29 Aug 1944 I was there
3 weeks waiting for a aboard & finally I was
told I would not get one. I was sick at the
stomach and had pains, on sick parade the
M.O. told me I was A1 fit for the field.
I was feeling very bad and went A.W.L. to
West Drayton where my wife lives. I was
sick at home had a civilian doctor and district
nurse and was taken away in an R.A.F.
ambulance to Hillingdon County Hospital. I was
two weeks there and the civilian specialist told
me I should be boarded out of the Army.
From there I went successively to No 17 and
No 9 hospitals and although I asked for
a aboard I was sent to Roman Way
Convalescent hospital on 7 Nov 1944. At
Roman Way I complained about my stomach
and the pain that P.T. caused me. I saw

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)

17 Jan 45

This is to certify that I have, this morning, examined F-96122, Pte. Leblanc, Arthur Louis, of # 3 C.I.T.R., patient in Roman Way Convalescent Hospital, and in my opinion, found him medically fit/~~unfit~~ to undergo trial by Field General Court Martial.

J. McCarney Major.
Medical Officer R.C.A.M.C.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F-96122	Pte		Arthur Louis	LEBLANC	3 CITR, a patient in Roman Way Conv Hosp RCAMC

CONVENING ORDER.

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

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to convene a court for reference to compose against offr.~~) RJW

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

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

~~I am unable to appoint (a) three offrs to form the Court, (b) a Judge Advocate, for the reasons shown attached hereto~~ RJW

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

~~I hereby appoint as Judge Advocate the offr mentioned hereunder.~~ RJW

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	MB	John	CIC	3 CITR

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Major	JA	Baldwin MC	CIC Linc & Welld Regt	Patient in Roman Way Conv Hosp RCAMC
Capt	JEE	McManus M C	CIC QOCH	Patient in Roman Way Conv Hosp RCAMC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Major	JM	McLeod , MC	CIC Algonquin Regt	Patient in Roman Way Conv Hosp RCAMC

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 13 Jan 45

(Signed personally. RP 105 fn 2.)

(RJ Williams) Lt-Col (*Rank.*)
Camp Commandant
Commanding Canadian Military Headquarters
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A CFASS (1) (Rvsd 1st Sept 44)

A65A.

CHARGE SHEET

The accused, F-96122, Pte. LEBLANC, Arthur Louis, on the strength of No. 3 Cdn Infantry Training Regiments, a patient in Roman Way Convalescent Hospital, RCAMC, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTED HIMSELF WITHOUT LEAVE

in that he

At Colchester, Essex, on the 21st day of December 1944, absented himself without leave from about 2200 hours on 21 December 1944 until about 2330 hours 3 January 1945.
(Total time absent: 13 days 1 hour and 30 minutes)

In the Field

6 January 1945

T.W. Coffey Lt-Col
(T.W.Coffey) Lt-Col.,
Officer Commanding,
Roman Way Convalescent Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

London
13 Jan 45

R. Williams
(R. Williams) Lt-col
Camp Commandant
CANADIAN MILITARY HEADQUARTERS
Convening Officer

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

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

President to accused: Do you wish to make a statement? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement(1). The Court decides not to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (not) so informed, and he (does not change) his (Not guilty) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ Not
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 13-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf RP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Notes the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: F 96122 Pte Arthur Louis LeBlanc. 3 C1IR.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

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

~~As presently under sentence for~~ ~~beginning on (date)~~ (1)

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

Time in confinement awaiting present trial—a total of 14 days, of which ..... days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo ~~F~~ ~~days~~ detention for 90 days.

~~Hospital detention ... days.~~ MBJ.

19 Jan 45 (Sgd) C.B. Johns President, ~~RP 45, 50~~ RP 47, 50

Date Awarded.

~~Judge~~ / Judge Advocate, if any.

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

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

(Sgd) E.W. Sansom Lt-General i/c Administration

Date Commanding ~~Prison (Military Detention Barracks)~~ Confirming Officer.

~~C.M.H.Q.~~ 1945

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

Accused. F. 96122. Pte LeBlanc Arthur Louis.

Date (25 Jan 45 D.G. NDH. 26/Jan/45)

Signature of Offr. J.M. Rippy Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 760 4Q 27

CFA86 (To Issue of AFA31 40/P AG 8/1098 (40/01) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 28 JAN 1945 C.M.H.Q.

Convened by Order of Lt-Col R J W Adams Comd Base CMHQ dated 13 Jan 45.

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 96122	Pte	Arthur Louis	LeBlanc	3 C1IR a Patient in Roman Way Conv Hosp RCAMC.

PROCEEDINGS REVIEWED Robertson Lieut 2 Feb 45 ASSISTANT JUDGE ADVOCATE GENERAL, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~s~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

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

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~(1)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Major	M. B. Johns. C/C	3 C1IR.
Member	Major	J. A Baldwin MC. C/C.	Patient in Roman Way Conv Hosp RCAMC
Member	Capt	S.E.F. McManus MC. C/C	Patient in Roman Way Conv Hosp RCAMC
Judge-Advocate	—	—	—
Prosecutor	Capt.	J.G. Fraser.	2 CARU
Defending Offr	Capt	R.A. Gordon	2 CMCRU

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 31.)

A8. The accused ..... before arraignment make(s) ~~no~~ plea. (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4Q-27

Pte. Leblanc A.L.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-1-45	Gnr		AA Sec 15 (1) A/L from 0830 hrs 2-1-45 until 1500 hrs 2 Jan 45 Total: 6 hrs, 30 mins	S/Sgt FC Gilkinson	7 days FF 7 days pay	3-1-45	Maj JH Mellor	
Field	12-1-45	"		AA Sec 15 (1) A/L from 1500 hrs 12 Jan 45 until 1400 hrs 14-1-45 Total: 1 day, 23 hrs	WS RF Dean	21 days FF 21 days pay	17-1-45	Maj JH Mellor	

Certified True Copy

(JH Mellor) Maj
OC
2 Cdn Armd Bde Wksp RCEME

Exhibit "Y"
P.A. Burgess Maj
President of the Court

No E22619 Name LeBlanc AJ Sqn, Battery, or Company Corps RCOC Date of enlistment 26-10-42 OC Badges Service or Proficiency Pay MFM 6 (AFB 122) 01/P&S/150 (3480)

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Sheet	# 1	destroyed on completion of 6 months service		26-4-43 SGD	JA Ernest	Capt for Maj	
Field	9-8-43	Pte		AA Sec 15 (1) AWL from 0600 hrs 9-8-43 until 1445 hrs 18-8-43 Total: 9 days, 8 hrs, 45mins	Documentary	7 days CB	19-8-43	Capt GM Miller	Forfs 10 days pay
Field	1-1-44	Pte		AA Sec 15 (1) AWL from 2200 hrs 1 Jan 44 until 0800 hrs 2 Jan 45 Total : 10 hrs	Documentary	Admonished	3 Jan 45	Lt Col FM Hearn	1 days pay
Field	21-5-44	Cfn		AA Sec 40 Conduct-- absent from parade 21 May 45	Sgt McAuley	14 days pay	22 May 45	Maj DF Cornish	
Field	11-9-44	"		AA Sec 15 (1) AWL from 0800 hrs 11-9-44 until 1250 hrs 11-9-44 Total: 4 hrs 30 min s	S/Sgt Maynard	14 days CB	12-9-44	Maj EM Dalrymple	
Field	29-9-44	"		AA Sec 15 (1) AWL from 0800 hrs 29-9-44 until 1000 hrs 28-9-44		14 days CB 21 days pay	1-10-44	Maj JH Mellor	

(PTO)

Statement as to Character and Particulars of Service of Accused.

ARMY FORM B.296 (WAR).

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E 22619	Cfn	Leblanc AJ	2 Cdn Armd Bde Wksp RCEME

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL AA Sec 15 (1) — 6 times.

For AA Sec 40 — 1 times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 19-8-43

Date of last entry in Field Conduct Sheet 17-1-45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

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

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for No days in military custody, *i.e.*, 7 days in open arrest, No days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23 YRS, 9 mons

6. The date of his attestation ~~calling up for military service~~ is 26-10-42

7. The service which the accused is allowed to reckon is 2 yrs 133/365

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Exhibit "X"

		Date of Promotion.
In the substantive rank of	Na	
In the war substantive rank of	Na	
In the acting rank of	Na	

PJB Mcgoyne Maj
President of the Court

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A. & E. W. Ltd. Gp.698
(22459) Wt.29256/1873 60,000 9/42 " " Forms/B.296(War)/2

FIRST WITNESS E-0188 S/Sgt George WJ after having been duly sworn, states:

I am E-0188 S/Sgt George WJ of 2 Cdn Armd Bde Wksp ROYCE and am in charge of a crew in the tank section. The accused, Cfn Leblanc AJ, is a member of my crew. At 1300hrs 10March 45 I was told we were to move so I assembled my crew in order to pack. The accused was not present and could not be found throughout the area. His equipment was packed by the remainder of the crew. I did not see him again until 13 March 45 when he reported to Lieut Agnew. I am in constant contact with my crew and would have seen him had he returned prior to this.

E-0188 S/Sgt George WJ
2 Cdn Armd Bde Wksp ROYCE

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

SECOND WITNESS Lieut AJ Agnew after having been duly sworn states:

I am Lieut AJ Agnew of 2 Cdn Armd Bde Wksp ROYCE and am in charge of the tank section. At 1300hrs 10 March 45 the accused Cfn Leblanc AJ reported to me at the Wksp. He was told to report to the Coy, and I filed a charge of Absence Without Leave against him.

Lieut AJ Agnew
2 Cdn Armd Bde Wksp ROYCE

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS

QUESTION to the accused - Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER by the accused I have nothing to say.

Rules of Procedure No 4 (a), (d), and (e) have been complied with.
Taken down by me in the presence of the accused in the Field the 15th day of March 1945

(RS Royle) Capt
2 Cdn Armd Bde Wksp ROYCE

Ex "A"

PJB

SUMMARY OF EVIDENCE

IN THE CASE OF

E 22619 CFN LEBLANC AJ 2 CDN ARMD BDE WKSP RCEME

a soldier of the Cdn Army placed on Active Service

CHARGE Absence Without Leave AA Sec 15 (1)

THE OC HAS DIRECTED THAT THE
EVIDENCE BE TAKEN ON OATH

Statement by defending Officer Capt. P.W. Platt.

The accused has pleaded guilty but I would ask that it be taken into consideration that he is twenty three years old and has been in the army over two years. His character witness has made the statement that he is a temperamental type of man. The charge of ~~the~~ A.W.L was from 1300 hrs 10 march 45 until 1200 hrs 13 march 45. The accused has stated that he approached the provost in Cleves when he could not find the unit. I suggest that he was rather frightened of admitting to the provost that he was AWL at that time. If he had done so he would have shortened the period of being A.W.L. by nearly 36 hrs. Sir I ask these points be taken into consideration when passing sentence.

P.W.P

M36415 S/Sgt. Norman T.A. 2 Cdn Armd Bde Wksp RCEME having been duly sworn states:-

Sir I have known the accused 6 fm Leblanc since he has been with us in the tank section since we came to France. I have observed that he has done a lot of hard work on tanks as a mechanic. He is inclined to be rather temperamental especially when there is not very much work to be done.

PPS

Statement by the accused.
E22619 Cpn. Leblanc A.J.

Saturday 10 March 45 at one oclock there was no work in the shops. I went to a show in Nijmegen coming back on Sunday evening the work shop had moved. On Monday morning I asked the provost if they had seen the work shops. They said they never seen the work shops. And on Tuesday I found the work shops.

AJB

MEDICAL OFFICER'S REPORT

I certify that No. R-22619 Cfn LEBLANC AJ

of 2 Cdn Armd Bde Whse RCEME is in a good state of health,

and fit to undergo Trial by Court martial.

B W Carselman Capt
Medical Officer

Station Field

Date 20 March 45

PJB

M. F. B. 246
2036-6-41 (792)
M.Q. 1772-39 480

P. F. B

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&D/1697 (2563)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E22619	Cfn		Allan Joseph	LEBLANC	2 Cdn Armd Bde Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 17 Mar 45 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial ; ~~[illegible]~~
(Delete part in brackets [illegible] required for compliance with RP 105(C).)

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

~~4. [illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	P F Burgoyne (Must be named. RP 106.)	Signals 2 Cdn Armd Bde (Unit.)

MEMBERS.

Lt	W D McGowan	10 Cdn Armd Regt
Lt (Rank.)	T M Sample (Named or detailed. RP 106.)	6 Cdn Armd Regt (Unit.)

WAITING MEMBER.

Lt (Rank.)	A W Haddon (Named or detailed, if any. RP 106.)	27 Cdn Armd Regt (Unit.)

JUDGE-ADVOCATE.

~~Capt~~ (Rank.)	~~E E Wasson~~ (Must be named, if any. RP 106.)	~~HQ 2 Cdn Corps~~ (Unit.)

On Active Service in the Fd

in Holland (Country.) — [signature] (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 18 Mar 45 — Commanding 2 Cdn Armd Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

P. F. 13

CHARGE SHEET

The accused E-22619 Cfn Allan Joseph Leblanc,
2 Cdn Armd Bde Wksp RCEME, a soldier of the
Cdn Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1) AA

WHEN ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE

in that he

in the Field absented himself without leave
from 1300hrs on the 10th March 1945 until
returning at 1200hrs 13th March 1945

J H Mellor Maj

(JH KELLOR) Major
OC
2 Cdn Armd Bde Wksp RCEME

In the Fd
16 Mar 45

To be tried by Field General Court-Martial

G W Robinson Brig

(G.W. ROBINSON) A/Brig
Comd 2 Cdn Armd Bde

In the Fd
17 Mar 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 105; duty of Prosecutor see RP 60(A) (E); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 2. 2. MML p 54 para 47.)

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

President to accused: Do you wish to make a statement? Ans YES (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on THE charge(s). The accused is (not) so informed, and (does) (does not) change his plea(s) on the charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (was) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans...... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments [illegible] see AA 44, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. [illegible] As to limitations see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, [illegible] 709-758. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused [illegible] specific number of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by [illegible] see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

6

SCHEDULE.

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

Accused: E 22619 Cfn Allan Joseph LeBlanc 2 Cdn Armd Bde Wksp REME

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AWL A.A. SEC 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in lieu of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

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

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or MF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of NINETY (90) DAYS ~~DETENTION~~. PFB

(Sgd) _____ 20 MARCH 45 (Sgd) P.F. Burgoyne Maj.
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

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

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

Date _____ (Sgd) _____ Commanding _____

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 122, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 94. Minute of confirmation or non-confirmation may be altered before promulgation: RP 121, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 27, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

~~_____~~ (1)

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

(Sgd) E.W. Robinson Brig

Date 22 Mar 45

Commanding 2 Cdn Armd Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E-22619 Cfn Allan Joseph LeBlanc	29 Mar 45	D.M. Miller Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5-D-140.

21 TEPO 1945 AMS DMS R.M.P.E.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P.A.S/1808 (2864)

Convening Order of Brig E.W. Robinson Comd 2 Cdn Armd Bde dated 18 Mar 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E22619	Cfn		Allan Joseph	LeBlanc	2 Cdn Armd Bde Wksp REME

PROCEEDINGS REVIEWED
21 Apr 45
H.J. Dick, Capt.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 19 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26|109.

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

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFA3, for duties and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences.

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

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

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

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 101. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	MAJOR	P.F. BURGOYNE	SIGS, 2 CDN, ARMD, BDE
Member	LIEUT.	W.D. McGOWAN	10 CDN, ARMD, REGT.
Member	LIEUT.	T.M. SAMPLE	6 CDN, ARMD, REGT
Judge-Advocate			
Prosecutor	CAPT.	H.W. ROYL	2 CDN, ARMD, BDE. WKSP
Defending Offr	CAPT.	P.L.W. PLATT	2 CDN, ARMD, BDE. WKSP

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

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

A8. The accused E 22619 ALLAN JOSEPH LEBLANC before arraignment makes (no) ~~PB~~ plea ~~PB~~ (1)

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

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SD-140

bfn. LeBlanc, A. J.

COUNTER NUMBER 78249

HOUR 1530

OPERATOR'S INITIALS KD

RELIEVING OPERATOR CR

A.S.O.

B4.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....

if he is available. Lt. P. Maynard

Algonquin Camp,
Witley, Surrey,
22nd day of March 1943.

Liblong

A.C.T. Paquet Major
P.P.C.L.I. Pers.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-8141 Rank Private Name Leblanc, A. of R 22e R, Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
		NO ENTRIES		

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

Signed this 26th day of March 1943

Officer having custody of original documents

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

Date of Promotion

To the rank of ..... years.

To the rank of ..... years.

To the rank of ..... years.

In the rank of .....

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

E 2

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4141	Private	Leblanc, A.	Royal 22e Regiment, 6 CIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, pre-eminence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For Army Act 15 (1)	4	times	16	times.
For Army Act 40	1	times	7	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, Nil

or

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

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 4 days in military custody, making a total of 4 days, of which 1 days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 27

6. The date of his commission / attestation specified in his record of service / attestation paper is 14 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years 33 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 33 days service.

9. The accused is entitled to reckon 3 years 33 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (*state any military decoration or reward*))~~.

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of .....

12. *(In the case of an officer.)* The accused holds in the army the rank of ..... dated ..... and in his regiment (*or corps or department*) the rank of ..... dated .....

(*16546) Wt. 30046/662 75,000 12/40 A.& E.W.Ltd. Gp.698

A.E.T. Paquet Major
President.

E.1 page 4

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 19 Apr 42		Pte		AA 15-1 AWL from 1200 hrs 19 Apr 42 to 1200 hrs 20 Apr 42 (1 day)	Cpl Poitras	5 days CB	27 Apr 42	Capt Vallee	Forf 1 days pay for AWL
Field 9 Jun 42		Pte		AA 15-1 AWL from 0800 hrs 9 Jun 42 to 1130 hrs 13 Jun 42 (4 days 3 hrs 30 min)	Cpl Trudeau	14 days FP 14 days pay	7 Jul 42	Lt-Col Bernatchez	Forf 5 days pay for AWL
Field 23 Aug 42		Pte		AA 15-1 AWL from 0830 hrs 23 Aug 42 to 1200 hrs 23 Aug 42 (3½ hrs)	L/S Isabelle	3 days CB	24 Aug 42	Lieut Bouchard	
Field 6 Dec 42		Pte		1) AA 15-1 AWL from 2359 hrs 6 Dec 42 to 1735 hrs 8 Dec 42 (1 day 17 hrs 36min) 2) AA 40 Neglect to prejudice of good order & military discipline (Losing his pass)	Cpl StGermain	28 days FP 28 days pay	10 Dec 42	Lt-Col Lawson	Forf 2 days pay for AWL

Certified true copy consisting of two sheets

[signature] Lieut

Officer having custody of original documents

A.C.T. Paquet major pres.

C-1 page 3

M.F.M. 6

No. E-4141 Name Leblanc, A. Sqn., Battery, or Company Corps R 22e R Date of enlistment 24 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. Charsceter Gaston Vallee, Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Nov 41	Pte		AA 15-1 AWL from 2359 hrs 5 Nov 41 to 0900 hrs 6 Nov 41 (9 hrs)	Cpl Trudeau	4 dyys CB	6 Nov 41	Capt Vallee	Forf 1 days pay for AWL
Field	18 Jan 42	Pte		AA 15-1 AWL from 2230 hrs 18 Jan 42 to 1145 hrs 20 Jan 42 (1 day 13 hrs 15 min)	L/C Pinault L/C Boucher	10 days CB	21 Jan 42	Capt Vallee	Forf 2 days pay for AWL
Field	24 Jan 42	Pte		AA 40 Neglect to prejudice of good order & military discipline (Disobeying an order)	Sgt Gourdeau	5 days CB	24 Jan 42	Capt Vallee	
Field	7 Feb 42	Pte		1) AA 40 Not carrying respirator 2) AA 40 Not wearing tunic 3) AA 40 Not carrying proper identification 4) AA 40 Annoying women	L/C McNeil L/C MacKett	14 days FP 14 days pay	9 Feb 42	Lt-Col Bernatcher	

Certified true copy
Officer having custody of original documents

(P.T.O.)

E 1 page 2

Place	Date of offence	Rank	Class of discipline	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Dec 40	Pte		AA 15-1 AWL from 0630 hrs 7 Dec 40 to 1730 hrs 11 Dec 40 (4 days 11 hrs)	CSM Bouchard Cpl Anderson	168 hrs detn	12 Dec 40	Lt-Col Flynn	Forf 5 days pay for AWL
Field	1 Jan 41	Pte		AA 15-1 AWL from 1800 hrs 1 Jan 41 to 1030 2 Jan 41 (16 hrs 30 min)	Sgt Levesque	4 days CB	4 Jan 41	Capt Bell	Forf 1 days pay for AWL
Field	25 Feb 41	Pte		AA 15-1 AWL from 2230 hrs 25 Feb 41 to 0800 hrs 26 Feb 41 (9 hrs 30 min)	L/S Samson	5 days CB	26 Feb 41	Lieut Jalbert	Forf 1 days pay for AWL
Field	1 Mar 41	Pte		AA 15-1 When a defaulter AWL from 2230 hrs 1 Mar 41 to 2345 hrs 2 Mar 41 (1 day 1 hr 15 min)	Sgt Samson L/C Simon	7 days CB	3 Mar 41	Major Bernatchez	Forf 2 days pay for AWL
Field	12 May 41	Pte		AA 15-1 AWL 1 day		3 days CB	13 May 41		Forf 1 days pay for AWL
Field	21 Aug 41	Pte		1) AA 15-1 AWL from 1600 hrs 21 Aug 41 to 1900 hrs 22 Aug 41 (1 day 3 hrs) 2) AA 40 Improperly dressed	Documentary	7 days FP 7 days pay	29 Aug 41	Major Payan	Forf 2 days pay for AWL

Certified true copy
Officer having custody of original documents

Compiled from MFM 4 - Original incomplete

E 1 page 1

No. E-4141 Name Leblanc, A. Sqn., Battery, or Company } Corps R 22e R Date of enlistment } 14 Sep 39 G.C. Badges } N/A Service or Proficiency Pay } N/A

M.F.M. 6 (A.F.R. 177) 175M—7-41 (1219-20) H.Q. 1772-39-1653

Date of last entry in Company Conduct Sheet } N/A No. and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No. 1 Signature O.C. Company, etc. } Character P.E. Bernatchez, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 21 Jul 40		Pte		AA 15-1 AWL from 1730 hrs 21 Jul 40 to 1930 hrs 23 Jul 40 (2 days 2 hrs)	CSM Bouchard	3 days CB	30 Jul 40	Major Bernatchez	Forf 3 days pay for AWL
Field 16 Aug 40		Pte		AA 15-1 AWL from 2230 hrs 16 Aug 40 to 1430 hrs 23 Aug 40 (6 days 16 hrs)	CSM Bouchard Cpl Gagne	14 days detn	27 Aug 40	Lt-Col Flynn	Forf 7 days pay for AWL
Field 3 Sep 40		Pte		AA 15-1 AWL from 2215 hrs 3 Sep 40 to 1230 hrs 6 Sep 40 (2 days 14 hrs 15 min)	CSM Bouchard Cpl Levesque	7 days CB	8 Nov 40	Major Bernatchez	Forf 3 days pay for AWL
Field 16 Nov 40		Pte		AA 15-1 AWL from 2215 hrs 16 Nov 40 to 0925 hrs 18 Nov 40 (1 day 11 hrs 10 min)	CSM Bouchard	7 days CB	18 Nov 40	Major Bernatchez	Forf 2 days pay for AWL

Certified true copy [signature]

Officer having custody of original documents

(P.T.O.)

A.E.T.D.

SUMMARY OF EVIDENCE

In the case of No E-4141, Private Augustin LEBLANC, of the Royal 22e Regiment, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 20th day of March, 1943, and that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

Charles L Levesque .....Lieut
(Officer taking Summary).

Algonquin Camp,
Witley, Surrey,
22nd day of March, 1943.

CEL/JLN

A.E.T. Paquet Major
P.P.C.L.I.
president

A.E.T.

A
C

B 3

SUMMARY OF EVIDENCE

In the case of No E-4141, Private Augustin LEBLANC, of the Royal 22e Regiment, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First witness for the Prosecution. Lieut C. Gagnon, Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am Lieut C. Gagnon, of the Royal 22e Regiment, 6 CIRU. On 17 Mar 43, I was in Sunningdale with Lieut Boulanger when, at about 2245 hrs, as we were going by the station, I saw two soldiers arguing violently with a civilian. I thought nothing of it at the time and continued on my way. A few seconds later the civilian caught up with us and passed us walking very fast and even running at times. Behind him were two soldiers. As these soldiers went by I recognised on of them as Pte Leblanc. I called his name, but looking back he kept on going. Suddenly the civilian started to run with the two soldiers in pursuit. They caught up with him and pushed him into an alleyway. I could see this quite plainly in the moonlight. I crossed the street in their direction to see just what they were up to. I asked what they were doing but got no answer. Just then Duguay threw the civilian on the ground. I ordered him to stop. He suddenly lunged forward and struck me on the nose with his fist, knocking me backwards and causing me to split my head on the pavement. While this was going on Leblanc stood to one side and did nothing to interfere. After I was down Duguay and Leblanc took to their heels and ran away.

The accused declines to cross-examine this witness.

C Gagnon .....Lieut.

Second Witness for the Prosecution. Lieut R.L. Boulanger, Regiment de la Chaudiere, 6 CIRU, having been duly sworn, states:

I am Lieut R.L. Boulanger, of Le Regiment de la Chaudiere, 6 CIRU. On 17 Mar 43 at about 2230 I was in Sunningdale with Lieut C. Gagnon. As we were walking down the street in the direction of the camp, I saw two soldiers going by, which I recognised as Ptes Duguay and Leblanc. I called out Duguay's name but he didn't seem to take any notice. Suddenly I saw them run into an alleyway, from which I heard noises that seemed to indicate that a fight was in progress. Lieut Gagnon crossed the street to try and stop the fight. Suddenly in the moonlight I saw a man fall and two others take to their heels. Realizing that the man who had fallen was Lieut Gagnon, I rushed to his assistance. He was down on the ground and his nose was bleeding profusely. Just then a man arose from out of the shadows where he had been lying. He was a civilian and I tried to question him as to what had happened. He did not seem eager to answer my questions and so I walked away. I am positive, having seen them go there and having recognised them as they went by, that the two men who ran away after knocking down Lieut Gagnon, were Ptes Duguay and Leblanc, although I was too far away at the time to actually see which one of them did strike Lieut Gagnon.

The accused declines to cross-examine this witness.

R.L. Boulanger ..Lieut.

The accused, having been duly cautioned in French in accordance with RP 4 (2) and RO 1424, reserves his defence.

A. E. Paquet Maj

A.E.T.O.

E 4141 PTE AUGUSTIN Leblanc (The accused) App. "A"
R. 22e R. 6 C. I. R. U.

Having been duly sworn states.

On the 17th march 1943, my intention in going out was to go to a Dance in Sunningdale Surrey, on the way I stopped to a pub to have a few glasses of beer, then we proceeded to the Dance hall, it must have been then approximately 2000 hrs we stayed there until 2130 hrs a few minutes before leaving I looked at the time coming out of the Dance hall, I was then with Pte Duguay, our intention was to go back to camp and go to bed. Four of us left together to go back to camp. We met a civilian, I don't know what came into Duguay's head, I could not say if he hit him or pushed him, I asked Duguay what he was doing, he did not answer. Then we saw two ~~officers, at that~~ ~~no~~ ~~man~~ in uniform, one crossed the road next minute I saw ~~a~~ man in uniform on the ground, I was very nervous so I ran away then I came home to bed. Duguay is ~~not~~ no friend of mine I just happened to be with him that evening I am in the army since 1939. ~~It is~~ ~~the~~ This is the 1st time I ever was mixed up in trouble of that sort. I had never seen that civilian before in my life. Duguay never told me of his intention to attack any civilian. I never struck any one that evening.

Pte Baquet Maj

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ON THE DAY OF 42

TRIAL OF:-No. E-4141 PTE. Augustin Leblanc Unit R.22°R- 6 C.I.R.U.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. C.E. Levesque R.22°R (Unit) 6 C.I.R.U.

Defending Officer:- (Name) Lieut. R.J. Gourdeau R.22°R (Unit) 6 C.I.R.U.

At 1015 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - NO.

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. Major A.E.T. Paquet P.P.C.L.I. (Unit) 1 C.I.R.U.

Members Capt. G.M. Dorion R. de Chaud (Unit) 6 C.I.R.U.

Lieut. L.A. Hudon R. de Mais (Unit) 6 C.I.R.U.

~~The officers under instruction are duly sworn.~~ A.E.T.P.

Q2 ~~Do you object to.....acting as shorthand writer?~~ A2 - A.E.T.P.

~~The shorthand writer is duly sworn.~~ A.E.T.P.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Sgt. C.E. Levesque .....(Unit) R.22°R. 6 C.I.R.U. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes - See app. "A"

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Give evidence myself.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

A.E.T. Paquet Major. P.P.C.L.I.
President.

MEDICAL OFFICER'S CERTIFICATE. A 2

I certify that I have this morning examined No.....

E-4141 - Pte Leblanc A. R.22.R. No 6 - C.E.R.O.

and that, in my opinion, he is fit/~~unfit~~ to undergo trial by Court-Martial.

27 March 43

A.C.T. Paquet Magri
President.

J. L. Hurteau Capt.

CAPT. J. L. A. HURTEAU, M.O.
R.C.A.M.C.

A. S. C.

32.

CHARGE SHEET

The accused, No E-4141, Private Augustin LEBLANC, of the Royal 22e Regiment, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE SECTION 10 (4) ARMY ACT.

Breaking out of barracks,

in that he,

at Red Camp, Chobham, Surrey, on the 17th day of March, 1943, did break out of barracks to proceed to Sunningdale.

SECOND CHARGE SECTION 41 ARMY ACT.

Committing a civil offence, that is to say, assault,

in that he,

at Sunningdale, Surrey, on the 17th day of March, 1943, did assault a civilian.

THIRD CHARGE SECTION 40 ARMY ACT.

Neglect to the prejudice of good order and military discipline,

in that he,

at Sunningdale, Surrey, on the 17th day of March, 1943, being present when his superior officer, Lieut C. Gagnon, was treacherously assaulted by E-4082 Pte Duguay, J.B., neglected to come to his assistance.

.....Col
(W.E. MORGAN), Commander
6 Cdn Inf Reinf Unit

Algonquin Camp,
Witley, Surrey,
23rd day of March, 1943.

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Brigadier,
Commanding,
"A" Group Cdn Rft Units,
C.A.(O).

Convening Officer.

25 Mar 43

A.E.T. Paquet Major
P.P.C.L.I.
President.

A1.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4141 Pte.				
Augustin LEBLANC	First Charge			
R.22e R.	A.A. Sec. 10(4)	Guilty	Guilty	
6 C.I.R.U.	Second Charge			Confirmed
	A.A. Sec. 41	Guilty	Guilty	J.L. Brig 27 Mar 43
	Third Charge			
	A.A. Sec. 40	Guilty	Guilty	
	SEE CHARGE SHEET ATTACHED.	Sentence To undergo detention for (120) one hundred and twenty days. A.E.T. Paquet Maj. P.D.C.L.I. president Algonquin Comp. Witley Surrey. 27 March 1943		

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) J.R. Stewart Lough (*Signed*) A.E.T. Paquet Maj. P.D.C.L.I. & C.I.R.U.

Brigadier,
Commanding "A" Gp Cdn Rft Units,
Convening Officer (C.A.(O).

President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A1.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4141 Pte.				
Augustin LEBLANC	First Charge			
R.22e R.	A.A. Sec. 10(4)	Guilty	Guilty	
6 C.I.R.U.	Second Charge			Confirmed
				[illegible] Brig 27 Mar 43
		A.E.T.	Paquet Mafr. D.D.C.L.I. President	
			Algonquin Comp. Wetley Survey. 27 March 1943	

"The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the convictions on the first and second charges in these proceedings are invalid, I hereby direct that the record of the convictions on the said charges be and the same is hereby removed and the accused relieved of all consequences of his trial thereon.

G. Hedley Basher.
(G. Hedley Basher) Colonel,
Commanding, "A" Gp., Cdn Rft Units,
C.A.(O).

In the Field
1 May 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) [illegible] Brigadier, *Commanding* "A" Gp Cdn Rft Units, *Convening Officer* (C.A.(O).

(*Signed*) A.E.T. Paquet Mafr. D.D.C.L.I. (1-C.I.R.U.) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A1.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4141 Pte.				
Augustin LEBLANC	First Charge			
R.22e R.	A.A. Sec. 10(4)	Guilty	Guilty	
6 C.I.R.U.	Second Charge			

Confirmed
[signature] Brig
27 Mar 43

"The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the convictions on the first and second charges in these proceedings are invalid, I hereby direct that the record of the convictions on the said charges be and the same is hereby removed and the accused relieved of all consequences of his trial thereon.

[signature] Basher

Upon it appearing to me, an authority having power to mitigate, remit or commute the punishment awarded by the sentence, that the findings on the first and second charges are invalid and have been set aside, I, having regard to the finding upon the third charge, mitigate the punishment as awarded by the court and confirmed by the Confirming Officer to 45 days detention.

P J Montague

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

May 43

Commanding A. Op. Coll. Art Units,
Convening Officer (C.A.(O).

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~3. The interpreter~~) A.E.T.D.

*(~~4. The officers under instruction~~)

~~were duly sworn.~~ A.E.T.D.

* Omit if not applicable.

Signed this 27th day of MARCH 1943

A.E.T. Paquet Maj. P.P.C.L.I.

President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

~~Signed this day of 19 .~~

A.E.T.D.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentence in the manner ~~I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what~~ I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 27th day of March 1943.

J.R. Stewart Lough Brigadier

Confirming Officer.

Promulgated and extracts taken in the case of E.4141, Pte. Leblanc A. Part II Daily Order #49.

(a) (Dated) 29 Mar., 1943. (Signed) J.H. Chicoine

(J.H.CHICOINE) Captain, Adjutant, #6 C.I.R.U.

Promulgated and extracts taken in the case of E4141 Pte Leblanc Augustin R22eR. 6CIRU Part II Daily Order # 81

(Dated) 6 May 43 (Signed) L.G.A. Boutte Lieut Adj 6CIRU

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

E-4141 Pte. Augustin LEBLANC
R.22e R. 6 C.I.R.U.

RECORDED AT EMHO IN AB 160 5-0-49

Army Form A.8.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25th day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[~~I am unable to appoint :-~~

*(1. ~~Three Officers to form the Court.~~]

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely :-~~]

*Omit where Convening Officer is a Commanding Officer as of Field Rank.

*Omit if not applicable.

J. Kuliquelane Capt
1 July 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.E.T. PAQUET (P.P.C.L.I.)	1 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	G.M. Dorion (R.de Chaud)	6 C.I.R.U.
Lieutenant	L.A. Hudon (R.de Mais)	6 C.I.R.U.
Waiting Member Lieutenant	R.J. Gourdeau (R.22e R.)	6 C.I.R.U.

*Signed J. Stewart Lough
Brigadier,
Commanding "A" Group Cdn Rft Units,
C.A.(O).
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

50-49

Pte. Leblanc, A.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ..... dated Q.P.B. ....., and in his regiment (or corps), the rank of ..... dated .....

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

..... Q.P.B. ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

~~SCHEDULE~~

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

Name ..... of ..... Regiment

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

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

Q.P.B.

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

Signed this sixth day of ~~November~~ December 1943 Q.P. Boucher, lieut. adjt. R. de Chaud

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

H. James Laughton Major

M.F.B. 384
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 13123	pte	Achille LEBLANC	Chaudiere

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

	Within last 12 months		Since enlistment	
For	AA sec 15 (1)	two times	AA sec 15 (1)	two times
For	AA sec 40	four times	AA sec 40	four times
For	AA sec 24 (2)	one times	AA sec 24 (2)	one times
~~For~~	~~times~~		Q.P.B.	~~times~~

~~Number of instances of gallantry or distinguished conduct~~ Q.P.B.

~~or,~~

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

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

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement~~ Q.P.B.

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

or,

~~The accused at the present time is under sentence for beginning on the day of~~ Q.P.B.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and twenty-two days in military custody, making a total of twenty-two days in custody, of which nil days were spent in hospital. Q.P.B. 6 Dec 1943

5. The present age of the accused according to his record of service is 25 years

6. The date of his ~~commission~~ attestation specified in his record of service is 16 July 940 Q.P.B. ~~attestation paper~~ Q.P.B. ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 3 years 4 months

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

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

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	10-7-43	Pte		W.O.A.S. Loosing his bayonnet by neglect – A.A. 24 (2)	C.D.M.S. Lavoie Sgt Leclerc A	Stoppage pay 8/6 admonished	14 July 43	Lt. Col. Mathieu	Bm.
In The Field	21 Aug 43	"		A.A. Sec 40 Neglect – in that he neglected to carry out instructions given by a superior Officer.	C.S.M. Lamontagne Cpl. Bourgeois	3 Days C.B.	23 Aug 43	Capt Dugal	
In The Field	11 Sep 43	"		AA Sec 40 Neglect to the prejudice of good order – etc – in that he in the field on the 11 Sep 43 at 1745 hrs. after being duly warned by the Ord Sgt, to attend breakfast Coy Parade, left the parade without permission and went to get his meal independently from Coy. Parade.	Sgt Lecombe " Boldue	7 Days C.B.	12 Sep 43	Capt Dugal	
In The Field	12 Sep 43	"		AA Sec 40 Conduct – in that he at 1815 his 12 Sep 43 when told to cease talking on parade by a superior Officer replied "I'll do so when I'm good and ready."	Lt Miller C.S.M. Lamontagne	7 Days C.B.	18 Sep 43	Capt L.J. Dugal	

Certified true copy G.R. Boucher pient, adjt
6 Dec 1943
R. de Chaud

[illegible] Fine [illegible] 17 Apr 43 [illegible]

No E 13123 Name LEBLANC A Sqn, Battery or Company "D" Corps Infantry Date of enlistment 16 Jul 40 GC Badges E [illegible] Naughton Major Service or Proficiency Pay MFM 6 (AFB 122) P&S/136 (3438)

Date of last entry in Company Conduct Sheet 16 Jul 43 No and date of last drunk NIL Period not reckoning towards freedom from extra fine NIL Sheet No ONE Signature of Company, etc. [illegible] Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	20 Apr 43	Pte		W.O.A.S. A.W.L. from 2010 hrs 20 Apr 43 until 2110 hrs 20 Apr 43. Total absence 1 hr. AA sec 15 (1)	Sgt Pare V.	Admonished	26 Apr 43	Maj Lisperance F	G.B.
Field	17 June 43	Pte		W.O.A.S. A.W.L. from P.T. parade; in that he was not on P.T. parade on 17 June 43 at 0800 hrs A.A. sec 15 (1)	Cpl Grout V	3 Days C.B.	17 June 43	Maj Lisperance F	B
Field	7 Jul 43	Pte		W.O.A.S. Conduct to the prejudice of good order and military discipline in that he at 1255 hrs 7 Jul 43 used improper language to a superior Officer when told to report back to his section area immediately replied "I'll go when I am ready" or words to that effect A.A.40	Capt G Beaudry Lt M. Rousseau	14 Days F.P.	13 Jul 43	Maj Barri P.H.	B.

(PTO)

Jason Hamilton Major

This summary of evidence consisting of three pages has been taken down by me in the presence and hearing of the accused this 16th day of November 1943.

I certify that rules of Procedure 4 (B iii),(C),(E),and (F)

Signed in the Field,
this 16th day of November 1943

Michel Gauvin Capt.
(Michel Gauvin) Captain
Le Régiment de la Chaudière,
Officer detailed to take
Summary of evidence.

J a MacNaughton Maj

WITNESSES FOR THE DEFENCE

1st WITNESS

E-10012 Pte Langlois A , 1st Bn., Le Régiment de la Chaudiere, having been duly sworn states:

On the 11th of November 1943, I was with E-13123 pte. Leblanc A. and E-6203 Pte Chamberland R. during the whole evening. We first went to the "pub". At 2000 hrs there was a pay parade and we went the three of us. After being paid we returned to the "pub", the "Five Ways". We left it at the closure and went to "Elizabeth Cafe". As it was too crowded, we left without being served and walked back to the billets. It was between 2200 and 2230 hrs. I don't remember that anybody spoke to one of us on our way back.

Achille Langlois
E-10012 Pte Langlois A
"D" Coy, Le Régiment de Chaud.

The accused declines to cross-examine the witness.

2nd WITNESS

E-6203 Pte Chamberland R, 1st Bn., Le Régiment de la Chaudiere, having been duly sworn states:

On the 11th of November 1943, I went to the "Five Ways" Pub with E-13123 Pte Leblanc A. and E-10012 Pte Langlois A. I stayed with them the whole evening. We went to the pay parade at around 2000 hrs. We then went back to the "pub" and left at the closure. We tried to eat in a restaurant but could not as it was too crowded. We then walked back to our billets, Leblanc, Langlois and I. We arrived to the billets before tatoo i.e. before 2230 hrs. At my knowledge, we met nobody and nobody spoke to us on our way back.

R. Chamberland
E-6203 Pte Chamberland R.
"D" Coy, Le Régiment de Chaud.

The accused declines to cross-examine the witness.

Question to the accused:
Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but watever you say or any evidence you give will be taken down and may be given in evidence.

Answer by the accused:
Yes sir, I want to give evidence upon oath.

The accused, E-13123, Pte Leblanc A., Le Régiment de la Chaudiere having been duly sworn states:

On the 11th of November 1943, I spent the whole evening with Ptes Chamberland and Langlois. I went to the "pub" with them. We tried to eat at the "Elisabeth restaurant" but it was too crowded. We then walked back to our billets. We arrived before tatoo. On the way back, we met nobody and nobody spoke to us.

Achille Leblanc
E-13123 Pte Leblanc A
"D" Coy, Le Régiment de Chaud

Jonnoughton Mayor

SUMMARY OF EVIDENCE

In the case of E-13123 Pte Achille Leblanc, 1st Bn Le Régiment de la Chaudiere a soldier of the Canadian Army Overseas, placed on Active Service.

The C.O. directs that the evidence be taken on oath.

1st WITNESS

Captain C.R. Lamoureux of Le Régiment de la Chaudiere, having been duly sworn states:

On the 11th of November 1943, at 2220 hrs, I was coming back to my billet with Lieut. Y. Gosselin of Le Régiment de la Chaudiere. We were walking on Charminster rd and few yards before arriving to Queens Park Ave, I noticed on Charminster rd three soldiers urinating along a wooden fence separating a private house from the sidewalk. The three men were on the sidewalk of Charminster rd. We stopped few yards further to find out who were the three soldiers. When they had finished urinating we turned to see who they were. The night was very bright so that persons were almost as distinguishable as in the day. Pte A. Leblanc came to me and asked me:"What do you want?" I answered him:"What?" Again he said:"What do you want?" I then answered him that I wanted to find out what was happening. I noticed that Pte Leblanc was not wearing his cap. Pte Leblanc then said:" I do not bother you, don't bother me and go your way or be careful of your face." Lieut. Y. Gosselin was at the time at my rear facing Leblanc. I did not say anything more and went my way. I had not walk more than few steps.when Leblanc insulted me again with phrases like " Christ de baveux." etc.I"have been in Le Régiment de la Chaudiere since July 1941 and did once belonged to D coy in which Leblanc was at the time. I am sure by saying that the man to whom I was speaking that night was E-13123 Pte Achille Leblanc. For the two others I cannot say who they were as one of them escaped while I was speaking to Leblanc and the other, smaller than Leblanc, was behind him when Leblanc was speaking to me. I noticed that he looked over his shoulder but I can not say surely who he was.

(Christ)

C.R. Lamoureux Capt

(C.R. Lamoureux) Capt.
Le Régiment de la Chaudiere

The accused declines to cross examined the witness.

2nd WITNESS

Lieut. J.Y. Gosselin 1st Bn. Le Régiment de la Chaudiere, having been duly sworn states:

On the 11th of November 1943, at 2220 hrs, coming back from Bournemouth with Captain C.R. Lamoureux, we met on Charminster rd between "Elizabeth Cafe" and the "Five Ways Pub" three soldiers urinating on the sidewalk. We passed by and few yards away we stopped. When they had finished Capt. Lamoureux and I turned to see who they were. One of the three that I knew to be E-13123 Pte Leblanc A asked Capt. Lamoureux what he wanted. Capt. Lamoureux answered that he wanted to find out what was happening. Pte Leblanc was standing right in front of Capt. Lamoureux; he raised his hand and said:" I do not bother you, don't bother me and go your way or be careful of your face. Without saying anymore we went our way. We had not walked more than fiftee n feet when Leblanc swore at Capt. Lamoureux and said:" Go and see the Padre ." When speaking to Capt. Lamoureux, Pte Leblanc had not his cap on his head.

J.Y. Gosselin Lieut

(J.Y. Gosselin) Lieut.
Le Régiment de la Chaudiere

The accused declines to cross examine the witness.

Trial of E 13123. Pte A. le Blanc. Ja Manslaughter Sept

Plea in mitigation of sentence by defending officer

The accused is a young man physically fit and fully trained. He has been in the army for over three years and is consulting his M.F.M.C. you will see that his conduct has been good, no serious entries. I ask that the court consider his good record and be as lenient as possible with him.

James Naughton Major

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

was at the time, mentioned by the charge sheet, not in the street by in his billet. One more thing before closing my address, I would like to point ~~[illegible]~~ out to the court the admt 30 of June 42. concerning the first charge. The amdt is then read,

Now gentlemen of the court because of these fact and all the other that I don't thing at the moment but have been said in this case, I demand that the accused should be found not guilty on both charges. Also gentlemen, I would like to say that an accused person is not guilty until proven guilty.

The last witness brought up by the prosecution only collaborate with the statement of the defence.

I thank you gentlemen

Lt M. Thomas

CFA (70)(693)

PLEASE WRITE ON BOTH SIDES

On the other hand the accused's statement and the statement made by Sergeants are very explicite and should be taken in consideration having been made on oath. They both stated that a few minutes before the first close they came right back to the billets and that they did not stop to urinate anywhere, and also that they did not speak to anyone else then themself. The third witness confirms these statement, as he stated that he made tatoo at 2220 hrs, that night and the accused was in his billets. Now according to Capt Lamoureux it should take the accused more then five and less then ten minutes to get back to his billets. This offence taking place at 2220 hrs the accused could not be at both places at the same time.

Another thing important in the first and second charge, the offence took place at exactly 2220 hrs and gentlemen I have prove different meaning that the accused

Jamon Naughton Nyd

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN Y.M.C.A. OVERSEAS

ON ACTIVE SERVICE

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

THE SALVATION ARMY CANADIAN WAR SERVICES

Closing address for the Defence.

Gentlemen of the Court.

After hearing the differents statements made by the witnesses both for the prosecution and the defense, I would like with the permission of the court to review these statements.

The witnesses for the prosecution, stated that on the 11th Nov 43 they meet at exactly 2220 hrs, three soldiers and that Capt Lamoureux was insulted by these soldiers. They also stated that these three soldiers were urinating on the sidewalk. They both recognised the accused as one of these three soldier. Now, gentlemen of the court, I must remind you that this took place after 2200 hrs and that at any night after 2200 hrs, it is really black especialy with the black out. and therefor difficult to recognise anyone, even if the night is bright because of the moon.

CFA (7003/85)

PLEASE WRITE ON BOTH SIDES

Shat XIV

Joe McNaughton Major

Closing address by the prosecution.

First all the witness agreed that on 11 Nov 43 between 2200 and 2230 hr they had been on Charmister Rd between Elizabeth Rafe and the pub. Witness for the defence do not deny that. ~~Capt Lamoureux~~

Second point Capt Lamoureux and Lt Gosselin met three soldiers on the aforesaid night. These three were urinating on the street. Ptes Chamberland Leblanc & Langlois had spent the evening together

These officers identified these men positively These officers both sale stated the terms used. by soldiers

No discrimination towards Pte Leblanc.

One the other hand witness are close friends

The officers claim the time to be 2220 hrs.

Absolute denial on the part of Leblanc to speaking to Capt Lamoureux.

Finding of the court

Guilty as charged.

Court Re-opened and accused brought in again.

Prosecutor sworn and submits M.F.M. 6. and M.F.B. 355

Plea of mitigation of sentence made by Defending counsel.

Punishment 120 days. detention

A. Not to my knowledge

Q 75 Are you sure of that?

A Yes sir.

Q 76 Did Pte LeBlanc speak to anyone?

A Not to my knowledge.

Q 77 At what time did you leave the post?

A. at a little before closing time.

Q 78 At what time did you arrive at your billet?

A I can't exactly say it was between 2200 hrs and 2230 hrs

Q 79 Did all three of you arrive together at the billets?

A Yes sir.

Q 80 What happened when you entered?

A We met Capl Paquette. We said goodnight to him then went upstairs to bed.

Q 81 Was it the first time you had been to the post with LeBlanc.

A. No sir

Q 82 Do you often go to the post with LeBlanc?

A No sir I went a few times.

Q 83. Recently?

A Since we have been about two or three times

Lieut declines to cross examine witness.

R.P. 83 B. complied with.

Sheet XII Jamesnaughton Major

Q65 continued
or at the summary of evidence did you testify?

A No sir.

Questions by the court.

Q66 Have you a watch now?

A yes sir. here it is.

Q67 What time have you?

A. Compared with time of the members of the court found the same.

Q68 Is that the same watch you had at the time of Tatoo 11 Nov 43.

A Yes sir I checked it every night

Rule of procedure 83 B complied with.

Under R.P. 86 B prosecution asks that Pte Chamberland be called.

E6203 Pte R. Chamberland R de Chaud. being duly sworn states?

Prosecutor

Q69 What Coy do you belong to?

A D Coy.

Q70 On 11 Nov 43 Can you tell us what you did during the evening?

A We left our billets to go to the pub.

Q71 At what time?

A at approximately 1800 hrs. We returned to our lines to be paid

Q72 Who were you with?

A. I was with Pte LeBlanc and Pte Langlois. after pay parade we went back to the Five Ways Pub. Before the pub closed we went to the Elizabeth Cafe. As it was to crowded we were unable to get served so we returned to our billets.

Q73 Did you meet anyone?

A No sir

Q74 Did you speak to anyone else besides the two you were with?

Jamnaughton Major

Sheet XII

Q65 continued
or at the summary of evidence did you testify?

A No sir

Questions by the court.

Q66 Have you a watch now?

A yes sir. here it is.

Q67 What time have you?

A. Compared with time of the members of the court found the same.

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A. I was with Pte LeBlanc and Pte Langlois. after pay parade we went back to the Five Ways Pub. Before the pub closed we went to the Elizabeth Cafe. As it was to crowded we were unable to get served so we returned to our billets.

Q73 Did you meet anyone?

A No sir

Q74 Did you speak to anyone else besides the two you were with?

Sheet XI James Laughton Mayor

57 Q. Is it always done like that or is it just you who do it like that.

A. Every time I was orderly corporal I did it like that

59 Q. On the 11 Nov 43 what time did Pte Leblanc report.

A. When he came in he said goodnight to me wh I looked at my watch and it was 2220 hrs

60 Q. Had you done the tattoo call then or were you about to.

A. I was about to.

61 Q. What makes you remember after a month that Pte Leblanc can in at 2220 hrs on the 11 Nov 43.

A. Because he was with Pte Langlois & Pte Chamberland and also he said goodnight to me. I followed them up the stairs to commence tattoo.

62 Q. What makes you so sure all this happened on 11 Nov 43.

A. Because there were no absentees on the report that night.

63 Q. Is it a very rare occurrence that there should be no absentees at tattoo.

A. It happens quite often

64 Q. And thats what makes you say all this happened on the 11 Nov 43

A. I was writing a letter and there was a calendar in front of me. When they came in a decided it was time for tattoo.

65 Q. When Pte Leblanc was parade to the C.O.

Sheet X. Jam Naughton Mgr

Third Witness for the defence B. 74159.

Pte S. Paquette R de Chaud.

49 being duly sworn states:
Q. Do you know the accused.
A. I know him a little. I have been with the reg. since the 5 Aug 43 and I know him like I know all the others.
50 Q. Will you tell me who was in charge of the tattoo report on 11 Nov 43
A. I was sir.
51 Q. Do you remember what time you started taking the report that night.
A. 2220 hrs sir.
52 Q. How do you know.
A. I had a watch.
53 Q. Was the accused present at tattoo.
A. Yes sir.

Cross Examination by the prosecution.

~~Q. Why are you not wearing your stripes~~ Jam
54 Q. What was your rank on 11 Nov 43.
A. L/Cpl sir.
55 Q. You testified that tattoo was done at 2220 hrs.
A. Yes sir that night I started tattoo at 2220 hrs.
56 Q. Did you receive specific orders to start at this time or did you do it on your own.
A. Orders are that we are to do tattoo between 2200 and 2230 in order that the report may be in by 2240 hrs.
~~57 Q. Does it not seem curious to you that~~ Jam
57 Q. It tattoo always done at 2220 hrs in D Coy.
A. When I was on duty corp there were seven bottles and I had to start early to be through in time.

Sheet. IX. Ja McNaughton maps

A. Is supposed to close at 2200 hrs but I'm not sure.

42 Q. When you left the pub had they called time.

A. They were still serving but they had called time

43 Q. When you came back with the accused do you remember seeing him stop to urinate on the way.

A. No, sir.

44 Q. When you left the pub did the accused talk to Capt Lamoureux or Lieut Gosselin

A. No, Sir.

Cross-Examination by the pros.

45 Q. Was this the first time you went to the pub with Pte Leblanc

A. No, sir I have gone with him before

46 Q. Therefore you were on friendly terms with Pte Leblanc.

A. Not more so than with any other.

47 Q. Did you stay with Pte Leblanc & Pte Chamberland all evening.

A. Yes, sir.

Questions by the court.

48 Q. Would you recognize Capt Lamoureux or Lt. Gosselin if you met them on the street.

A. If I met them during the day I would surely rego recognize them.

Rule 83(B) complied with

Sheet VIII. James Naughton Major

35 Q As going from Elizabeth Cafe to your billets would you pass the fire. Ways Pub.

A Yes sir.

Second Witness for defence.

L-10012 Pte P Langlois R de Chard. D Coy

being duly sworn states:

36 Q Do you know the accused.

A Yes sir

37 Q How long have you known him

A I knew him by sight in Canada. I have known him better since being with D Coy.

38 Q Would you tell the court what you did on the 11 Nov 43.

A Pte Leblanc Pte Chamberland and I left to go to the pub from the pub we came back to attend a pay parade which took place at 2000 hrs. After parade we went back to the pub. We left the pub at closing time and we went to the restaurant but went out again as it was full of people. We left there and went back to the billets. It was between 2200 and 2230 hrs from the time we left the restaurant until we arrived at our billets. I don't recall meeting anyone on the way or anyone speaking to me.

39 Q Did you arrive at the billets on time for tattoo.

A Yes sir.

40 Q At what time is tattoo called at the billets

A Supposed to be at 2230 hrs.

41 Q Do you know at what time the pub closes

Sheet VII. Jonox Laughton Mayr

27 Q. Do you remb remember when you left the pub to go to the Elizabeth Cafe whether you stopped to urinate on the way.

A. We didnt stop, sir.

28 Q. Between pay parade and the time you went back to your billets did you speak to Capt Lamoureux or Lieut Gosselin.

A. Sir I dont remember seeing eithe of them on that evening.

Cross Examination by the pros.

29 Q. You state that you dont remember what time you left the pub.

A. No, sir.

30 Q. Was it at closing time

A. I dont think they had called "time" yet.

31 Q. Were you with Pte Chamberland and Pte Langlois all evening

A. Yes, sir.

Q. Questions by court:

32 Q After you left the Elizabeth cafe do you remember stopping anywhere.

A. We didnt stop anywhere until we had reached our billets.

33 Q. When you wished the orderly corporal goodnight did he answer you by name.

A. I dont remember but I think he said goodnight

34 Q. What were you drinking that night. Beers or spirits

A. We drank both

Sheet VI. Jonn Laughton Maj

Questions by the defence.

23 Q. Will you tell the court everything you did on 11 Nov 43 from about 2100 hrs on.

A. At approximately 1830 hrs I left my billets with Pte R. Chamberland and Pte A. Langlois and we went to the Five Ways Pub. We were in the pub having a drink of beer when some of my friends came in and said that pay parade was at 2000 hrs. We went and drew pay. This took a little while then we returned to the Five Ways Pub. We spent the evening there but I cant tell you what time we left. Then we went to the Elizabeth Cafe which I think is about five minutes walk. When we arrived at the Elizabeth Cafe it was too crowded so we left immediately. From there we went to our billets. I dont ~~rember~~ remember having met anyone on the way. When I arrived at the billet tattoo hadn't been called. When I came in I wished goodnight to the orderly corporal

24 Q. Do you on that evening remember talking to anyone else other than your two companions.

A. No sir

25 Q. Were you drunk on that evening

A. No sir

26 Q. Can you therefore remember clearly what you did on that evening and spoke to nobody else

A. Yes Sir

Sheet 4

12 Q. Was Lebanc addressing you or Capt Lamoureux

A. Leblanc was addressing Capt Lamoureux

13 Q. How to you know?

A. Because he was looking at him all the time. and using the singular term.

Cross. Exam by the defence

14 Q. ~~Was~~ When he spoke to you regarding your brother was that the first time you had seen the accused.

A. Yes that was the first time.

15 Q. Have you met him since.

A. Once in the meantime

16 Q. You say it happened at 2220 Is that correct.

A. Yes that is correct. because I checked with Capt Lamoureux.

17 Q. Was it very dark

A. No very clear that night.

18 Q. Was there the usual blackout

A. Yes but one could easilly recognize people on the street.

19 Q. You stated ~~stated~~ from you passed by for about 3 yrds and then Lebanc was only 6 inches from Capt ~~Lebanc~~ Lamoureux.

A. Lebanc moved up towards us.

20 Q. In what way did he raise his arm.

A. Raised shoulder high open handed in a threatening manner.

Question by the court.

21 Q. ~~As~~ It was quite clear on the 11 NOV 43?

A. That is correct

22 Q. Are you positive that the man was Lebanc

A. Positive.

Rule 83 B. complied with.

First witness for the Defence ~~Pte Leblanc~~ from

E 13123 Pte Achille LeBlanc of Regt de Chaud ~~on oath~~ from ~~E 13123~~ from being duly sworn states:

Sheet IV

Jamon Laughton Mayo

11 Q. Will you tell the court what happened on the evening of 11 NOV 43.

A. On the evening of the 11 NOV 43 I was coming back from Bournemont with Capt Lamoureux when, between Elizabeth Cafe & Five Ways Pub we met three soldiers urinating on the sidewalk along the fence. ~~We kepted~~ It was around 2220 hrs. We kepted going a few yards beyond and waited there until they had finished. Then we turned about to see what was doing there. At that very moment Pte Lebanc asked Lamoureux what he wanted. Capt Lamoureux answered "I wanted to see whats going on here". Then Lebanc standing about six inches from Capt Lamoureux raised his right arm and told him "I dont bother you dont bother me and go your way" ~~So Captain Lamoureux~~ Also he said "Be careful of your face." Then Capt Lamoureux and I turned about and took the way leading to the officers mess. As we had gone a few paces he started swearing and said these words. "Christ de baveur" "Go and see the Padre" and many other words I can't remember now. I'm very sure that it was Leblanc because I noticed his curly hair and his voice. Leblanc had no field cap on his head. It was ~~in~~ his shoulder. I dont remember who were the two other soldiers who were with Leblanc at the time.

Sheet III Trial of Pte Lebanc. Jamnaughton Mgr

A. I have done a lot of court of inquiries and summaries of evidence and I know the time question is a vital one. That is the reason why as soon as I left Pte Leblanc I looked at my wrist watch. I check with Lt Gosselin It was then 2220 hrs.

4 Q. How long should it take a person to the billet of the accused from the place where the incident occurred.

A. I have never been walked that way before and I can not ascertain for sure the specific time it would take to walk there. I think it would take about 10 mins.

7 Q. Are you sure the words were addressed to yourself

A. He was addressing me because he was standing only a few inches from myself and was looking at me all the time.

Questions by the court.

8 Q. What did the accused say as you walked away.

A. Go and report to the Padre.

Rule 83 B complied with Jamn.

*. ~~How long would it take a person~~

Second witness for the Pros Lt. Gosselin R de Chand being duly sworn states.

9 Q. Did you know Pte Lebanc before 11 Nov 43.

A. I could not say for sure but about two week before this incident occurred I talked to Pte Lebanc on the street in the Bn area. Lebanc told me that my brother who was staff caption in our Bde had been in peace time his school teacher in Chandler. Gaspe Bay.

10 Q. Did you know at the time that it was Pte Leblanc.

A. He told me he was Pte Lebanc.

Sheet II. Trial of Lebanc. Ja Mcnaughton Mgr

Lt. Gosselin was standing about a foot behind me. I answered Pte Lebanc that I wanted to find out what was going on. Pte Lebanc then lifted his arm and told me again in a threatening voice "I dont bother you, dont you bother me. Keep going your way or ~~wh~~ watch out for your face." ~~I did not~~ say a word but turned around to go ~~back~~ to my billets. I had not gone three feet ~~that~~ when he started to insult me with words such as "Christ de Laveux" (IN EVIDENCE) etc etc. With what happened I did not have time to find out the identity of the two other men but I am positive of one fact and it is that it was Pte Leblanc who threatened me that night and I am also positive that it is not a case of mistaken identity

Defence. Cross-Exam.

3 Q. Betwen 1941 & 1943 did you ever meet the accused again.

A. Since I left D Coy the unit has been very often in a camp and I have seen Pte Lebanc walk around very often. He is one of the older gang of D Coy and he is very well known by most of the old timers.

4 Q. Were you away from the regiment betwen 1941 & 1943.

A. I been away from the ~~regt~~ some 13 MAR 42 till 21 Sep 42. where I was instructor at C B D School Since that time I have never been away from unit for more than 3 weeks and that only happened once I have never been at the holding unit. Before the incident happening on the 11 NOV 43 I have seen Pte Leblanc around the Orderly Room of D. Coy.

5 Q Are you quite sure this happened ~~on~~ at 2220 hrs on the 11 NOV 43.

F.G.C.M. Page 1 James Laughton Mem 6 Dec 43.

Trial of E-13123 Pte A. Leblanc.

Court was sworn 3 Dec 43 but adjournment was desired by accused in order to procure defending counsel. Court reopens 0945 hrs 6 Dec 43.

1. Convening order read to accused.

Prosecution:- Capt. M.C. Gauvin. R. de Chaud.

Defence:- Lieut. M.P. Menard R. de Mais.

Plea of not guilty by the accused. 1st Charge.

" " " " " " 2nd Charge.

1st Witness for the pros. Capt. C.R. Lamoureux R. de Chaud.

Pros. 1Q. How long do you know accused.

A. I have been in this unit since 21 Jul 41. In Sep 1941 I was commanding a pl of "D" Coy and Pte Leblanc, whom I identify in the court, did belong to "D" Coy at that time. I was in that Coy for two months that is how I got to know Pte Leblanc.

2Q. Could you tell the court what happened evening 11 Nov 43

A. On the 11 Nov 42 Thursday night at 2220 Hrs. I was walking back to my billet with Lt Y. Gosselin. On Charmister Rd nr Queens Pk Ave. we noticed 3 men urinating on the sidewalk oposite from the "Fine ways" Pub. It was a very clear night and one could see and discern as well as in daytime. Lt. Gosselin and myself stopped a few feet passed the place where the men were urinating because we wanted to find out who it was. When we heard they were finished we turned around to find out the identity of the men. Pte Leblanc came to me without his field cap on and asked me in a threatening voice what I wanted.

B.A.P. LE REGIMENT DE LA CHAUDIERE [illegible] J. A. McNaughton Maj

Date 3 Dec 1943

This is to certify that I have this morning examined the w/o soldier and in my opinion he is fit to undergo trial by Court Martial.

Regt'l No. E/3123 Rank Pte. Name Leblanc, G.

[illegible]

Capt. Albert, I.J. [illegible]

J.A. McNaughton Negro

[illegible] LE REGIMENT DE [illegible] CREDIT [illegible]

Date [illegible] 13

This is to certify that I have this morning examined the a/m
soldier and is by opinion he has fit to undergo trial by
[illegible] Martial.

Regt'l No. 5/3125 Rank [illegible] Name [illegible]

[illegible]

Capt. [illegible], [illegible]

J. A. McNaughton Major

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E13123	Pte		Achille	LEBLANC	R de CHAUD

CONVENING ORDER.

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

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.A.	McNAUGHTON (Must be named. RP 106.)	N SHORE R (Unit.)

MEMBERS.

Capt	J.L.A.	GIGUERE	R de Chaud
Lt (Rank.)	G.T.	ROBERTSON (Named or detailed. RP 106.)	QOR of C (Unit.)

WAITING MEMBER.

Lt (Rank.)	L.N.	BEGIN (Named or detailed, if any. RP 106.)	R de CHAUD (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(K.G. BLACKADER) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 2 DEC 43

Commanding 8 CDN INF BDE
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

G. J a McNaughton Mgr

CHARGE SHEET

The accused E-13123, Pte Achille LEBLANC, 1st Bn Le Regiment de la Chaudiere a soldier of the Canadian Army Overseas, being placed on Active Service is charged with:-

FIRST CHARGE
ARMY ACT
SEC. 40

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

Oc Charminster rd, Bournemouth, at 2220hrs, on 11 Nov 43, was urinating on the sidewalk.

SECOND CHARGE
ARMY ACT
SEC 3 (2)

USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER,

in that he,

At 2220hrs on 11 Nov 43, on Charminster rd, Bournemouth, said to Capt C.R. Lamoureux, R de Chaud "Je ne t'achale pas, achale-moi pas. Continue ton chemin ou prends garde a ta face," and Christ de baveux", or words to that effect.

Signed in the Field
this 13 day of November 1943

Paul Mathieu Lt Col

(Paul Mathieu) Lt. Col.,
Commanding
Le Regiment de la Chaudiere

TO BE TRIED BY F.G.C.M.

In the field
this 24 day of November 1943

R.G. Blackader

(R.G. Blackader) Brigadier
Commanding 8 Cdn Inf Bde

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

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

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s), & Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whichever part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No. (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give evidence on oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No.
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and ~~the members, if any~~.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its genesis, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 3323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: E 13123 Pte Achille LeBlanc R de Chaud

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A A 40	Not Guilty	Guilty	
2nd	A A 86(2)	Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

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

At present under sentence for ~~[illegible]~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 22 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period One hundred and twenty days.

(Sgd) ~~[illegible]~~ Judge Advocate, if any. 6 Dec 43 Date awarded. (Sgd) J A MacNaughton Major President. (RP 45, 50.)

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

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

Date (Sgd) Commanding

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

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

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

Confirmed

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

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

Date 10 Dec 43 (Sgd) H Brackenbury Brig Commanding 8 Can Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E13123 Pte Achille LEBLANC	15 Dec 43	J H Bucke Lieut for Capt R de Chaud.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

333-122

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A23) 40/P & S/1698 (2954)

Convened by Order of Brig N.Y. Blackader Comd 8 Can Inf Bde dated 2 Dec 43

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
E13123	Pte		Achille	LeBlanc R de Chaud.	

PROCEEDINGS REVIEWED
J Ruttan Lieut
17 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Date 26 Jan 44
[illegible] Lieut
for JUDGE ADVOCATE GENERAL

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 and 6 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is ~~(if any)~~ brought before the Court. At 0930 hours trial commences.

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

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

A5. President to accused: Do you object to Capt G Beaudry as interpreter? Ans No

The Interpreter is sworn.(1) ~~He/she objects to~~ ~~The shorthand writer is sworn.(1)~~ as shorthand writer? Ans

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

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

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

President	Major	J a MacNaughton	M Shore R.
Member	Capt	J L A Duquette	R de Chaud
Member	Lt.	G F Robertson	2 O R of C.
~~Judge Advocate~~			
Prosecutor	Capt	M C Gauvin	R de Chaud
Defending Offr	Lt	M P Menard	6 C I R U

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused E 13123 Pte Achille LeBlanc before arraignment make(s) (no) ~~(no)~~ plea. (1)

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

A9. The accused is ~~(if any)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(not)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

A10. The Court ~~(is adjourned until)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

B33-122

PTE LEBLANC A.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 31st day of Aug 19 43

G. C. Lockhart Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (6) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this fourth day of August 19 43.

J. J. Maggs Brig

Confirming Officer.

Promulgated and extracts taken in the case of E 30210 Pte Oraire Leblanc

(a) (Dated) 5 August 1943 (Signed) J. P. Boucault Capt R de Chaud.

Promulgated and extracts taken in the case of

(Dated) 14 October 1943 (Signed) G. P. Boucher Lieut a/adjt R de Chaud

Promulgated and extracts taken in the case of

E-30210 Pte Leblanc, A - The G.O.C. 3 Cdn Div having on 20 Sep 43 remitted the sum of £ 0-3-11d as awarded by the Court and confirmed by the confirming officer, this remission is hereby promulgated.

G. P. Boucher Lieut

(Sgd) G.P. Boucher Lieut A/Adjt.,
Le Regiment de la Chaudiere

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number E-30120 Rank Pte.

Name LEBLANC, André. of Le Regt. de la Chaud. Regiment

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

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

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

Signed this ..... day of .....

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

B.H. Dorion, Lieut. 30 July, '43.
for Adjt. R. de Chaud.

20

S. C. Lockwood Major President

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-30120	Ptc.	LEBLANC, André	Le Regt. de la Chaud.

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

	Within last 12 months		Since enlistment	
For	Sec. 40 A.A.	3 times	D.O.	times BLD
For	A. W. L.	5 times	D.O.	times BLD
For	BLD	times	BLD	times
For		times		times

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

or,

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

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

2. The accused has not been previously convicted

~~or,~~

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

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

~~or,~~

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 27 yrs BLD.

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 15 July, '40. BLD.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs BLD.

8. The accused is entitled to reckon 3 yrs service for the purpose of determining his pension, etc. BLD

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

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

Certified True Copy
J. B. Rousseau Capt Capt

No. E 30210 Name LEBLANC A. Sqn., Battery, or Company | Corps Infantry | Date of enlistment 15 Aug. 40 | G.C. Badges Nil | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965) | 19

Date of last entry in Company Conduct Sheet 17 Jul. 42 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine Nil | Sheet No. Two | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4 June 43	Pte.		AWL. from 2300 hrs 4 June 43 until 1900 hrs 5 June 43 total absence 20 hours A.A. Sec. 15 (1).	Capt. Mathieu P.	3 Days CB.	7 June 43.	G. Beaudry Capt.	forfeits 1 Day's pay F.R. & I.

G. C. Lockwood Major
President

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	17 Nov. 42	Pte.		Conduct to the prejudice of good order and military discipline in that he, in the field, was improperly dressed on parade, on the 17 Nov. 42. A.A. Sec. 40	Capt. G. Savoie Sgt. Roe V.	14 Days C.B.	14 Nov. 42	Lt.-Col. H. Power.	
FIELD	22 Nov 42	Pte.		AWL from 1400 hrs. 22 Nov. 42 till 8745 hrs 30 Nov. 42 (6 days, 8 days), 4 hrs, 45 mins) A.A. Sec. 15 (1)	Godin E. Sgt Lloyd. Cabot	14 Days Pay	7 Dec. 42	Major F. Matthews	forfeits 14 Days Pay F.R.E.!
FIELD	17 JAN. 43	Pte.		AWL from 1800 hrs 17 Jan. 43 until 2200 hrs 2 Feb. 43 - total absence: 16 days 4 hours A.A. 15 (1)	Cpl. Chicoine Lieut. [illegible]	27 Days F.P.	16 Feb. 43	Capt. G. Savoie	forfeits 17 Days Pay F.R.E.!
FIELD	8 MAR 43	Pte.		A.W.L. from 0830 hrs 18 Feb 43 until 2400 hrs 28 Mar 43 (2 days, 15 hrs 30 mins) A.A. Sec. 15 (1)	Sgt. Pelletier Cpl. Matthew	27 Days F.P.	23 MAR. 43	Major G. Savoie	forfeits 9 Days Pay

Sheet destroyed 15/8/42

M.F.M. 6 (A.F. B.122) 40/F & /S136 (2965) 18

No. E-30210 Name LEBLANC A Sqn., Battery, or Company Corps Infantry Date of enlistment 4/6/41 G.C. Badges Nil Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 17 Jul. 42 No. and date of last drunk Nil. Period not reckoning towards freedom from extra fine Nil. Sheet No. 50 Signature O.C. Company, etc. Character

Certified true copy
J. Bonnemaud Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	23/8/42	Pte.		Conduct to the prejudice of good order and military discipline in that he, in the field, left Church Parade 23 Aug. 42 (A.A. Sec 40)	Sgt. Dragon C.	7 Days CB.	24/8/42	Capt. A. Sevegny	
FIELD	15/9/42	Pte.		An act to the prejudice of good order and military discipline in that he, in the field, on 11 Sept 42, failed to clean his rifle properly A.A. 40	C.S.M. Pare V.	3 Days CB.	15 Sept. 42	Capt. J. Belletey	
FIELD	18/9/42	Pte		A.W.L. from 1200 hrs, 18 Sept 42 to 1600 hrs 18 Sept 42 (total absence: 4 hrs, 45 mins) A.A. Sec. 15 (1)	C.S.M. Pare V. Cpl. Arsenault	3 Days CB	2 Oct. 42	Capt. G. Lavoie	

(P.T.O.)

10 66

7th Witness for the Prosecution. (Continued.)

Answer: "Yes, sir.".

A. Fortier
H-12091 Pte. Fortier Adrien.

8th Witness for the Prosecution.

Lt. R. Audette, 1st Bn, Le Regiment de la Chaudiere, having been duly sworn states:

"I present, Certificate of apprehension purporting to be signed by D.A.P.M. London Area(att. as exhibit C) Certificates of costs of return, purporting to be signed by D.A.P.M. London Area(att. as ehibit "D") both of which relate to the accused, whom I regognise.

The accused does not wish to cross-examine the witness.

R Audette Lieut
Lt. R. AudettE.

Question to the Accused. "Do you wish to make any statement or to give evidence upon oath? Youe are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer: "No, sir."

The accused does not wish to call any witnesses in his defence at this time.

The foregoing summary of evidence, consisting of three pages has been taken down before me in writing and in the presence and hearing of the accused. All statements have been translated from French to English to the best of my ability.

Certified that R.P. 4 (C) (D) (E) (F)(G) have been complied with

Signed in the Field
this 30th day of July 1943.

E.A. Dorion Lieut
E.A. Dorion, Lt.
Officer detailed to take the Summary.

5th Witness for the Prosecution. (Continued)

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary (att'd as exhibit "C") having regard to termination of absence without leave. The attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

6th Witness for the Prosecution.

E-13100 Cpl. Arseneault Edmond, "C" Coy, The Regiment de la Chaudiere having been duly sworn states:

" The day that E-30210 Pte. LEBLANC A. left on his seven days pass I warned him before leaving to take his equipment to the Coy Q.M. stores. That night I went to his billet and I noticed that his equipment was still there. I packed his equipment and left it on his bed. The next day I had all his equipment taken to the Coy Q.M. stores.

The accused does not wish to cross-examine the witness.
Examined by Officer taking summary.
Question: The night you packed the equipment belonging to E-30210 Pte. LEBLANC A. did you notice his bayonet and scabbard with his equipment?"
Answer : " They were not on his rifle and I did not notice that they were with the rest of his equipment.

E.Arseneault..Cpl.....
E-13100 Cpl. Arseneault Edmond.

7th Witness for the Prosecution.

E-12091 Pte. Fortier Adrien, "C" Coy, The Regt de la Chaudiere having been duly sworn states:

"I was ordered by Cpl. Arseneault, my section commander to go to our billet and gather up all the equipment belonging to E-30210 Pte. LEBLANC A. and to take it to the Coy Q.M. stores this I did. There was no bayonet or scabbard on his rifle, but I did not notice whether or not it was mixed in with his other equipment.

Question by the accused.
Question: "Do you remember whether it was when I was on pass or later that you gathered up my equipment?
Answer: " It was later, when the accused went A.W.L. for the second time that I gathered up his equipment. I was in camp when he returned from being A.W.L. and I remember him going A.W.L. again about two days later. It was on this occasion that I took his equipment to the coy Q.M. stores.

Examined by officer taking the summary.
Question: "Was this the first occasion on which you packed and took equipment belonging to the accused to the coy Q.M. stores."

8

SUMMARY OF EVIDENCE.

In the case of : E-30210, Pte. LEBLANC, Andre, of 1st Bn, Le Regiment de la Chaudiere (A.F.) Canadian Army, placed on ACTIVE SERVICE.
The C.O. directed that the evidence be taken on oath.

1st Witness for the Prosecution.

E-13184 C.Q.M.S. Lavoie, Aurel, "C" Coy, Le Regiment de la Chaudiere having been duly sworn states:

"On 5 May 43, when the Regtl Q.M. issued the bayonnet and scabbard to E-30210 Pte. LEBLANC Andre, I was present as "C" Coy Q.M. at the said distribution.

The accused does not wish to cross-examine the witness.

2nd Witness for the Prosecution.

E-10231 A/Sgt. Leclerc Albert, C.Q.M.S. "C" Coy, Le Regiment de la Chaudiere, having been duly sworn states:

"On 24 June 43, I made an inspection of kit belonging to E-30210 Pte. LEBLANC, Andre, and at that time noticed the absence of a bayonet and scabbard on charge to him."
And also Kit Deficiencies: Total amount $8/15/5 approximatly.
The accused declines to cross-examines the witness.

.....
E-10231 A/Sgt. Leclerc Albert.

3rd Witness for the Prosecution.

Lieut. S. Roy, Le Regiment de Sherbrooke having been duly sworn states:

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in this summary.(att'd exhibit "A") having report to time of departure of E-30210 Pte. LEBLANC A. on absence without leave. The attendance of this witness cannot in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

4th Witness for the Prosecution.

E-13173 A/Cpl. Dufour, Andre, having been duly sworn states;
A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in this summary. (att'd as exhibit "B") having report to time of return from A.W.L. and time of departure on 2nd A.W.L. The attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

5th Witness for the Prosecution.

G-7106 Cpl. Lawler, R.W. 6 (Area) Coy C. Pro. C.

Prosecutor [illegible] 17

RECORD of the Declaration of a Court of Inquiry assembled at, In the field, on the 26th day of July, 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E 30210 Pte LEBLANC, A., Le Regiment de la Chaudiere.

D E C L A R A T I O N.

The COURT having heard the evidence submit the following report:
1) that E 30210 Pte LEBLANC, A., R de Chaud, absented himself without leave since 2300 hrs 1st of July, 1943;
2) that E 30210 Pte LEBLANC, A., R de Chaud, left with a portion of his clothing and equipment. Therefore while A.W.L. is found deficient of his kit to the amount of £ 11-15-7 of which 75% is £ 8-15-5½.

Qty	Articles	Value	
1	Blouse, Battle Dress	1-7-8	1-0-9
1	Boots, Ankles pr	1-1-8	0-16-1½
1	Cap, Field Service	0-3-8	0-2-9
2	Drawers, Cel. Short prs	0-4-1	0-3-0¾
2	Drawers, Woollen prs	0-1-6	0-7-10½
1	Shirt, Angola drab	0-9-2	0-6-10½
1	Trousers, Battle Dress pr	1-7-11	1-0-11¼
1	Vest, Woollen	0-1-2	0-7-7½
1	Badge, Cap	0-0-8	0-0-6
3	Badges, Shoulder, Can.	0-1-4½	0-1-0¼
1	Bag, Kit Universal	0-3-3	0-2-5¼
1	Braces, pr	0-1-3½	0-0-11½
1	Brass, Cleaning	0-0-2	0-0-1½
1	Brush, Button Brass	0-0-8	0-0-6
1	Brush, Clothes	0-1-1	0-0-9¾
1	Brush, Hair	0-1-1	0-0-9¾
1	Brush, Shaving	0-1-4	0-1-0
1	Cap, Comforter	0-1-1½	0-0-10¼
1	Comb, Hair	0-0-2	0-0-1½
3	Discs, Identity Sets	0-0-4	0-0-3¼
1	Dressing, Field	0-1-1	0-0-9¾
1	Fork, N.S. Table	0-0-5	0-0-3¾
1	Holdall	0-0-9	0-0-6¾
1	Housewife, complete	0-2-3	0-1-8¼

Qty	Articles	Value	
1	Knive, Clasp-	0-3-4	0-2-6
1	Knife, Table-	0-0-9½	0-0-6¼
1	Razor, Safety with blaces-	0-1-10½	0-1-4½
3	Patches, distinguishing -	0-0-6	0-0-4½
2	Shorts, Gymn-	0-3-10	0-2-10½
1	Spoon, S.S. Dessert-----	0-0-4½	0-0-3¼
2	Vests, Cotton Gymn -------	0-3-0	0-2-3
2	Towels, hand-	0-1-11	0-1-5¼
3	Unit Titles--	0-1-6	0-1-1½
1	Bag, Ration---	0-0-2	0-0-1½
1	Belt, Waist---	0-4-7½	0-3-5¾
1	Frog, Bayonet-	0-0-11½	0-0-8½
1	Haversack----	0-9-7	0-7-2¼
1	Sling, Rifle--	0-1-1	0-0-9¾
1	Braces, WE----	0-2-2½	0-1-8
1	Haversack Resp Com----------	1-4-5½	1-1-1½
1	Outfit, Anti-Dimming------	0-0-1½	0-0-0½
2	Ointment, Anti-Gas(Tins)----	0-2-4	0-1-9
6	Eyeshields, Anti-Gas-----	0-4-8	0-3-6
3	Socks, Woollen	0-5-0	0-3-9
1	Baeyonet-----	0-13-3	0-9-11¼
1	Bottle Oil---	0-0-9½	0-0-6
1	Pullthrough--	0-0-3	[illegible]
1	Scabbard, Bayonet--------	0-0-11½	0-0-8¾
1	Ground Sheet-	0-10-9	0-8-0¾
	Total amount:	£11-15-7	£8-15-5½

Names of President and Members.

President: Lt. M. Rousseau, R de Chaud

Member: Lt. R. Morency, R de Chaud

" : Lt. L.S. Vachon, Fus. St-Laurent

Signature of Commanding Officer Paul Martin Lt Col

16

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. E30210 Rank Pte. Name Leblanc, A. Unit Regt Dr Chaud

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars 1/3 Portion	Amount		
27 July 43	Escorts return fare from LONDON To Haywards Heath		3	11
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Haywards Heath. Own ticket			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

STATEMENT OF **EVIDENCE** IN THE CASE OF

E 50210 Pte. Leblanc, A.
"C" Coy Regt. de Chaud.

Sir:

At LONDON at about 2230 hrs on the 26 July 43 I was on duty in company with L/Cpl. Smaland at Harringay High Street, Harringay, London when I asked the a/m soldier for his pass. He could not produce one. He was A.W.L.

I placed him under arrest and he was escorted to the Detention Room 6(Area) Coy Cdn Provost Corps where he was handed over to the N.C.O. i/c of Cells to be detained.

London
26 July 43

[signature] Cpl.
C 7106 Lawlor, J.W.

Sir:

I have read over and corroborate the above statement.

London
26 July 43

[signature] L/Cpl.
57564 Smaland, A.

REMARKS

15

CHARGE Army Form B 252
(See King's Regulations)

Exhibit 'C'

Regt. de Chaud. Regiment

"C" Coy. Battery / Squadron / Troop or Company

CHARGE against No. E 30210 Rank Pte.

Name LeBlanc, A.

Place London Date of Offence 26 July 43

OFFENCE W.O.A.S. was A.W.L. from 2 until (whilst operating 5 30 hrs 16 July 43)

apprehended by the Canadian Provost Corps at about

2230 hrs on the 26 July 43 at Harringay High Street

Harringay, London,

W. FERN CAPT.
D.A.P.M.
LONDON AREA

Names of Witnesses :—

Cpl. Lawlor. R.W. 6 (Area) Coy Cdn Provost Corps

L/C. Spuland, A. " " " " " "

Signature of O.C. Battery, Squadron, Troop or Company } remanded O.C. Jpt Esperance major

Punishment Awarded } F G C M

By whom Awarded } F. G. C. M.

J. P. Boucher Lieut Adjutant.

P.T.O

R4889 WLW21972/580 2,000,000 7/41 K. & H., Ltd. G657/47

14

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. E-30210 . Rank . . Pte. Name . LeBLANC, A. . . . . .

Unit . C/Coy. Regt. De Chaudiere . was arrested at . . London. . . .(place)

at . 2230 . .(hour) on 26-July.43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothes~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

. . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

13

File No. 21/18. . .

Officer Commanding, C/Coy. Regt. De Chaudiere

Re:- H-30210 Pte. LeBLANC A.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 23 Oct. 40.

London
26-July 43

Capt.
(A/Fern) D. A. P. M.,
London Area.

STATEMENT OF EVIDENCE

In the Case of:-

Exhibit 'B'

E-30120 Pte. LEBLANC, A.
"C" Coy., Le Regiment de la Chaudiere.

On 30 Jun 43, I was Company Orderly Sergeant, when at 1445 hrs, E-30120 Pte. Leblanc, A. reported to me. I told him he was in open arrest.

On 1 Jul 43, I was Company Orderly Sergeant, while taking the Roll Call at Tattoo which is at 2300 hrs, E-30120 Pte. Leblanc, A was not present to answer to his name and I carried him A.W.L. from this time

A. Dufour A/Cpl.

E-13173 A/Cpl. Dufour, A.

11

21 June 1943

Exhibit 'A'

1er TEMOIN

Monsieur,

Agissant comme Commandant de peloton le 16/6/43 je fis l'Appel des noms sur la Parade de Cie et je constatai que le: E-30810 Pte Leblanc A. etait A.W.L. depuis 0800 hrs le 16/6/43.

Signe.....Lieut.
C.O. Pl.18
Compagnie "C"
R. de Chaud. A.F.

C. Coy. Kit inspection 7 Exhibit E

~~G. C. Lockwood~~ Major President

I Certify that a Kit inspection was held on the 30th of July. 1943. and E30210 Pte Leblanc A. was found. deficient for following. articles.

2-	Drawers Woollen pre.	0-10-6.	0-7-10½
3-	Badge Canada Shoulder.	0-1-4½	0-1-0
1-	Badge. cap.	0-0-8	0-0-6
1-	Bag Kit universal.	0-5-3.	0-3-11
1-	Brush Button Brass.	0-0-8.	0-0-6
1-	" Clothes	0-1-1	0-0-9
1-	" Hair	0-1-1	0-0-9
1-	Dressing. field	0-1-1	0-0-9
1-	Housewife complete	0-2-3.	0-1-3.
1-	Knife Clasp.	0-3-4.	0-2-6
1-	" table	0-9½	0-0-7
3-	Patches Distinguishing	0-2-0	0-1-6
2-	Shorts Gym	0-3-10	0-2-11
1-	Spoon. SS Dessert	0-0-4½	0-0-3¼
3-	unit titles	0-3-0	0-2-13
1-	Bag Ration	0-2-0	0-1-6
2-	Vests Cotton Gymn.	0-3-0	0-2-0
2-	towels hand.	0-1-11	0-1-6
1-	Belts Waist	0-4-7½	0-3-6
1-	Haversack.	0-9-7	0-7-2
1-	haversack Respirator Comp.	1-4-5½	0-18-4
1-	outfit Anti-Dimming	0-0-1½	0-0-¾
6-	Eyeshields a/gas	0-4-8	0-3-6
1-	Bayonet	0-13-3	0-8-8
1-	Scabbard Bayonet.	0-0-11½	0-0-9
1-	Ground Sheet	0-10-9.	0-7-11
	total.	5-12-½	4-3-½

[signature]

The defence called no witnesses and the accused declined to make a statement or to give evidence in his own defence.

The accused declined to make a statement as to his character or to call witnesses.

The Court closed to consider finding.

The Court re-opened to hear evidence of character.

Third Witness

Capt J. PELLETIER having been duly sworn presented to the Court statement of character form NFB 355 and certified copy of NFM 6 which were read over to the accused.

Statement by the Accused :-

"I went absent without leave because my request for a transfer to another unit was turned down. I thought this was the best way to get it."

Statement by the Defending Officer -

"Pte LEBLANC has been in my platoon. His request for a transfer was turned down by his Coy Comd. Without regard to his conduct sheet, Pte LEBLANC has been a good soldier and is very skilful in the handling of weapons, and this is why the Coy Comd wanted to keep him in the Coy.

The Court closed to consider sentence.

G. E. Lockwood Major
President

Record of Evidence

5
A.G.L.

Trial of – E30210 Pte LEBLANC, Andre
Prosecutor – Capt J. PELLETIER
Defending Offr – Lt G.M. ROUSSEAU.

The accused was arraigned on three charges, and, having pleaded guilty to the first and second, the Court proceeded to take evidence on the third.

The third charge was amended under authority the Convening Offr and R.P. 33 B.

First Witness for the Prosecution.

E13184 CQMS Aurel LAVOIE having been duly sworn states –

"Up until the 3 Jun 43 I was CQMS for "C" Coy, R de Chaud in which the accused belongs. To the best of my knowledge the accused had a complete kit."

The defence declined to crossexamine.

Q1 by the Court – When did you have the last kit inspection?

A1 – On 26 May 43 we held a kit inspection and no deficiencies were reported in Pte Leblanc's kit.

Second Witness for the Prosecution.

E10231 A/Sgt Albert LECLERC having been duly sworn states –

"On 30 Jul 43 as A/CQMS of "C" Coy, R de Chaud to which the accused belongs, I made an inspection of his kit. I found deficiencies to the extent of £4-3-½ in accordance with the list which I now submit."

The list was handed to the Court, marked Exhibit E and read over to the complete understanding of the accused.

The defence declined to crossexamine.

Squadron Battery Company Detachment — Regt De La Chaudiere — Unit or Battalion 3

MORNING SICK REPORT

3 August 1943

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
	This morning I examined E 302.10 Le Blanc A and find him fit to undergo court martial						

[signature] Major President

[signature] Medical Officer

Orderly N.C.O.

M. F. R. 292
(500 M-5-11 (9288-9-90)
H.Q. 1772-29-248

(OVER)

B 2

CHARGE SHEET

The accused, E-30210 Pte LEBLANC, Andre, a soldier of the 1st Bn. Le Regiment de la Chaudiere, Canadian Army, placed on Active Service is charged with:

1st Charge army act sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the field, on the 16th June 43, at 0800 hrs did absent himself without leave from barracks and remained absent until 1445 hrs 30th June 43.
Total absence: 14 days 6 hours 45 minutes.

2nd Charge army act sec. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the field, on the 1st of July 43, while open arrest, absent himself without leave until apprehended in London by the Canadian Corps of Provost at 2330 hrs 26th July 43.
Total absence: 25 days 30 minutes.

3rd Charge army act sec 24 (a)

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, AND REGIMENTAL NECESSARIES

In that he,

In the field, on ~~6th July~~ 30 Jul 43 was deficient of one bayonet and clothing equipment of an approximate amount of ~~$8/8/10~~

(PAUL MATHIEU) Lt.Col.,
Officer Commanding
Le Regiment de la Chaudiere.

Signed in the field,
This 31 day of July 43.

To be tried by F.G.C.M.

(H.G.BLACKADER) Brigadier,
Commanding
8th Cdn Inf Bde

Signed in the field,
This 31 day of ~~July~~ Aug 43.

2.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-30210 Private Andre LEBLANC Le Regiment de la Chaudiere First Charge Sec 15 (1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE	Guilty	Guilty	
Second Charge Sec 15 (1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE	Guilty	Guilty	Sentence Confirmed J. G. Spragg 2 Hcal. Brigadier Acting Commanding, 8 Cdn. Inf. D 4 Aug 43.
Third Charge Sec 24 (2) Army Act	LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, AND REGIMENTAL NECESSARIES See Charge Sheet Attached	Not Guilty	Guilty ~~Automatic forfeiture under [illegible]~~ Awarded - 100 days o det Stoppages of L 4-3-½ and 0-3-11 G. C. Lockwood Major 3 Aug 43.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedu before trial have not been complied with, and that you have been prejudiced thereby, or on the grou that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) G. Bachader Brig. (Signed) No. Sir G. C. Lockwood Major

Commanding 8 CDN INF BDE
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

2.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-30210 Private Andre LEBLANC Le Regiment de la Chaudiere First Charge Sec 15(1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE	Guilty	Guilty	
Second Charge Sec 15(1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE	Guilty	Guilty	Sentence Confirmed J G Spragg 2 Heal Brigadier Commanding 8 Cdn. Inf. B

The Judge Advocate General, Canadian Army Overseas, having advised that the award of stoppages of 3/11d is invalid, I, being the authority having power to mitigate, remit or commute the punishment awarded by the sentence, do hereby remit the said sum of 3/11d as awarded by the court and confirmed by the confirming officer and direct that all records be amended accordingly.

In the field
10 Sep 1943

(R F L Keller)
Major-General
GOC 3 Cdn Div

Noted
R Blackader Brig
14 Oct 43.

R F L Keller
G.O.C. 3rd Cdn. Div

Answer (to be entered on separate sheet if necessary) :—

(Signed) R Blackader Brig. (Signed) No. Sir. G. C. Lockwood Major

Commanding 8 CDN INF BDE
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

SS-67 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this SECOND day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of EIGHTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be [illegible]. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.E. Lockwood	N Shore R

Members.

Rank.	Name.	Regiment.
Capt	W.G. Holmes	RCCS H.Q. 8 Cdn Inf Bd
Lieut	P.B. Hiscott	QOR of C
(Waiting Member) Lieut	J.D. MacLean	QOR of C

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R. Blackader Brig.

Commanding 8 CDN INF BDE

Convening Officer.

SS-69

PTE LEBLANC A.

Page 16
CWT

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

SCHEDULE

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

Name ..... of ..... Unit Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Particulars of F.G.C.M. - 25-3-43 not available 120 days detention. F.G.C.M. amended by D.J.A.G (C.M.H.Q.) 29-3-43.				

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

Signed this 26 / 2 / 5 day of July 1943

1 P.M. Pomeroy Capt. Adj 1 Bn CARD

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

"K":

Page 15

M.F.B. 1[illegible]
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E. 4141	Private	Leblanc, A.	"C" Sub-Unit No. 1 Bn. 1 C.B.R.D.

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

	Within last 12 months	Since enlistment or appointment
For	times	times
For	See extract from	times
For	M.F.M. attached hereto	times
For	M.F.M. 6 is not available	times

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

or,

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

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

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

or,

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 10 days in ~~Air Force~~ military custody, making a total of 10 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 28 years (30-5-45)

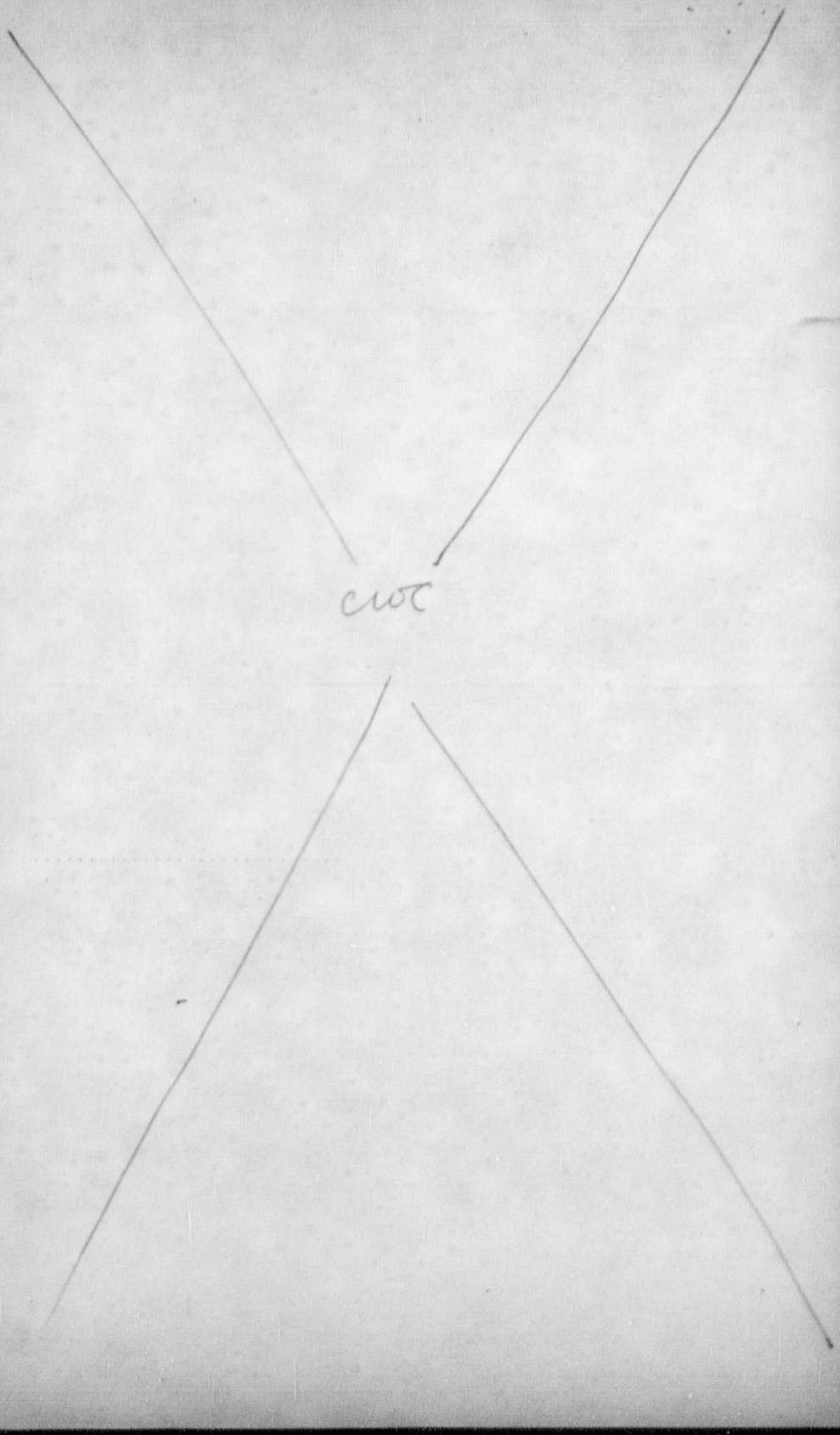
6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 14 Sep 1939

7. The service which the accused is allowed to reckon towards discharge is 3 years 10 months 7 days.

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

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

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of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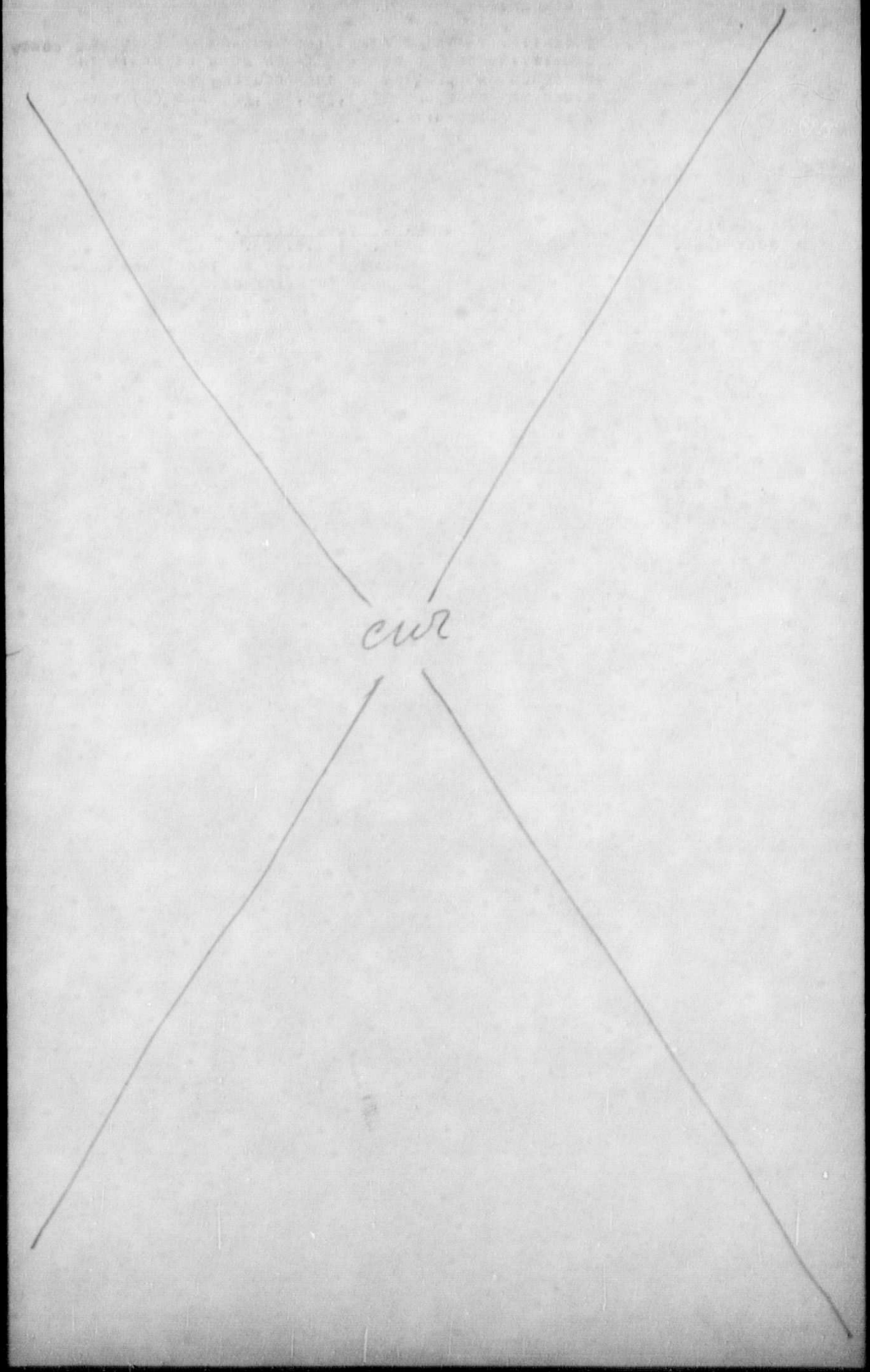
COPY "J" ROYAL 22e REGT. X-4 List (HD) JTR/

Custom bill major

E-4141 Pte LEBLANC, A. Date of Birth: 30-5-15
Date of Enlistment: 14-9-39

-0-0-0


CWR

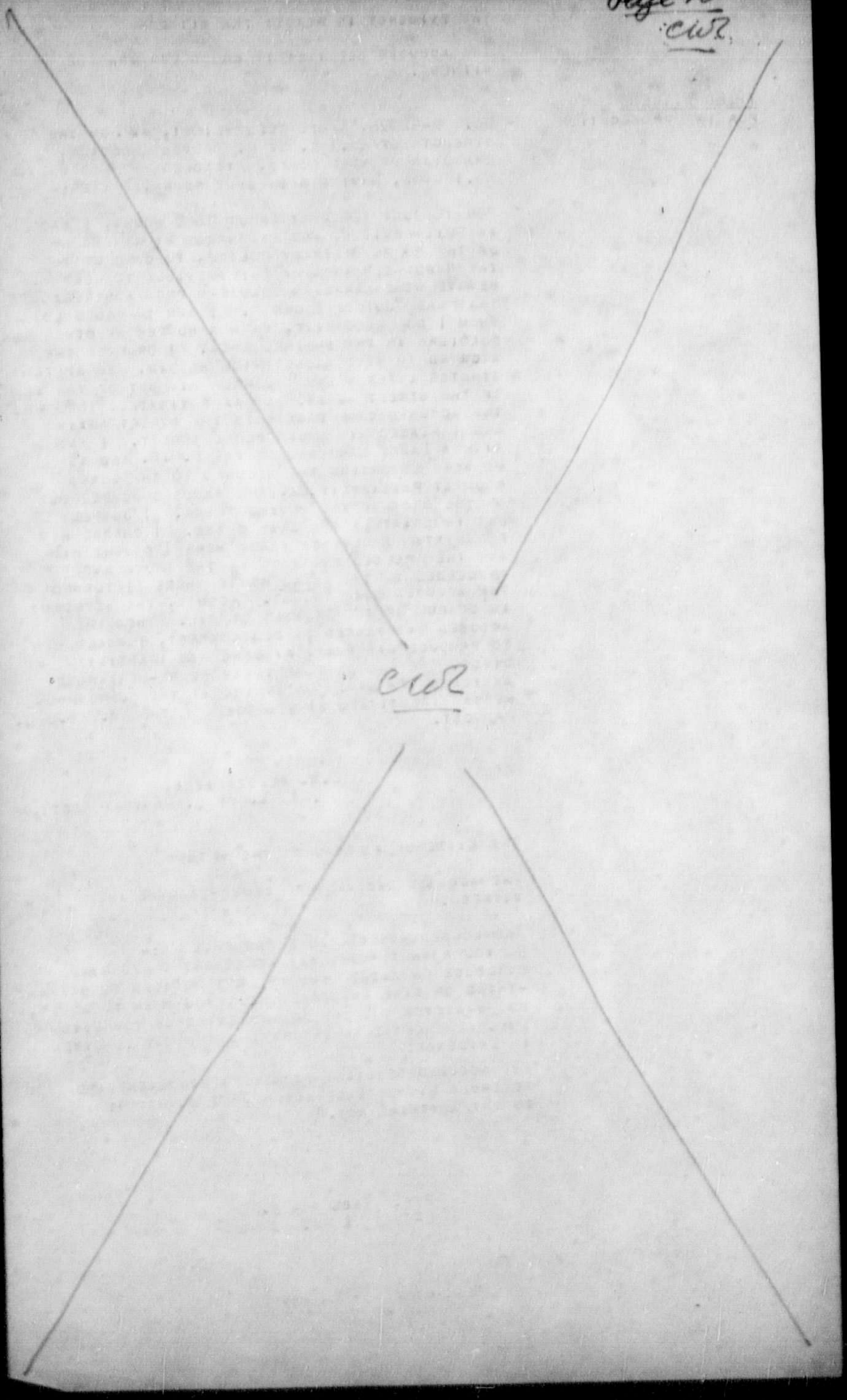
"H"

THE ACCUSED DECLINES TO CALL WITNESSES ON HIS OWN BEHALF.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF 3 PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED, AND THAT THE RULES OF PROCEDURE 4(C),(D),(E),(F) AND (G) HAVE BEEN COMPLIED WITH.

IN THE FIELD
20 JULY 1943.

B.M. BELL, LIEUT.
1 BN. 1 C.B.H.D.
OFICER DETAILED TO TAKE
SUMMARY OF EVIDENCE.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"H"

THE EVIDENCE IS READTO THE WITNESS

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS.

THIRD WITNESS
FOR THE PROSECUTION

NO. M-42088, L/CPL NEIDZWEIECKI, J.W. ON THE STRENGTH OF NO.1 L. OF C. PROVOST SECTION, CANADIAN PROVOST CORPS, ATTACHED TO HEADQUARTERS NO.1 CBRD, HAVING BEEN DULY SWORN, STATES:-

"ON 16 JULY 1945, AT ABOUT 1820 HOURS, I WAS IN PHILIPPEVILLE, AND WAS ASKED BY A MEMBER OF THE CORPS MILITARY POLICE, TO COME UP TO THE "BROTHEL" AREA OF PHILIPPEVILLE TO HELP REMOVE SOME CANADIAN SOLDIERS FROM A STREET THAT WAS "OUT OF BOUNDS". I SAW THE ACCUSED WHOM I NOW RECOGNIZE, WITH A NUMBER OF OTHER [illegible] SOLDIERS IN THE BROTHEL AREA. I ORDERED THE ACCUSED TO MOVE ALONG WHICH HE DID. ABOUT TEN MINUTES LATER I HAD TO ORDER HIM OUT OF THE END OF THE STREET AGAIN. AT APPROXIMATELY 1850 HRS THE ACCUSED CAME BACK INTO THE STREET AGAIN AND I PLACED HIM UNDER CLOSE ARREST. I WAS WITH A LANCE CORPORAL OF THE C.M.P. AND AS WE WERE ESCORTING THE ACCUSED TO THE GUARD ROOM AT PHILIPPEVILLE, THE ACCUSED JUMPED OUT OF THE BACK OF THE MOVING TRUCK. I JUMPED OUT IMMEDIATELY AND GAVE CHASE. I CHASED HIM FOR SIXTY OR SEVENTY YARDS WERE I CAUGHT HIM AND THEN PLACED HIM BACK IN THE TRUCK AND PROCEEDED TO THE GUARD HOUSE WHERE I TURNED THE ACCUSED OVER TO SGT. LECONTE, THE SERGEANT IN CHARGE OF THE PROVOST DETAIL. WHEN THE ACCUSED WAS PLACED IN CLOSE ARREST, I ASKED HIM TO PRODUCE HIS PASS, MY BOOK AND IDENTITY DISCS. HE HAD NONE OF THESE AFORE-MENTIONED ARTICLES WITH HIM. ON ARRIVAL AT THE GUARD ROOM HE WAS IDENTIFIED BY A MEMBER OF THE NO.2 L.OF C. PROVOST.

J.W. NEIDZWEIECKI,
NO. 1 L. OF C. PROVOST SECTION

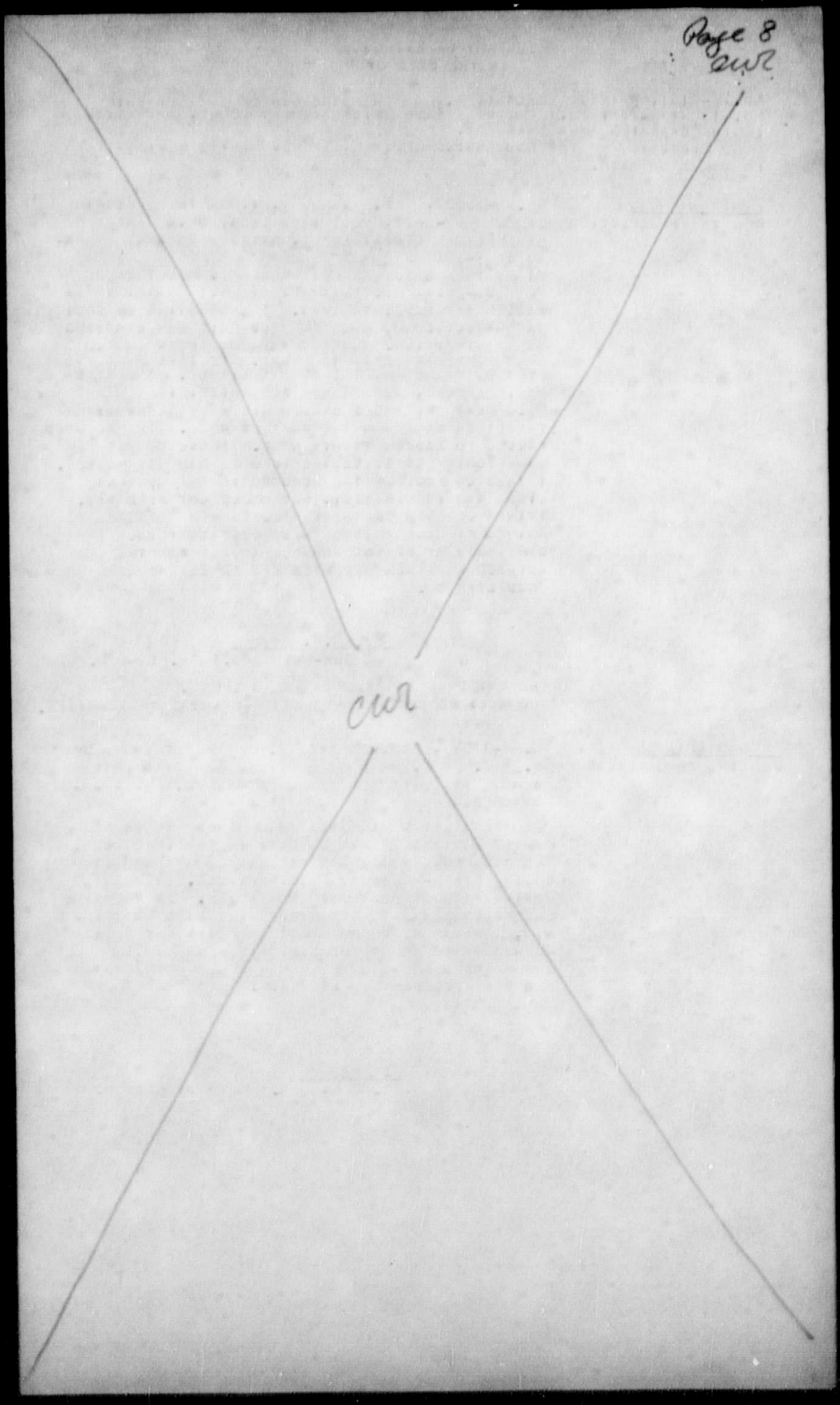
THE EVIDENCE IS READ TO THE WITNESS

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-
DO YOU WISH TO MAKE ANY STATEMENT OR TO GIVE EVIDENCE ON OATH? YOU ARE NOT OBLIGED TO SAY ANY-THING OR GIVE EVIDENCE UNESS YOU WISH TO DO SO, BUT WHATEVER YOU SAY OR ANY EVIDENCE YOU GIVE WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE.

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE SAYING," I DO NOT WISH TO SAY ANYTHING NOW."

PTE. LEBLANC, A.
E-4141 1 BN. 1 CBRD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"H"

Page 7
CWR

SUMMARY OF EVIDENCE
IN THE CASE OF

No. E-4141, PRIVATE LEBLANC, A., ON THE STRENGTH OF "C" SUB-UNIT No. 1 BATTALION, No.1 CANADIAN BASE REINFORCEMENT DEPOT, A SOLDIER IN THE CANADIAN ARMY OVERSEAS.

BY DIRECTION OF THE COMMANDING OFFICER, THE SUMMARY OF EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS
FOR THE PROSECUTION

No. E-23597, SGT. SAVARD, D.H., ON THE STRENGTH OF "C" SUB-UNIT, NO.1 BATTALION, NO.1 CANADIAN BASE REINFORCEMENT DEPOT, HAVING BEEN DULY SWORN, STATES:-

"I AM THE PLATOON SERGEANT OF NO.4 PLATOON OF "C" SUB-UNIT, NO.1 BATTALION, NO.1 CANADIAN BASE REINFORCEMENT DEPOT. I WAS ACTING AS SUCH ON 14 JULY 1943, WHEN "C" SUB-UNIT WAS CARRYING ON ITS TRAINING. MY COMPANY COMMANDER CALLED A COMPANY PARADE AT 1500 HRS. AT THIS PARADE, AS PLATOON SERGEANT, I CALLED THE ROLL. THE ACCUSED PTE. LEBLANC, WHOM I NOW RECOGNIZE, IS A MEMBER OF NO.4 PLATOON, AND I CALLED HIS NAME ALONG WITH THE OTHER NAMES ON THE PLATOON ROLL. THE ACCUSED FAILED TO ANSWER TO HIS NAME. I CALLED HIS NAME AGAIN BUT STILL THE ACCUSED DID NOT ANSWER. I THEN LOOKED FOR THE ACCUSED IN THE COMPANY LINES AND IN HIS TENT, BUT COULD NOT FIND HIM. I THEN LEARNED THAT THE ACCUSED WAS SUPPOSED TO HAVE LEFT CAMP AND TO HAVE GONE TO TOWN. I CONTINUED MY SEARCH UNSUCCESSFULLY FOR THE ACCUSED AND THEN REPORTED HIS ABSENCE TO THE COMPANY ORDERLY ROOM.

SGT. D.H. SAVARD
"C" SUB-UNIT NO.1 BN. 1 CBRD.

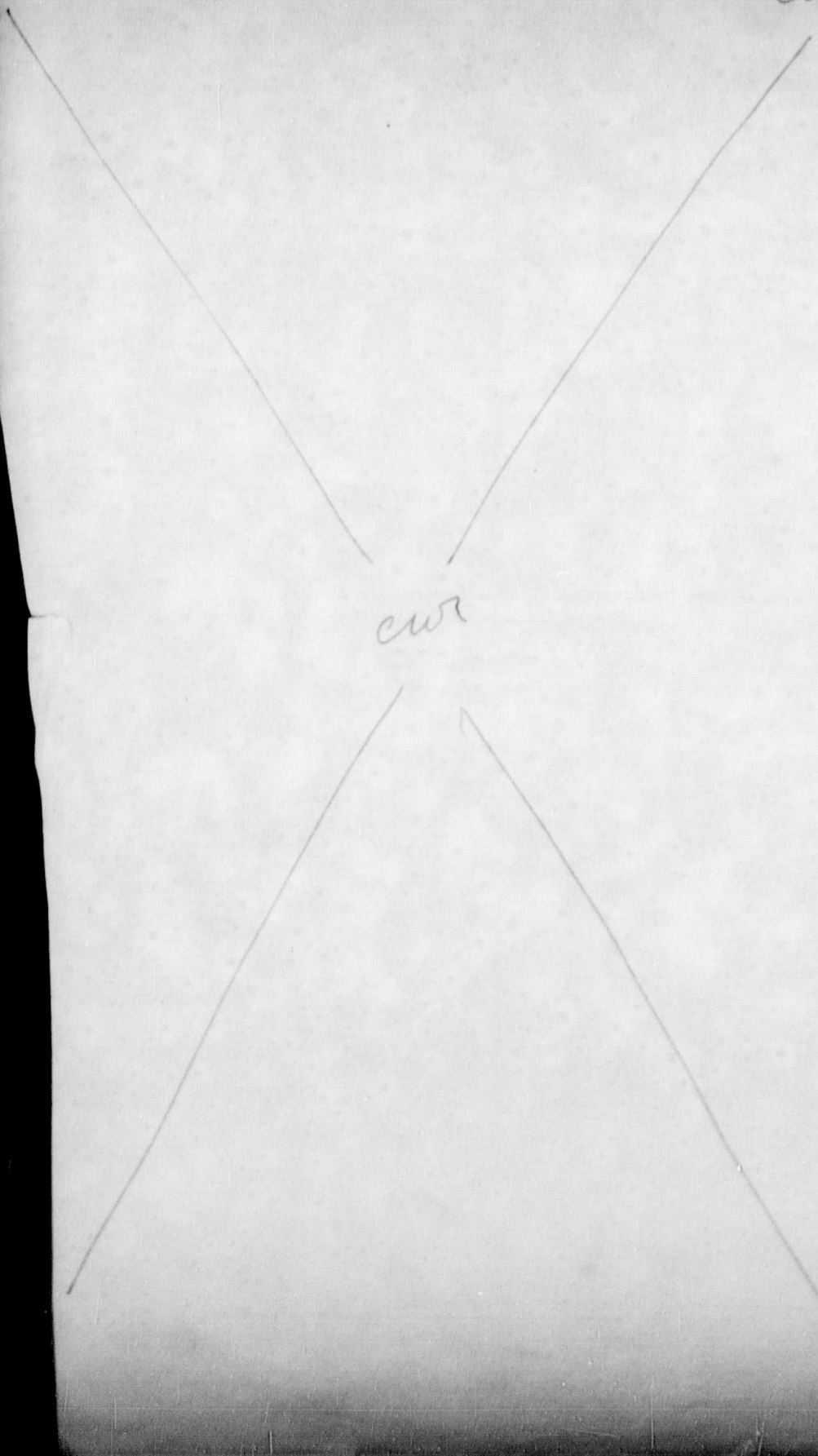
THE EVIDENCE IS READ TO THE WITNESS.
THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

SECOND WITNESS
FOR THE PROSECUTION

No. A-11073, SGT. LECONTE, E. ON THE STRENGTH OF NO. 2 L. OF C. PROVOST SECTION, CANADIAN PROVOST CORPS, ATTACHED TO HEADQUARTERS, No.1 C.B.R.D. HAVING BEEN DULY SWORN, STATES:-

"ON THE NIGHT OF 16 JULY 1943 I WAS IN CHARGE OF THE PROVOST DETAIL ON DUTY IN PHILIPPEVILLE. THE ACCUSED, WHOM I NOW RECOGNIZE, WAS BROUGHT TO THE GUARD-HOUSE AT PHILIPPEVILLE, BY THE ROVING PATROL, AT ABOUT 1900 HOURS. AT THE TIME THE ACCUSED HAD NO IDENTIFICATION DISCS WITH HIM, NOR WAS HE IN POSSESSION OF HIS PAY BOOK. HE HAD NO MEANS OF IDENTIFICATION ON HIM. HE HAD NO PASS AND I ORDERED HIM TO BE DETAINED AND ESCORTED BACK TO HIS UNIT.

E. LECONTE
No. 2 L. OF C. PROVOST SECTION.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"M"

Statement in mitigation of punishment made by the Defending Officer.

"I would like to point out that at the time this man committed the crime with which he is charged he had only been in this country a few days and did not know that the local wine would hit him as it did. He had been used to drinking English beer with no experience of becoming drunk. He began drinking on the morning of the day he went absent ie 14 Jul 43 and kept drinking all day and evening until apprehended by the police and did not know what he was doing."

Page 20

Statement in mitigation of punishment made by the Defending Officer.

Page
C W Campbell
Maj

"I would like to point out that at the time this man committed the crime with which he is charged he had only been in this country a few days and did not know that the loc wine would hit him as it did. He had be used to drinking English beer with no experience of becoming drunk. He began drinking on the morning of the day he went absent ie 14 Jul 43 and kept drinking all day and evening until apprehended by the police and did not know what he was doing"

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans _____

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans _____
Q. Do you intend to call any other witness in your defence? Ans _____
Q. Is he a witness as to character only? (R.P.40(B)) Ans _____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans _____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2. A.F.A.7)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.46); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

~~PAGE 1~~ CWSR

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto. explained in French to the accused by his Defending Officer

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans no

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)) marked as "H"

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans I wish the defending officer to make a statement for me

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto) No cross-examination) marked as "M"

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans no

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296), Temporary and Field Conduct Sheet (M.F.M.6) ~~X~~ signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked ~~A~~ CWSR "K", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131) not MFM 6 not available and a certified copy of MFM 4 substituted and marked "J"

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans no (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

C.H. Campbell Major
(Signature of President)

The Prosecuting Officer informs the Court that the accused ~~has~~ CAC (has not) elected trial by Court Martial (A.A.46(8))

~~(A special plea/s is/are made for separate trial on one or more charges (Rs P 62(2), 103); or as to the Jurisdiction of the Court (R.P.34); or in bar of trial (R.P.~~ CAC ~~; or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.~~

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Guilty
Second Charge Guilty
Third Charge Guilty
Fourth Charge Guilty
Fifth Charge CAC
Sixth Charge CAC
Seventh Charge CAC
Eighth Charge CAC

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

2nd

Page 23

~~PAGE 1~~ CWR

Accused E41141 (Number) Pte (Rank) Augustin Lefebvre (Christian Names) Surname) 1Bn ICBRD (Unit)

Held in the Field in N Africa (Country) on 26 Jul 43 (Date)

	Rank	Name	Unit
PRESIDENT:	Major	CH Campbell	2nd Bn ICBRD
MEMBERS:	Captain	GF Amy	2nd Bn ICBRD
	Lieut	JL McCulloch	2nd Bn ICBRD
JUDGE ADVOCATE: (If any)	Lieut	NH HSL Peterson	CIC
OFFICERS UNDER INSTRUCTION:	Captain	CT Billingsley	CDC
	Lieut	JS Hunter	CAC
	Lieut	RJ Painton	CAC
	Lieut	LB Isaac	RCA
PROSECUTING OFFICER:	Lieut	RM Bell	Lawyer? Ans yes
DEFENDING OFFICER:	Lieut	C Chatillon	Lawyer? Ans no

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(2), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(~~s~~) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the Accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (~~are~~) brought before the Court, and at 1530 hrs hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to Lieut C Chatillon as interpreter? Ans NO

The interpreter is duly sworn.

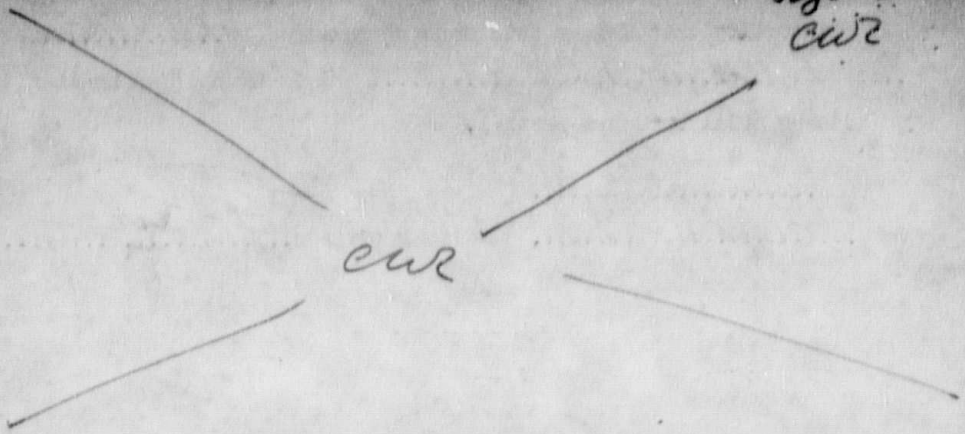
Do you object to NA as shorthand writer? NA

~~The shorthand writer is duly sworn.~~ (Forms of Oath on Page 'D') CWR
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans no

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(~~s~~) is (~~are~~) initialled by the President. CWR CWR

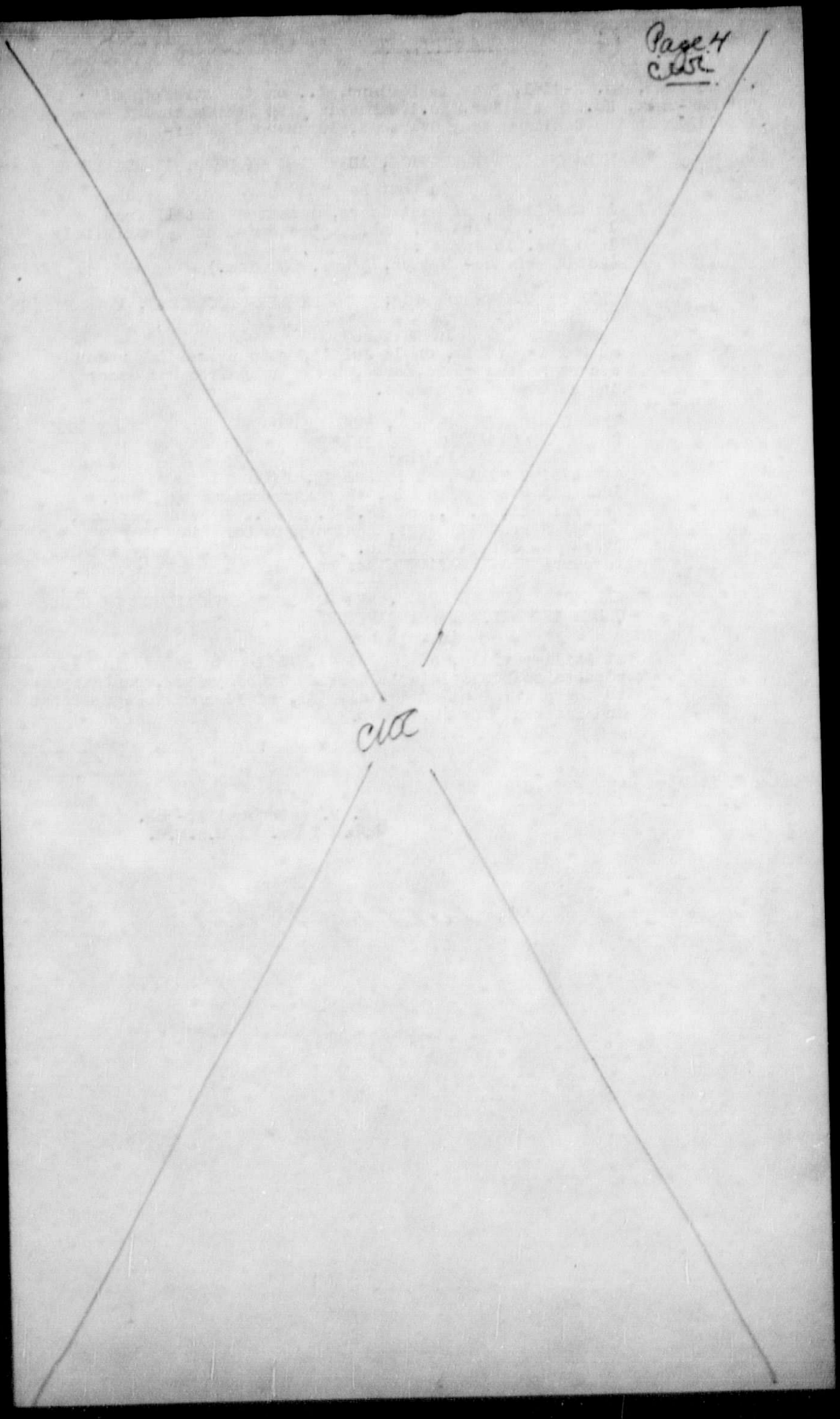

CWR

Page 5 MEDICAL CERTIFICATE (K.R. (CAN)557) C W Campbell major

I certify that I have this morning examined No. E:4141 Pte Leblanc A of "C" Sub-Unit ex. 1 Bn. 1 C.B.R.D. ..... and in my opinion he is fit to undergo trial by Court Martial.

Station In the field

Date 26 Jul 43 Medical Officer G H Evey Capt.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Page 3 "G" CHARGE SHEET C Campbell Major

The accused, No. E-4141, Private Leblanc, A., on the strength of "C" Sub-unit, No.1 Battalion, No.1 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, is charged with:-

First Charge
Army Act
Sec. 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, without leave, absented himself from 1500 hrs. 14 Jul 43, until apprehended at approximately 1850 hrs. 16 Jul 43.
(Total absence- 2 days, 3 hrs. 50 mins.)

Second Charge
Army Act
Sec. 22

WHEN ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY, ATTEMPTING TO ESCAPE

in that he

at Philippeville, on 16 Jul 43, when proceeding under escort to the guard house, broke away from his escort and attempted to escape.

Third Charge
Army Act
Sec 40

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Philippeville, on 18 Jul 43, failed to have his identity discs with him, when apprehended by L/Cpl. Neidzwiecki, J. W., of No.1 L. of C., Provost Section, Canadian Provost Corps, contrary to Canadian Army Overseas Routine Order No. 3375, directing every soldier to carry two identity discs on a cord around his neck.

Fourth Charge
Army Act
Sec 40

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Philippeville, on 18 Jul 43, failed to retain in his possession his Soldier's Service And Pay Book, contrary to the provisions of Article 581, of Financial Regulations and Instructions (Overseas.)

Dated this 23rd day of July, 1943.

(W. P. Bristowe) Lt-col.
O.C. 1 Bn. 1 C.B.R.D.

To be tried by F.G.C.M.

24 Jul 43

G Kelly Basher Colonel
Commandant, 1 Can Base Reinforcement Depot

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E4141, Pte. Leblanc, A.	FIRST CHARGE A.A. Sec. 15(1) When on Active Service absenting himself without leave.	Guilty	Guilty	I confirm the findings and sentence of the Court. G Kelley Basher Colonel Commandant, 1 Cdn Base Reinforcement Depot
	SECOND CHARGE A.A. Sec. 22 When on Active Service When in Lawful Custody attempting to Escape.	Guilty	Guilty	
	THIRD CHARGE A.A. Sec. 40 When on Active Service Neglect To the Prejudice of Good Order and Military Discipline in that he failed to have his Identity Discs with him.	Guilty	Guilty	
	FOURTH CHARGE A.A. Sec 40 When on Active Service Neglect to the Prejudice of Good Order and Military Discipline in that he failed to retain in his possession his Soldier's Service and Pay Book	Guilty	Guilty	

Sentence one hundred and eighty days detn 26 Jul 43

FULL DETAILS OF CHARGE ON CHARGE SHEET annexed as Appendix "G"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) G Kelley Basher Colonel Commandant, 1 Cdn Base Reinforcement Depot — Commanding Convening Officer (e)

(Signed) C W Campbell Major 2nd Bn 1 CBRD President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Page 24 CWC

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of July 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~ CWC
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 27th day of July 1943

C W Campbell Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~*See footnote (i) on page 102 M.M.L. 1929.~~

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~CWC~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 28th day of July 1943

G Kelley Basher
Confirming Officer Colonel
Commandant, 1 Cdn Base Reinforcement Depot

on parade

Promulgated and extracts taken in the case of

(a) (Dated) 29th July 43. (Signed) [illegible] Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here.

A-21

E4141, Pte. Leblanc, A.
1 Bn., 1 C.B.R.D.
In the Field.

KK-29

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty third day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of No. 1 Canadian Base Reinforcement Depot., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C. H. Campbell	2 Bn., 1 C.B.R.D.

Members.

Rank.	Name.	Regiment.
Captain	G. F. Amy	2 Bn., 1 C.B.R.D.
Lieut.	J. L. McCulloch,	2 Bn., 1 C.B.R.D.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G. Murray Barker Colonel
Commandant, 1 Can Base Reinforcement Depot
Convening Officer.

KK-79 (AFRICA)

PTE LEBLANC A.

LIST OF WITNESSES in the case of C-2331 Pte. LeBlanc, A.

WITNESSES FOR THE PROSECUTION

P-30328	RSM	RYAN, S.W.	-No. 18 Cdn Gen Hospital, RCAMC - Colchester, Essex.
C-29512	CSM	KERR, J.R.	-No. 18 Cdn Gen Hospital, RC/MC - Colchester, Essex.
M-46713	Sgt.	MILLER, M.J.	-No. 18 Cdn Gen Hospital, RC/MC - Colchester, Essex.
M-36720	Cpl.	DEVIN, H.H.	-Patient in No. 22 Cdn Gen Hospital -Bramshott, Surrey. Unit - RCAMC SOS 1 CCRU ("Y" List)

WITNESSES FOR THE DEFENCE

.....NIL.....

[redacted]

p/ REGISTRAR,
No. 18 CANADIAN GENERAL HOSPITAL
R.C.A.M.C., C.A. (O.S.)

The accused was then cautioned:

"Do you wish to make any statement,or to give evidence on oath? You are not obliged to say anything,or give evidence unless y u wish to do so,but whatever you say,or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make any statement.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused; and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

29 Mar 45

(F.C. Fuse),Major,R.C.A.M.C.
No. 18 Cdn Gen Hospital.

SUMMARY OF EVIDENCE IN THE CASE OF

13

C.2331 Pte. LEBLANC, A., RCAMC

By direction of the Commanding Officer, No. 18 Canadian General Hospital, the evidence is taken on oath.

FIRST WITNESS

P-30333 R.C.N. (WOI) RYAN, D.W., having been sworn, states: "I am P-30333 R.C.N. (WOI) Ryan, D.W. presently employed as R.C.N. No. 18 Canadian General Hospital. At this hospital on 12 March 45 at about 1330 hours, I inspected the prophylactic room and found the room untidy with dirty gauze and used prophylactic tubes on the shelf, which I removed and threw on the floor. I found the accused and ordered him "clean the prophylactic room this afternoon". On 16 March 1945 acting on report received, I again inspected the prophylactic room and found the same debris as I had thrown on the floor on the 12th inst. That is all Sir."

(D.W. Ryan), R.C.N.
No. 18 Cdn Gen Hospital

The accused declines to question the witness.

SECOND WITNESS

C-29612 C.P.O. (WOII) KERR, J.H., having been sworn states: "I am C-29612 C.P.O. (WOII) Kerr, J.H., presently employed as chief wardmaster, 18 Canadian General Hospital. At t is Hospital on 15 March 45, at about 1000 hrs., I inspected the prophylactic room in the course of my duties. I found it in a most untidy condition; i.e. the sink was dirty and there was cotton wool lying on the floor. I reported what I found to R.C.N. Ryan."

(J.H. Kerr), C.P.O.
No. 18 Cdn Gen Hospital

The accused declines to question the witness.

THIRD WITNESS

M-68713 Sgt. Miller, H.J., R.C.A.M.C. having been sworn states:

"I am M-68713 Sgt. Miller, H.J. presently employed on regimental duties at 18 Canadian General Hospital. At this Hospital on 14 March 45 at about 1600 hrs I inspected the prophylactic room in the course of my duties and found cotton wool, broken prophylactic tubes and other debris lying on the floor. It was the duty of the accused to keep this room clean and I had previously instructed him to do so. That is all Sir."

(H.J. Miller) Sgt.,
No. 18 Cdn Gen Hospital

The accused declines to question the witness.

TH WITNESS

M-30720 Cpl. Irwin, R.N., R.C.A.M.C. having been sworn states: "I am M-30720 Cpl. Irwin, R.N. presently employed at 18 Canadian General Hospital as Sanitary Corporal. At this hospital on about 20 Jan 45 in company with RCN Ryan and Sgt. Miller I took the accused to the prophylactic room and other rooms and the RCN showed him his duties there. Among these duties was that of keeping the prophylactic room clean."

(R.N. Irwin) Corporal
No. 18 Cdn Gen Hospital.

The accused declines to question the witness.
The accused declines to call witness in his defence.

E

The court is closed.

After deliberation the court does not feel satisfied that a prima facie case was sufficiently established and did not think that the case made by the prosecution warranted the accused being put on his defence. The decision of the court was announced to the accused findings of not guilty were recorded and the accused was ~~so informed and~~ released.

J.N. Ross
Major, RCA
President
11 Apr 1945

J.N. Ross

Question by Court

Question - Did you at any time give an order to the accused to clean the prophylactic room?

Answer - Several times.

Question - Did you on 12 May 1945?

Answer - No sir.

Question - Did you visit the room on 12 May?

Answer - No sir.

(C 4)

a day or so before the 15 Mar and I inspected it daily.

Cross Examination

Question - Have you any means of telling the room was dirty prior to 1000 hours?

Answer - No Sir.

Questioned by the Court.

Question - On the 12 Mar did you or did you not visit the room in question?

Answer - No Sir.

Question - Are you quite sure it was cotton wool on the floor that is absorbent cotton?

Answer - Yes sir.

Third Witness for prosecution - Sam K 68713 Sgt. H. J. Miller 18 Cdn General Hospital employed on regimental duties. I inspected the prophylactic room on 14 Mar at approximately 1600 hours. I found cotton wool and prophylactic tubes laying on the floor.

Questioned by Court

Question - If you didn't visit the room can you be sure that he did not clean the room?

Answer - I cannot but they appeared to be the same articles on the floor the morning of the 18.

Question - If the room is in use could the gauze etc found on the morning of 15 be freshly accrued in three days?

Answer - Yes sir.

R.P. 13(B) complied with.

Second Witness - for prosecution. Sam C29512 Q.M.S. J.R. Kerr
Chief wardmaster of 18 Cdn
General Hospital R.C.A.M.C.

At approximately 1000 hours on 15 Mar I inspected the prophylactic room in the course of my duties and found it very untidy. The sink was dirty and cotton wool all over the floor. I reported same to R.S.M. Ryan. The prophylactic room came under my supervision

(C 2)

the company of Sgt. Miller the orderly Sergeant and Corporal Irwin the sanitary corporal outlined his duties, which was to keep the room clean.

Cross Examined by defending officer

Question - Are you sure that on the 12 April you gave the order to the accused?

Ans - Yes sir I did.

Question - Did you visit the room later that afternoon?

Ans - No sir.

Question - What did you see on the floor?

Ans - I saw dirty gauze, tubes and paper.

Question - Four days later are you sure the same things were on the floor?

Ans - Similar articles.

Question - Any man is privileged to use the room at any hour of the day?

Ans - Yes sir.

(C)

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Ans No sir.

No opening address. proceed to call witnesses.

First Witness for prosecution. I am P30328 R.S.M. S.W. Ryan of 18 Cdn General Hospital R.C.A.M.C.. On the 12 Mar 1945 I employed as R.S.M. at approximately 1330 hours inspected the prophylactic room. I found considerable refuse consisting of gauze and paper, which I removed from the shelf and threw on the floor. I went from the room and met the accused, whom I recognize, on the parade square and directed him to clean the room that afternoon and to make sure it was cleaned, I had on previous occasions given the accused the same orders. On the 20 Jan in

B.

The President Members are duly sworn

The following officer under instruction is duly sworn.

Lieut (Bart) M. J. Ashby.

Charge Shot.

Are you guilty or not guilty of the first charge which you have heard read. Not guilty sir.

Are you guilty or not guilty of the second charge which you have heard read Not guilty

A.

Proceedings of a Field General Court Martial held in the Field 11 day of April 1945 by order of Major General C. G. Weeks in charge of Administration C.M.H.Q. dated 11 April 1945

President

Major J. V. Ross R.C.A. 2 CARU.

Members

Capt A. G. Denison R.C.A.M.C. 18 Cdn Gen Hosp. RCAMC

Capt G. J. A. Kirkpatrick RCAMC 18 Cdn Gen. Hosp. RCAMC.

Defending Officer Lieut R. A. Cloutier Gen List

Prosecuting Officer Capt. G. H. T. McInerney C.S.C. (5 Infantry)

Do you object to be tried by me as president or by any of the officers whose names you have read over? No sir.

(31)

"F"

MED ICAL OFFICER'S REPORT

"I hereby certify that I have this day examined G-2331 Pte. LeBLANC, J., and in my opinion he is fit to undergo trial by court martial."

Medical Officer

Cherry Tree, Colchester, Essex.

11 Apr 45.

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-2331	Pte		Alban	LeBLANC	18 Cdn Gen Hosp, RCAMC

CONVENING ORDER.

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

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

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

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. This Order supersedes Convening Order signed by me on 4 Apr 45 which is hereby cancelled.

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J. V. ROSE	RCA	2 CARU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	A. G. DENISON	RCAMC	18 Cdn Gen Hosp RCAMC
Capt	G.J.A. KIRKPATRICK	RCAMC	18 Cdn Gen Hosp RCAMC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Lieut	J. CLUBB	RCAMC	1 CGRU att; 18 Cdn Gen Hosp RCAMC

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(EG Weeks) Major-General (Signed personally. RP 105 fn 2.) (Rank.)

In Charge of Administration

Dat 10 Apr 45

~~[illegible]~~ CANADIAN MILITARY HEADQUARTERS

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

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

Approved

(K.G. Morden) Lt.Col.

ADJAG CMSQ

10 Apr 45

B2

THE ACCUSED ELECTS TRIAL BY COURT MARTIAL

14

CHARGE SHEET

The accused, No. C-8351 Pte. Alben LaBlanc, No. 18 Canadian General Hospital, RCAMC, a soldier in the Canadian Army is charged with:-

1st Charge
Section 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

At Cherry Tree Camp, Colchester, Essex, on the 12th March 1945 did fail to clean in a satisfactory manner the Prophylactic Room when ordered so to do by P-30338 Regimental Sergeant Major (WOI) Ryan, R.S.

Alternative Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Cherry Tree Camp, Colchester, Essex, on the 12th March 1945 after being duly warned by P-30338 Regimental Sergeant Major (WOI) Ryan, R.S. to clean the prophylactic room neglected to do so

IN THE FIELD

29 March, 1945

(C.M. Spooner) Colonel,
Officer Commanding,
No. 18 Can Gen Hospital, RCAMC.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(EG Weeks) Major-General
In Charge of Administration,
CANADIAN MILITARY HEADQUARTERS
Convening Officer

IN THE FIELD
10th Apr 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

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

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(3) fn 3 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement.* 2. *Delete whichever part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and recording an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

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

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

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

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-586, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9(2)	Not guilty	Not guilty	
2nd Alternative A.A.40	Not guilty	Not guilty	
3rd			
4th			
5th			
6th			

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

At present under sentence for 13 ~~CR~~ beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 16(A). Information should be found on MF B355 or AF B296.)

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

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

Sentence Awarded by the Court :

(Sgd) ..... 11 April 1945 (Sgd) ..... J. V. Rose Major RCA.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

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

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

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

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5C-51

CPA86 (To take place of APA81) 40/P & B/1698 (40/01) 4/38B

FIELD GENERAL COURT-MARTIAL

Convening Order : In Charge of Administration dated 10 Apr 45

Convening Officer : Maj.-Gen. E.G. Weeks, CANADIAN MILITARY HEADQUARTERS

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-2331	Pte	---	Alban	LEBLANC	18 Cdn Gen Hosp, RCAMC.

PROCEEDINGS REVIEWED
12 Apr 45
[illegible] Capt
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) N.W. Europe on (date(s)) 11 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

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

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

A5. President to accused : ~~Do you object to ..... as interpreter~~ ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....
The shorthand writer is sworn.(1)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

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

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

President	Major	J. V. ROSE RCA	2 CARU
Member	Capt.	A. G. DENISON RCAMC	18 Cdn Gen Hosp RCAMC
Member	Capt.	G.J.A. KIRKPATRICK, RCAMC	18 Cdn Gen Hosp RCAMC.
Judge-Advocate			
Prosecutor	Capt.	G.H.J. McINERNEY, CIC	5 Seaforths
Defending Offr	Lieut.	R. A. CLOUTIER	Gen List.

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (1)

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

A8. The accused before arraignment make(s) (no) ~~a~~ plea

..... (1)

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

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

32-51

Ste. LeBlanc, A.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	In the Field	2 charges 15 (1) 1 charge 24 (2)	100 days detn and placed under stop of pay in the amount of £ 4-6-11¢	N I L

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of February 1944

G. Beaudry Capt, Adjt,
(G. BEAUDRY) Capt, Adjt,
R de C haud.

Exhibit B [illegible] Pres

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
E-30210	Pte	LEBLANC, ANDRE	Le Regiment de la Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 4 times.

For A.A. Sec 40 3 times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 1 Sep 40

Date of last entry in Field Conduct Sheet 1 July 43

2. Previous convictions of the accused by a court martial ~~[illegible]~~ are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for 6 days in military custody, *i.e.*, no days in open arrest, 6 days in close arrest; of which no days were spent in hospital.

5. The present age of the accused is 27 years 11 months

6. The date of his attestation is 15 Aug 40

7. The service which the accused is allowed to reckon is 3 years

‡State the military decorations (if any) held by accused.

8. ~~[illegible]~~

9. ~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A. & E. W. Ltd. Gp.698
(22459) Wt.29258/1873 50,000 9/42 " " Forms/B.296(War)/2

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	8 Aug 43	Pte		1) AA Sec 15(1) AWL from 0600 hrs 8 Aug 43 until 0600 hrs 23 Sep 43. Total absence: 45 days, 23 hrs, 30 mins.					
In the Field	30 Sep 43	Pte		2) AA Sec 15(1) AWL from 2330 hrs 30 Sep 43 until 18 hrs 8 Jan 44. Total absence: 99 days, 18 hrs, 30 mins.					
In the Field	2 Feb 44	Pte		3) AA Sec 15(1) AWL from 1745 hrs 2 Feb 44 until 1655 hrs 19 Feb 44. Total absence: 16 days, 23 hrs 10 mins.		18 months Detention	29 Feb 44	Brigadier Commanding 8 Cdn Inf Bde	
In the Field	21 Feb 44	Pte		4) AA Sec 24 (2) losing by neglect part of his equipment, clothing and Regt'l necessaries in that he, in the Field on 21 Feb 44 was found deficient of articles to the amount of £6-10-10 1/4					

Certified true copy of the Regt. books in my custody. 1 Mar 44
Co. Boundary, Capt. Adjt.

No E 30210 Name Leblanc A. Sqn, Battery, or Company C Corps Date of enlistment 15 Aug 40 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Two | Signature OC Company, etc | Character

E Sergny Mayr

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	16 June 43	Pte		(1) AA Sec 15(1) AWL from 0800 hrs 16 June 43 to 1445 hrs 30 June 43 (Total abs: 14 days 6 hrs 45 mins)	Tried by FGCM 2 Aug 43	100 days detention and placed under Stop. of pay in the amount of £4-6-11½ Total forfeiture of pay 147 days pay and stop. of £4-3-11½ under FR & I 158(1) loss of govt prop. and £0-3-4 under FR & I 158(1) costs of app	2 Aug 43	Confirmed by Rdc Comd 8 C/B	J B Rousseau Capt Adjt
	[illegible] 43			(2) AA Sec 15(1) AWL from 2300 hrs 1 July 43 to 2300 hrs 26 Sept 43 (Total abs. 75 days 30 mins).					
				(3) AA Sec 24(1)					

Certified true copy of regimental books in my custody – 5 Feb 44.
G. Beaudry, Capt – Adjt

(PTO)

Place	Date of offence	Rank	Cause of Imitation	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	17 Nov 42	Pte		W.O.A.S. Conduct to the prejudice of good order and military discipline, in that he, in the Field was improperly dressed on morning parade on the 17 Nov 42 A.A. Sec 40	Capt G Savoie CSM Pare	14 Days C.B.	17 Nov 42	Lt Col Power G.	
In The Field	22 Nov 42	Pte		W.O.A.S. AWL from 1400 hrs 22 Nov 42 till 1845 hrs 30 Nov 42 (Total abs: 8 days 4 hrs 45 mins) A.A. Sec 15 (1)	L Sgt Gaden L/Cpl Cabot	Forfeiture 14 Days Pay	7 Dec	Major P. Mathieu	Forfeits 8 Days Pay F.R.T
In The Field	17 Jan 43	Pte		W.O.A.S. AWL from 1800 hrs 17 Jan 43 until 0220 hrs 2 Feb (Total abs: 16 days 4 hrs (A.A. Sec 15)	Cpl Cheeme Arsenault	27 Days F.P.	16 Feb 43	Capt G Savoie	Forfeits 17 Days Pay
In The Field	4 June 43	Pte		W.O.A.S. AWL from 2300 hrs 4 June 43 until 1800 hrs 5 June 43 absent 20 hrs A.A. Sec 15 (1)	Cpl G Mathieu	3 Days C.B.	7 June 43	Capt G Beaudry	Forfeits one day's pay

Exhibit C [illegible] Sheet destroyed 15 Aug 42

No E 30210 Name Leblanc O. Sqn, Battery, or Company C Corps Date of enlistment 15 Aug 40 GC Badges Nil Service or Proficiency Pay

MFM 6 (AFB 122) 40/P4/S/136 (3438)

Date of last entry in Company Conduct Sheet 17 July 42 No and date of last drunk Nil Period not reckoning towards freedom from extra fine Nil Sheet No Two Signature OC Company, etc S Savigny Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	23 Aug 42	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he in the Field left the Church Parade 23 Aug 42 (AA Sec 40)	Sgt. Drapeau	7 Days CB	26 Aug 42	Capt D. Savigny	
In the Field	15 Sep 42	Pte		W.O.A.S. An act to the prejudice of good order and military discipline in that he in the Field on Sept 15 42 failed to clean his rifle properly (AA Sec 40)	CSM Pare	3 Days CB	15 Sep 42	Capt J Pelletier	
In the Field	18 Sep 42	Pte		WOAS. AWL from 1200 hrs 18 Sep 42 to 1645 hrs 18 Sep 42 (Total abs) 4 hours 45 mins (AA Sec 15)	CSM Pare Cpl Arsenault E.P.	3 Days C.B.	20 Oct 42	Capt D. Savoie	

(PTO)

Qty	Designation	Scale Price	75%
2	Strap, shoulder, haversac, left & right	£ 0 2 10	£ 0 2 1½
1	Strap, supporting web	0 0 7	0 0 5
1	Respirator anti-gas (light) complete	1 0 11	0 15 8¾
2	Ointment Anti-gas tins	0 1 4	0 1 0
1	Eyeshilds, anti-gas, pks	0 2 0	0 1 6
1	Bottle, oil	0 0 3	0 0 2
1	Pull-through, single	0 0 6	0 0 4½
1	Sheet, ground	0 13 2	0 9 10½
1	Mug, drinking	0 0 7	0 0 5
2	Vests, cotton, gym	0 3 2	0 2 4½
	TOTAL	£ 8 17 7	£ 6 10 10½

The accused declines to cross-examine this Witness.

(E.10251 C.Q.M.S. Leclerc, A.)
"C" Coy, R de Chaud.

5th Witness: Capt J.A. Morin, Q.M. R de Chaud having been duly sworn, states:

I certify that the prices enumerated above by C.Q.M.S. Leclerc, A. are correct and comformed to the scale of clothing and equipment prices.

The accused declines to cross-examine this Witness.

(J.A. MORIN) Capt., Q.M.,
R de Chaud.

QUESTION TO THE ACCUSED (In accordance with ORO 1424)

Desirez-vous faire une declaration ou rendre temoignage sous serment? vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez, mais tout ce que vous direz ou toute deposition que vous ferez sera pris par ecrit et pourra servir de preuve.

ANSWER BY THE ACCUSED

Non Monsieur, je reserve ma defence (No Sir, I reserve my defence.

(E-30210 Pte Leblanc, A.)
R de Chaud.

I hereby certify that this additional Summary of Evidence consisting of 3 pages has been taken down in writing in the presence and hearing of the accused and that O.R.O. 1424 and Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

Signed in the Field
This 24th day of Feb 44.

(JULES PELLETIER) Capt.,
Officer detailed to take this additional Summary of Evidence.

Owing to the exigencies of the Service, the expense and loss of time involved, the attendance of this Witness cannot, in my opinion be readily procured.

The accused do not wish the presence of this Witness for the purpose of cross-examination.

(JULES PELLETIER) Capt.,
Officer detailed to take this additional summary of Evidence.

4th Witness: E-10231 CQMS Leclerc, A. "C" Coy R de Chaud, having been duly sworn, states:

I am E-10231 CQMS Leclerc, A. "C" Coy R de Chaud. During the month of August 43, I was acting as C.Q.M.S. of "C" Coy R de Chaud. After E-30210 Pte Leblanc, A., whom I identify as the accused, had been convicted by F.G.C.M., I completed his kit around the 7th of August 43 according to what, Leblanc, A. had been found deficient as per findings of the F.G.C.M. Then Pte Leblanc, A. escaped. As at that moment I could not complete Leblanc's kit entirely, I made the final completion of his kit at the end of September 43 when E-30210 Pte Leblanc, A. being arrested, was back at the unit.

On 21 Feb 44, I made the Kit inspection of E-30210 Pte Leblanc, A. and found him deficient of the following articles:

Qty	Designation	Scale Price			75%		
		£			£		
1	Anklets web, pr	0	4	5	0	3	3¾
1	Boots, ankle prs	1	4	5	0	18	3¾
2	Drawers cellular short	0	3	10	0	2	7½
1	Drawers woollen prs	0	10	9	0	8	0
1	Gloves, knitted drab pr	0	2	1	0	1	6¼
1	Jersey, pullover	0	8	0	0	6	0
2	Shirts, angola, drab	0	18	2	0	12	1½
1	Shoes, canvas, prs	0	2	11	0	2	2
2	Vests, woollen	0	10	9	0	8	1
1	Socks, woollen, prs	0	1	8	0	1	3
1	Badge, cap	0	0	4½	0	0	3½
3	Badge, shoulder CANADA prs	0	0	4½	0	0	3½
1	Bag, kit, universal	0	4	7	0	3	5
1	Braces	0	1	4	0	1	0
1	Brass, cleaning	0	0	2	0	0	1½
1	Brush, button, brass	0	1	2	0	0	10½
1	" clothes	0	2	2	0	1	7½
1	Brush, hair	0	1	6	0	1	1½
1	Brush, shoe, blacking	0	0	8	0	0	6
1	Brush, shoe, polishing	0	1	3	0	0	11¼
1	Comb, hair	0	0	2	0	0	1½
1	Discs, identity, set	0	0	1	0	0	0¾
1	Dressing, field	0	1	1	0	0	9¾
1	Knife, clasp	0	3	10	0	2	9¾
3	Patches, distinguishing prs	0	0	4½	0	0	3½
2	Shorts, gym	0	3	10	0	2	7¼
1	Towels, hand	0	1	5	0	1	0¾
2	Unit, titles, prs	0	0	3	0	0	2
1	Bag, ration	0	0	1½	0	0	1
1	Belt, waist	0	3	0	0	2	3
1	Bottle, water	0	3	8	0	2	9
2	Braces, W.E. left & right	0	2	8	0	2	0
1	Carrier, water, bottle	0	1	8	0	1	3
1	Frog, bayonet	0	0	10	0	0	7½
1	Haversack	0	8	0	0	6	0
1	Net, helmet camouflage	0	0	8	0	0	6

SUMMARY OF EVIDENCE

(ADDITIONAL)

In the case of E-30210 Pte Leblanc, Andre, 1st Bn Le Regiment de la Chaudiere, a soldier of the Cdn Army, Overseas.

The C.O. directs that this additional Evidence be taken on oath.

1st Witness: Capt G. Beaudry, Adjt 1st Bn Le Regiment de la Chaudiere, having been duly sworn, states:

I am Capt G. Beaudry, Adjt 1st Bn Le Regiment de la Chaudiere. I present:
a) Certificate of surrendering himself, Army Form B-252 purporting to be signed by Capt A. Chalmers D.A.P.M. London Area and W. Clark, Officer of Police in charge of St.Ann's Road Station, relating to the self surrender of E-30210 Pte Leblanc, A. R de Chaud to the Civil Police St.Ann's Road Police at about 1655 hrs 19th February 44 (att as exhibits F and F1).
b) Certificate of costs of return purporting to be signed by Capt A. Chalmers D.A.P.M. London Area, relating to the costs of return of escorts and E-30210 Pte Leblanc, A. on 20 Feb 44 (att as exhibit "G")

The accused declines to cross-examine this Witness.

G. Beaudry Capt-Adjt
(G. BEAUDRY) Capt. / Adjutant,
Le Regiment de la Chaudiere.

2nd Witness: E-42395 Pte Henry, A. Le Regiment de la Chaudiere, having been duly sworn, states:

I am E-42395 Pte Henry, A. "D" Coy Le Regiment de la Chaudiere. Employed as Regt'l Police while on duty at approx 1745 hrs on 2 Feb 44, I had E-30210 Pte Leblanc, A. come out of the guard room to clean some containers. As there were still some rubbish inside I told him we would go out to throw away the remaining of the recipient. E-30210 Pte Leblanc, A., whom I identify as the accused, then picked up the containers and made his way towards the door. He opened the door rapidly, threw the three containers in my way and closed the door behind him. I then shouted to E-9383 Pte Leblanc, E. Regt'l Police that E-30210 Pte Leblanc, A. had escaped. I took the containers out my way and went after the fugitive. E-13144 L/Cpl Cabot, H. and E-1375 Pte Dube, A. came and helped me to search. We searched the wood and the surrounding grounds for more than an hour but it was in vain. Upon coming back, I reported the escape to the duty officer.

The accused declines to cross-examine this Witness.

A. Henry
(E-42395 Pte Henry, A.)
R de Chaud.

3rd Witness: P.C. 242 "H" Young St.Ann's Road Police, London:

A statement by W. Clark Officer of Police in charge of St.Ann's road, London and signed by him has been read to the accused. The said statement is to the effect that P.C. 242 "H" Young is the one to whom Pte Leblanc, A. surrendered on the 19th of Feb 44.

I do not require the attendance of P.C.280,WR Lomax for the purpose of cross-examination.

E30210 Pte Leblanc A
E 30210,Pte Leblanc,A

QUESTION TO THE ACCUSED. (In accordance with O.R.01424)
Desirez-vous faire une declaration ou rendre temoignage sous serment?Vous n'etes pas oblige de dire quoi que ce soit,ni de rendre temoignage a moins que vous ne le desiriez,mais tout ce que vous direz ou toute deposition que vous ferez sera pris par ecrit et pourra servir de preuve.

ANSWER BY THE ACCUSED.

Non,Monsieur. (No,Sir)

E30210 Pte Leblanc A
E 30210,Pte Leblanc,A

I hereby certify that this Summary of Evidence consisting of four pages,has been read to all the witnesses in the presence and hearing of the accused,and that Rules of Procedure 4 (d) (e)(f) and (g) have been complied with.

Signed in the Field
This 23 day of Jan.'44

C.R.Lamoureux,Capt
Officer detailed to take the Summary of Evidence

6th Witness E 9242,Pte Leblanc,L.P.R de Chaud,having been duly sworn, states:
"I am E 9242,Pte Leblanc,L.P.R de Chaud,"D"Coy.On the evening of 30 Sep '43,I was on duty on Regt'l Guard.I was in the detention Guard Room from 1800 that day until 2359 hrs The Guard Room was a canvas tent divided in two by a canvas linen,one part being used by the prisoners,and the other by the Guard Personnel off duty.I was in the part used by the prisoners from 1800 hrs to 2359 hrs,30 Sep '43 E 30210,Pte Leblanc A was a prisoner. At about 2300 hrs, I was writing a letter A little time after that, Cpl Bourgeois, P., The Guard Comd, came in and askedme where was E-30210m Pte Leblanc, A. I turned around and found out that Pte Leblanc, A. had disappeared. I only had an oil lamp on the table where I was writing. It was then about 2330 hrs, 30 Sep 43.".

The accused declines to cross-examine this Witness:.

E 9242 Pte L. Blanc P.L.
(E-9242 Pte Leblanc, L.P.)
R. de Chaud.

7th Witness: E-13070 Pte Boudreault, L., R de Chaud, having been duly sworn, states:

" I am E-13070 Pte Boudreault, L. of "D" Coy, R de Chaud. On the evening of 30 Sep 43, I was on Regt'l Guard Duty. During the evening, I saw E-30210 Pte Leblanc, A. in the Detention Guard Room, whom I identify as the accused. I was sitting down in the part of the tent reserved for the Guard Personnel from 2200 hrs to 2359 hrs that day. Cpl Bourgeois, the Guard Comd, coming back from his lunch at about 2330 hrs, told me that E-30210 Pte Leblanc, A. had disappeared. I had noticed nothing abnormal during the evening. There was only one oil lamp lighted in each part of the Detention Guard Room. I realized then that E-30210 Pte Leblanc, A. had escaped. It was about 2330 hrs, 30 Sep 43.

The accused declines to cross-examine this Witness.

E13[illegible] Boudreault L
(E-13070 Pte Boudreault, L.)
R. de Chaud.

London.

A statement by W. Bond, S.P.S. 16 "Y" Metropolitain Police, Tottenham, and signed by him has been read to the accused. The said statement is to the effect that P.C. 280 "Y" WR Lomax, is the one to whom Pte Leblanc, A. surrendered.

Owing to the exigencies of the Service, the expense and loss of time involved, the attendance of this Witness cannot, in my opinion, be readily procured.

(C.R. LAMOUREUX) Capt.,
Officer detailed to take the
Summary of Evidence.

3rd Witness: E-13184 C.S.M. Lavoie, A. R de Chaud, having been duly sworn, states:

" I am E-13184 CSM Lavoie, A. R de Chaud. Acting as C.Q.M.S. of "C" Coy, I did not see E-30210 Pte Leblanc, A. in the Coy Lines from 0630 hrs 8 Aug 43 until 0600 hrs 23 Sep 43. Acting as C.S.M. of "C" Coy, I did not see E-30210 Pte Leblanc, A. from 2330 hrs 30 Sep 43 until 1800 hrs 8 Jan 1944."

The accused declines to cross-examine this Witness.

E/13184 C Lavoie A CSM
(E-13184 CSM Lavoie, A.)
R. de Chaud.

4th Witness: L-55219 L/Cpl Monchton-Hicks, No 6 Coy, Cdn Pro C.
A written statement of this Witness's Evidence, purpoting to be signed by him, has been read to the accused and is included in this Summary of Evidence, as exhibit "B". Owing to the exigencies of the Service, the expense, and loss of time involved, the attendance of this Witness cannot, in my opinion, be readily procured.

(C.R. LaMOUREUX) Capt.,
Officer detailed to take the
Summary of Evidence.

I do not wish the presence of L-55219 L/Cpl Monchton-Hicks, No 6 Coy, Cdn Pro C., for the purpose of cross-examination.

E 30210 Pte Leblanc A
(E-30210 Pte Leblanc, A.)
R.dse Chaud.

5th Witness: E-10385 Cpl Bourgeois, P. R de Chaud, having been duly sworn, states:

" I am E-10385 Cpl Bourgeois, P. R de Chaud, "D" Coy. On the 30th of Sep 43, I was Regt'l Guard Comd. On the evening of the a/m date, at about 2245 hrs, I went out to have my lunch. I left Cpl Duguay, A. (now at 6 C.I.R.U.) in charge. On my return to the Guard Room, that same evening, I noticed that E-30210 Pte Leblanc, A. had escaped."

The accused declines to cross-examine this Witness.

E/10385 Cpl Bourgeois P
(E-10385 Cpl Bourgeois, P.)
R. de Chaud.

Exhibit A.

SUMMARY OF EVIDENCE.

In the case of E-30210 Pte Andre LEBLANC, 1st Bn, Le Regiment de la Chaudiere, a soldier of the Cdn Army, Overseas.

The C.O. directs that the Evidence be taken on oath.

1st Witness: Capt G. Beaudry, Adjt 1st Bn Le Regiment de la Chaudiere, having been duly sworn, states:

" I am Capt G. Beaudry, Adjt 1st Bn Le Regiment de la Chaudiere, On the 18th of Aug 43, E-30210 Pte Leblanc, was undergoing a sentence of a hundred days detention. I present:
(a) Certified extract of D.O. Part II No. 37 d/27 Aug 43, attesting the sentence of E-30210 Pte Leblanc, A. (att as exhibit "A")
(b) Certificate of apprehension purporting to be signed by Capt W. Fern, D.A.P.M. London Area, relating to the apprehension of E-30210 Pte Leblanc, A., R de Chaud at 0600 hrs, 23 Sep 43, (att as exhibit "B")
(c) Certificate of costs of return, purporting to be signed by Capt W. Fern, D.A.P.M. London Area, relating to the cost of return of escorts and E-30210 Pte Leblanc, A. on the 24th of Sep 43 (att as exhibit "C").
(d) Certificates of surrendering himself Army Form B-252, purporting to be signed by Capt L.S. Grayson, D.A.P.M. London Area, and W. Bond S.P.S. 16 "Y", relating to the self surrender of E-30210 Pte Leblanc, A. R de Chaud, to the Civil Police, Tottenham Court Police at about 1800 hrs, 8 Jan 44, (att as exhibits "D" and "D1")
(e) Certificate of costs of return, purporting to be signed by Capt L.S. Grayson, D.A.P.M. London Area, relating to the costs of return of escorts and E-30210 Pte Leblanc, A. On 9 Jan 44 (att as exhibit "E").

The accused declines to cross-examine this Witness.

G. Beaudry, Capt. Adjt.
(G. BEAUDRY) Capt.,
Adjutant,
R. de Chaud.

2nd Witness: E-9400 Sgt Godin, M. Provost Sgt, R de Chaud, having been duly sworn, states:

" I am E-9400 Sgt Godin, M. Provost Sgt of R de Chaud. On the 8th of Aug 43, at about 0630 hrs, I went to the room where the men undergoing detention were confined. I noticed the absence of E-30210 Pte Leblanc, A., "C" Coy, R de Chaud. I did not see him after that until the 24th of Sep 43, at which time I saw him in the Regt'l Guard Room".

The accused declines to cross-examine this Witness.

E 9400 Sgt M Godin
(E-9400 Sgt Godin, M.)
Provost Sgt, R de Chaud.

LE REGIMENT DE LA CHAUDIERE

In the Field,
14 Jan 44.

Certified true extract of D.O. Part II No 37 para 16 sub para (11) dated 27 Aug 43.

(11) On 2 Aug 43 Tried by F.G.C.M.

CHARGES:
1) Sec 15 (1) A.A. A.W.L. from 0800 hrs 16 Jun 43 to 1445 hrs 30 Jun 43 (absent 14 days 6 hrs 45 mins).
2) Sec 15 (1) A.A. A.W.L. from 2300 hrs 1 Jul 43 to 2330 hrs 26 Aug 43 (absent 25 days 30 mins).
3) Sec 24 (2) A.A

FINDINGS: Guilty on all charges

SENTENCE: 100 days detn and placed under stop of pay in the amt of £4-6-11½.

CONFIRMATION: Findings and sentence conf'd by A/Comd 8 C.I.B. on 3 Aug 43.

CLOSE ARREST: In close arrest from 2330 hrs 26 Jul 43 to date of trial.

FORFEITURE: Forf 41 days pay under FR&I 149 (1) (a).
Forf 100 days pay under FR&I 149 (1) (b).
Forf 6 days pay under FR&I 149 (1) (c) (i).
Total forf pay 147 days and stopp of £4-3-½ under FR&I 158 (2) (loss of government property) and £0-3-11 under FR&I 172 (8) (costs of app).

E-30210, Pte Leblanc, A

G. Beaudry, Capt. Adjt.

(G. BEAUDRY) Capt.,
Adjutant,
Le Regiment de la Chaudiere

Exhibit "A"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 R.B. Marks Major Pres

Reg. No. A30210 Rank Pte Name Leblanc, E. Unit Legt. de Chaud

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
20 Feb 44	Escorts return fare from LONDON To Bournemouth		16	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bournemouth		8	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	4	9.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.B. Marks Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Exhibit "4"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.242"E" Youngs.

at Seven Sisters Road at (hour) 455p.m. on the 19th, day of February as being No. 830210.

(Rank and Name) Pte. LEBLANC. E.

a deserter (or absentee without leave) from Churdar Regt.

and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word " to " to be inserted the name and rank of the police officer concerned.

Age 28 Height 5 Feet 11½ Inches

Complexion dark. Hair brown.

Eyes brown.

Marks

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	Not known.
Probable Date of Desertion or beginning of absence, and from what place	12/2/44. Place not known.

Signature of Officer of Police in charge of St Ann's Road Station.

19/2/44. Date of Signature.

Exhibit F-1

Army Form O.1614
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

CHARGE

Army Form B 252
(See King's Regulations)

Regiment de la Chaudiere
3rd Cdn.Div.

Regiment
Battery
Squadron
Troop
Company

CHARGE against No. A 30210 Rank Pte.

Name LeBlanc.E.

Place London Date of Offence 19 Feb 44

OFFENCE W.O.A.S. was A.W.L. from Y until surrendering to the Civil Police at Seven Sisters Rd.Tottenham,London at about 1655hr on the 19 Feb 44,

Names of Witnesses :— LONDON AREA

P.C.242"N"Youngs.Civil Police Tottenham London.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Exhibit F

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

R.B.M. Partressmen Pres Sgt. D. Chaud

Reg. No. F30210 Rank Pte Name Le Blanc, A Unit Sgt. D. Chaud

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars 1/3 Portion	Amount		
9 Jan 44	Escorts return fare from LONDON To Bournemouth		11	0
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bournemouth		8	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		19	3.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Exhibit "E" L. S. Crayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 280"Y" WR Lomax at High Road, Tottenham. at (hour) 6pm. on the 8th. day of January, as being No. A30210.

(Rank and Name) Private Andrew Le Blanc.

a deserter (or absentee without leave) from 3rd. Infantry Divn Canadian Army.

and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word " to " to be inserted the name and rank of the police officer concerned.

Age 28. Height 5 Feet 10½. Inches

Complexion Sallow Hair Brown.

Eyes brown.

Marks Nil.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	~~6/1/44.~~
Probable Date of Desertion or beginning of absence, and from what place	6/1/44. Southampton.

W Bond S.P.S.16"Y"

Signature of Officer of Police in charge of TOTTENHAM Station.

8/1/44. Date of Signature.

Exhibit "D"

Army Form O.1617
R.A.F. Form 1617.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the _____ Police in the case of No. _____ who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that this statement of expenses is correct.

_____ Superintendent or Officer in charge of Police Station at _____

_____ Date of Signature.

CHARGE

Army Form B 252
King's Regulations

Regt. de Chaudiere — Regiment
"C" Coy. — Battery / Squadron / Troop or Company

CHARGE against No. A.30210 Rank Pte.

Name LE BLANC A.

Place London Date of Offence 7

OFFENCE W.O.A.S. was A.W.L. from .... 7 until surrendering to the Civil Police at about 1800 hrs., 8 Jan.44 at HIGH ROAD, TOTTENHAM.

L. S. Grayson
CAPT.
L. S. GRAYSON D.A.P.M.
LONDON AREA.

Names of Witnesses :—

P.C. 280 "Y" WR LOMAX TOTTENHAM COURT ROAD POLICE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Exhibit "B" Adjutant.

P.T.O

10005 Wt.W34670/1408 1,500,000 10/41 K. & H., Ltd. G467/47

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 R.A. Harkes Major Pres

Reg. No. 130210 Rank Pte. Name Le Blanc, C. Unit Regt Dr Chaud

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars ½ Portion	Amount		
24 Sept 53	Escorts return fare from LONDON To Southampton		6	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Southampton		6	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		12	2.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Exhibit "C"

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 100026
40/P & S/485(3087)

Statement of **EVIDENCE** in the case of:
E.30210 Pte. LeBlanc, E.
Regt. De. Chaud.

Sir,

At about 0600 hrs, 23 Sept. 43., I was on duty at SEVEN SISTERS RD., TOTTENHAM, LONDON, in company with L/Cpl. O'Brien, when I saw the a/m soldier.

I approached him and requested to see his pass. He could not produce one. He was A.W.L.

I then requested to see his M.B.M.1 and he could not produce one.

I placed him under arrest and he was escorted to No. 6 (Area) Provost Coy., Cdn. Provost Corps, Detention Room and turned over to the N.C.O. i/c of Cells, to be detained.

London
23 Sept. 43.

.....L/Cpl.
(L.55219 Monchton-Hicks)

REMARKS

I have read over and corroborate the above statement.

London

.....L/Cpl.
(A.3078 O'Brien, A)

CHARGE

Army Form B.252
(See King's Regulations)

Regt. de Chaud. Regiment

"C" Coy. Battery / Squadron / Troop or Company

CHARGE against No. E.30210 Rank Pte.

Name LEBLANCE, E.

Place LONDON Date of Offence 23 Sept. 43.

OFFENCE W.O.A.S. was A.W.L. from..?.. until apprehended by the Cdn. Provost Corps, at SEVEN SISTERS RD., TOTTENHAM, LONDON, at about 0600 hrs, 23 Sept. 43.

(2) Was not in possession of M.B.M. 1 , same place, time and date.

(W. FERN) CAPT. D.A.P.M. LONDON AREA

Names of Witnesses :—

L/Cpl. Monchton-Hicks, Cdn. Prov. Corps. No. 6 Coy.

L/Cpl. O'Brien, A. Cdn. Prov. Corps. No. 6 Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Exhibit "B" *Adjutant.*

R4889. Wt.W21972/580 7/43. K. & H., Ltd. G657/47 P.T.O

Statement of the accused. D. [illegible] why my [illegible] pres

2, E 30210 Pte Le Blanc H, had a letter from home which upset me very much. I started to be a bad soldier. I am willing to take my medicine I realize my mistake. I intend to go straight from now on. The letter was about my wife. I am married seven years and have two children.

A Leblanc

R P 83 (B) complied with

R. B. Morkes myor Pres

29 Feb 44

This is to certify that I have this morning [illegible] the [illegible] [illegible] for [illegible] in my opinion he is fit to undergo strain of [illegible] [illegible].

[illegible] No. 530210 [illegible] Pc. [illegible] Ala.

[illegible]

[illegible]

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1697 (2008)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-30210	Pte		Andre	LEBLANC	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Feb 44 endorsed by me, "~~[illegible]~~" To be tried by Field General Court-Martial".

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

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

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

4. ~~I do not desire to appoint any of the Offrs for the Court, but I request the President to choose them.~~

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

5. ~~I do not appoint any Judge Advocate but request the Offr nominated hereunder.~~

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

PRESIDENT,

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	R. B. FORBES	N Shore R

MEMBERS.

Capt	D. DION	R de Chaud att to QOR of C
Lieut. (Rank.)	E. T. GORMAN (Named or detailed. RP 106.)	N Shore R (Unit.)

WAITING MEMBER.

Lieut (Rank.)	W. K. DICKIE (Named or detailed, if any. RP 106.)	N Shore R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 28 Feb 44

~~[illegible]~~ (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 8 Cdn Inf Bde.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CHARGE SHEET

The accused E-30210 Pte Andre LEBLANC, 1st Bn Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas, is charged with:-

1st CHARGE ARMY ACT SECTION 15 (1) ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, while undergoing detention in the Regimental Guard Room of R de Chaud, absented himself without leave from 0630 hrs 8 Aug 43 until apprehended by the Cdn Prov Corps at about 0600 hrs 23 Sep 43 at SEVEN SISTERS RD, Tottenham, London. Cost of apprehension: £ 0-12-2. Total absence: 45 days, 23 hrs, 30 mins.

2nd CHARGE ARMY ACT SECTION 15 (1) ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, while undergoing detention in the Regimental Guard Room of R de Chaud, absented himself without leave from 2330 hrs 30 Sep 43 until he surrendered himself to the Civil Police at HIGH RD, Tottenham, London at about 1800 hrs 8 Jan 44. Cost of apprehension: £ 0-19-3. Total absence: 99 days, 18 hrs, 30 mins.

3rd CHARGE ARMY ACT SECTION 15 (1) ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, while under close arrest in the Regimental Guard Room of R de Chaud, absented himself without leave from approx 1745 hrs 2 Feb 44 until he surrendered himself to the Civil Police at SEVEN SISTERS RD, Tottenham, London at about 1655 hrs, 19 Feb 44. Cost of apprehension: £ 1-4-9. Total absence: 16 days, 23 hrs, 10 mins.

4th CHARGE ARMY ACT SECTION 24 (a) LOSING BY NEGLECT PART OF HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

In the Field, on the 21st of Feb 44, was found deficient of articles to the amount of £8-17-7 (75% of which is £6-10-10½).

Signed in the Field
This 25 day of Feb 44.

Paul Mathieu Lt-Col

(PAUL MATHIEU) Lt-Col.,
Commanding,
Le Regiment de la Chaudiere.

TO BE TRIED BY F.G.C.M.

Signed in the Field
This 28 day of Feb 44.

K Blackader

(K.C. BLACKADER) Brigadier,
Commanding,
8 Cdn Inf Bde.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

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

President to accused : Do you wish to make a statement ? Ans No. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N/A charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to N/A charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 8(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: E 30201 Pte A Le Blanc

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	CHARGE	Guilty	Guilty	To undergo DETENTION for 18
2nd	CHARGE	Guilty	Guilty	mos To be put under stoppages of
3rd	CHARGE	Guilty	Guilty	pay until he has made good the
4th	CHARGE	Guilty	Guilty	value of the following articles
5th				
6th				

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

~~In present under sentence for~~ N/A ~~beginning on (date)~~ (1)

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

Time in confinement awaiting present trial—a total of 6 days, of which N/A days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo DETENTION for 18 months. To be put under stoppages of pay until he has made good the sum of £ 6/10/10½ IN RESPECT to the deficiencies as charged

(Sgd) ~~Judge-Advocate, if any~~ 29 Feb 44 Date awarded. (Sgd) President. (RP 45, 50)

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed.

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

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

Date 29 Feb 44 (Sgd) Commanding 8 Can Inf Bde. Confirming Officer.

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

Accused.	Date.	Signature of Offr.
E-30210 Pte LEBLANC A.	1 MAR 44	G. Beaudry, Capt - Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGG-125

FIELD GENERAL COURT-MARTIAL (CFA86 (In lieu of AFA3) 40/P & R/1608 (2864))

Convened by Order of Brig. K.B. Blackader 8 Can Inf Bde dated 28 Feb 44.

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 30210	Pte		ANDRE	LEBLANC	R de C Highrs

PROCEEDINGS REVIEWED
R. Desrochers
13 Apr 44 Capt

PROCEEDINGS REVIEWED
Date 6 Apr 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 29 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1350 hours trial commences.

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

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

A5. President to accused: ~~Do you object to~~ N/A ~~as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to~~ N/A ~~as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

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

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

President	Major	R.B Forbes	D. Shore R.
Member	Capt	D. L Dion	R de Chaud attd to G 09 of C.
Member	Lt	E. T Garmon	D. Shore R.
Judge-Advocate	~~A~~		~~R de Chaud~~.
Prosecutor	Lt	[illegible] Perrier	R de Chaud
Defending Offr	Lt	A. P Lakos	R de Chaud.

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

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

A8. The accused E 30210 Pte ANDRE LE BLANC before arrainment make(s) (no) ~~his~~ plea. (1)

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

A9. The accused is ~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

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

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. B ~~to~~ E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

GGG128 (Case #3)

PTE LEBLANC A

See SS-67 for 1st Case

1/2

58
CR

COUNTER NUMBER 78104

HOUR [redacted] 15:15

OPERATOR'S INITIALS ER

RELIEVING OPERATOR KL

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

SCHEDULE.

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

Accused : B-55488 Pte Lionel Albert LEBITT - CIC - 11 Cdn Repat Dep't

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
7th	~~1st~~ AA Sec 40	NOT GUILTY	GUILTY	
8th	~~2nd~~ AA Sec 40	" "	GUILTY	
	3rd			
	4th			
	5th			
	6th			

In the matter of the trial by FIELD GENERAL Court Martial

of No. B.55488 Rank Private Lionel Albert
(Christian Names)

LEBITT CIC 11 Cdn Repat Depot..
(Surname) (Corps)

1. I the undersigned accused acknowledge that I have this day at 1535 hours been served with the following documents free of charge: (a) Copy of Summary of Evidence; & (b) Copy of Charge Sheet both in connection with my forthcoming trial by Field General Court Martial.

In the Field,
11 ~~Nov~~ DEC 1945

L A Lebitt
(B.55488 Pte. LEBITT, L.A.)

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2. I the undersigned accused acknowledge that I have been informed that the convening officer may appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at my trial by Field-General Court Martial and I have been advised of my rights to retain counsel (lawyer). I do not intend to retain the services of counsel but desire to have a defending officer assigned to represent me at my said trial. I desire the services of Capt H A Thompson if he is available for this purpose. I waive the 7 days notice mentioned in Rule of Procedure 89 (E).

In the Field,
11 ~~Nov~~ DEC 1945

L A Lebitt
(B.55488 Pte. LEBITT, L.A.)

LIST OF EXHIBITS

~~XXXXXXXXXXXX~~
See Summary of Evidence

LIST OF WITNESSES

For the Prosecution - ~~XXXXXXXXXXX~~
- ~~XXXXXXXXXXX~~
- See Summary of Evidence

For the Defence - NIL
- ~~XXXXXXXXXXX~~
- ~~XXXXXXXXXXXXXXXXXXXX~~

STATE OF TRAINING OF ACCUSED

Fully trained soldier.

MEDICAL CATEGORY OF ACCUSED

~~XXXXXXXXXXXXXXXXXXXX~~

YOB	P	U	L	H	E	M	S
20	1	1	3	1	1	1	1

11 CRD/102

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 1 hr. 10 mins. AA 11(1)			5 Dec 44		Forf. 5 days pay
Field		Pte		AA 15(1) AWL 7 hrs.		5 days C.B.	25 Jul 45		Forf.1 days pay FR&I 149(1)(a)

Certified that this is a true copy of M.F.M. 6 as of 19 Dec 1945

W.G.L. [illegible] Capt ~~MAJOR~~ & ADJUTANT

Officer having custody of Regt'l. Records.

Exc

No. B55488 Name LEBITT L.A. | Sqn. Battery, or Company | Corps C.I.C. | Date of enlistment 13.2.40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AWL 1 day 4 hrs. 30 mins.			17 Aug 43		Forf. 3 days pay FR&I 149 (2) Forf 2 days pay FR&I 149 (1)(a) Total forf. 5 days pay
Field		Pte		AA 15(1) AWL 15 hrs. 30 mins.		7 days C.P.	25 Oct 43		Forf. 1 day pay
Field		Pte					16 May 44		Stop. of £1-14-0 Cost of damage to W.D. vehicle

(PTO)

FR&I 156(2)

Statement as to Character and Particulars of Service of Accused.

ARMY FORM B.296.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.55488	Private	Lionel Albert LEBITT, CIC, 11 Cdn. Repat. Depot.	

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	Within last 12 months.	*Since Enlistment.*
For Absent Without Leave	times	4 times.
For Army Act Sec. 11	times	1 times.
For Damage to W.D. Vehicle A.A.40	times	1 times.
For	times	times.
For	times	times.

Nature of offence or offences for which convicted: Legal

or

There are no entries in the conduct sheet of the accused. Legal

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Act, and cases in which trial has been dispensed with, are not entered in the conduct sheets of the accused.~~ Legal

3. The accused is not under sentence at the present time, ~~or the accused at the present time is under sentence~~ Legal

~~imposed on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~Nil~~ 40 days in military custody, making a total of ~~Nil~~ 40 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 yrs.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 13 February, 1940.

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

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~

9. ~~The accused is entitled to reckon~~ for the purpose of increasing his pension

10. The accused is in possession of, ~~or entitled to an military decoration or military award (or a pension in respect of~~ CVSM and Clasp, 1939-45 Star, France & Germany Star and Defence Medal.

entitled to (*state any military decoration or reward*).

11. ~~If the accused is a warrant officer~~ The accused before he was made a warrant officer held the ~~regimental~~ rank of

~~or the accused is an officer~~ The accused holds in the army the rank of ~~dated~~

~~and in the regiment (or corps or department) the rank of dated~~

(*Signature*)

(*Rank*)

(*Date*)

EXB

M

STATEMENT of No. K. 65479 Pte Legg, A.C. 3 Canadian Repat Depot, C.A.O.

About 1535 hrs 31 October 45 I was standing on the highway at the main gate of "A" Wing, 11 Canadian Repat Depot, waiting for the bus from Nutley, when I saw a Canadian Military vehicle (a 60 cwt) with canvas top, drive out of the main gate of "A" Wing and turn toward Nutley. As the vehicle made the turn I saw the co-driver's door open. He put his hand on it and at the same time a Canadian khaki beret fell out of this door onto the roadway. I picked this beret up and put it on a post at the Nutley side of the main gateway. The vehicle did not stop but continued up the highway toward Nutley. ~~There were only two soldiers in the vehicle, the driver and the co-driver.~~

A. C. Legg

No K. 65479 Pte. Legg, A.C.

This is Exhibit "F"
E. J. McCormick Capt
Officer detailed to take
the
Summary of Evidence

STATEMENT OF E. V. CHATFIELD, ESQ.

I have examined cell No.2 in the Police Station in Tunbridge Wells, Kent, the property of the Mayor, Aldermen and Burgesses of the Borough of Royal Tunbridge Wells and estimate the cost of repairing the damage done on the evening of 31st October 1945 to the said cell and fixtures therein to be £31. 10. 0d., made up as follows:-

Estimate for the repair and making good to damage in Male Cell No.2.

	£. s. d.
To supply and fix 19 sqs. Arctic Glass	1. 10. 0.
supply one special pattern steel vitreous enamel flushing cistern and connecting pipe, 1 earthenware glazed pedestal pan with wood insets.	20. 0. 0.
fix cistern, connect up water supply, fix and connect up lavatory pedestal.	3. 10. 0.
smooth off the splintered bed boards, refix head rest.	1. 0 0.
take down entrance door, remove steel plate, cramp door and repair as necessary, repair or renew trap door and lock, repair lock of door, rehang door, refix steel plate, paint the whole 2 coats.	5. 10. 0.
	£31. 10. 0.

Signed E V Chatfield

Assistant Works Superintendent.

Date 15/11/45

Borough Surveyor & Water Engineer's Dept.,
Royal Tunbridge Wells.

This is Exhibit "E" E M Cormack Capt
Officer detailed to the
Summary of Evidence

No. B.3910 Armament Staff Sergeant Porter, G.H., RCEME,
124 L.A.D.

About 5 Nov 45, I personally inspected Canadian Military Vehicle No. CL. 4235282 Ford 60 cwt on charge to 11 Canadian Repatriation Depot and estimate the cost of replacements and repairs at £1.14.0 made up as follows:

Replacing Jerry can and Horn.

Repairing Jerry can carrier
Left front fender
Left running board
Front bumper.

Labour	£0.18.0
Materials	0.16.0
Total	£1.14.0

The damage appeared to be the result of one accident.

B3910 S/Sgt Porter G.H.

(B.3910 Amt. S/Sgt. Porter, G.H.)

THIS IS EXHIBIT ~~APPENDIX~~ "D".

E.M. McCormick Capt

Officer detailed to take
the
Summary of Evidence.

STATEMENT OF:
Police Constable 880 Leslie Stace, Kent County Constabulary, Tunbridge Wells, Kent.

About 1710 hours, 31 Oct 45, as I was coming down the hill on Montacute Road, Tunbridge Wells, on my motorcycle, I saw two soldiers, in battledress, one without a headdress, walking quickly up the same hill. They were laughing. On reaching the Pantiles I saw Canadian Military Vehicle No. CL. 4235282 standing unattended on the public walk near the front door of the Duke of York Public House. The vehicle was facing towards Nevill Street, and had a tear in it's canvas top. Part of the facia had been torn from the building and was lying on the ground. In the driver's cab, I found a Canadian soldier's battledress blouse in the pocket of which was an army pay book and other documents in the name of No. G.50018 Pte. Hachey, Euclid Joseph, 11 Can. Repat. Depot. I spoke with William Anthony Hart, proprietor of Duke of York Public House, Mrs. Frances Ellen Skipper and Alfred Shoebridge all of Tunbridge Wells who were present when I arrived at the truck.

Leslie Stace
(P.C. 880 Leslie Stace)

The accused declined to cross-examine this witness.

THIS IS ~~A[illegible]~~ EXHIBIT "C".

E J McCormick Capt.
Officer detailed to take the Summary of Evidence.

STATEMENT OF F. BARTLETT, ESQ.

On 5 Nov 45, I examined the facia and mouldings on the corner of the Duke of York Public House on the Pantiles, Tunbridge Wells, the property of Messrs. Flealins Ltd of Earl Street, Maidstone, Kent, and estimate the cost of repairing the recent damage thereto to be £7-14-6.

Estimate for the repair and making good to damage to Duke of York Public House, the Pantiles, Tunbridge Wells

New length of facia mouldings to match paint new work refix Elephant. £7.14.6

This is Exhibit "B"
E J McCarmick Capt
Officer detailed to take the Summary of Evidence.

Signed F. Bartlett
F. Bartlett
of W.B. Jury & Sons, 119 Camden Rd.,
Tunbridge Wells.

Date 30/11/45.

STATEMENT OF NO. G.50018, Pte. HACHEY, E.J. made 13 Nov 45, at R.H.Q., 11 Canadian Repatriation Depot.

About 1525 hours I was on duty as driver of Canadian Military vehicle No. CL 4235282 (60 cwt). I then parked the said vehicle on the roadway in "A" Wing, 11 Canadian Repat. Depot Camp beside the power house facing toward the gate near the guard house. The front of the said vehicle was about flush with the gate to messing stores. The vehicle was then undamaged. I got out of the vehicle to notify a Sgt. that I was ready to drive him to CSD. I walked into the little room beside messing stores. About 1535 hours, that day, I came out and noticed that the truck was missing. It had not been locked in any way. I did not hear it moving away. I searched the area but could not find it. I could not locate any person who had seen it taken away.

E J Hachey

G.50018 Pte. HACHEY, E.J.

THIS IS ~~APPENDIX~~ EXHIBIT "A"

E J McCormack Capt

Officer detailed to take the Summary of Evidence.

NINETEENTH WITNESS

No. K.65479 Pte Legg A C 3 Cdn Repat Depot.

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "F". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E J McCormick Capt

(E J McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of Pte Legg A C for cross-examination.

L.A. Lebitt

(E.55488 Pte Lebitt L A)

Question to the accused:

Do you wish to make any statement or to give evidence upon oath?. You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused:

I have nothing to say.

The accused declined to call any witnesses for the defence.

I certify that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with, and that the foregoing summary of evidence consisting of 11 pages was taken down by me in the presence of the accused.

E J McCormick Capt

(E J McCormick) Captain
Officer detailed to take the Summary of Evidence.

In the Field
4 Dec 45

EXAMINED

EIGHTEENTH WITNESS

Police Sergeant 303, Albert Peacock, Kent County Constabulary, Tunbridge Wells, Kent, having been duly sworn states:-

At 1900 hrs, 31 Oct 45, I saw the two accused Canadian soldiers whom I now recognize and identify as No. B.55488 Pte. Lebitt, L.H. the shorter of the two and No. F.97488 Pte. Langer, J., the taller of the two, in the Charge Room at Tunbridge Wells Police Station in the custody of L/Cpl. Setterfield and L/Cpl. Morgan, J.B., both of 192 H.Q. Provost Company, Corps of Military Police. One of the Provosts asked in the hearing of both accused if the accused could be detained at the Police Station until the Canadian Provost take them in custody. Each accused was wearing canvas shoes (plimsolls). Each smelt of drink, but neither was drunk. I told both of the accused that they had been brought to the Police Station on suspicion of having stolen a Canadian Army lorry. They both said that they were told by the Military Police that they would be questioned only as to improper dress and then would be allowed to go. The accused Lebitt threatened to strike me over the head with a chair. They were very abusive and were cursing and swearing at the military and civil police. Each refused to account for his actions during the afternoon and evening of that day. About 1930 hrs, at their own request, they were placed in No. 2 male cell. They walked there quite willingly. About 2000 hrs that evening I heard a noise in that cell and on looking in through the peep-hole, I saw the accused Langer holding above his head a large jagged piece of porcelaine which had been broken from the lavatory pedestal bowl. He shouted at me "I will brain the first bastard that comes through the door with this". I told him to be quiet and not create any further damage, but each of the accused continued smashing the lavatory bowl and throwing the pieces up at the overhead window, thereby smashing the panes of glass. The heavy wooden headrest was torn from the bed. I saw the accused Langer use this piece of wood to batter the cell food tray trap door in the main door. Later I saw the accused Lebitt doing the same thing and still later I saw both of the accused together using the said piece of wood as a battering ram. The white mattress cover which is made of white sheeting material was torn in strips, the strips were tied together and shoved through the said trap door into the corridor, then one of the accused pulled them back in. The broken pipe discharged water and flooded the whole cell block. I noticed that a Bible which had been in the cell had been burned by one or other of the accused. The cell and its fixtures and equipment were in perfect condition at the time the accused were placed therein. All of the damage, injury and spoil to and upon the said cell was committed by the accused acting jointly. The major part of the damage, injury and spoil was accomplished before either the military or civil police could get into the cell to prevent such destruction. As the Canadian Provost were taking both the accused away, the accused Langer said to L/Cpl. Morgan "I will get you if it's the last thing I do". He then said that he would be in Tunbridge Wells next week with some of his pals to get L/Cpl. Morgan.

Albert Peacock

Police Sergeant 303, Albert Peacock

The accused declined to cross-examine the witness.

SEVENTEENTH WITNESS. No. 1601929 L/Cpl. Morgan, J.B., 192 H.Q. Provost Coy., Maidstone, Kent, having been duly sworn states:-

About 1820 hrs 31 Oct 45, when I was on duty opposite Central Station, Tunbridge Wells, Kent, I saw the two accused Canadian soldiers whom I now recognize and identify as No. B. 55488 Pte. Lebitt, L.H. the shorter of the two and No. F. 97488 Pte. Langer, J., the taller of the two standing outside the Clarenden Pub. In company with 7018356 L/Cpl. Setterfield of the Provost Coy., I crossed the street and waited about six yards away from the two accused until their conversation with Det Insp Siggers, Tunbridge Wells Police. As the two accused turned to go into the Clarenden Pub, L/Cpl. Setterfield and I checked them for their dress irregularities. The accused Lebitt was wearing canvas shoes and had no headdress. The accused Langer was wearing canvas shoes. Each accused had all the buttons on his battle dress tunic fully open. Each accused on being checked for his dress told us that the British Military Police had nothing to do with them. They each said that only the Canadian Provost could check them. I told the accused Langer that he was wearing the King's uniform and while In Tunbridge Wells must dress properly. He replied to me "I am wearing the Canadian not the King's uniform". On being asked where they came from, one of them replied, "we got a lift in from Nutley on a 3 ton truck which had about 15 men aboard". Lebitt asked me why they were questioned. I then told him we had received a report that a truck had been stolen from Nutley. As you have come from Nutley we should like you to accompany us to the police station for identification purposes. Each accused heard me make this statement. Langer immediately drew back his arm and clenched his fist in a threatening manner, at the same roughly grasping my tunic front in his left hand and saying to me "you are accusing me of stealing this truck". While we were waiting for a civil police vehicle, the two accused went into the Clarenden Pub for a drink. When the police vehicle arrived, the accused Langer came out on request and later the accused Lebitt came out. At the police station the Civil Police Sgt Peacock told each accused that he would be dealyed until Cdn Provost arrived. The accused Lebitt then threatened to strike the said Police Sgt over the head with a chair. Accused Langer said "if you don't put us in the cells we will wreck the joint". They were locked in Cell 2, which I noticed was in perfect condition as they entered it. After the two accused had been in Cell No. 2 for about 10 minutes. I heard one of them pounding on the cell door. Looking through the small peep hole in the door, I saw accused Langer trying to lift the bed from the floor. There was no damage then. About 10 minutes later I heard a wrenching noise and a loud pounding on the door. I walked to the door and found that the small metal food tray door in the main cell door was broken off and lying on the corridor floor. I looked in the cell and saw both accused sitting over the Bible which had been in the cell. It was burning. The heavy wood head rest was ripped off the bed and lying on the floor. They were swearing and cursing and demanding to be released. I then heard the window glass breaking. The bed sheets were torn and tied in one long strip and shoved into the corridor, through the food tray door. When I went to pull the sheets out completely, they were entirely pulled in again by one of the accused. I then noticed that the porcelaine lavatory was smashed. Then broken pieces of the lavatory were thrown into the corridor by one of the accused. A few minutes later there was a very lous noise and water came out from the cell No. 2 into the corridor. The water cistern over the lavatory had been pulled down by one of the accused. About 2150 hrs that day the Cdn Provost took both the accused away. Just as the accused Langer was getting into the Cdn Provost vehicle he turned and said to me "I'll get you if it is the last thing I do". He then said that he would be in Tunbridge Wells again the next week with some of his pals and get me. Each accused had been drinking but neither was drunk. Their speech was clear, they walked properly.

J Morgan

No. 1601929 L/Cpl. Morgan, J.B.

The accused declined to cross-examine this witness.

FIFTEENTH WITNESS (Mrs) Frances Ellen Skipper, The Cottage Linden Gardens, Tunbridge Wells, Kent., widow, having been duly sworn states:-

About 1700 hrs 31 Oct 45, when I was walking in company with (Mrs) Jessie Ellis, 14 Mount Sion, Tunbridge Wells, Kent, across Montacute Road, Tunbridge Wells, a large Canadian lorry which had just driven into Linden Gardens and out again, nearly ran us down. It was travelling very fast on the down grade. I heard the driver and co-driver laughing as the lorry shot by us. I then saw the shorter accused whom I now recognize and identify as No. B. 55488 Pte. Lebitt, L.H. sitting in the co-driver's seat on the left hand side of the lorry. He had no hat on. Mrs. Ellis and I then walked toward the bottom of the Pantiles. A few minutes later I heard a crash in the direction of the Duke of York Pub. A few minutes afterwards I saw two Canadian soldiers running very fast out of the Pantiles. They passed close to us and I recognized them as the two who had nearly run us down with the lorry. They were still laughing. The shorter accused Lebitt had no hat. Mrs. Ellis and I walked on to the Duke of York Pub where the same lorry was abandoned. It had damaged a corner of the pub. F.E.S.

Frances Ellen Skipper

(Mrs) Frances Ellen Skipper,

The accused declined to cross-examine this witness.

SIXTEENTH WITNESS E.V. Chatfield, Esq., Assistant Works Superintendent, Borough of Royal Tunbridge Wells.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "E". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E.J. McCormick Capt

(E.J. McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of E.V. Chatfield, Esq. for cross-examination.

L.H. Lebitt

(B.55488 Pte. Lebitt, L.A.)

TWELFTH WITNESS (Miss) Janet Barnes, The Old Restaurant, No. 23, The Pantiles, Tunbridge Wells, Kent, having been duly sworn states:-

About 1700 hrs, 31 Oct 45, a large canvas topped Canadian truck drove into The Pantiles between the Old Restaurant and the information bureau, turned left between the bureau and the Duke of York pub and then turned right in front of the pub. The front half of the truck went out of my view and then it stopped and backed up. I heard the top of the truck strike the corner of the pub. The truck continued to back up until it was all in view. Two Canadian soldiers got out of the cab. The driver was wearing a hat and was the taller. Both ran away in the direction from which the vehicle had come. The corner of the pub was damaged and the truck canvas top ripped. The other soldier had no hat.

J. Barnes.
(Miss) Janet Barnes

The accused declined to cross-examine the witness.

THIRTEENTH WITNESS Police Constable 880 Leslie Stace, Kent County Constabulary, Tunbridge Wells, Kent.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as exhibit "C". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E.J. McCormick Capt
(E.J. McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of Police Constable 880 Leslie Stace for cross-examination.

L.A. Lebitt
(B.55488 Pte. Lebitt, L.A.)

FOURTEENTH WITNESS No. B.3910 Armament Staff Sergeant Porter, G.H., RCEME, 124 LAD.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "D". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E.J. McCormick Capt
(E.J. McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of Amt. S/Sgt. Porter, G.H. for cross-examination.

L.A. Lebitt
(B.55488 Pte. Lebitt, L.A.)

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TENTH WITNESS

William A. Hart, proprietor of Duke of York Public House, The Pantiles, Tunbridge Wells, Kent, having been duly sworn states:-

About 1710 hrs, 31 Oct 45, when I was in the upstairs front room of the Duke of York Public House, I heard and felt a terrific crash on the corner of the building. I went downstairs and through the glass door saw a soldier in battledress without a hat, but wearing canvas shoes, standing near the driver's side of the vehicle. I returned upstairs to have a phone call made. A moment later I went out of the building and saw the soldier walking away around the corner of the information bureau. A very few minutes later (Mrs) Frances Ellen Skipper and (Mrs) Jessie Ellis walked toward me from around the same corner. The Canadian army 60 cwt vehicle had struck the corner of the said pub and had torn away about 5 feet of the wooden facing board. There was a hole torn in the top edge about the centre of the right side of the canvas covering. The rear tires of the vehicle were very warm to the touch.

William A. Hart.
William A. Hart.

The accused declined to cross-examine this witness.

ELEVENTH WITNESS

F. Bartlett of W.B. Jury & Sons, 119 Camden Rd., Tunbridge Wells.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "E". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E McCormick Capt
(E.J. McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of F. Bartlett, Esq. for cross-examination.

L A Lebitt
(B.55488 Pte. Lebitt, L.A.)

My

EIGHTH WITNESS

S. Bussey, Esq., Uckfield, Sussex, Southdown Bus Driver, having been duly sworn states:-

I was sitting in the driver's cab of a stationary Southdown Bus facing west at 1540 hrs 31 Oct 45, at Shelly Arms bus stop, Nutley, Sussex, when I saw a Canadian 60 cwt bearing the numbers 282 in the centre of the front buffer coming from the direction of "A" Wing, 11 Canadian Repatriation Depot toward me on the Chelwood Gate Nutley highway at a speed of at least 40 mph. This 60 cwt skidded sideways as it made the turn near the artificial pond. It appeared to be out of control. It left the road, on its near (left) side and cut a telephone pole off completely at buffer level. The upper portion of the pole remained attached to the wires and swung back and forth. The 60 cwt did not stop or slacken its speed. As it passed me I saw that the soldier driver was laughing. There was another soldier in the co-driver's seat.

S.J. Bussey
S. Bussey

The accused declined to cross-examine this witness.

NINTH WITNESS

No. G.50018 Pte. Hachey, E.J., 11 Cdn. Repat. Depot.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "A". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E.J. McCormick Capt
(E.J. McCormick) Captain

I, the undersigned Accused do not require or demand the attendance of Pte. Hachey, E.J. for cross-examination.

L.A. Lebitt
(B.55488 Pte. Lebitt, L.A.)

FIFTH WITNESS

No. L.22761 L/Cpl. Rollings, B.R., 11 Canadian Repatriation Depot, having been duly sworn states:-

At 1330 hours 31 Oct 45, No. B.55488 Pte. Lebitt, L.A., whom I recognize and identify as the shorter accused, should have reported personally to me at the Coal Yard, "A" Wing, 11 Can. Repat. Depot. He failed to report that afternoon at anytime. He had no pass and he was not away on duty. He was absent without leave.

B P Rollings
L.22761 L/Cpl. Rollings, B.R.

The accused declined to cross-examine the witness.

SIXTH WITNESS

Capt. C.A. Lougheed, Adjutant, "A" Wing, 11 Canadian Repatriation Depot, having been duly sworn states:-

On 31 Oct 45, I was Asst. Adj. of "A" Wing, 11 Can. Repat. Depot, No. F.97488 Pte. Langer, J., whom I recognize and identify as the taller accused, and No. B.55488 Pte. Lebitt, L.A., whom I recognize and identify as the shorter accused were each placed in open arrest about 1525 hours, that day and remained in open arrest until they were apprehended and taken into close arrest at Tunbridge Wells at 1820 hours that day. Neither accused had a pass nor was away on duty that afternoon.

C.A. Lougheed.
Captain C.A. Lougheed

The accused declined to cross-examine the witness.

SEVENTH WITNESS

No. F.36147 Pte. Sampson, M.L., 11 Can. Repat. Depot, having been duly sworn states:

About 1525 hours 31 Oct 45, the 60 cwt ration truck in which I was riding on fatigue duty, parked on the roadway in front of "A" Wing, 11 Can. Repat. Depot, Messing Stores. The driver No. G.50018 Pte. Hachey, E.J., shut off the engine, we both got out. About 10 minutes later I walked out of Messing Stores, the truck was then missing. I did not see, or hear it go. The driver appeared about the same time. We searched the area but could not find it. I rode in a military vehicle to Nutley searching for the truck. I then saw the broken telephone poll on our return about 1550 hours, that day. I saw hanging on a post at the main gate "A" Wing, 11 Can. Repat. Depot, near the guard house, a Canadian Army beret with a Royal Reg't. of Canada badge on it.

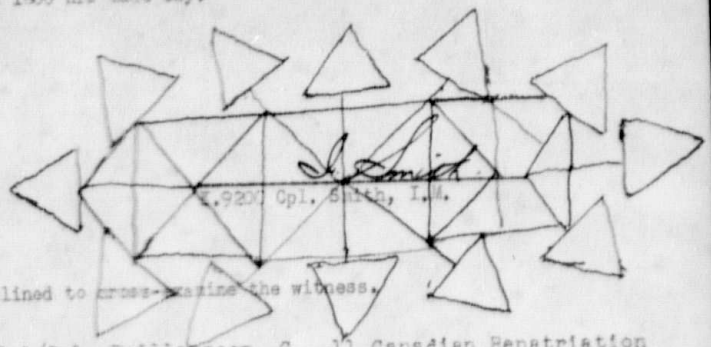
M L Sampson
F.36147 Pte. SAMPSON, M.L.

The accused declined to cross-examine the witness.

THIRD WITNESS

No. K.9200 Cpl. Smith, I.M., 11 Canadian Repatriation Depot, having been duly sworn states:-

I was on duty as Transport Despatcher of 11 Canadian Repatriation Depot, 31 Oct 45. No vehicle from our Unit was despatched to Tunbridge Wells between 1400 and 1800 hrs that day.



K.9200 Cpl. Smith, I.M.

The accused declined to cross-examine the witness.

FOURTH WITNESS

No. E.102746 L/Cpl. Baillargeon, G., 11 Canadian Repatriation Depot, having been duly sworn states:

About 1500 hours, 31 Oct 45, as a result of a telephone call in company with four other Reg't. Police from "A" Wing, 11 Cdn. Repat. Depot, I visited the Shelly Arms Public House, Nutley, Sussex and took into custody, three soldiers, No. F.79488 Pte. Langer, J., whom I recognize and identify as the taller accused, No. B.88488 Pte. Lebitt, L.A., whom I recognize and identify as the shorter accused and No. F.89420 Pte. MacLenna, J., all of 11 Cdn. Repat. Depot. About 1525 hours that day they were returned in custody to the "A" Wing guard house and were almost immediately released in open arrest. They walked from the guard house towards the power house and messing stores. They had been drinking but they were not drunk. The accused Pte. Langer, at the Shelly Arms, stated, "I do not want to forget that face". I did not know at the time whether he meant No. M.11770 Sgt. Scott, J.C. who was there at the time or the bar man.

(E.102746 L/Cpl. Baillargeon, G.)

The accused declined to cross-examine this witness.

SECOND WITNESS

Gladys Ralph, barmaid, Nutley, Sussex, having been duly sworn states:-

About 1345 hrs 31 Oct 45, I was working behind the bar in the private barroom at the Shelly Arms Public House, Nutley, Sussex. No. F.97488 Pte. Langer, J., whom I now recognize and identify as the taller accused was playing darts, No. B.55488 Pte. Lebitt, L.A., whom I know recognize and identify as the shorter accused was also there. There were about six other soldiers present, one of whom was No. F.89420 Pte. MacLennan, J., all of 11 Canadian Repatriation Depot. The two accused and Pte. MacLennan were using vile and obscene language in a loud voice. I told them to stop swearing but because they paid no attention I called from the window to No. M.11770 Sjt. Scott, J.C. of the same Unit to come in and make the soldiers be quiet. He came in immediately. As a result of what I told him he stood at the bar, ordered a beer and watched the two accused and Pte. MacLennan. I remember them talking of going to Tunbridge Wells and still using vile language. Sjt. Scott told them to be quiet and stop using such language in front of a woman. Pte. MacLennan immediately approached Sjt. Scott in a threatening manner. I thought that he would strike Sjt. Scott. He would not be quiet. The accused Langer shouted at Sjt. Scott from the end of the bar saying that they wouldn't control their language and that they would speak the way they liked. Sjt. Scott told accused Langer that he wasn't talking to him and to mind his own business. Accused Langer did not obey this order, but continued to swear and curse. One of the soldiers told Sjt. Scott that he had no authority to give an order in a pub. Sjt. Scott turned to one of the three soldiers and gave him a direct order to shut up. This order was not obeyed. The accused Lebitt threw a pint of beer on the bar room floor. When I told him to mop it up he said that the accused Langer dared him to do it. He said he was sorry and that if I would get him a mop he would clean it up. Accused Langer then said "if you clean it up I will throw a glass through the window". To avoid this happening we left the mess and cleaned it up later. Accused Langer was the ring leader. The Regimental Police took the two accused and Pte. MacLennan away about 1500 hrs. Neither accused was drunk.

G J Ralph

Gladys Ralph

The accused declined to cross-examine the witness.

SUMMARY OF EVIDENCE, in the case of R-55488 Pte Lionel Albert LEBITT, Canadian Infantry Corps, 11 Canadian Repatriation Depot, C.A.O.

FIRST WITNESS

No. W.11770 Sjt. Scott, J.C., 11 Canadian Repatriation Depot, having been duly sworn states:-

About 1345 hrs 31 Oct 45, I was riding a motorcycle past the Shelly Arms Pub in Rutley. As I slowed down to speak to No. C.28224 Pte. Boyer, E.W. of 8 Canadian Repatriation Depot, two barmaids called from the Shelly Arms asking me to come in immediately. Pte. Boyer and I walked into the Shelly Arms and as a result of what the barmaids told me I watched the soldiers. There were about eight soldiers in the bar room. No. F.97488 Pte. Langer, J., whom I now recognize and identify as the taller accused was playing darts. No. R.55488 Pte. Lebitt, L.A. whom I now recognize and identify as the shorter accused was sitting at a table drinking with No. F.89420 Pte. MacLennan, J. All three soldiers are of 11 Canadian Repatriation Depot. As a result of what Gladys Ralph, one of the barmaids told me, I ordered a beer and watched the soldiers. Pte. MacLennan in the hearing of both accused was talking about a party at Tunbridge Wells. Tunbridge Wells was mentioned two or three times in the conversation. After Pte. MacLennan had used crude and vulgar language, I called to him "say Mac would you mind controlling that language". Pte. MacLennan immediately got up from his seat saying in a loud voice "just who in hell does he think he is telling somebody to shut up in a pub, control my language? control my language hell". While Pte. MacLennan was walking toward me, Pte. Langer said to me "what the hell do you mean control your language? We are having a party and we will talk whatever way we want". I said to Pte. Langer "I am not talking to you, mind your own business". Pte. MacLennan came right up to me and said that I had no business telling anyone what to do in a pub and that he was as big as I was and being a Sergeant didn't make any difference as he had shot better men that I was. His attitude was very threatening toward me and I was expecting him to strike at me. Pte. Langer was during this time shouting profane and insubordinate language at me from the end of the bar. Pte. Lebitt told me I had no authority to give orders in a pub and that he was brought up to curse and swear when the hell he pleased and that the presence of women didn't make a God damned bit of difference to him and that I was not going to tell him to shut up. I turned to Pte. Lebitt and speaking to him personally said "look I am giving you a direct order to shut up". Pte. Lebitt hesitated for a few moments and then replied to me in a defiant manner "I am not going to shut up". He did not obey my said order but continued to talk and curse and interfere with my efforts to quiet Pte. MacLennan. In a short while the two accused and Pte. MacLennan returned to the table. All three continued using foul language in a very loud voice. They would talk of wanting to go to a party at Tunbridge Wells but seemed to be waiting for me to go outside. First one would say "are we going to take this from a fucking Sergeant"? then another would say something similar and then the third would make some like remark. Each was inciting the other two to start a fight with me. At the request of the bar maids I phoned for the Regimental Police who took Ptes. Langer, Lebitt and MacLennan to the guard room. Just as Pte. Langer was leaving and being escorted out of the pub, he turned and in a loud voice said "wait, I want to make damn sure I don't forget his (meaning my) face". As the both accused and Pte. MacLennan were leaving the guard room in open arrest at about 1525 hrs that day, I heard MacLennan and the accused Lebitt say "that's fair enough" the accused Langer replied to them "well it's not with me I'm not going to forget this nor him (meaning me)". Both accused and Pte. MacLennan walked away from the guard room on the roadway toward the power house and messing stores. About 1550 hrs that day I saw the broken telephone pole near the fork in the road on the Rutley - "A" Wing highway.

J C Scott

W.11770 Sjt. Scott, J.C.

The accused declined to cross-examine the witness.

THE COURT IS CLOSED

THE COURT RE-OPENS

The Court find the accused Not Guilty on the 4th Charge. The findings of the court on the other charges cannot be communicated to the accused because they are subject to confirmation.

PLEA IN MITIGATION

I would ask that consideration be given to this man because the greatest crime that a man can commit and be implicated in other crimes is the lack of consideration and thoughtfulness in the choice of his company. I would like to mention that while this man was serving in his Regiment in the field he suffered a very serious injury, being blown up by a teller mine while in his vehicle and although it may have no apparent effect on his ability, physical or mental, it may have had an influence on his actions and conduct. I would ask the Court to give consideration in view of his service from 6 Jul 44 until 16 Aug 44 when he was wounded and became Category L3 on account of shrapnel in his legs. He is unmarried, has had a public school eduction and is a miner in civiliam life.

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to the Court, from the evidence stated by Mrs Ralph, that Pte Lebitt was not one that used profane and abusive language in the pub, and in the evidence of Sgt Scott I would like to point out that he did agree that he addressed Pte Lebitt as an adolescent because he behaved not as a man but as an adolescent. I would ask the Court to consider whether a soldier that has served five years in the service of his country faithfully and conducted himself as this soldier has done should be treated in that manner and I would also ask the Court to consider that Sgt Scott's opinion was that this soldier was lead by other members of that party. I would come back again to 11 Cdn Repat Depot where the men were in custody of the regimental police and were released under open arrest without due consideration given to the offences that the men had allegedly committed and the condition that the men were in at the time of apprehension. I would submit to the Court that the Prosecution did not have any witnesses that saw this accused enter the said vehicle nor drive away in the said vehicle. I would also submit to the Court to consider the willingness of the witness, Mrs Skipper, to answer in the manner requested of her by the Prosecution and her admission that the truck passed very close to her and at the time it passed it was dusk. I would also ask the Court to consider that it is some 8 minutes walking time from the place where the truck passed until she met the men that she said came from the damaged truck. At the time of the impact of the truck to the pub the prosecution has brought forward no witness that actually identified the men as getting out of the truck, or the man that drove the truck into the pub. Other than that, sir, I would ask the Court to consider the record and character that this soldier has illustrated in his service in five consecutive years.

THE PROSECUTOR ADDRESSES THE COURT

The Court has heard the evidence of many witnesses, both for the Prosecution and the Defence. The charges now lie before you.

The Prosecution has presented to this court, the facts surrounding these charges. That is the only thing in which the prosecution is interested, facts.

You have heard the evidence which told the court of the embarrassing uncomfortable position of a civilian woman when forced to be an audience to vile and obscene language. Also the apparent disregard of these soldiers for military discipline demonstrated by the fact that insubordination to a Sgt took place seemingly as a matter of course. The evidence of the missing vehicle, the two absent accused, the accident involving a telephone pole was presented to you. The simultaneous appearance in Tunbridge Wells of the vehicle and the accused men, removes all doubt of a co-incidence. Especially since we know that the accused were under open arrest at the time, and therefore were not privileged to leave their barrack area.

The conclusive evidence that the court has heard from the civilian and Military witnesses, proves beyond all doubt that the vehicle involved was, in fact, the one which was missing from No. 11 Cdn Repat Depot. Is the court prepared to believe as the defence would like them to, that the presence of the accused in, at, or near the said vehicle was just pure co-incidence? I think not. The fact that the two accused caused damage to public property, while in arrest, is most regrettable as it casts the shadow of shame upon all Canadian soldiers. This must of course be kept in mind by the Honourable court when passing their sentence.

With reference to the apprehension of the two accused by the Br Mil Provost, the prosecution expresses its gratitude at the British Military Police recognizing their duty, and insisting upon detaining the accused, even though it may have meant bodily harm to themselves.

In view of these facts, Gentlemen, I ask you to weigh again the facts before you, and to return a finding of "Guilty" in all charges.

THIRD WITNESS FOR THE DEFENCE (CONT'D)

Q. Do you recall which of the soldiers were directly involved in that argument?
A. No, sir.
Q. It was not of a nature violent enough to attract your attention
A. No, sir, it was not.

CROSS-EXAMINED BY PROSECUTOR

Q. What time was it when you arrived at the Shelly Arms Public House.
A. I was there from 1130 until it closed.
Q. Do you recall this happening, Pte MacLennan, Sgt Scott asking you to control your language by saying "say Mac would you mind controlling that language"?
A. No, sir.
Q. Then getting up from your seat and stating this "just who in hell does he think he is telling somebody to shut up in a pub, control my language? control my language hell"?
A. No, sir.
Q. You remember, of course, that you are under Oath at this time?
A. Yes, sir.
Q. How many beers did you have at that time?
A. I could not say for sure, maybe five pints.
Q. Any other drinks?
A. No, sir.
Q. Did you leave the pub to go outside to the lavatory?
A. I could not say for sure, but it is likely as I was in there for quite a while.

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

FOURTH WITNESS FOR THE DEFENCE

M.1891 Pte Kolabada, P.A., 11 Cdn Repatriation Depot, sworn, states:

Q. You were the attendant at the RAP of 11 Cdn Repat Depot on the night of 31 Oct 45.
A. Yes, sir.
Q. Did you attend the accused, Pte Lebitt?
A. Yes, sir.
Q. And the nature of the injuries that you attended to was what?
A. A cut on the lower left cheek.
Q. And what time was that?
A. Between the hours of 830 and 930.
Q. Was this immediately after he came from Tunbridge Wells?
A. I don't know where he came from.

NO CROSS-EXAMINATION

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

THE DEFENCE IS CLOSED

THE DEFENDING OFFICER ADDRESSES THE COURT

I would like to start back with the evidence of Capt Lougheed, where he did agree and admit that certain privileges were allowed men that were proceeding on draft and that they were given a consideration of 12 to 24 hours to prepare themselves in a necessary manner to proceed on draft, and I would like to point out in view of the closeness of the mentioned Pub, the Shelly Arms, that it is common practice of soldiers under that privilege to go that far, a matter of one-quarter of a mile. They realize that it is out of bounds but very little action has been taken against any that have participated in that privilege. I would also submit

SECOND WITNESS FOR THE DEFENCE (CONT'D)

Q. I presume you have heard a lot of swearing in your whole life with soldiers in the barracks and even at meals?
A. No, sir.
Q. In your normal conversation do you hear swear words daily in your life?
A. Sometimes it happens.
Q. In conversation, quite frequently?
A. Yes, sir.
Q. Is it a possibility that swear words were used in the pub and you didn't hear them?
A. I did not hear them.
Q. If you had would you have noticed it and remembered it?
A. Sure I would.

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

THIRD WITNESS FOR THE DEFENCE

F.89420 Pte MacLennan, J., 11 Canadian Repatriation Depot, sworn, states:-

Q. Were you in the Shelly Arms at Nutley on 31 Oct 45?
A. Yes, sir.
Q. Will you tell this Court what time you went to the pub, in whose company you were and the happenings in the pub on that day?
A. I walked down to the pub about 1130 hrs all alone and while in there I met Pte Langer and Pte Lebitt. Pte Langer went to play darts at the dart-board and I was sitting down talking to another man.
Q. Who was he?
A. I did not know him. He was just a Private I started talking to.
Q. Was there anyone in the pub other than Privates?
A. There was one Sergeant. His name is Sgt Scott. There was no other Sgt in the pub at that time. Another Sgt came in later.
Q. What was that Sergeant's name?
A. His first or last name was Frank. I call him Sgt Frank and he is from the Black Watch Regiment.
Q. Did he come in on his own volition?
A. Yes, sir.
Q. Did you see Sgt Scott call him?
A. No, sir.
Q. Then you did not see the barmaid call to anyone from the outside?
A. No, sir.
Q. Did this Sgt come in before Sgt Scott used the authority vested in him as an NCO to attempt to quiet any disturbance?
A. I am pretty sure he came in afterwards.
Q. Was there any disturbance in the pub at that time.
A. I never heard any.
Q. You were the man that Sgt Scott reprimanded for conduct which he deemed was unnecessary in the said pub?
A. Yes, sir.
Q. Did he reprimand any other soldier in that pub?
A. I never heard him.
Q. But he did have an argument with you?
A. Yes, sir.
Q. Did anyone participate in the argument other than yourself and Sgt Scott?
A. Not at that time.
Q. Did anyone participate later?
A. Later on he was arguing with some other fellows.
Q. Was it a natural course of events or did it arise from orders given by Sgt Scott?
A. I could not say.

SECOND WITNESS FOR THE DEFENCE

D.132893 Pte Chevrier, J.J., 11 Cdn Repat Depot, sworn, states:-

Q. I want you to tell the court at this time the happenings at the time that you went to the Shelly Arms at Nutley and what happened there during the time you were there until you left?
A. I went down there at 1245 hrs and left at 1430 hrs.
Q. Which bar were you in?
A. The Private Bar.
Q. There were a number of soldiers in that bar?
A. Yes, sir.
Q. Amongst them was Pte Lebitt the accused?
A. Yes, sir.
Q. Did you hear any excess noise on the part of the soldiers that were participating in the entertainment there?
A. No, sir.
Q. Was there any profanity or obscene language used while you were in there?
A. No, sir.
Q. Did you see the barmaid call to anyone outside the bar?
A. No, sir.
Q. Did you see Sgt Scott of 11 Repat Depot come into the bar?
A. Yes, sir.
Q. Was he accompanied by anyone?
A. Yes, sir.
Q. What did he do when he came into the bar?
A. He had a drink.
Q. Did his friend have a drink?
A. Yes, sir.
Q. Were they in conversation with anyone else at the bar?
A. No, sir, I don't think so.
Q. Did you see the barmaid and Sgt Scott and his friend conversing together?
A. Well, they asked for a glass of beer, there was no other conversation.
Q. Then was happened?
A. As far as I know nothing happened, I left then.
Q. That was about what time?
A. Around 1300 hrs.
Q. Was it not later?
A. I don't think so.
Q. How long did you stay in that bar?
A. About 10 minutes, sir.
Q. You went from that bar to see some friends in another bar?
A. Yes, sir.
Q. Is there an opening from one bar to the other and can you see through to the bar you had left?
A. Yes, sir.
Q. From there did you see or hear any disturbance?
A. No, sir.
Q. You could see into the other bar where Sgt Scott was?
A. Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. I understand you were at that bar from 1245 hrs until 1430 hrs that day. Had you been drinking?
A. Yes, sir.
Q. You heard no swear words whatever?
A. No, sir
Q. Is there a men's room in that pub?
A. Yes, sir.
Q. Which bar is it situated in?
A. It is outside on the left.
Q. Did you at any time visit the men's room?
A. Yes, sir.
Q. More than once?
A. Just once.
Q. For a total of one hour and 45 minutes drinking?
A. Yes, sir.

FIRST WITNESS FOR THE DEFENCE (CONT'D)

Q. Amongst them was the accused, Pte Lebitt?
A. Yes, sir. He came into the other bar.
Q. And did you have occasion to go into the other bar?
A. Yes, sir, I went to have a game of darts.
Q. And the accused was there playing darts?
A. He was sitting down at a table.
Q. What in your opinion was his conduct?
A. He was sitting down at a table when I went in.
Q. Did you hear him talking in any way?
A. No, sir.
Q. Did you hear him use any profane or abusive language?
A. No, sir, not while I was there.
Q. And you were there until he was escorted out?
A. No, sir, I left before that.
Q. What time did you leave?
A. Around two o'clock.
Q. Sgt Scott is an NCO of this Unit and you know him, do you not?
A. Yes, sir.
Q. Did he come into the bar while you were there?
A. When I saw him he was standing at the bar.
Q. Was he drinking beer?
A. I could not say for sure.
Q. Did you hear anyone call to him to tell him to come into the bar?
A. No, sir.
Q. Did you at any time notice a barmaid go to a window and beckon to anyone or speak to anyone outside the pub?
A. No, sir.
Q. And if there had been anyone directly calling to a person outside of the room, would you be likely to hear them?
A. I imagine I would because I was right in the room.
Q. Do you remember seeing any persons in that bar other than a Private, apart from Sgt Scott?
A. No, sir.
Q. Definitely when Sgt Scott entered there was no disturbance which would necessarily require the exercising of an NCO's or Officer's authority in quietening it?
A. No, sir.

CROSS-EXAMINED BY PROSECUTOR

Q. When did Pte Lebitt enter the pub?
A. I have no idea.
Q. You left at 1400 hrs?
A. Probably a little later than that.
Q. Can you give the Court an idea of how long you saw the accused there before you left?
A. 10 to 15 minutes.
Q. Was this a very interesting game of darts you were engaged in?
A. I was not playing. I came in to play but sat down and had some beers.
Q. Did you go to sleep?
A. No, sir.
Q. Apart from the noise in the pub was there some other din or noise outside and is that why you did not hear anything?
A. I could have been out of the room. I was feeling pretty high myself.
Q. How long have you been in the Army?
A. About four years.
Q. As a man of long service you are quite used to hearing soldiers swearing in a conversation?
A. Yes, sir.

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

EIGHTEENTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Had all the damage been completed then?
A. Yes, the main damage had been done.
Q. You did not consider it advisable to have them separated?
A. No, sir.
Q. You mentioned that neither of the accused were drunk, is that your own observation?
A. That is my opinion.
Q. They were not medically examined?
A. No, sir, they were not brought to the Police station for being drunk.
Q. That was the attitude observed on your part?
A. Yes.
Q. When the Canadian Provost arrived, who went to the cell to release these men?
A. The Canadian Provost, and I accompanied them to the door.
Q. The accused, Lebitt, made no effort at violence to you or the Canadian Provost?
A. Not a bit, they came out quite meekly.
Q. Did you see Pte Lebitt break glass or porcelain?
A. Yes, I saw him, sir.
Q. Did you see the glass break?
A. I saw him throw up at the overhead windows.
Q. Did you see Lebitt do any other major damage?
A. I saw him hammer at the door with the head rest.
Q. Was that before the major damage?
A. After the head rest had been broken, sir.
Q. Would it create any damage to the door?
A. I am not in a position to say, it is a very strong door.
Q. Did either of the accused have any request after they had been placed in the cell?
A. Yes, they repeatedly asked to be handed over to the Canadian Provost and I told them what was happening, the Canadian Provost were coming.
Q. They asked for the Canadian Provost, both accused?
A. Yes, they shouted for the Canadian Provost. I told them repeatedly that the Canadian Provost were on the way.
Q. Where did you say that to them?
A. From the cell, through the peep hole.
Q. Were either of the accused abused in any way by the civil police?
A. Not in the least.
Q. Were they mishandled in any way?
A. No, sir.
Q. How can you account for the cut on the accused's face?
A. He may have been cut by a piece of glass.
Q. He was not struck?
A. No, sir.

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

THE PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS FOR THE DEFENCE

E.30774 Pte Flemming, J.E., 3 Canadian Repatriation Depot, sworn, states:-

Q. On the 31 Oct 45, were you in the Shelly Arms at Nutley?
A. Yes, sir.
Q. At what time approximately did you arrive at the Shelly Arms?
A. Between 1200 and 1230 hrs.
Q. Were there any other soldiers there at that time?
A. Not to my knowledge.
Q. During the time that you were there, were there several who came into the bar?
A. Yes, sir.

EIGHTEENTH WITNESS FOR THE PROSECUTION (CONT'D)

detained at the police station until the arrival of the Canadian Provost when they would be taken into custody by them. This was said in the presence of the accused. The accused smelt of drink but were not drunk and both were wearing canvas shoes. I told them that they were being detained on the suspicion of having stolen a Canadian Army lorry from a camp at Nutley and they both said that when the Military Police took them into custody they told them that they would be detained for questioning for not being properly dressed and would then be released. The accused, Lebitt, threatened to strike me on the head with a chair which he was sitting on. He made no action. Both accused were very abusive and swore and cursed at myself and the two Military Policemen. At about 1930 hrs at the request of the accused they were placed in No 2 Male cell and they walked there quite willingly. At about 2000 hrs I heard a noise from that cell and looked in through the peep hole and saw the accused, Langer, holding a large jagged piece of porcelain above his head and he stated to me "I will brain the first bastard that comes through the door, with this". The porcelain had been taken from the lavatory bowl which was in the cell. I told them to be quiet and not to create any further damage but both prisoners picked up pieces of the lavatory bowl and threw them at the overhead windows, breaking the small panes of glass. I saw both accused using the heavy wooden head rest from the bed, using it as a battering ram against the door and the food trap door was smashed off the door. It is a very heavy, strong door. Water came from the broken pipe of the lavatory bowl and flooded the cell block. One of the accused had torn the mattress cover in strips and it was pushed through the hole in the door and pulled back. The bible had been burned and some of the pages were charred. The Canadian Provost arrived later and took the accused into custody and when the accused, Langer, was leaving the police station he said to L/Cpl Morgan "I will get you if it is the last thing I do" and said that he would return to Tunbridge Wells next week with some of his pals. The articles in the cell were absolutely intact before this happened.

Q. Was there anything you or anyone else could have done to stop the damage?
A. When I first went to the cell after hearing the noise the main damage had been done and the bowl had been smashed and they were still breaking it up and the only thing to do was to leave them there.
Q. Let us go back in the evidence to the time they were being questioned in the charge room, did they account for their activities that afternoon?
A. I asked both of them to account for their activities and they refused to give any account of themselves at all.
Q. Do you believe that all the damage done to Male Cell No 2 was done by the two accused?
A. Yes, sir, it was.

CROSS-EXAMINED

Q. Is it the practice of the civil police to confine two prisoners in the one cell?
A. It all depends sir, if we have room or not.
Q. There was other room on this occasion?
A. Yes, sir.
Q. So they may have been separated?
A. They could have been.
Q. When you first heard the noise from the cell, did you go to the cell and was any effort made to separate them?
A. Yes, I went to the cell, but no effort was made to separate them.

SEVENTEENTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Can you remember hearing the glass break in that cell?
A. Yes, sir.
Q. What did you take that to be?
A. A window, sir.

CROSS-EXAMINATION

Q. When you performed your duty in front of the Clarenden Pub did Pte Lebitt offer any violence?
A. No, sir.
Q. Did he offer any violence or threaten with abusive language at any time between there and the time he was brought into the police station?
A. They said "not even the British Army could take them in".
Q. Did Pte Lebitt ask you why they were questioned?
A. Yes, sir.
Q. What was your answer?
A. I told them we had a report about a truck being stolen and as they came from Nutley I would like them to come for identification.
Q. He made no comments?
A. No, sir.
Q. When they were brought to the police station and their particulars taken who put them into the cells?
A. They walked in themselves and we accompanied them.
Q. Was it the Military Police or the civil police who escorted them?
A. Both.
Q. Is it the custom of the civil police to confine two prisoners in one cell?
A. I wouldn't know sir.
Q. When the damage was being incurred in the said cell did you see Pte Lebitt break or destroy any of the property?
A. No, sir.
Q. Did you see Pte Langer destroy any of the property?
A. No, sir.
Q. Did you see the person or persons that pulled the cover of the mattress that was burned through the aperture of the cell door?
A. Pte Langer, sir.
Q. Lebitt was not pulling?
A. No, sir.
Q. Did you see Lebitt when that was happening?
A. I can't remember, sir.
Q. Was there any provocation for misbehaviour on the part of anyone at that time?
A. Definitely not, sir.
Q. Were the lights flicked on and off in the cell?
A. The civil police turned the lights out once for about five minutes to try and keep them quiet.
Q. Did the prisoners have any questions to ask after they had been placed in the cell?
A. No, sir.

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

EIGHTEENTH WITNESS FOR THE PROSECUTION

Police Sergeant 303, Albert Peacock, Kent County Constabulary, Tunbridge Wells, Kent, sworn, states:-

At 1900 hrs 31st Oct 45 I saw the accused Canadian soldiers, Pte Langer and Pte Lebitt. The accused is Pte Lebitt. They were in the charge room at the police station Tunbridge Wells, in the custody of L/Cpl Morgan and L/Cpl Setterfield of the CMP. One of the military police asked me if the accused could be

SEVENTEENTH WITNESS FOR THE PROSECUTION

1601929 L/Cpl Morgan, J.B., 192 HQ Provost Coy., Maidstone, Kent, sworn, states:-

At 1820 hrs on the 31 Oct 45 I was accompanied by L/Cpl Setterfield and on duty opposite Central Station, Tunbridge Wells, when I saw two Canadian soldiers opposite the Clarenden Pub. The accused is one of them, Pte Lebitt. They were in conversation with Detective Inspector Siggers, Tunbridge Wells Police force. L/Cpl Setterfield and I waited until they were finished, standing about 6 feet away from them. After the conversation with the Detective Inspector, the accused went to go into the Clarenden Pub and I apprehended them on dress irregularities. Pte Lebitt was wearing no hat and canvas slippers and the tunic was undone. We apprehended them about their dress irregularities and they said the British MPs had nothing to do with Canadians and the Canadian Provost only would take them. I said to Pte Langer he was wearing the King's uniform and while in Tunbridge Wells he would do as we told him. He said he was wearing a Canadian and not the King's. While awaiting for a police truck the two accused went into the Clarenden Pub for a drink. I presume they had a drink. When the truck arrived Langer came out on request and Lebitt followed afterwards. At the civil police court their particulars were taken and Sgt Peacock told them that they would be detained until the Canadian Provost arrived. Immediately Lebitt threatened to strike Sgt Peacock over the head with a chair and Langer said if they were not put into the cells immediately they would wreck the joint and they were put into Male cell 2 which was in perfect condition. About 10 minutes later there was a noise in the cell and I looked through the cell door through an opening about 6 inches square and I saw Pte Langer trying to lift the bed from the floor; no damage was done. About 10 minutes later I heard a wrench and a banging on the door. I went back and the meal tray rest on the cell door was lying on the floor inside the cell and the two accused were sitting over the bible which was burning. The bed sheet was ripped and they shoved that through the hole in the door. I tried to pull them out and they tried to pull them back and then I noticed that the porcelain lavatory was all smashed to pieces and that the windows were broken, that is the windows to the outside of the cell. Afterwards water began to come through the door and flood the police station. I then noticed that the cistern had been pulled down and the two accused were swearing and cursing and demanding to be released and then they started to push the porcelain pieces through the hole in the door. At about 2150 hrs the same day the Canadian Provost arrived and when the accused were being put in the truck, Pte Langer turned around and said "I'll get you if it is the last thing I do" and said he would be in Tunbridge Wells again the next week with some of his pals. The two accused had been drinking but were not drunk and walked steadily.

Q. Let us go back to the time you came up to these two accused and they were talking to the Detective Inspector, then when you began talking to them and asked them where they came from?

A. Yes, sir, I asked Pte Lebitt where they came from and he said "Nutley" and I asked them how they got into town and they said in a three ton truck which had 15 men aboard and I was asked "Why all the questions?" and I said we had a report that a truck had been taken from Nutley by two Canadians and they were to come to the station for identification purposes. Langer said to me "you are accusing me of stealing this truck" and grabbed me by the tunic and held his hand up in a threatening manner.

Q. I am not familiar with the name of the road that enters in The Pantiles?
A. It is the back of the Pantiles.
Q. Where did the vehicle pass you on Montacute Road, was it before it came around the bend?
A. Yes.
Q. So from there to the Duke of York Pub is some considerable distance?
A. About an eight minutes walk.
Q. So that the soldiers you saw coming back up the road may have been coming from some other place?
A. I knew they were the soldiers coming from the lorry by the way they were running away.

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

SIXTEENTH WITNESS FOR THE PROSECUTION

E.V. Chatfield, Esq., Assistant Works Superintendent, Borough of Royal Tunbridge Wells, sworn, states:-

I have examined cell No. 2 in the Police Station in Tunbridge Wells, Kent, the property of the Mayor, Aldermen and Burgesses of the Borough of Royal Tunbridge Wells and estimate the cost of repairing the damage done on the evening of 31st October 1945 to the said cell and fixtures therein to be £31. 10. 0d., made up as follows:-

Estimate for the repair and making good to damage in Male Cell No. 2

	£. s. d.
To supply and fix 19 sqs. Arctic Glass	1. 10. 0.
supply one special pattern steel vitreous enamel flushing cistern and connecting pipe, 1 earthenware glazed pedestal pan with wood insets.	20. 0. 0.
fix cistern, connect up water supply, fix and connect up lavatory pedestal.	3. 10. 0.
smooth off the splintered bed boards, refix head rest.	1. 0. 0.
take down entrance door, remove steel plate, cramp door and repair as necessary, repair or renew trap door and lock, repair lock of door, rehang door, refix steel plate, paint the whole 2 coats	5. 10. 0.
	£31. 10. 0.

QUESTIONS BY THE COURT

Q. Do you believe that it will cost you those various amounts for those repairs now?
A. Yes, sir.
Q. Were they in good state of repair before 31 Oct 45?
A. Exactly, sir.
Q. How long have you been estimating costs of repair among your other duties.
A. For the last 12 years.

NO CROSS-EXAMINATION

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

FIFTEENTH WITNESS FOR THE PROSECUTION

Mrs Frances Ellen Skipper, The Cottage Linden Gardens, Tunbridge Wells, Kent., widow, sworn, states:-

About five o'clock I was walking along towards The Pantiles with Mrs Jessie Ellis, across Montacute Road, Tunbridge Wells and an Army lorry overtook us and nearly ran over us. Then as I was walking down Linden Gardens I heard a crash.

Q. How was the vehicle travelling when it passed you?
A. Very fast.

As I got down to the Pantiles two soldiers I met at the bottom came running away from the Army lorry and I recognized one.

Q. Is the soldier you recognized present in this room?
A. Yes (points to accused).
Q. Which side of the lorry had he been sitting in?
A. The right.
Q. Was he driving the lorry?
A. He was not driving the lorry.
Q. At the time you saw this soldier in the cab of the vehicle, on which side of the vehicle was he sitting?
A. It would be the right, that is my right but his left.
Q. Can you recall if you heard anything inside the cab?
A. I heard laughter when the lorry passed me and after they were coming away from the lorry after they crashed. They were walking very fast and laughing.
Q. You say there were two soldiers?
A. Yes, sir.
Q. Can you tell the Court how they were dressed?
A. One had a hat and this one (the accused) did not.
Q. Did you continue to the Duke of York Pub?
A. Yes, and I saw the lorry there.
Q. Did you see the damage to the corner of the pub?
A. Yes.
Q. Did you notice any damage to the lorry?
A. No, I did not.

CROSS-EXAMINED

Q. Did you see this lorry go up Montacute Road?
A. It was coming down.
Q. And you did not see it turn in the Linden Park?
A. It turned down Linden Park. That was after it passed me.
Q. You did not see it go into Linden Gardens?
A. Yes.
Q. Was it the same lorry?
A. Yes.
Q. Well, did it come down Montacute Road and turn into Linden Gardens?
A. It turned into Linden Park.
Q. At this time of the day it was getting dusk?
A. Yes.
Q. Did the vehicle have lights on?
A. No.
Q. Were you on the left or righthand side of the road?
A. I was on the left. The vehicle overtook me and passed me.
Q. Did you turn to face the vehicle as it overtook you?
A. Yes.
Q. And it just flashed by?
A. Yes, very close.
Q. And the windows of the cab were above your vision?
A. Yes, I was looking up into the cab.
Q. Did the truck have side curtains on it?
A. Yes.

THIRTEENTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Did the truck back up after it turned right?
A. Yes, that is right.
Q. Did you not form any impression at the time as to whether or not these men were Canadian or British?
A. No, sir.
Q. Did you see anything on the truck to indicate to you whether it was a Canadian truck or an English truck?
A. No, sir.

CROSS-EXAMINED

Q. Miss Barnes, did you see this from inside the Old Restaurant?
A. Yes, sir.
Q. And did it turn left between the Information Bureau and the Duke of York Pub?
A. Yes, sir, and then it turned right.
Q. So you only had the righthand side of the truck in your view?
A. Yes, sir.
Q. So when it backed up you still only had the righthand side of the truck in your view?
A. Yes, sir.
Q. Did you see a soldier get out of the righthand side of the truck?
A. I saw him as he came around the truck.
Q. Did he come around the front or the rear?
A. He came around the rear.
Q. The soldier that you saw that was not wearing a hat, was he the soldier that you saw coming around the rear?
A. I do not know.
Q. Could it be possible he was carrying a hat?
A. No, I don't think so.

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

FOURTEENTH WITNESS FOR THE PROSECUTION (CONT'D)

Police Constable 880 Leslie Stace, Kent County Constabulary, Tunbridge Wells, Kent, sworn, states:-

About 1710 hrs on Wednesday 31 Oct 45, in consequence of instructions I had received from the Police Office, I was proceeding down Montacute Road, Tunbridge Wells, on my motorcycle, on my way to the Pantiles. I then saw two soldiers, both wearing battledress, one without a headdress coming up the same hill. They were walking quickly and were laughing. On my arrival at the Pantiles I saw Ford Canadian Military Vehicle No. CL.4235282 standing unattended on the public walk near the front door of the Duke of York Public House. The vehicle was facing towards Nevill Street and had a tear in its canvas top. Part of the facia had been torn away from the Duke of York pub and was lying on the ground. In the driver's cab I found a Canadian soldier's battledress blouse in the pocket of which was a paybook in which was the name "No G.50018 Pte Hachey, Euclid Joseph, 11 Cdn Repat Depot." I spoke with William Anthony Hart, proprietor of Duke of York Public House, Alfred Shoebridge and Mrs Frances Ellen Skipper, all of Tunbridge Wells, who were present when I arrived at the truck.

NO CROSS-EXAMINATION

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

ELEVENTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. So that he may have been in that area and not in the vehicle
A. When I saw him first he was standing between the lorry and the doorway looking up examining the damage.
Q. From the time of the impact when you heard it upstairs and the time it took you to go downstairs would it be a few minutes?
A. A second.

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

TWELFTH WITNESS FOR THE PROSECUTION

F. Bartlett, Esq., of W.B. Jury & Sons, 119 Camden Rd., Tunbridge Wells.

On 5 Nov 45 I examined the facia and mouldings on the corner of the Duke of York Public House on the Pantiles, Tunbridge Wells, the property of Messrs. Flemlins Lts of Earl Street, Maidstone, Kent, and estimate the cost of repairing the damage to be £7.14.6. I have it here on a slip, which I'll read to you:

"Estimate for the repair and making good to damage to Duke of York Public House, the Pantiles, Tunbridge Wells

New length of facia mouldings to match paint new work refix Elephant £7.14.6"

It is signed by W.B. Jury & Sons.

QUESTIONS BY COURT

Q. Are they contractors?
A. Builders, contractors and decorators.
Q. Would your estimate be similar to that of the firm to do that work?
A. Yes, sir.
Q. What is your position with that firm?
A. Manager, sir.

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

THIRTEENTH WITNESS FOR THE PROSECUTION

Miss Janet Barnes, The Old Restaurant, No. 23, The Pantiles, Tunbridge Wells, Kent, sworn, states:-

About five o'clock on 31 Oct 45 I saw a truck come around between the Information Bureau and the Old Restaurant, turned left between the bureau and the Duke of York pub and then turned right in front of the pub. I heard a crash and the lorry backed up from the pub. I saw all of this and the canvas of the truck was damaged and the corner of the pub was damaged. Then I saw two soldiers get out of the lorry.

Q. Do you know what army they belonged to?
A. I did not see whether they were English or Canadian.

They ran away the same way as they came. One was wearing a hat and he was the taller one. The other one was not wearing a hat.

Q. Would you know them again if you saw them?
A. No, I would not. I could not see their faces as it was dusk.

like to be taken now so that he is released. It was agreed that that evidence be now taken and placed in the record with the evidence of the other witnesses for the Defence.

THE COURT ADJOURNED AT 1500 HRS 18 DEC 45

THE COURT RE-OPENED AT 1100 HRS 19 DEC 45

ELEVENTH WITNESS FOR THE PROSECUTION

William A. Hart, Esq., Proprietor of Duke of York Public House, The Pantiles, Tunbridge Wells, Kent, sworn, states:-

At about 1700 hrs 31 Oct 45 I was sitting in a room upstairs of the Duke of York Public House, Tunbridge Wells. Suddenly there was a terrific crash. I went downstairs to investigate and through the glass door I saw an army lorry and a hatless soldier standing near the driver's seat of the lorry. I returned upstairs to ask my wife to phone the police. I then went downstairs and out of the building. As I went out of my door I saw a hatless soldier just disappearing around the corner of the information bureau. A few minutes later two ladies approached me from the same corner. I did not know their names. One is a Mrs Ellis, which I have learned since. I then went to investigate the damage and the lorry had taken about 5 feet off of the wooden facia of the front of the building and there was a rent in the canvas covering of the righthand side of the lorry. That was the point that contacted. It was definitely a Canadian lorry. I just felt the tires of the lorry and the hub of the rear wheel and they were very warm.

Q. How many soldiers did you see?
A. I only saw one soldier.
Q. Can you identify him?
A. Yes (indicates accused)
Q. Are you sure about that?
A. I have no doubt at all.
Q. Can you recall anything regarding shoes?
A. He had canvas shoes on.
Q. Can you give us some size of the lorry?
A. It was a large lorry.

CROSS-EXAMINED

Q. Mr. Hart, you mentioned that the soldier you saw was on the driver's side of the vehicle? Was that the right or left?
A. The righthand side, sir, that would be between me and the lorry.
Q. May I ask you, Mr. Hart, if the glass in the doors and window of your pub is of a frosted nature?
A. They are of a frosted nature for a matter of about 10 inches up?
Q. Through the aperture that you were looking it is considerably smaller than we understand the glass on the door?
A. Yes.
Q. And it does tend to obstruct your vision from the left to the right?
A. No, not at the angle I was standing at.
Q. But you would not have the full angle of sight that you would have if it were unglazed?
A. Yes
Q. You also would have difficulty seeing the rear portion of the truck as your vision would be directly in front of you?
A. I saw the front of the truck, the centre was obscure and I could see the rear of the truck.
Q. Did you see this soldier getting out of the vehicle?
A. No, sir.

NINTH WITNESS FOR THE PROSECUTION

G.50018 Pte Hachey, E.J., 11 Canadian Repatriation Depot, sworn, states:-

At 1525 hrs on 31 Oct 45 I was driving military vehicle CL 4235282. I then parked the vehicle on the roadway beside the Power House. I came out of the vehicle and I walked in a little room near the Messing Stores and I notified the Sgt who wanted to go to CSD that I was ready. About 10 minutes later I looked on the roadway and the truck was missing. I looked again but could not find it. I did not hear it go away or see it leave. It was not locked.

Q. What was the time when you parked the vehicle?
A. About 1525 hrs.
Q. Did you institute a search?
A. I looked around the area of the camp but could not find any person who had seen it go.
Q. Can you give the court any clue as to the condition of the vehicle?
A. The vehicle was in perfect condition and not damaged in any way.

CROSS-EXAMINED

Q. Had you side curtains for the said vehicle?
A. I had one, it was on the lefthand side

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

TENTH WITNESS FOR THE PROSECUTION

B.3910 Armament Staff Sergeant Porter, C.H., RCEME, 124 LAD, sworn, states:-

About 5 Nov 45 I personally inspected Canadian Military Vehicle No CL. 4235282 Ford 60 cwt on charge to 11 Canadian Repatriation Depot and estimated the cost of replacements and repairs at £1.14.0 made up as follows:

Replacing Jerry can and Horn.

Repairing Jerry can carrier
Left front fender
Left running board
Front bumper.

Labour	£0.18.0
Materials	0.16.0
Total	£1.14.0

Q. Is that in your mind or in your opinion a reasonable estimate?
A. I found out afterwards that it is somewhat rather below the proper estimate.

NO CROSS-EXAMINATION

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

The Prosecutor said that the witness K.65479 Pte Legg AC has unfortunately been sent on leave from another Unit and is not available today nor likely to be tomorrow.

The Prosecutor asked that this case be now adjourned until tomorrow. The Defending Officer said that there is one of his witnesses, E.30774 Pte Flemming, J.E., whose evidence he would

SEVENTH WITNESS FOR THE PROSECUTION

Q. Are you accustomed to driving in Military vehicles in the performance of your duty?
A. Yes, sir.
Q. Do you recall at any time how difficult it is to hear one another converse or talk in a military vehicle?
A. Yes, sir.
Q. It is difficult, the sound doesn't easily carry when the vehicle is being driven?
A. No, sir.

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

EIGHTH WITNESS FOR THE PROSECUTION

S. Bussey, Esq., Uckfield, Sussex, Southdown Bus Driver, sworn, states:-

I was sitting in the cab of a stationary bus at the Nutley bus stop opposite the Shelly Arms at 1540 hrs on 31 Oct 45 when I saw a 60 cwt vehicle coming in the direction of "A" Wing 11 Cdn Repatriation Depot. As it passed the artificial pond it swerved or skidded and went to the offside of the road and then back to the near side, where it left the road, cutting through a telephone post. It then regained the road and continued on the journey south. I noticed that the driver was smiling as he went by me and I noticed the number 282 on the front bumper.

Q. Did you form some opinion as to the speed of the vehicle?
A. It was going very fast and I should judge the vehicle was out of control when it went around the bend.
Q. You say it struck a telephone pole and cut the pole in two?
A. It cut the pole in three pieces. About eight feet of the upper portion was left suspended from the wires.
Q. Did this truck bearing the numbers 282 on the bumper slow down afterwards?
A. No, sir.
Q. And the driver appeared to be laughing after he hit the post?
A. Yes, sir.

CROSS-EXAMINED

Q. You have been associated with transport and transport driving for a considerable time?
A. I have been employed at the Bus Company for 22 years.
Q. When you are approaching another vehicle, or the vehicle is approaching you, with the glare of the sun on the glass it is very dfficult to see into a vehicle, is it not?
A. Yes, practically impossible.
Q. Would the sun not be shining on the vehicle as it approached you that day?
A. Yes, if it had been shining, but I am quite certain it was not shining at the time.
Q. Do you recall whether the vehicle had side curtains?
A. I believe it had but I could not say for certain.
Q. Would you know the driver if you saw him?
A. No, sir.
Q. Was anybody with the driver?
A. Yes, one other person, I wouldn't be able to recognize him either.

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

SIXTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Wednesday is the day for "Q" issues?
A. That is correct.
Q. During the course of the morning all fatigues and duties are conducted in such a manner as to allow the men to go to "Q" parade?
A. That is correct.
Q. It is quite possible that a man might be absent from a place of duty to perform his obligation in obtaining material from the "Q" Stores?
A. I wouldn't say that he was absent from duty.
Q. There is permission given for him to go?
A. Yes.
Q. The parade is conducted that it is only a parade once they reach the QM stores?
A. That again is up to the Department. Departments run their own show unless I call a parade for some specific reason.
Q. As Adjt of the unit you do know that men do go down on their own?
A. That is quite right, but it is up to the department heads to see that they get there even if they are paraded, or down on their own depending on their duties.

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

SEVENTH WITNESS FOR THE PROSECUTION

F.36147 Pte Sampson, M.L., 11 Canadian Repatriation Depot, sworn, states:-

At 1525 hrs 31 Oct 45 I was in the ration truck, a 60 cwt. It was parked on the roadway in front of the messing stores at "A" Wing 11 Repat. The driver and I got out of the truck. The driver's name is E.J. Hachey. I was the fatigue man with the truck. The driver shut off the engine, I walked into the messing stores. I came out about 10 minutes later, the truck was missing. The driver came out just about the same time as I had. We searched the area for the truck and couldn't find it. We took another vehicle to Nutley and I saw a broken telephone pole. I saw or noticed a beret hanging on the post at the main gate on coming back at about 1550 hrs. The beret had a Royal Regiment badge on it.

Q. Did you hear or see the truck go while you were inside the stores?
A. No, sir.
Q. Then you and the driver came out and looked for it and you went down to Nutley in another truck and saw a broken telephone pole?
A. Yes, sir.
Q. Which side of the road was it on?
A. Lefthand side sir.

CROSS-EXAMINED

Q. On the 60 cwt vehicles have they a mica or a plastic material for glass on the side?
A. Yes they do?
Q. And this material is very difficult to see through is it not?
A. Yes, some are.
Q. You didn't see Pte Lebitt, the accused, in the compound at the Messing Store prior to the departure of the truck?
A. No, sir.
Q. As far as you know he was not even in the area?
A. No, sir.

FIFTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Was he excused then?
A. I was not informed of that.
Q. On any previous occasions when men were called from one day to another were you informed or were the men just taken?
A. I was informed.
Q. Were there any occasions when the men just disappeared and you were not informed?
A. No, sir.

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

SIXTH WITNESS FOR THE PROSECUTION

Capt C.A. Lougheed, Adjutant "A" Wing, 11 Canadian Repatriation Depot, sworn, states:-

Q. Will you tell the court your evidence as you know it on the 31 Oct 45 insofar as the accused is concerned?
A. On the afternoon of 31 Oct 45 I was employed as Asst Adjt of "A" Wing 11 Repat Depot. At that time the Adjutant, who is W.G. Moore received a phone call to the effect that a disturbance had been caused at the Shelly Arms in Nutley, Sussex, on which the Regimental Police were despatched to the Shelly Arms, Nutley, at approximately 1520 hrs of that date. I was informed that B.55488 Pte Lionel Albert Lebitt the accused whom I now recognize was placed under open arrest and remained so until he was placed in close arrest at Tunbridge Wells at approx 1820 hrs of that day.
Q. Did he have a pass?
A. There was no pass issued to Pte Lebitt that afternoon.
Q. He was not away on duty?
A. Not to my knowledge; he was not detailed for duty outside the camp.

CROSS-EXAMINED

Q. Up until the time of the disturbance in the Shelly Arms you had received no information saying that Pte Lebitt was absent without leave?
A. I had not.
Q. As the Asst Adjt acting in the capacity of Adjt of this wing at that time you would have been informed that he had been reported absent?
A. Yes, I would.
Q. Do you recall a movement order that came out on the 28 Oct 45 in which Pte Lebitt's name was included?
A. The witness is shown the order and says "At the time this order came out I was in my quarters sick and there is a movement order dated 28 Oct 45 in which the name of the accused is included.
Q. It is the practice to allow the men a certain amount of time or a reasonable amount of time to prepare themselves for draft?
A. That is correct.
Q. Wednesday is the day for "Q" issues?
A. That is correct.
Q. In the routine of the camp the draft would have been cleared on that date ready for draft?
A. That is correct in all normal routine of the camp that draft would have left on 1 Nov 45 and leave this unit on 2 Nov 45.
Q. They had parades starting on 1 Nov 45?
A. That has nothing to do with myself and is the sole responsibility of R&D.
Q. As Adjt you do know that a reasonable amount of time is allowed these men to prepare themselves for draft?
A. Yes, anywhere up to 24 hours.

FOURTH WITNESS FOR THE PROSECUTION (CONT'D)

Q. Did Staff McDonald receive the phone call?
A. I received the phone call.
Q. Who phoned it in?
A. He said this is the Adjt of the camp, when he asked me if there were any senior NCOs around. I said "no". Staff McDonald was having a hair cut and I looked for him and found him and told him and I went right back to the guard room where I asked if there was any message I could get.
Q. When you arrived at the Shelly Arms you drove up with your vehicle to the front of the Shelly Arms?
A. Yes sir.
Q. The whole area in front of the Shelly Arms is visible to your view?
A. Yes it is sir.
Q. It is quite wide from the roadway to the sidewalk?
A. Yes it is sir.
Q. Was there any other vehicle besides your own in front of the Shelly Arms?
A. I think there was another vehicle but it was not an Army vehicle.
Q. Was it a car?
A. Yes sir, the car pulled out a bit to let our truck in.
Q. There was no motorcycle?
A. I never saw one.
Q. When you returned with the soldiers from the Shelly Arms were they taken into the guard room?
A. Yes, sir, to the "A" Wing guard room.
Q. Were they told that they were going to be charged for creating a disturbance?
A. I wouldn't recall if they were or not but S/Sgt McDonald told them they were released under open arrest after talking to the Adjt.

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

FIFTH WITNESS FOR THE PROSECUTION

L.22761 L/Cpl Rollings, B.R., 11 Canadian Repa triation Depot, sworn, states:-

Q. Will you give your statement of evidence beginning at 1330 hrs 31 Oct 45?
A. At that time I was in charge of the coal yard at "A" Wing and responsible for men working under me. On the 31 Oct 45 at 1330 hrs Pte Lebitt failed to report to me and did not report to me the remainder of the day. Immediately I reported it to the Duty Coy Orderly Room. The accused is the Lebitt I referred to. Pte Lebitt had no pass.
Q. Pte Lebitt was not sent away on any duty?
A. That is correct sir.

CROSS-EXAMINED

Q. On the day in question Pte Lebitt was not on duty in the morning, he did not report at any time during the day?
A. He reported to me in the morning.
Q. Did he work at the coal fatigue in the morning?
A. Yes, sir.
Q. I have here a movement orderfor a movement of troops from 11 Repat. In it is the name of Pte Lebitt and he was warned for draft on 30 Oct 45. Does that refresh your memory in any way that he was excused to prepare himself for draft?
A. I wasn't warned.
Q. Did he work for you in the morning?
A. Yes sir, definitely.
Q. You saw him?
A. Yes, sir.
Q. He was there all morning?
A. He left with the last load at about 1000 hrs.

THIRD WITNESS FOR THE PROSECUTION (CONT'D)

QUESTIONS BY THE COURT

Q. Are you familiar with vehicle CL.42352827
A. I am, sir.
Q. Do you know if any work ticket was issued for that vehicle that day?
A. Yes, sir, for the job of hauling rations.
Q. From where?
A. From Haywards Heath, sir, and through Lingfield.
Q. Who was the driver?
A. Pte E.J. Hachey.
Q. Was any work ticket issued authorizing this accused to drive that car that day?
A. No, sir.
Q. Was any work ticket issued authorizing Pte Langer to drive a car that day?
A. No, sir.

CROSS-EXAMINED

Q. Did you say Lindfield or Lingfield?
A. Lingfield.
Q. Is it in the direction of Tunbridge Wells?
A. No in the direction of East Grinstead.
Q. Do you know where it is?
A. I know where it is but I couldn't give you the compass bearing.
Q. Is it five miles?
A. Considerably more than that.

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

FOURTH WITNESS FOR THE PROSECUTION

E.102746 L/Cpl Baillergeon, G., 11 Canadian Repatriation Depot, sworn, states:-

Q. Will you tell the court your statement of evidence beginning at 1500 hrs on 31 Oct 45?
A. At approximately 1500 hrs 31 Oct 45 as a result of a phone call from the Adjt of the Camp I proceeded to Nutley with four other RP's and I visited the Shelly Arms and I took into custody the three men, Langer, Lebitt and McLennan. The accused is the Lebitt I referred to. We came into the camp and a few minutes later they were released under open arrest by Sgt McDonald and they walked away towards the power house and that was the last I saw of them that day.
Q. Were they drunk?
A. They had been drinking but I wouldn't say they were drunk.
Q. Was the accused drunk?
A. They were all the same. I wouldn't know if they were drunk or not. I am not a Medical Officer.
Q. Would you state the time again that they were returned in custody and released under open arrest?
A. They were released under open arrest about 25 minutes after we came to the Shelly Arms. We came to the Shelly Arms about 1535 hrs.
Q. Let us go back to the Shelly Arms, as you were leaving did you overhear any conversation by any of the parties that were abusive at that time?
A. Pte Langer mentioned that he did not want to forget that face.
Q. Whose face?
A. I did not know whose face that was.

CROSS-EXAMINED

Q. Who directed you to pick these men up at the Shelly Arms?
A. Staff McDonald, sir.

SECOND WITNESS FOR THE PROSECUTION (CONT'D)

Q. You speak of one of the soldiers that told Sgt Scott he had no authority in the pub, do you remember whether he told him or asked him if he had authority to exercise over other ranks in the pub.
A. He said to him that you have no right to order us around in a pub.
Q. Who said it?
A. MacLennan said it.
Q. Was it the accused?
A. Definitely not the accused.
Q. Pte Lebitt was just a party in the public bar drinking with these other accused or other soldiers and was not participating in the abusive language and profanity as were the other soldiers, is that correct?
A. He was not nearly as bad as the other soldiers.
Q. You don't remember Pte Lebitt using any objectionable language in your hearing?
A. I don't remember any particular soldier using any objectionable language in my presence and the accused was not nearly so bad as the other soldiers. He afterwards came to me and offered an apology and said I am sorry I have been swearing.

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

THIRD WITNESS FOR THE PROSECUTION

K.9200 Cpl Smith, I.M., 11 Canadian Repatriation Depot, sworn, states:-

Q. Will you tell the court your evidence and state your capacity with 11 Repat?
A. I am transport despatcher with 11 Repat and between the hours of 1400 hrs and 1800 hrs on the 31 Oct 45 I was acting in my capacity as despatcher and I despatched no trucks of that nature to Tunbridge Wells.
Q. Did you authorize this accused to take any vehicle that day?
A. Certainly not.

CROSS-EXAMINED

Q. Have you any recollection of any transport in the nature of a 60 cwt being despatched from transport to any destination that would take them through or around Tunbridge Wells?
A. Not during those hours.
Q. Were there any prior to those hours?
A. Yes there was.
Q. Transport requisition was made for the destination of Tunbridge Wells and vicinity?
A. Yes, sir.
Q. This transport did not necessarily have to leave before those hours?
A. That I can't say. I just despatch those trucks in the morning.
Q. It is possible that these trucks did not leave on their journey until 1400 hrs?
A. That is correct sir.
Q. May I also ask who else at 11 Repat has the authority to despatch vehicles without directly getting it from the despatcher?
A. The Adjt of RHQ or the Adjt of "A" Wing can change a work ticket.
Q. May any Adjut of the other wings?
A. They can only request it.
Q. Is it possible in your opinion that trucks may have been despatched from either the Adjt at RHQ or the Adjt of "A" Wing?
A. It is possible.

SECOND WITNESS FOR THE PROSECUTION (CONT'D)

Q. What directed your attention to the outside so that you saw Sgt Scott and did you recognize him and call him in?
A. I looked through the window and called him in.
Q. He was standing there?
A. I don't particularly remember what he was doing.
Q. Have you at any time since the incident discussed the happenings around or pertaining to this disturbance with Sgt Scott?
A. No I don't think so. I have not discussed it in any detail.
Q. If Sgt Scott said that he had not discussed it with you would it be untrue?
A. Not necessarily.
Q. Discussing would mean any mention of the case?
A. It was not mentioned other than I might have asked him how was everything going or remarks like that.
Q. The window you called from was the window directly opposite the bar where it opens out into the place for the orders?
A. Not it would be the other window.
Q. The window closer to the door?
A. Yes, the window closer to the door.
Q. Did you speak to Sgt Scott through the window?
A. Yes I called him over and asked him to come in and see if he could do anything about it.
Q. Called through the window, weren't the people inside paying any attention to what you said?
A. I don't think they would hear if they were not paying any attention to anything I said.
Q. Your words were heard outside by Sgt Scott?
A. I think he got the general idea.
Q. You had to speak loudly enough so that it was transmitted through the glass or wall?
A. I didn't particularly shout.
Q. He immediately came in?
A. Yes.
Q. Where did he put his motorcycle?
A. I have no idea.
Q. Did you meet him as he was coming in and speak to him of the mis-conduct of the soldiers in question or did you wait until he had ordered a beer and then discussed it with him?
A. Yes, I told him as I was serving the beer.
Q. You didn't hear the accused make any utterance of obscenity or profanity?
A. No.
Q. But you do recall other soldiers making utterance of obscenity and use profane language?
A. They were all swearing but no particular person that I know here.
Q. When the beer was spilled on the floor the accused willingly offered to clean it up?
A. Yes, he apologized.
Q. Did you see him throw it?
A. Yes.
Q. Had you asked the soldiers to leave the bar?
A. No.
Q. You didn't ask them?
A. No, I had no cause to ask them.
Q. There language was not sufficient to warrant their expulsion from the bar?
A. No, I did not think so.
Q. There was no other attendants with you in the bar?
A. No, the other bar maid had gone to lunch.
Q. Did she assist you in calling Sgt Scott?
A. She was there I think but she didn't do much about it.

Q. In your opinion the accused was not one of the members that Sgt Scott directed his orders to use more conservative language?
A. He was at the end of the bar and playing darts with Langer and while there Langer said they would not control their language.
Q. There was no mention of this accused saying he would not control his language?
A. No, sir, I did not hear him say it.
Q. Sgt Scott was directing his orders to Langer?
A. Yes, that particular order.
Q. The accused Lebitt was playing darts?
A. Yes.
Q. Is this a customary practice in your bar for soldiers to have drinks and play darts?
A. Yes.
Q. They were behaving normally at that time?
A. Yes, apart from the swearing in the course of their conversation.
Q. In the group of soldiers that were present in the private bar, do you remember a certain Sgt that was there other than Sgt Scott?
A. No, I don't.
Q. You wouldn't say he was not there?
A. I didn't know anyone in particular in the bar.
Q. Would it have been necessary to call the Sgt from outside if you knew a Sgt was in there?
A. Not if I knew a Sgt was in the bar.
Q. Had you known Sgt Scott previously?
A. No.
Q. He has visited the bar since the incident, has he not?
A. I have seen him since.
Q. If Sgt Scott says that he has not visited the Shelly Arms on other occasions is that untrue?
A. Yes he has been in.
Q. On what occasions?
A. I am not certain.
Q. He has been in several times and if he says he was not in it is untrue?
A. Possibly.
Q. When you called for Sgt Scott did you call from behind the bar?
A. I called from across the window.
Q. Would you interfere with the accused and Langer in their game of darts?
A. No.
Q. The dart board is between the bar and the window, you passed between them, is that correct?
A. I might have done.
Q. You would pass between the boys playing darts and the dart board?
A. They were not playing darts all the time they were playing darts some of the time.
Q. The distance between the dart-board and the wall is approximately three feet?
A. Approximately yes.
Q. That means if one man is throwing darts the other men can lean against the bar?
A. Possibly yes.
Q. Did you walk between them?
A. I couldn't say.
Q. Did you see Sgt Scott outside the window prior to the time you called him in?
A. I didn't even look.
Q. What may I ask would direct your attention to that particular soldier?
A. It was embarrassing to me to listen to them swearing and I was walking from one bar to the other to keep away from it and so I wouldn't hear them swear and my brother was in the basement and not around and I couldn't call him up to tell the men off and that is why I suppose I called Sgt Scott.

and Langer were playing darts. The accused is Lebitt. There were about 6 other soldiers in the bar, one of them was MacLennan, and they were all using bad language, obscene and abusive language. I asked them several times to be quiet, they paid no attention to me, so I called to Sgt Scott through the window and asked him if he could come in and make them behave. He came in and ordered a beer and ordered them to stop and they still kept on swearing and he told them to control their language in front of women and MacLennan got up and went outside and I thought he was going to strike Sgt Scott and Langer shouted from the end of the bar that he would not stop. Sgt Scott told him he was not talking to him and to mind his own business and they kept on swearing and he ordered him to shut up and one of them told Sgt Scott he could not give an order in a public bar and they kept on swearing and Lebitt threw a pint of beer on the floor. I told him he would have to clean it up and he said he was sorry but Langer had dared him to do it but he would clean it up if I would give him a mop. Langer said if you clean it up I will throw a glass through the window, which he would have done and we left it alone and cleaned it up ourselves. The police came and took the men away a little after closing time.

Q. Do you remember definitely whether this accused used any bad language?
A. I don't remember any particular individual and they were all swearing, but they were not swearing at me and it was very embarrassing.
Q. Do you remember any conversation as to what they had planned?
A. They kept talking of going to Tunbridge Wells but no reason given.
Q. Sgt Scott from your evidence told these men they should be quiet and not use this language, did they comply with his words and warning?
A. No, sir.
Q. Did anyone appear to be the ringleader?
A. Yes, Langer definitely was.
Q. The accused left at what time and in whose company?
A. The regimental police I think you call them, they took them away five minutes after closing time. We close at 1430 hrs.
Q. Did they seem to be drunk?
A. They were not drunk but had been drinking.
Q. Had they been drinking beer?
A. Yes.
Q. Anything else?
A. Not that I am aware of.
Q. In your opinion it would take a lot more than what they had to be drunk?
A. Yes, sir, they were just acting foolishly.

CROSS-EXAMINED

Q. In your evidence just now you say that you were on duty at 1430 hrs?
A. 1430 hrs is closing time.
Q. What time did the disturbance start?
A. 1330 hrs, sir.
Q. What in your opinion would cause the disturbance as you say it started?
A. The men were swearing when I went into the bar at 1345 hrs.
Q. You didn't receive any present from any member in the bar in the form of sweets at the time you went into the bar?
A. I believe the accused gave me a bar of chocolate for my little boy.
Q. You believe this soldier did tender a gift over the bar to you?
A. I wouldn't swear to it but I believe he did.

my

FIRST WITNESS FOR PROSECUTION (CONT'D)

Q. Did you think it wise and necessary to direct him as one would an adolescent and not as a man who has served his country faithfully and for a considerable time, by telling him to shut up.
A. I told him at the time that he was in the army long enough to know what he was doing and that as a man he should have some sense.
Q. Are you accustomed to treating men as babies?
A. No, sir.
Q. Was he there as a customer of the pub or was he there on parade?
A. As a customer of the pub.
Q. He therefore had the right of free speech?
A. To a certain extent, yes.
Q. So the order to shut up then was not an order?
A. It was an order as far as I was concerned.
Q. At the time these soldiers were leaving the pub was there any swearing from Lebitt?
A. No, sir, he went along willingly and used no profane language.
Q. So the only profane language you say that this man used was "I was brought up to curse and swear when the hell I please and the presence of women does not make a God damned bit of difference to me." Are those the exact words of the accused?
A. They are.
Q. I suggest that you have a very excellent memory?
A. I have, sir.
Q. Do you remember the exact words that the other accused persons used?
A. I remember some of them.
Q. Remember, Sgt Scott, you are reporting the words of three soldiers and they were not all directed to you.
A. They were all talking together and I take it as I remember it.
Q. What I am getting at is that you are not sure whether it was Pte Lebitt or Pte MacLennan that said it?
A. There is no doubt in my mind.
Q. When the accused were released at the guard room, you heard Pte MacLennan and Pte Lebitt say "that's fair enough"?
A. Yes, sir.
Q. Had you laid any charge?
A. Not at that time.
Q. Then these men were not charged with using obscene and profane language in a public house and the charges followed the inquiry after they had been detained in Tunbridge Wells?
A. Yes, sir.
Q. And they were not laid by you?
A. No, sir, but the evidence was taken from me.
Q. And in the summary you say that after they left the guard room Pte Lebitt and Pte MacLennan both walked away toward the power house and messing stores?
A. They were walking towards it and had not yet reached that point.

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

SECOND WITNESS FOR THE PROSECUTION

Mrs Gladys RALPH, Barmaid, Nutley, Sussex, sworn, states:-

Q. Will you please tell the court what happened as you remember it on 31 Oct 45, starting at 1330 hrs.

A. At half past one on 31 Oct 45 I was working in the Private Bar in the Shelly Arms public house, Nutley, Sussex. Lebitt

FIRST WITNESS FOR PROSECUTION (CONT'D)

Q. And in passing the bar to the end of the bar I suggest that you passed several soldiers?
A. I did.
Q. And one of them was an NCO of the same rank as yourself?
A. I don't recall that.
Q. After you were in there did you notice it?
A. No, sir.
Q. You took your friend, Pte Boyer, who you met outside in with you when you entered the pub, did you not?
A. He did not come in with me, but followed me in.
Q. And you immediately walked to the counter and ordered beer?
A. No, sir, I spoke to Mrs Ralph first.
Q. Do you recall the conversation you had with Mrs Ralph at that time?
A. I asked what was going on and she said they were cursing and swearing and making a nuisance of themselves. I did not take her word for it but ordered a beer and watched them.
Q. As an NCO performing his duty as a soldier, did you think that it was advisable to be drinking beer at that time?
A. Under the circumstances, yes.
Q. Then you would be accepting the responsibility of being concerned in the disturbance that took place in the bar?
A. No, sir, I was trying to stop the disturbance.
Q. But you did drink beer?
A. Yes, sir.
Q. And made yourself a party to it by ascertaining whether there was a disturbance or not.
A. I was not a party to what was going on and was definitely away from it all.
Q. Taking time to review the happenings in that bar or room, can you tell the Court what these men were doing in there?
A. Pte Lebitt and Pte MacLennan were at a table. MacLennan was sitting down but I would not go so far as to say that Lebitt was sitting down because I did not notice it at the time. Pte Langer was standing up at the end of the bar. He had been playing darts.
Q. Who was he playing darts with?
A. Some of the soldiers. I don't know who.
Q. Who were you particularly concerned with in your duty of keeping these men quiet?
A. Pte MacLennan first.
Q. Then there was no complaint against the accused Pte Lebitt?
A. Not up to that time.
Q. Then you say you spoke to Pte MacLennan and when he replied with some remarks you argued with him?
A. Yes, sir.
Q. Then after considerable time, as I presume it took some time for you to convince Pte MacLennan that you were in a position to exercise authority, Pte Lebitt asked you what your authority was based on in exercising it in a public house?
A. Pte Lebitt told me I had no authority to give orders.
Q. While you were talking and arguing with another soldier, you distinctly remember that he told you?
A. Yes, sir.
Q. What did he say?
A. He just said I had no authority to give orders in a pub and that he was brought up to curse and swear where he pleased. He was standing about three feet away from me.
Q. Was it possible that he was directing his conversation to another person in the pub?
A. No, sir.
Q. But there were other persons there?
A. Outside of Pte MacLennan and Pte Lebitt they had nothing to do with it. I was expecting to get a poke in the jaw at any moment.
Q. Then you were not paying a great deal of attention to Pte Lebitt?
A. Yes I was because I had to watch him too.

FIRST WITNESS FOR PROSECUTION (CONT'D)

Q. Did you at any time visit the highway leading from this camp to Nutley after that on that same day?
A. I continued on my way to C Wing to finish my business there.
Q. Did you notice anything at that time?
A. Yes, sir. Just before I came to the fork in the road by the Shelly Arms, on the lefthand side, a telephone post was broken off. That would be about 1550 hrs.

CROSS-EXAMINED

Q. From the evidence that you have just submitted to this Court, you mention riding past the Shelly Arms on a motorcycle. Is this motorcycle military property?
A. No, sir, it belongs to me.
Q. Are you accustomed to using your own property on military business?
A. I sometimes use the motorcycle.
Q. Do you use petrol from military stores?
A. No, sir. I have ration coupons.
Q. And you use them?
A. Yes, sir.
Q. You mentioned also that you slowed down to speak to someone that you had not seen in a considerable time?
A. Yes, sir.
Q. Did you make arrangements for that person to meet you there?
A. No, sir.
Q. Then you were very quick to recognize the soldier when you saw him?
A. Yes, sir.
Q. Is it a custom of yours to inspect soldiers along the road when you are coming to an intersection?
A. I was past the intersection.
Q. But you had to take your eyes from the road to see him?
A. Yes, sir, but I just glanced at him.
Q. On which side of the road did you stop?
A. On the lefthand side. I pulled into the Shelly Arms when I saw him.
Q. This is not the first time you had visited the Shelly Arms, is it?
A. I had been there once before.
Q. If Gladys Ralph says that you have been there several times other than this one particular time, is it untrue?
A. Yes, sir, it is untrue.
Q. Then, Sergeant, in view of the answer that you have just given, how do you account for your familiarity with the said pub?
A. I was not familiar with it before 31 Oct 45. I am now because I have been there since.
Q. Which window did the barmaids call you from?
A. The first window on the left as you are facing the pub.
Q. Would she have to come out from behind the bar to call you from that window?
A. Yes, she would, sir.
Q. In the summary you mention two barmaids. Were there two or one and did both or one call you?
A. I can't say whether both called to me, but the two barmaids were both at the window.
Q. How far is the window from the road?
A. About 70 feet.
Q. There are two doors on that side of the pub?
A. Yes, sir.
Q. Which one did you enter?
A. The lefthand door.
Q. When you entered that particular door which end of the bar did you go to?
A. I went to the far end, not the extreme end but about three-quarters of the way down the bar.

TRIAL OF

B.55488 Pte LEBITT, L.A., ---- CIC, 11 Cdn Repatriation Depot.

PROSECUTION

FIRST WITNESS FOR PROSECUTION

M.11770 Sgt Scott, J.C., 11 Canadian Repatriation Depot, sworn, states:-

At approximately 1345 hrs on 31 Oct 45 I was passing the Shelly Arms in Nutley on my motorcycle on the way to C Wing. I was slowing down to speak to a friend I had not seen for quite a while, Pte Boyer, and had not quite stopped when the barmaids of the Shelly Arms called from the window for me to come in. I immediately went inside. I went to the back end of the bar and because of what the barmaid told me I ordered a beer and while I drank it I watched the soldiers. There was a lot of talking, swearing and cursing when we went in the pub. I heard Pte MacLennan using obscene language and I asked him to control his language. Pte Langer shouted from the end of the bar "what do you mean, control our language; we will talk as we please." While this was going on there was still the same crude and vulgar language coming from Pte MacLennan and he made a statement to the effect that he was as big as I was and my being a Sergeant did not make a damn bit of difference to him. Then Pte Lebitt came into the picture and said I had no authority to give anyone orders in the pub. I told him that as a man there was no reason for swearing before women and he said he was brought up to curse and swear when and where he pleased and the presence of women did not make a God damn bit of difference to him.

Q. Is Pte Lebitt here now?
A. Yes, sir (indicates accused).

I then spoke directly to Pte Lebitt and gave him a direct order to shut up. I said "look I am giving you a direct order to shut up." He kind of hesitated a few minutes and my impression, if that means anything here, was that the presence of the others had bolstered him up and he said "I am not going to shut up." Both Pte Lebitt and Pte MacLennan left me after that and went over to a table. Everything quietened down and then one said to the other "are we going to take this from a fucking Sergeant?" Things would quieten again and then one of the others would come out with the same thing. All the time they were still cursing and swearing and talking about going to a party at Tunbridge Wells. I spoke to the barmaid and asked her if she wanted the pub cleared and she said "yes", so I phoned the RP at 1435 hrs. Just as Pte Langer was being escorted out the door by the RP he turned and said in a loud voice "wait, I want to make damn sure I don't forget his face". I followed the RPs up to the Guard Room. They were released under open arrest and as they were leaving the guard room and were passing me Pte Lebitt and Pte MacLennan said "that's fair enough" and Pte Langer said "well it's not with me I'm not going to forget this nor him".

Q. What meaning did you take from this?
A. That they were not going to forget me.
Q. Were there other soldiers in the room?
A. Yes, sir.
Q. When you gave Pte Lebitt the direct order to shut up, did he comply with it?
A. No, sir, he did not.
Q. Did he continue to carry on with what he was doing, uttering profane language?
A. Yes, sir.
Q. Can you give me the time you left the guard room?
A. I left at approximately 1525 hrs.

MEDICAL OFFICER'S CERTIFICATE

19 Dec 1945.

I certify that No. B.55488 Private Lionel Albert LEBITT, 11 Canadian Repatriation Depot is in a good state of health and is fit to undergo trial by Court Martial.

Capt.
RCAMC 11 Can. Repat. Depot.

MEDICAL OFFICER'S CERTIFICATE

18 DEC; 1945.

I certify that No. B.55488 Private Lionel Albert LEBITT, 11 Canadian Repatriation Depot is in a good state of health and is fit to undergo trial by Court Martial.

Law

.....Capt.
RCAMC 11 Can. Repat. Depot.

FIELD GENERAL COURT-MARTIAL

CFAAR (In lieu of AFAR) 40(DAR/1097 (2nd)E)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-55488	Pte		Lionel Albert	LEWITT - CIC - 11 Cdn Repat Dep	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Dec 45 endorsed by me, ~~for my order of my staff for me~~, "To be tried by Field General Court-Martial".

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

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

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

4. ~~I am unable to appoint [illegible] Court, (a) [illegible] for the reason I have marked thereto.~~

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

5. ~~I have appointed Judge Advocate thereto the officer mentioned per order~~

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

PRESIDENT.

Lt Col (Rank.)	D L REDMAN, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Comd	11 Cdn Repat Dep
Lieutenant (Rank.)	to be detailed by Comd (Named or detailed. RP 106.)	10 Cdn Repat Dep (Unit.)

WAITING MEMBER.

Lieutenant (Rank.)	to be detailed by Comd (Named or detailed, if any. RP 106.)	11 Cdn Repat Dep (Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 13 Dec 45

W P Murdoch (Signed personally. RP 105 fn 2.)

(W S Murdoch) Colonel (Rank.)

A/Commanding D Gp CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

WM

CHARGE SHEET (Continued)

SEVENTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
in that he, between 1535 hrs 31 October 45, and 1700 hrs 31 October 45, was concerned in the unlawful and improper use of Canadian Military Vehicle No CL 4235282 thereby occasioning damage to the said vehicle in the sum of £1.14.0 and thereby occasioning damage to the Duke of York Public House, on the Pantiles, Tunbridge Wells, Kent, the property of Messrs. Fremlins Ltd of Earl Street, Maidstone, Kent, in the sum of £7.14.6.

EIGHTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
in that he, about 2000 hrs, 31 October 45, when lawfully confined in male cell No 2, in the Police Station in Tunbridge Wells, Kent, the property of the Mayor, Aldermen and Burgesses of the Borough of Royal Tunbridge Wells, was concerned in improperly and unlawfully causing damage to the said cell and its fixtures and equipment in the sum of £31.10.0.

Lieut-Col.

(R. W. Wilsen)
Officer Commanding, No 1 Wing
11 Canadian Repatriation Depot.

In the Field
// Dec 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(W S Murdoch) Col
A/Comd D Gp CRU

IN THE FIELD
13 Dec 45

CHARGE SHEET

The accused, No. B-55488 Pte Lionel Albert LEBITT, Canadian Infantry Corps, 11 Canadian Repatriation Depot, C.A.O., is charged with:

FIRST CHARGE
Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE, in that he, at 11 Canadian Repatriation Depot, absented himself without leave from 11 Canadian Repatriation Depot from 1330 hrs 31 October 45 until apprehended in the Shelly Arms Public House, Nutley, Sussex, at 1500 hrs 31 October 45.
Total time absent 1 hour and 30 minutes.

SECOND CHARGE
Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
in that he, about 1345 hrs 31 October 45, in the Shelly Arms Public House, Nutley, Sussex, in the presence of a civilian woman, used vile and obscene language.

THIRD CHARGE
Sec 6 (2) Army Act

WHEN ON ACTIVE SERVICE USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER,
in that he, about 1345 hrs 31 October 45, in the Shelly Army Public House, Nutley, Sussex, after No M.11770 Sgt Scott, J.C. 11 Canadian Repatriation Depot, a NCO of the Canadian Army had told another soldier present to control his language, said to the said Sgt, that he, the Sgt, had no authority to give orders in a pub and was not going to tell the accused to shut up.

FOURTH CHARGE
Sec 9 (1) Army Act

WHEN ON ACTIVE SERVICE DISOBEYING IN SUCH MANNER AS TO SHOW A WILFUL DEFIANCE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,
in that he, about 1355 hrs 31 October 45, in the Shelly Arms Public House, Nutley, Sussex, when personally ordered by No M.11770 Sgt Scott, J.C. of 11 Canadian Repatriation Depot, a NCO of the Canadian Army, then engaged in quieting another soldier, to shut up, did not do so, but defiantly replied to the said Sgt "I am not going to shut up!"

FIFTH CHARGE
(Alternative)
Sec 9 (2) Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,
in that he, about 1355 hrs 31 October 45, in the Shelly Arms Public House, Nutley, Sussex, when personally ordered by No. M.11770 Sgt Scott, J.C. of 11 Canadian Repatriation Depot, a NCO of the Canadian Army, then engaged in quieting another soldier, to shut up, did not do so but defiantly replied to the said Sgt "I am not going to shut up!"

SIXTH CHARGE
Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE, in that he, at 11 Canadian Repatriation Depot, while in open arrest, absented himself without leave from 11 Canadian Repatriation Depot from 1535 hrs 31 October 45 until apprehended by the British Military authorities at Tunbridge Wells, Kent, at 1620 hrs 31 October 45.
Total time absent 2 hours and 45 minutes.

my

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ 6 CHS CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

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

President to accused: Do you wish to make a statement ? Ans NO - SIM (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (~~those~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Use Field Service Sheets of Record.

EXCEPT NOL

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - SIM (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans NEITHER. Do you intend to call witnesses on your behalf ?
Ans NO - SIM. Are they witnesses as to character only ? Ans NO - SIM.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE AIT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42.* (*3m.*))

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1, 2, 3, 5, 7 & 8 charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIM
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: B-55488 Pte Lionel Albert LEBITT - CIC - 11 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	NOT GUILTY	GUILTY	
2nd AA Sec 40	" "	GUILTY	
3rd AA Sec 8 (2)	" "	GUILTY	
4th AA Sec 9 (1)	" "	NOT GUILTY	
5th AA Sec 9 (2)	" "	GUILTY	
6th AA Sec 15 (1)	GUILTY	GUILTY	

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

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

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

Time in confinement awaiting present trial—a total of 48 days, of which NIL days were spent in hospital.(1)

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

Sentence Awarded by the Court: To undergo Detn for 120 days and to be put under stoppages of pay until he has made good (1) £1/14/0 the value of the damage to the Cdn Vehicle. (2) £3/17/3 the portion of the value of the damage to the Duke of York Public House in Tunbridge Wells. (3) £5/1/10½ a portion of the value of the damage to the cell in the police station in Tunbridge Wells, making a total stoppage of £10/13/1½.

(Sgd) ..... Judge-Advocate, if any. 19 DEC/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

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

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

~~I direct that the accused be not committed to prison or detention barracks and further order that~~ (1. AA 57A. Delete if not used.)

Date 27 Dec 45 (Sgd) [signature] (E.G. BLACKADER) Brig Commanding ~~Cons-D Gp Con Rtt Units~~ Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B-55488 Pte Lionel Albert Lebitt	28 Dec 45	[signature]

11 CRD Daily Order Part II No 1 dated 2 Jan 46

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 188, 1 5X-93

RECEIVED 1 JAN 1946 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CF A96 (In lieu of AFA81) 40/1st & 6/1098 (6/44) 4/388

Convened by Order of Lionel WS MURDOCH, MBE A/ Comd D Gp CRU dated 13 Dec 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55488	PTE	WED	Lionel Albert	LEBITT-CIC	11 Cdn Repat Dep

PROCEEDINGS REVIEWED AJAG Lincoln Capt 14 Jan 46 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) ENGLAND on (date(s)) 18 & 19 DEC/45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

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

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

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans ~~XXXX

5X-93

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~ .

12. ~~The accused has served as a non-commissioned officer continuously, without reduction to the present date:—~~

~~In the rank of~~ ~~Date of promotion~~

~~In the rank of~~ ~~years~~

~~In the rank of~~ ~~years~~

~~Name of any matter in any of the above paragraphs not to be stated from the Regimental books, the person upon whom it is to be thrown~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number D61083 Rank Private Name Lebel, R of No. 1 Cdn Sigs Reinf Unit Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 12 April 43	A.A.SEC.15(1) W.O.A.S. A.W.L. from 2300 hrs 21 Mar 43 to 1515 hrs 9 A pr 43.	6 months detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of November A.D. 1943

~~The above statement is the schedule of convictions and dispensations with trial as stated in the Regimental Books.~~

~~Signed by the president, and attested by the~~

R H Evans Lt.

(R.H.Evans) Lieut. R.C.A.
No. 1 Cdn Sigs Reinf Unit

B.
J.D.I.
2 Rin 43

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-61083	Private	Roland LEBEL (F.M.R.)	No. 1 C.S.R.U.

1. The following is a fair and true summary of the entries in the Regimental ~~Service and General~~ ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A.SEC.15(1)	2 times	9	times
For	A.A.SEC.40	1 times	2	times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~Three or no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. ~~The accused has not been previously convicted.~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for - days in civil custody, and ~~6~~ 12 RAF ~~Air Force~~ days in military custody, making a total of ~~12~~ RAF days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 Yrs 259 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 9 Sep 39

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his pension as~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer has held the regimental rank of~~ ~~Air Force~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	21-9-42	Pte	NIL	AA Sec 40 WOAS Cond to the prej of 5th order & mil disc in that he at 1230 hrs 21-9-42 answered back to his Sjt in an argumentative manner when told by his Sjt that he had a cigarette on parade	D21017 A/Sjt Charron A D62173 Cpl Boivin RR	7 Days CB	22 Sep 42	RH Lajoie Capt OC HQ Coy	
In the field	23 Sep 42	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he at 1745 hrs 22 Sep 42 did not report on Defaulters Parade	D63122 A/Cpl Savoie A	7 Days CB	23 Sep 42	RH Lajoie Capt OC HQ Coy	
In the field	23 Sep 42	Pte		AA Sec 15(1) WOAS awl from 2300 hrs 23 Sep 42 until 2400 hrs 1 Oct 42 Trans of awl 7 Days, 10 hours.	D21017 A/Sjt Charron A D61723 A/Cpl McFeldhen	14 Days FP	3 Oct 42	J.G. Pinault LT-Col.	8 Day pay FR & Jt 149(1)
In the field	2 Nov 42	Pte		AA Sec 40 WOAS Conduct to the prejudice etc in that he was improperly dressed on 602's parade at 1445 hrs 2 Nov 42	D62586 Sjt Moreau A	5 Days CB	3 Nov 42	Paul Lamontagne	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

True & Certified Copy 28 Oct 43.

No. D-61083 Name LEBEL R. Sqn, Battery, or Company — Corps Fus. M.R. Date of enlistment 9/9/39 GC Badges — Service or Proficiency Pay nil/a

MFM 6 (AFB 122) 10/PAM/136 (3439)

Date of last entry in Company Conduct Sheet — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No One — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	31-8-40	Pte		AWL from 2200 hrs 31-8-40 until 2155 hrs 10-9-40 Absent 9 Days 23 hrs 35 Mins	Cpl Rondeau "De Roussiers	24 hrs. detention	12-9-40	76 Pnr Coy Lt-Col	F.F.I. 3 10 days pay. 14 days pay.
Valcartier	24-9-40	Pte		AWL from 0730 hrs 24-9-40 until 0830 hrs 27-9-40 Absent 3 Days 1 hr.	Sgt Bonin Cpl Lavoie	14 days detention	29-9-40	76 Pnr Coy Lt-Col	
Valcartier	31-10-40	Pte		AWL from 2200 hrs 31-10-40 until 0645 hrs 20-11-40 Absent 19 Days 9 hrs 45 Mins	Sgt Daigneault Cpl Langlois	14 Days detention	20-11-40	76 Pnr Coy Lt-Col	28 days pay
Valcartier	3-1-41	Pte		AWL from 0600 hrs 3-1-41 until 1130 10-1-41 Absent 7 Days 5 hrs 30 min	Cpl Rivet - Desrosiers	28 Days detention	11-1-41	76 Pnr Coy Lt-Col	8 Days pay
Valcartier	16-7-41	Pte		AWL from 0600 hrs 16-7-41 until 0600 hrs 17-7-41 Absent 1 Day	Sgt Benoit Cpl Lavoie	1 Day pay	18-7-41	A Detachment Valcartier	1 Day Pay.
Cove Head	16-2-42	Pte		AWL 5 (1) AWL 4 hrs 45 Mins	Cpl Hughes Documentary	3 Days pay	12-3-42	H R Rymer Lt-Col	F.F.I. 3 1 Day pay
Belleville Hants	23-Jan-43	Pte		AWL 15 (1) Words AWL from place of Embarkation until 1130 hrs 24 Jan 43 Absent 1 Day 30	Capt Blakeley	2 Days C.B.	23-7-43	Lt-Col F.B. Cameron	

No. D-61083 Name Lebel R. Sqn, Battery, or Company "B" Coy Corps Fus. M.R. Date of enlistment 9-9-39 GC Badges — Service or Proficiency Pay nil/a

MFM 6 (AFB 122) 10/PAM/136 (3439)

Date of last entry in Company Conduct Sheet N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No Two — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	24 Jan 43	Pte		AWL 15 (1) Words AWL from 2300 hrs 24 Jan 43 until he reported himself at 1700 hrs 15 Feb 43 Time of absence 20 Days 18 hrs.	Cpl Lavoie	21 Days pay 27 F.P. 1	25 Feb 43	Lt-Col F.B. Cameron	
In the field	2/3/43	Pte		AWL 15 (1) Words AWL from 2300 hrs 21 Mar 43 & 1515 hrs 9 Apl 43 - 15 Days, 16 hrs, 15 Mins	Documentary	6 Months Detention	12 Apr 43	F.F.C. Lt.	

Certified true copy of the original document

Greyton Capt
for O.C. No. 6 Coy.
No. 3 Cdn. Sigs. Regt. Unit.

Officer in custody of original document
28 Oct 43.

Released from Detention Barracks Truro on Aug 14 1942 Conduct Good & Industry. Remission Earned, under rules for Detention Barracks and Military Prisons Etc. 27 Days.

Lt-Col
Commanding 3rd Cdn Sigs Regt

(PTO)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-61083 Private Roland Lebel of No. 6 Company, No. 1 Canadian Signals Reinforcement Unit, Canadian Army Overseas.

FIRST WITNESS for the prosecution

I am Lieut.M.A.Sugden of No. 1 Canadian Signals Reinforcement Unit, Canadian Army Overseas. I am now employed as adjutant of Regimental Training Wing and as such have custody of the documents below mentioned.

I produce in evidence a document (marked "Exhibit 'A'") being A.F.B.115, Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier, relating to the accused No. D-61083 Private Lebel,R, whom I now recognize, showing that the accused absented himself from his quarters without leave at 0800 hours 23 August 43.

I further produce in evidence a document (marked "Exhibit 'B'") being A.F.0.1617, Certificate of Surrender to the Civil Police of a Deserter or Absentee without leave, which relates to the accused and shows that he surrendered himself to the Civil Police at Lillington Road, London at approximately 1100 hours 22 October 43.

I further produce in evidence a document (marked "Exhibit 'C'") being a Certificate under Army Act, Section 163 subsection (i) & (j) which shows that the accused surrendered himself to the civil authorities at London at about 1100 hours 22 October 43.

M.A.Sugden Lieut. (R.C.C.S.) No. 1 CSRU

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused replied, "No, I do not wish to make a statement.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) & (f) have been complied with.

Taken down by me at Morval Barracks, Cove, Hants this twenty-sixth day of October A.D. 1943.

(R.H.Evans) Lieut No. 1 C.S.R.U.

Statement by the Accused in accordance with R.P. 14 (B)

I desire to have an Officer assigned to represent me on my trial by Field General Court Martial.

I request the services of Lt. H. STURTON - 6 C.I.R.U. if he is available.

R. Le Bel

D-61083 Pte Lebel, R No. 1 C.S.R.U.

LIST OF WITNESSES FOR THE PROSECUTION

First Witness -- Lieut. M.A. Sugden (R.C.C.S.), No. 1 Canadian Signals Reinforcement Unit.

LIST OF WITNESSES FOR THE DEFENCE

NIL

Exhibit "A"
R.H. Evans

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Morval Barracks Cove, Hants on the 14 day of September 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Nec[illegible]ies, or Clothing of No. D-61083 Pte Lebel, R (F.M.R.) No. 6 Company, Regimental Training Wing, No. 1 C.S.R.U.

DECLARATION.

The Court declare, that No. D-61083 Pte Lebel, R. (F.M.R.) No. 6 Company, Regimental Trg Wing, No. 1 C.S.R.U. illegally absented himself without leave at 0800 hours at Morval Barracks, Cove, Hants on the 23 day of August 43 and that on the 14 Sep 43 he was deficient and that he is still deficient of the following articles:-

Article	Quantity	Price	¾ Vocab Price
Blouses B.D.	1	1 - 7 - 8	1 - 0 - 9
Caps, F.S.	1	0 - 3 - 8	0 - 2 - 9
Drawers Cello	1	0 - 2 - 0½	0 - 1 - 6
Shirts angola	2	0 -18 - 4	0 -13 - 9
Shoes Canvas	1	0 - 3 - 2	0 -2 - 4½
Trousers, B.D.	1	1 - 7 -11	1 - 0 - 9½
Braces prs	1	0 - 1 - 3½	0 - 0 -11½
Brush cloth	1	0 - 1 - 1	0 - 1 - 1
Brush shaving	1	0 - 1 - 4	0 - 1 - 4
Brush Tooth	1	0 - 0 - 4½	0 - 0 - 4½
Combs hair	1	0 - 0 - 2	0 - 0 - 2
Razor safety	1	0 - 0 - 5½	0 - 0 - 5½
Outfit A/D	1	0 - 0 - 1½	0 - 0 - 1½
Ointment A/G	1	0 - 1 - 2	0 - 1 - 2
Total	£	4 - 8 - 9½	3 - 7 - 7

F.D.T.

Names of President and Members

Lieut. H. Tamblin (R.C.A.) No. 1 C.S.R.U. President.
Lieut. S. Brown (R.C.C.S.) No. 1 C.S.R.U. Member
Lieut. J.E. Chochinov (R.C.C.S.) No. 1 C.S.R.U. Member
Signed at Cove, Hants
this 14 day of Sep 1943.

Signature of Commanding Officer: H.R. Tyner Col.
Commanding
No. 1 Cdn Sigs Rein Unit

CERTIFIED TRUE COPY.

[signature]

Signature of Officer having custody of the Original Record.

(12281) Wt.34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(12443) Wt.45725/760 225,000 1/40 " " Forms/B115/56

Exhibit "B"
Robinson.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

887.

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(18371) Wt.10874/180 15,000 6/41 A.& E.W.Ltd. Gp.698 Forms/O.1617/12

I CERTIFY that the man whose personal description is given below surrendered himself to* Pte 4293 Whitton at Pellington St SW1 at (hour) 11 am on the 22nd day of October 1943 as being No. D-61083 (Rank and Name) Private. Roland LEBEL. a deserter (or absentee without leave) from Canadian Signals RU. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 21 Height 5 Feet 11 Inches
Complexion fresh Hair dark Eyes blue
Marks none
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	Not known
Probable Date of Desertion or beginning of absence, and from what place	not known from Cove Camp Aldershot

Signature of Officer of Police in charge of: R. Cornel Insp
Gerald Road Station.
22nd October 1943 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of

No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

LIST OF EXHIBITS

Exhibit "A" -- Certified true copy A.F.B115. Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Exhibit "B" -- A.F.O 1617. Certificate of Surrender to the Civil Police of a Deserter or Absentee without leave.

Exhibit "C" -- Certificate under the Army Act, Section 163 (4) (4)

Exhibit "C"
R.H.Owens

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (4) (j).

I, ... (L.S. Grayson) Capt., D.A.P.M., C.M.P. . . . . certify that

Reg. No. D.61083. . Rank . . Pte. . . Name . . Lebel, R. . . . . .

Regiment . . . No. 1 C.S.R.U. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to No . 429 . . Rank . P.C. Name . Whitton . . . . .

of the . . . . Gerald Rd. Police Station, London . . . . . .

on the . 22 . . day of . . Oct. . . . . 19 43 , at . 1100 . . . . hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (military uniform) or ~~(civilian clothes)~~'

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

(Strike out part inapplicable)'

London
22 Oct. 43.

(L.S. Grayson) ~~(R.H.Owens)~~ Capt., D.A.P.M., C. M. P. C.

Having decided I had every intention of coming back to my unit as soon as I could make a little money to give her to keep her a bit independant until I could secure permission through the army channels to get married.

my child mother was in straightened circumstances I had to go to work [redacted] I could not get married without the permission of the Army If I come back then I would automatically be on charge as A.W.L. and would not have been able to support the mother who as I said before was in very bad financial trouble. It was a hard thing to decide.

I left without it. When I arrived in London to see my child and mother I found that it had not gone as yet to the hospital. it was at the same time very ill. My girl and myself talked the whole situation over and realized that we would have to get married for the sake of the child. Having broke the Army Law and fully realizing that

by this time
worried about the child.
I did not know if it
was serious or not. It
seems I had tried my
best to soldier. There
was no further recourse
for me then to again
place my position as
a soldier in jeopardy.
I waited all day Sunday
thinking that may be
they would grant me
a pass in the last
minute. On Sunday
evening the pass did
not materialized so

I came here and, immediately showed the telegram to L/Cpl Meichel in charge on garden fatigue. He told me he would do his best for me. I waited until Saturday and still no pass. The above L/Cpl told me to dress and try and see the Major. I asked Sgt Dexter to arrange to parade me to the Major, he refused and said no pass. I was

pass to London and
was given one for Guil-
ford and told I could
not get one for London
I was only given a
pass from 1200 hrs Sun-
day until 2300 hrs the
same day I received
another telegram on
Monday stating my
child was going to
hospital. On asking
for a pass the Captain
told me it was
impossible as I was
to leave Tuesday for
1 C. S. R. D.

seemed a bit too much for my crime. However I served my sentence and was awarded my remission. When my sentence was nearly completed I received a telegram stating that the child was ill. I immediately on my release applied for a pass as it was imperative that I see the child and the mother. For I did not know if the illness was of a serious nature. I asked for a

However when the child was due to be born I asked for a pass to proceed to see the mother and was refused. I had no other recourse as a man but to go A. W. L. When the birth was complet and both out of danger I immediately reported back to my unit. For this I received a F. G. C. M. and sentenced 6 months. The sentence at that time to me

to transfer to another unit
I did not receive any co-
operation so settled down
to make the best of my
position.

During my stay
in the country I had
met a girl of whom
I thought quite a lot.
I above all did not
wish to break the army
law. My lady friend
had got into a state
of pregnancy. I at
that time did not
want to consider ma-
trimony nor did she.

H. D. J.
2 Nov. 43

I Gus. Le Bel. R.
D 61083 joined the Canadian Army on September the ninth, nineteen hundred and thirty nine volunteering for Active Service. I arrived in England Oct 18th 1941
I plead guilty to the charge of A.W.L. with a strong plea for mitigation of sentence.
I tried unsuccessfully

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PA/S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.61083	Pte		Roland	Lebel	1 CSRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) ..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ 7
(AA 49, RP 106(B), 107(4). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~ 7
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Lt. Col.	H.D. Tweedie	HQ CRU

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Captain	to be detailed by	1 CASCRU
Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

in England (Country.) H.R. Tyner (Signed personally. RP 105 fn 2) Col (Rank.)

Date 31 Oct 43 A Commanding "B" Gp, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

F.D.T.
2 Nov 43

F. D. T.
2 Nov 43

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. D61083 Tur Lebel R
rank name
of NOTCSRU and in my opinion he is Fit ~~Unfit~~ to undergo trial by Court Martial.

Station COVE HANTS

Date 2nd November 1943

signed J. Seddy / Capt
Medical Officer

CHARGE SHEET

The accused, No.D-61083 Private Roland Lebel of No. 6 Company, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

W.O.A.S. Absenting himself without leave,

SEC. 15 (1)

Army Act

in that he

at Morval Barracks, Cove, Hants at about 0800 hours 23 August 1943 absented himself from his quarters without leave until he surrendered himself to the Civil Police at Lillington Road, London at about 1100 hours 22 October 1943.

Total absence - 60 days 3 hours.

W.O.Peffers

(W.O.Peffers) Lt.Col.
A/Officer Commanding
No. 1 Canadian Signals Reinforcement Unit

In the Field
26 Oct 43

TO BE TRIED FIELD GENERAL COURT MARTIAL

H.R. Tyner

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

31 Oct 43

A. D. J. 43

45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (E); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(E), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(1)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes. Attended. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(them)~~ plea~~s~~ of Guilty to Not Guilty on the charge~~(s)~~. ~~The accused is/are so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 17(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. *MFB 355 or AFB 29a.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 310, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VV-121

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 61083 Pte Lebel R. 1 C S R U

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year

(Sgd) ..... 2 Nov 43. (Sgd) F. D. Ireedie Lt Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~Accused to remain in custody until further orders.~~ (1) ✓

(1. AA 57A. Delete if not used.)

Date 4 Nov 43 (Sgd) H.R. Tyner Col

Commanding ~~1~~ Armoured Div.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D 61083, Pte. Lebel R.	5 Nov 43	J.D. Wilson. Major

To be published in Pt II Orders D.O. 274 4th Nov 43

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (2864)

Convened by Order of H R. Tyner Col A/Comd B Gp. C.R.U. dated 31 Oct 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 61083	Pte	Proceedings Reviewed	Roland	Lebel	1 C S R U

H. C. Jacks Lieut Brevet RW4.

Reviewing Officer (J.A.G.) C.M.H.Q.

6 Dec 43

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 2 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col.	F. D. Ireedie	H.Q. C.R.U.
Member	Capt.	L. H. Armstrong	1 C A S C R U
Member	Lt.	J. A. McLean.	~~1 C A S C R U~~ H.Q. C.R.U.
Judge-Advocate		H.	
Prosecutor	Lt.	R. W. Evans	1 C S R U.
Defending Offr	Lt.	H. L. Stanton	Reg de Chaud.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) ~~(as)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(don)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B ~~and E~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VV-121 (Cont'd)

PTE LEBEL R

See FF-101 for 1st case

LIST OF WITNESSES

In the Case of D61083 Fus Lebel R., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

D62670 Cpl Aube M., Les Fusiliers Mont-Royal

DEFENCE

N I L

LIST OF EXHIBITS

N I L

STATEMENT BY ACCUSED

I, D61083 Fus Lebel R., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, desire to have an officer to represent me at my trial by Field General Court Martial.

I desire the services of Lieut. V. Beaulieu Les Fus M R.

This is to certify that I have been given free of charge copy of the proceedings, documents, etc, relating to my trial by Field General Court Martial.

Fus Le Bel R

In the Field
This 7th of April 1943

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D61085 Name Fus Roland Lebel Unit Les Fus M.R.

Age 21 Married or Single SINGLE NO. Of Dependents N. A

Date of Attestation 9 Sep 39

No. Of Days spent in close Arrest (To date of Trial)

Civil _____ Military 3 Hospital _____ Total 3

Dates of Promotions, Appointments and Confirmation of Rank, If any

N. A.

A CERTIFIED TRUE COPY OF M.F.M.6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

[signature] Unit

Capt & Adjt.
Fus M R.
9 Apr 43

Dated at In the field

This 12 day of April 1943

(To be dated and signed as for date of trial)

J. Langlois Capt.

"H"

R Thompson Major

Wt. 18021/1883 1,000,000 H.P.Ltd. 51-7048 Forms/B122/4

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Wt. 18021/1883 1,000,000 H.P.Ltd. 51-7048 Forms/B122/4

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove	10/2/44	Pte		A.W.L. from 4 hrs 45 mins.	Sgt Taylor	2 days C.B.	10/2/44	Sgt O.R.	1 days F.F.
					Documentary				
Cove	10/2/44	Pte		A.W.L. from 4 hrs 45 mins.	Sgt Taylor	7 days C.B.	10/2/44	Lt Col. [illegible]	
					Whitehead				
The Plain	21/2/44	Pte		A.W.L. from 4 hrs 45 mins.	[illegible]	7 days C.B.	10/2/44	Lt Col. [illegible]	
				Conduct to the prejudice of good order and discipline in that he was absent from his place of duty at Muster Parade	Cpl Davis			Private	
					Pte Wilson				
					Pte Smith				
					Cpl Davis		

Army Form B.122

No. Name Squ., Batty., or Company Corps Date of enlistment Sheet No. 2

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	22/2/42	Pte		absent from 0.0 hrs 22/2/42 until 0.0 hrs 1/3/42	Sgt Chapman A.	14 days F.P.	2/3/42	Lt-Col [illegible]	14 Days Pay
"	27/2/42	"		absent from 0.0 hrs 27/2/42 until 0.0 hrs 1/3/42	Sgt Wilson S.	5 days F.P.	2/3/42	Capt T. Lambert	5 Days Pay
"	2/3/42	"		absent from 0.0 hrs 2/3/42 until 0.0 hrs 3/3/42	Sgt Wilson S.	21 days F.P.	3/3/42	Lt-Col [illegible]	21 Days Pay

(P.T.O.)

Army Form B.122

No. Name Squ., Batty., or Company Corps Date of enlistment Sheet No.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	31-7-40	Pte		absent from 0.0 hrs 31/7/40 until 0.0 hrs 1/8/40	Cpl Bowden	1 day F.P.	1/8/40	Lt-Col [illegible]	1 Day Pay
"	30/8/40	"		absent from 0.0 hrs 30/8/40 until 0.0 hrs 31/8/40	Sgt Wilson	1 day F.P.	31/8/40	Lt-Col [illegible]	1 Day Pay
"	2-9-40	"		absent from 0.0 hrs 2/9/40 until 0.0 hrs 3/9/40	Sgt Wilson	1 day F.P.	3/9/40	Lt-Col [illegible]	1 Day Pay
"	30/10/40	"		absent from 0.0 hrs 30/10/40 until 0.0 hrs 31/10/40	Sgt Wilson	1 day F.P.	31/10/40	Lt-Col [illegible]	1 Day Pay
"	2-11-40	"		absent from 0.0 hrs 2/11/40 until 0.0 hrs 3/11/40	Sgt Wilson	1 day F.P.	3/11/40	Lt-Col [illegible]	1 Day Pay
"	1/12/40	"		absent from 0.0 hrs 1/12/40 until 0.0 hrs 2/12/40	Sgt Wilson	1 day F.P.	2/12/40	Lt-Col [illegible]	1 Day Pay
"	3-12-40	"		absent from 0.0 hrs 3/12/40 until 0.0 hrs 4/12/40	Sgt Wilson	1 day F.P.	4/12/40	Lt-Col [illegible]	1 Day Pay
"	30/12/40	"		absent from 0.0 hrs 30/12/40 until 0.0 hrs 31/12/40	Sgt Wilson	1 day F.P.	31/12/40	Lt-Col [illegible]	1 Day Pay
"	2-1-41	"		absent from 0.0 hrs 2/1/41 until 0.0 hrs 3/1/41	Sgt Wilson	1 day F.P.	3/1/41	Lt-Col [illegible]	1 Day Pay
"	1/2/41	"		absent from 0.0 hrs 1/2/41 until 0.0 hrs 2/2/41	Sgt Wilson	1 day F.P.	2/2/41	Lt-Col [illegible]	1 Day Pay
"	3-2-41	"		absent from 0.0 hrs 3/2/41 until 0.0 hrs 4/2/41	Sgt Wilson	1 day F.P.	4/2/41	Lt-Col [illegible]	1 Day Pay
"	2-3-41	"		absent from 0.0 hrs 2/3/41 until 0.0 hrs 3/3/41	Sgt Wilson	1 day F.P.	3/3/41	Lt-Col [illegible]	1 Day Pay
"	1-4-41	"		absent from 0.0 hrs 1/4/41 until 0.0 hrs 2/4/41	Sgt Wilson	1 day F.P.	2/4/41	Lt-Col [illegible]	1 Day Pay
"	3-4-41	"		absent from 0.0 hrs 3/4/41 until 0.0 hrs 4/4/41	Sgt Wilson	1 day F.P.	4/4/41	Lt-Col [illegible]	1 Day Pay
"	2-5-41	"		absent from 0.0 hrs 2/5/41 until 0.0 hrs 3/5/41	Sgt Wilson	1 day F.P.	3/5/41	Lt-Col [illegible]	1 Day Pay
"	1-6-41	"		absent from 0.0 hrs 1/6/41 until 0.0 hrs 2/6/41	Sgt Wilson	1 day F.P.	2/6/41	Lt-Col [illegible]	1 Day Pay
"	3-6-41	"		absent from 0.0 hrs 3/6/41 until 0.0 hrs 4/6/41	Sgt Wilson	1 day F.P.	4/6/41	Lt-Col [illegible]	1 Day Pay
"	2-7-41	"		absent from 0.0 hrs 2/7/41 until 0.0 hrs 3/7/41	Sgt Wilson	1 day F.P.	3/7/41	Lt-Col [illegible]	1 Day Pay
"	1-8-41	"		absent from 0.0 hrs 1/8/41 until 0.0 hrs 2/8/41	Sgt Wilson	1 day F.P.	2/8/41	Lt-Col [illegible]	1 Day Pay
"	3-8-41	"		absent from 0.0 hrs 3/8/41 until 0.0 hrs 4/8/41	Sgt Wilson	1 day F.P.	4/8/41	Lt-Col [illegible]	1 Day Pay
"	2-9-41	"		absent from 0.0 hrs 2/9/41 until 0.0 hrs 3/9/41	Sgt Wilson	1 day F.P.	3/9/41	Lt-Col [illegible]	1 Day Pay
"	1-10-41	"		absent from 0.0 hrs 1/10/41 until 0.0 hrs 2/10/41	Sgt Wilson	1 day F.P.	2/10/41	Lt-Col [illegible]	1 Day Pay
"	3-10-41	"		absent from 0.0 hrs 3/10/41 until 0.0 hrs 4/10/41	Sgt Wilson	1 day F.P.	4/10/41	Lt-Col [illegible]	1 Day Pay
"	2-11-41	"		absent from 0.0 hrs 2/11/41 until 0.0 hrs 3/11/41	Sgt Wilson	1 day F.P.	3/11/41	Lt-Col [illegible]	1 Day Pay
"	1-12-41	"		absent from 0.0 hrs 1/12/41 until 0.0 hrs 2/12/41	Sgt Wilson	1 day F.P.	2/12/41	Lt-Col [illegible]	1 Day Pay
"	3-12-41	"		absent from 0.0 hrs 3/12/41 until 0.0 hrs 4/12/41	Sgt Wilson	1 day F.P.	4/12/41	Lt-Col [illegible]	1 Day Pay
"	30/12/41	"		absent from 0.0 hrs 30/12/41 until 0.0 hrs 31/12/41	Sgt Wilson	1 day F.P.	31/12/41	Lt-Col [illegible]	1 Day Pay
"	2-1-42	"		absent from 0.0 hrs 2/1/42 until 0.0 hrs 3/1/42	Sgt Wilson	1 day F.P.	3/1/42	Lt-Col [illegible]	1 Day Pay
"	1/2/42	"		absent from 0.0 hrs 1/2/42 until 0.0 hrs 2/2/42	Sgt Wilson	1 day F.P.	2/2/42	Lt-Col [illegible]	1 Day Pay
"	3-2-42	"		absent from 0.0 hrs 3/2/42 until 0.0 hrs 4/2/42	Sgt Wilson	1 day F.P.	4/2/42	Lt-Col [illegible]	1 Day Pay
"	2-3-42	"		absent from 0.0 hrs 2/3/42 until 0.0 hrs 3/3/42	Sgt Wilson	1 day F.P.	3/3/42	Lt-Col [illegible]	1 Day Pay
"	1-4-42	"		absent from 0.0 hrs 1/4/42 until 0.0 hrs 2/4/42	Sgt Wilson	1 day F.P.	2/4/42	Lt-Col [illegible]	1 Day Pay
"	3-4-42	"		absent from 0.0 hrs 3/4/42 until 0.0 hrs 4/4/42	Sgt Wilson	1 day F.P.	4/4/42	Lt-Col [illegible]	1 Day Pay
"	2-5-42	"		absent from 0.0 hrs 2/5/42 until 0.0 hrs 3/5/42	Sgt Wilson	1 day F.P.	3/5/42	Lt-Col [illegible]	1 Day Pay
"	1-6-42	"		absent from 0.0 hrs 1/6/42 until 0.0 hrs 2/6/42	Sgt Wilson	1 day F.P.	2/6/42	Lt-Col [illegible]	1 Day Pay
"	3-6-42	"		absent from 0.0 hrs 3/6/42 until 0.0 hrs 4/6/42	Sgt Wilson	1 day F.P.	4/6/42	Lt-Col [illegible]	1 Day Pay
"	2-7-42	"		absent from 0.0 hrs 2/7/42 until 0.0 hrs 3/7/42	Sgt Wilson	1 day F.P.	3/7/42	Lt-Col [illegible]	1 Day Pay
"	1-8-42	"		absent from 0.0 hrs 1/8/42 until 0.0 hrs 2/8/42	Sgt Wilson	1 day F.P.	2/8/42	Lt-Col [illegible]	1 Day Pay
"	3-8-42	"		absent from 0.0 hrs 3/8/42 until 0.0 hrs 4/8/42	Sgt Wilson	1 day F.P.	4/8/42	Lt-Col [illegible]	1 Day Pay
"	2-9-42	"		absent from 0.0 hrs 2/9/42 until 0.0 hrs 3/9/42	Sgt Wilson	1 day F.P.	3/9/42	Lt-Col [illegible]	1 Day Pay

(P.T.O.)

SUMMARY OF EVIDENCE

In the case of D61083 Fus Lebel R., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.
The accused demands and the C.O. directs that the evidence will not be taken onoath.

FIRST WITNESS FOR THE PROSECUTION: D62670 Cpl Aube M., Les Fusiliers Mont-Royal, having been duly warned, makes the following statement:-

"At about 2300 hrs on the 21 Mar 42, I was in charge of a hut and after taking the Roll Call at that same hour, I noticed that Fus Lebel was absent. I then reported the absence of Fus Lebel to the Coy Orderly Sgt."

"At about 1715 hrs on the 9th of April 1942, I was on duty as Coy Orderly Cpl, when Fus Lebel reported himself to me at the Coy Orderly Room."

Cpl Aube M.

THE ACCUSED IS CAUTIONED AS FOLLOWS

The accused, having been duly warned in accordance with R.P.4(e) says:

"I have nothing to say" Fus. Roland. Lebel

Certified that R.P.4(e) have been complied with.

In the Field
9 Apr 42

Capt & Adjt.
Les Fusiliers Mont-Royal
Canadian Army Overseas.

"G"

R Thompson - Major

F

~~Sentence.~~

~~The Court sentence the accused~~ Sentence

In army 4 yrs - arrived fld unit 6 mos ago - couldnt get pass. Had a girl pregd in London she had a child but at the time he didnt know about it - he wanted 48 hrs leave & this was refused - accused was in bad situation so he went up to see her to fix up the matter himself.

Has pleaded guilty - as soon as troubles fixed up he reported back.

If CO or padre or someone had taken care of this matter when facts were explained this charge would not have arisen

Court closed to consider sentence.

R. Thompson Maj

E

~~Finding~~.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ R.F.

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

*~~The Court being re-opened, the accused is again brought before it~~ R.F.

Capt J Langlois is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness* AFB 296 + MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H + 2, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness* yes

Question.

Have you compared the contents of the above statement with the regimental books? They are certified by adjutant

Question.

~~Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries~~ R.F.

Answer.

not Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer* yes. thru my defending officer (see over)

~~The Court is closed for the consideration of the sentence.~~ R.F.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? Yes. Sir.

Question to the accused.

Answer.

Evidence as to character.

Lieut G. Michaud, Fus M R duly sworn, states.
The acsd was in my coy in 1940 - 2 was Pl. Cmdr - 2 found him to be a good soldier on parade. Rather weak morale but always tries to fix his own problems himself. He gets discouraged easily. Has very good reputation among officers & men when he is on parade. His C.O., coy Cmdr & Sgt Maj all agree that he is excellent on parade.

Cross-exam.
Acsd has been in fld unit 6 mos - 2 have been with fld unit 2 mos about 4 mos ago - during last 4 mos 2 have not been with accused.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" has been recorded with-

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ R.S.

The accused P61803 Pte Roland Lebel is found guilty of the charge.

†The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :—

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~ R.S.

2 have been in army 4 yrs. - 2 volunteered - Was with RCCS about 9 mos & then came to FMR after Dieppe - Have asked for passes but never had them. Before 2 went 2 asked for a pass & they refused so 2 told them the reason why & they again refused. It has been shown in orderly room books that 2 never had pass. Before Xmas 2 had 9 dys leave & returned in time. That is only pass I've had since I've been with FMR. When 2 went AWL 2 reported myself & didn't wait until Provost got me.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn,

RS Capt W M W Shaw, NB, 2 Cdn Div

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question.*

Answer.

RS ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

The accused having pleaded Guilty to ~~the~~ charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field on the 12 day of April 1943 by order of Lieut Col J G Gauvreau

T/ Commanding 6 Cdn Inf Bde

dated the 10 day of April 1943

President.

Major R. Thompson. Cams of C

Members.

Capt H. F. Bailey, S Sask R.

Lieut J. G. Girouse, Fus MR.

Lieut L. P. Beech, Cams of C.

~~, Judge Advocate~~ R.F.

Trial of* D61803, Pte Roland Lebel, Fus M.R.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

R.F.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~ R.F.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt J. Langlois, Fus. M.R.

~~Counsel for~~ defending officer† Lieut G. Michaud, Fus MR.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Qtlbr. [illegible] 40,000 sets. 2/40. [illegible] Form A 9/55.

MEDICAL INSPECTION

FUSILIERS MONT ROYAL, C.A.(O)

I hereby certify that I have examined Regt'l No. D-61083 Rank Fus

Name LEBEL R. this morning and That I found him [redacted]

[redacted] PHYSICALLY FIT to undergo trial by F.G.C.M.

Place In the Field

Date 12 Apr 43

HT.

Thompson Maj

G. Louis Capt.
Medical Officer

C H A R G E S H E E T

The accused, D61002 Pte Roland Lebel, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
A.A.Sec 15(1)

in that he

In the Field, at about 2300 hrs on the 21st of March 1943, absented himself without leave until he reported himself to his unit at about 1915 hrs on the 9th of April 1943.

To be charged by F.G.C.M.

(J.G.Gauvreau) - Lieut.Col.
Temp/Comd 6 Cdn Inf Bde.

(J.G.Gauvreau) Lt-col
COMMANDING
Les Fusiliers Mont-Royal
Canadian Army Overseas.

In the Field
This 9th day of April 1943

B2

R.Thompson Major

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-61083, Fus Roland LEBEL Fus M R.	First Charge A.A. Sec 15(1) See charge sheet attached	Guilty	Guilty To undergo detention for 6 months 12 April 43 R Thompson Major	Confirmed 12 Apr 43 Sentence Varied Temp comd 6 C I B Confirmed J.G. Gauvreau Temp Comd 6 Cdn. I. f. Bde.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.G. Gauvreau Lieut.-Col. (Signed) R Thompson - Major
(J.G. Gauvreau) - Lieut.-Col.
Temp/ *Commanding* 6 Cdn Inf Bde
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) N/A
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 12th day of April 1943.

R. Thompson Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ N/A

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 12th day of April 1943

J.G. Gauvreau Lieut.-Col.
Temp Comd 6 Cdn. Inf. Bde.
R Thompson. *Confirming Officer.* Temp Comd 6 C I B

Promulgated and extracts taken in the case of Pte D 61083 Roland Lebel

(*a*) (Dated) 12 Apr 43 (Signed) Paquette Lt + adjt:

Promulgated and extracts taken in the case of Pte D 61083 Roland Lebel Fus. M.R.

(Dated) 22 May 43 (Signed) Adjutant Fus M.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41729) Wt. 40013—923 500 m 3/43 P. St. C. 621

FF-101

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TENTH day of APRIL, 1943.

Whereas it appears to me, the undersigned, an officer in Temp/Command of 6 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

R. Thompson Major

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

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Proceedings Reviewed

Reviewing Officer (J.A.G.) C.M.H.Q.

RECEIVED 20 APR 1943 Legal Branch Cdn. Corps.

President.

Rank.	Name.	Regiment.
Major	R. Thompson	Camerons of C.

Members.

Rank.	Name.	Regiment.
Capt.	H.F. Bailey	S Sask R.
Lieut.	J.G. Giroux	Fus M R.
Lieut.	L.P. Beech	Camerons of C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (J.G. Gauvreau) - Lieut.-Col.

Temp/ *Commanding* 6 Cdn Inf Bde

Convening Officer.

FF-101

FUS LEBEL R

Pin here Loose Sheets of Record.

2 and 3

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO - SIR.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie~~ case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Make statement. ~~Do you intend to call witnesses on your behalf?~~ Ans.....
~~Ans~~.....Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45. 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

LIST OF WITNESS

FOR THE PROSECUTION

Lieut. W.H.R. Bradley.

K-22080 Sgt. Pearson, H.

D-57259 Sgt. Roy, F.

H-103581 Bte. Taylor, W.R.

For the defence

NIL

Officer Commanding,
No.24 Cdn.Spec.Emp Coy.

Sir:

With reference to my pending trial by Field General Court Martial;

I respectively request that an officer be assigned to act as my defending officer.

If Lieut Menard, 4 CITR is avaible may he be assigned for this purpose.

12 DEC 44.

.....
D-51265 Pte. Lebel. P.E.
No. 24 Cdn.Spec.Emp Coy.

STATEMENT BY THE ACCUSED

I certify that I have received free of charge a copy of the summary of evidence, charge sheet, list of witnesses, ~~list of Exhibits~~.
I desire an Officer to defend me.

Signed _____

SUMMARY OF EVIDENCE
IN THE CASE OF

D-51285 Pte. Lebel, P.E. (Comt'd)

The accused was cautioned as follows:-

Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit, ni rendre temoignage a moins que vous ne le desirez, mais tout ce que vous direz ou toute deposition que vous ferez sera pris par ecrit et pourra servir de preuve.

C.A.R.O. 1424

The accused declines to make a statement and reserves his defence.

P.E. Lebel
.....Pte.
D-51285 Pte. Lebel, P.E.

I certified that the foregoing Summary of evidence consisting of three (3) pages was taken down by me in the presence and hearing of the accused and that the rules of procedure,4 (c),(d), (e),(f) and (g) have been complied with.
Taken down in the presence and hearing of the accused in the field this 9th DEC 44.

G.P. Marchand
.....Lieut.
(G.P. Marchand)
Signature of the Offficer
taking Summary of Evidence.

Aldershot:
9th DEC 44.

SUUMARY OF EVIDENCE IN THE CASE OF

D-51285 Pte. Lebel, P.E. (Cont'd)

D-57259 Sgt, Roy, F. continues.

Third Witness For the prose-cution.

Lebel and the two of them started running towards the orderly room demanding to see the C.O. immediatly. I told them they could not do that unless it was arranged through the C.S.M. and told them to go back to the guard room, but they both refused to do so. Then I got hold of Pte. Lebel sround the waist and told him that he had better come with me and he answered "That will be the fucking day". In the meantime while I was holding Pte. Lebel and struggling with him, Pte. Michaud appeared with a pair of handcuffs in his hand came up to me swearing and said:"Let Pte. Lebel go or I will hit you on the head with these handcuffs". I released Pte. Lebel and took the handcuffs away from Michaud. Then Pte. Michaud ran down past the barracks and climbed over the fence. I immediatly reported the incident to the Adjutant. At 2100 hours the same night Pte. Lebel and Pte. Michaud reported themselves back to the guard room, I placed them under arrest and in custody.

.....Sgt.
D-57259 Sgt Roy, F.

The accused declines to cross-examine the witness.

Fourth Witness For the prose-cution.

Lieut. W.H.R. Bradley on strength of No.24 Cdn. Spec. Emp Coy, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

At approx. 1705 hours 8 DEC 44. I was standing at the window in Adjutant's Office of No.24 C.S.E.COy. when I heard shouting outside the window and noticed Pte. Michaud making signs which I interpreted as meaning that he wished to speak to me. I opened the window and asked what he wanted. He was with Pte. Lebel. Sgt Roy and two other members of the Reginebtal Police, Sgt Roy stated that Ptes. Lebel and Michaud had been placed under close arrest by the Orderly Sergeant and that Pte Michaud demanded to see the Commanding Officer immediatly. I told Pte.Michaud that it was impossible to do so and that he would see the Commanding Officer at nine o'clock in the morning. I closed the window and went outside. Sgt. Roy ordered Ptes. Lebel and Michaud to return to the guard-house peacefully, with himself and the other R.P.'s. They refused to do so and started to walk towards the front gate of the camp. Sgt Roy again ordered them to return and when they refused to do so he attempted forcefully to take them to the guard-house. Sgt Roy seized Pte. Lebel and one of the R.P.'s seized Pte. Michaud and attempted to take them to the guard-house. Pte. Michaud then grabbed a pair of handcuffs from the R.P. touched him was struggling with and told him that if he would hit him on over where Sgt. Roy was struggling with Pte.Lebel and told Sgt. Roy that if he did not let Pte. Lebel go he would hit him on the head with the handcuffs. Sgt. Roy released Pte. Lebel and took the handcuffs away from Pte. Michaud. Pte. Michaud then ran Lebel then ran past the barracks and climbed over the fence surrounding the camp. I immediatly reported the incident to the Commanding Officer and whilst in the orderly room I noticed that Sgt. Roy's hands were bleeding from cuts he had recieved during the struggle.

.....Lieut.
W.H.R. Bradley.

The accused declines to cross-examine the witness.

SUMMARY OF EVIDENCE

IN THE CASE OF

D-51285 Pte. Lebel, P.E., on strength of No.24 Cdn.Spec.Emp Coy., a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness For the prosecution. K-22080 Sgt Pearson, H. on strength of No.24 C.S.E.C. an N.C.O. of the Canadian Army Overseas, having been duly sworn states as follows:

At approx. 1630 hours, 8 DEC 44, I saw Pte. Lebel, P.E., standing in the line for the early meal parade. All personnel on that meal parade have to have a chit authorizing them to that effect. I asked Pte. Lebel if he had an early chit and Pte. Lebel answered that he had not and that he was on this parade because he wanted to go to the show early. I then stated that he was to fall in on the next meal parade at 1700 hours. Pte. Lebel still stayed in the line and refused to leave. Pte. Lebel then stepped up to the counter. I instructed him that if he accepted food in his mess tin, I would place him under close-arrest. Pte. Lebel then said "Go ahead I dont care" and took the food in his mess tins. As soon as he did this I went up to Pte. Lebel, touched him and said:"O.K. Lebel, you are under close-arrest". I then turned to the R.P. and said to him:"Here is your prisoner, he is under close-arrest.

H. Pearson .....Sgt.
K-22080 Sgt.Pearson, H.

The accused declines to cross-examine the witness.

Second Witness For the prosecution. H-103581 Pte. Taylor, W.R., on strength of No.23 Cdn. Spec.Emp Coy., a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At approx. 1630 hours 8 DEC 44, I was standing in the line for early supper, Pte. Lebel was just ahead of me. I heard Sgt. Pearson telling him not to take any food otherwise he would place him under arrest. Pte Lebel took no notice of what Sgt. Pearson said and went to the counter and recieved his food. Sgt. Pearson then stepped up to Pte. Lebel and said to him "You are under close-arrest. Sgt. Pearson then told me that I was to take Pte.Lebel back to the guard room with me. As I was already escorting two prisoners, I was unable to comply with Sgt. Pearson's orders immediatly. So I waited for the R.P. Sergeant. When the R.P. Sergeant came in he told me to go and detail two other R.P.'s So I did and I came back with the two R.P.'s who took Pte. Lebel into custody.

W.R. Taylor .....Pte
H-103581 Pte Taylor, W.R.

The accused declines to cross-examine the witness

Third Witness For the prosecution. D-57259 Sgt. Roy, F. on strength of No.24 Cdn.Spec. Emp Coy.,an N.C.O. of the Canadian Army Overseas, having been duly sworn states as follows:

I am provost Sergeant for No.23 C.S.E.C. and No.24 C.S.E.C.. At approx. 1630 hours 8 DEC 44. I came on duty to the kitchen. I had been detailed by No.23 and No.24 C.S.E.C. to supervise the men who were authorized to be on the early meal parade. As I was coming into the kitchen, Sgt. Pearson told me that Pte. Lebel and Pte. Michaud were under close-arrest. I immediatly had two R.P.'s detailed to take the two men to the guard room. At approx. 1645 hours I told Pte.Lebel and Michaud to go under escort to their billets and get their equipment. On the way Pte. Michaud broke away from the two escorts and myself. He was followed by

No D-51285 Name Lebel, P.E. | Sqn, Battery, or Company | Corps | Date of enlistment 29 Apr 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No (1) | Signature OC Company, etc (D.H. Keeler) Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17 Dec 43	Pte		(1) A.A.Sec 15 (1) A.W.L. from 0630 hrs 17 Dec 43 until 1130 hrs 28 Dec 43. Time 11 days 5 hrs (2) A.A.Sec 24-2 Losing by neglect clothing and equipment and kit to the extent of 63.75(75% $48.71)	CSM Gagnon Cpt Beauvis QOMR	forfeit 28 days pay 149-2 but under stopp Crochetiere to make good $20.00	4 Feb 44	Lt. Col WP Bristoge	forfeits 28 days pay 149 -1(a) forfeits 12 days pay 149-1
	4 July 44	Pte		Blood Donor Sec 6 6 Gp "D" J. H KNILL, Major					
Field	1 Nov 44	Pte		Conduct to the prejudice etc: Causing a disturbance in a public place. A.A.Sec 40.	Documentary	15 days F.P.	3 Nov 44	Capt D.H. Keeler	Forf 15 days pay FR&I 149-(1) (b)

No D-51285 Name Lebel, P.E. | Sqn, Battery, or Company | Corps | Date of enlistment 29 Apr. 44 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No (2) | Signature OC Company, etc (D.H. Keeler) Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	23 Nov 44	Pte		First Charge: WOAS A.W.L. from 1400 hrs. 23 NOV 44. to 1345 hrs 24 NOV 44. (Absent 23 hours, 45 mins. A.A.Sec 15(1)	Sgt Roy, F.	10 days F.P.	27 Nov 44	D.H.Keeler Capt	Forf. 10 days pay FR&I 149-1(b)
Field	25 Nov 44	"		Second Charge: WOAS Conduct to the perjudice of good order and Mil. Dis. Failing to comply with an order given by his superior Officer. A.A.Sec.40	Lieut Marchand, G.P. Sgt Roy, F. Cpl Paul,				Forf. 1 days pay FR&I 149 (1)(a)

Certified true copy of original F.M.6 held in my custody

.....Lieut.

(R.G. Ingram) Lieut.

Officer having custody of Regt'l Books, No.24 C.S.E.C.

(FIG)

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
D. 51285	Pte.	Lebel, Paul-Emile	No.24 Can. Spec. Emp. Coy.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1941.

* The numbers herein stated should correspond with the number of **entries** in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment.
For A.A. Sec. 15 (1)	2 times	2 times
For A.A. 24 (2)	1 times	1 times
For A.A. 40	2 times	2 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, NIL

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions of the accused by court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 23 of the Army Act, are not in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 6 days in military custody, making a total of 6. days, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service is 21 years 5 months

6. The date of his attestation specified in his record of service is 29 APR 42

7. The rank which the accused would return towards in case of transfer to the reserve

8. The accused is entitled to deferred pay or gratuity in respect of

9. The accused is entitled to return to Canada for the purpose of demobilization

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M. and Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or* department) the rank of dated

W.O. 68/7/39 20M. 5/44. P. Ltd. T.D.3.

COUNTER NUMBER 77995

HOUR 15.00

OPERATOR'S INITIALS LB

RELIEVING OPERATOR ERL

to return to the Gd House. They disregarded his order and commenced to walk towards the front gate of the camp. Roy again ordered them to return to the Gd Room and they continued on. He and the RP then tried to take them forcibly to the Gd Room. Roy seized Lebel from behind to carry him to the Gd Room. Lebel resisted by attempting to get away from him. Later then ran down towards the barracks and over the fence after Michaud seized a pr of handcuffs from the RP and ran over to where Sgt Roy was struggling with Lebel and threatened to hit him over the head with the cuffs if he didn't let Lebel go - and Roy let Lebel go.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

STATEMENT BY THE PROSECUTOR ON THE FINDING ON THE SECOND AND THIRD CHARGES

THE PROSECUTOR STATED THAT THE PROSECUTION HAD PROVEN THE TWO CHARGES.

STATEMENT BY THE DEF OFFR ON THE FINDING ON THE SECOND AND THIRD CHARGES

In my opinion the charges do not seem to be justified due to the fact that there does not seem to be proven the fact that the accused offered violence.

THE COURT IS CLOSED

PLEA IN MITIGATION

Sir, I wish to point out to the Court the age of the accused, 21. He served with the R 22 R in Italy, was wounded and awarded a wound stripe. While in his regt he had no trouble at all until being sent back to 24 CSEC. His PULHEMS show an M4, S3, I2. His tension is very nervous, and he has served his country well - and with this in mind I ask the Court to consider his record.

THE COURT IS CLOSED

THE COURT IS CLOSED

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE COURT FINDS THE ACCUSED NOT GUILTY OF THE FIRST CHARGE AND THAT NOW THE TRIAL WILL PROCEED ON THE SECOND AND THIRD CHARGES.

TRIAL ON THE SECOND AND THIRD CHARGES

-PROSECUTION-

THIRD WITNESS

D.57259 Sjt ROY, F., 24 C.S.E.C., having been duly sworn, states:

I recognize the accused as Pte Lebel. I am the Pro Sjt of 23 & 24 CSEC. At approx 1630 hrs 8 Dec I was going to the kitchen to take up duty when I met the Orderly Sjt there and he told me that Ptes Lebel and Michaud were under close arrest and I detailed 2 RPs to take them to the Gd Room. At approx 1645 hrs I told Lebel and Michaud to get their eqpt at their billets to take to the Gd Room. I went out with them with 2 escorts and Pte Michaud broke away from the escort and ran to the Orderly Room followed by Lebel. They both demanded in French to be paraded to the OC. I might say here that all the conversation from then on was in French except my conversation with Lt Bradley. I told them I couldn't let them see the CO unless it was through the CSM and told them in French to come back to the Gd Room. I took Lebel around the waist and that is when Michaud came up with a pr of cuffs threatening to hit me on the head with them unless I let Lebel go. Lebel stepped on my toes with his heel and scratched my hand in trying to get away from me, causing my thumb to bleed. Then I let Lebel go, and then took the cuffs away from Michaud who ran up to the end of the bldg and they both jumped over the fence towards town. This was in Wilheim Bks, Aldershot. The accused and Michaud reported back to the Gd Room at 2100 hrs that evening, sober. They both were sober throughout this whole incident. When I had Lebel around the waist and told him he had better come back he said "that'll be the fucking day".

CROSS-EXAMINED

Q. What violence did the accused offer you?
A. I put my arm around his waist, Sir, and with his heel he stepped on my toes and scratched my hand.

Q. Did you swear?
A. Not that I know of.

Q. Did you ever swear - that is, do you ever swear at any time?
A. Yes.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FOURTH WITNESS

Lt W.H.R. BRADLEY, 24 C.S.E.C., having been duly sworn, states:

I recognize the accused as Pte Lebel. On 8 Dec 44 at 1705 hours or so I was standing in the Adjt's Office and heard considerable shouting going on ougside the window and noticed Pte Michaud making signs to me to come outside. I opened the window and asked in French what he wanted. All the conversation that followed was in French. He stated that he wanted to see the CO immediately. I told him that this was impossible and that he would see him at 9 in the morning. He was accompanied by the accused, Sjt Roy the Pro Sgt, and another member of the Regtl Police. I closed the widow and went outside. Sjt Roy then ordered Ptes Lebel and Michaud

SECOND WITNESS

H.103581 Pte TAYLOR, WR, 24 C.S.E.C., having been duly sworn, states:

I recognize the accused as Pte Lebel. At approx 1630 hrs 8 Dec I was standing in the early meal parade and he was ahead of me. Sjt Pearson came up to Lebel to warn him that if he accepted food he would be under close arrest. Lebel accepted the food not paying any attn, and went to the dining room and sat down. Pearce came up to me and said I would have one more man to take back to the Gd Room referring to Lebel. As I had 2 more prisoners at the time I couldn't comply with his order right away so I had to wait for the RP Sjt to come.

Q. Did you hear Lebel say anything in English to the Sjt?
A. No.

Q. Did you hear him say anything in French to him?
A. No.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED ON
THE FIRST CHARGE

- D E F E N C E -

THE DEF OFFR SAID HE WAS NOT PLACING THE ACCUSED UNDER OATH BECAUSE HE IS TOO NERVOUS FOR CROSS-EXAMINATION.

The accused made the following statement NOT under oath:

Sir, my age is 21. At 1630 hrs on 8 Dec I was in the lineup for meal parade behind Michaud when I went to get my food from near the counter Sjt Pearson came near us and told us something in English that we could not understand. We went to see the first cook and got served as usual as we are used to it. We went to the dining hall where we sat down and then Pearson came along with Sgt Roy and Sgt Roy told us that we were under arrest, in French. I enlisted on 30 Apr 42, Sir, and belonged at the time to the Regt Chateauguay and came o/s after that. I went o/s from here with the R 22nd Regt to Sicily, Africa and from Africa to Italy. I've been wounded on the two shoulders and I went to hosp for 2½ mths the first time and the second time for 3 mths. After the first time in hosp I went back into action and after that I came back from Italy to England. I went back then to the RU and was 2 mths there and after that was transferred to 5 C.C.P.C. I passed 3 reboards, and my PULHEMS is M2, L2 and S3 on my first reboard. My second reboard is L.2, M4, and S3.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

PROSECUTOR ADDRESSES THE COURT ON THE FINDING OF THE FIRST CHARGE

Sir, it was spoken by the witness that words were given in English and that they were understood and there is no reason why the first charge should not stand.

DEFENDING OFFR ADDRESSES THE COURT ON THE FINDING OF THE FIRST CHARGE

I submit to the Court, Sir, that the Prosecution has failed to make a case against the accused on the first charge. I submit that the first charge should be dismissed.

CASE OF

D.51285 Pte LEBEL 24 Cdn Spec Emp Coy

-PROSECUTION-

(TRIAL ON THE 1ST CHARGE)

FIRST WITNESS

K.22080 Sjt PEARSON, H, 24 C.S.E.C., having been duly sworn, states:

I recognize the accused as Pte Lebel. On 8 Dec 44 at approx 1630 hrs he and Pte Michaud were in the meal line up. The accused was the 2nd in the line behind Michaud. I asked them if they had their early meal chit and they shook their heads and said they wanted to go to the show early. Lebel took the lead from Michaud all the way through. It was Michaud who said they wanted to go to this show, Lebel did not say anything. I then told them that they must leave the parade and get on the 5 o'clock parade. The accused stayed in the line and went up and stuck out his mess tin along with Michaud for food. I then informed them that if they took food in their tin I would place them under close arrest. Lebel never said anything but Michaud said "go ahead, I don't care". The both of them accepted food and it was put in their mess tins. I then stepped up to the both of them and placed them under arrest and then I turned to RP Taylor and said "these are your prisoners" and said further "they are under close arrest".

Q. What words did they use when saying they wanted to go to a show early?
A. They shook their heads and Michaud said "we want to go to a show early". It was said to me in English.

CROSS-EXAMINED

Q. How far away were they standing?
A. About 6 feet.

Q. Did you accually ask Lebel whether he had a chit or not?
A. Well, yes, I did, Sir.

Q. In what words?
A. I spoke to the both of them at once "have you a meal chit?"

Q. In French?
A. I don't speak French, Sir.

Q. Did you ask a French speaking lad to translate for you?
A. No.

Q. Did the accused ask for food?
A. No.

Q. He recd food?
A. Yes.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined D51285 PE

Sebel, P.E. of #24 C.S.E.C.

and in my opinion he is fit ~~Unfit~~ to undergo Trial by Court - Martial.

Station Camp Bordon

Date 15 Dec 44

Lloyd MacLeod Capt

Medical Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.51285	Pte		Paul-Emile	LEBEL	24 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Dec 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lieut-Col	D.L. Redman, VD	HQCRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W.E. Rayner	7 Cdn Art Wks Coy RCE
Lieut	C.A. Lesage	R de Mais att 22 Cdn Spec Emp Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) J.E. Roger (J.E. ROGER) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 14 Dec 44 Commanding "F" Gp, C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3) 40/F & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

FIRST CHARGE
A.A. Sec 9(1)

The accused, D.51285 Pte. Paul-Emile Lebel, on strength of No.24 Canadian Special Employment Company, a soldier of the Canadian Army Overseas, is charged with:

When on active service

DISOBEYING IN SUCH MANNER AS TO SHOW WILFUL DEFIANCE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,

in that he did, in the field, on the 8 DEC 44 at 1630 hours, accept ffod in the meal line, after being warned by Sgt. Pearson, the Company Orderly Sergeant, that he would be placed under close arrest if he did so.

SECOND CHARGE
A.A. Sec 8(1)

When on active service

OFFERING VIOLENCE TO HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,

in that he did, in the field, on the 8 DEC 44 at 1705 hours, after refusing to return to the guard room, offer violence to Sgt. Row, F., the N.C.O. in charge of the Regimental Police and break away from his custody.

THIRD CHARGE
A.A. Sec 22.

When on active service

WHEN IN LAWFUL CUSTODY, ESCAPING,

in that he did, in the field, at Willems Barracks, Aldershot, Hants, at 1705 hours, 8 DEC 44, break ~~xxxxxx~~ away from the custody of the Regimental Police and escape from barracks.

(D.H.Keeler) Capt.
Officer Commanding
No.24 Can. Spec. Emp. Coy.

12 DEC 44
Aldershot, Hants
~~Surrey~~.

To be tried by Field General Court Martial.

14 Dec 44
BORDON, Hants

(J.W. BAGER) Brigadier,
Comd "F" Gp, C.R.U.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO, SIR.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (~~his~~) opening address.(1)
(1. *RP 39(B), 60(A) (3), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATI
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the..... charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 41 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. TO MAKE A STATEMENT. Do you intend to call witnesses on your behalf?
Ans. NO - SIR. Are they witnesses as to character only? Ans.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)
NOTE ATI

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), ~~if any~~, of Not Guilty, ~~and states to the accused that the finding(s) of the Court on the~~ charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The ~~accused having been found Guilty on one or more of the charges, the~~ proceedings are concluded by using Record Form E ~~below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "B" and Ex. "C" respectively.(3)
(1. *MFB 355 or MFB 356.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, I am sorry for my offence (NOTE ATI)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should not cross-examine or call witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* (*RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and other JA, if any~~.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2222, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.51285 Pte Paul Emile LEBEL - 24 Cdn Spec Emp Coy

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	As Sec 9(1)	NOT GUILTY	NOT GUILTY	
2nd	As Sec 9(1)	NOT GUILTY	GUILTY	
3rd	As Sec 12	NOT GUILTY	GUILTY	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~In present under sentence [1]~~ ~~Beginning on date~~ ~~(2)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which ~~Nil~~ days were spent in hospital.[2]

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all Ordinary Pay for a period of Forty Five (45) Days.

(Sgd) _____ 15 Dec/44 _____ [signature] President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Ja

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 758-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 120, 34. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (by AA 57A. Delete if not used.)

Date 19 Dec 44 (Sgd) J.E. Berger Brigadier

Commanding F. Sp. C.R.U.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D51285 Pte LEBEL E.	20 Dec 44	Captain Capt.
DO 851 of 21 Dec 44.		06346 Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 29 DEC 1944 JAG BRANCH LSHQ

RECORDED AT CMHQ IN AB 160 44-27

FIELD GENERAL COURT-MARTIAL

CFA96 (To Item of AFA3) 40/P & R/1608 (3864)

Convened by Brigadier J.E. Berger Comd "F" Sp CRU dated 14 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D.51285	Pte	Paul-Emile	LEBEL	24 Cdn Spec Emp Coy

PROCEEDINGS REVIEWED
Hdqrs Riviere Ouest
29 Dec 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date) 15 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1645 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt G.S. Harrison as interpreter? Ans No
P.26125
The Interpreter is sworn.(1) Do you object to SGT. A.H. SINCLAIR as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir.(2)

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	D.L.	REDMAN	HQ CRU
Member	Capt	W.E.	RAYNER	7 Cdn Art Wks Coy
Member	Lt	C.A.	LESAGE	R de Mais
~~Judge-Advocate~~				
Prosecutor	Lt	R.G.	INGRAN	24 C.S.E.C.
Defending Offr	Lt	R.F.	DIONNE	3 C.G.P.C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) ~~severally~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is cleared and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Daily Nil

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4J27

PTE LEBEL PE

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AWL 1000 hrs 13 Dec to 1700 hrs 27 Dec 44. (Absent 14 days 7 hrs)		27 days FP		Lt Col JWH Rowley	

CERTIFIED TRUE COPY
" M D Morton " Capt & Adjt
10 May 45.

Exhibit "D"
JS

SUPPLEMENTARY

No. G23629 Name LEBEL L P | Sqn, Battery, or Company | Corps C I C | Date of enlistment 16/1/42 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P&S/156 (5412)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"HEREWITH	TRUE	EXTRACTS		TAKEN FROM M/N SOLDIER'S MFM 14 & AA Sec 15(1) AWL from 2359 hrs to 1120 hrs 12 Oct 42 (Absent 1 day 11 hrs 21 mins.)	ALL AVAILABLE DOCUMENTS"	6 days forf of pay	12 Oct 42		Forf 2 days pay FR&I 149 (1)(a) 6 dys pay FR&I 149 (1)(b)
10/10/42		Pte		Conduct to the prejudice of good order & military disciplin.		28 days detention			
				A W L		120 hrs detention			
				AWL from 1200 hrs 14 to 1530 hrs 15 Nov 44 (Absent 1 day 3 hr 30 min)				Lt Col JE Anderson	
				AWL from 2230 hrs 15 Apr 45 to 1140 hrs 18 Apr 45 (Absent 2 days 13 hrs 10 mins.)		3 days forf of pay FR&I 149(2)		Lt Col JWH Rowley	

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 22nd day of May 45

"W D Morton" Capt & Adjt
For (O L Corbett) Major
T/Comd North Shore NB Regiment.

Exhibit "C"
JS

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be
G23629	Pte	LEBEL L P	NORTH SHORE (NB) REGIMENT

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

† State the military decorations (if any) held by accused.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AA Sec 15.(1) ....5... times

For AA Sec 40 ....1... times

For .... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXX .....

XXXXXXXXXXXXXX ..... XXXXX .....

4. the accused has been waiting trial on the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX present charge for XXXXXXXXXXXXXXX .Nil days in civil custody; and for .36.. days in military custody, making a total of ..36.. days XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

5. The present age of the accused is 20.yrs....

6. The date of his attestation is 16.Jan.42..

7. The service which the accused is allowed to reckon is ...3.yrs.4.mos.....

8. XXXXXXXXXXXXXXXXXXXXXXXXXXXX

9. XXXXXXXXXXXXXXXXXXXX

Names of President and Members

Capt R. G. Albert
Lt. H. N. Keetch

Signature of Commanding Officer " J N Gordon " Lt Col

CERTIFIED TRUE COPY.

" M D Morton " Capt & Adjt.

Signature of Officer having custody of the Original Record.

(21200) Wt.10085/791 130,000 4/42 A.& E.W.Ltd. Gp.698
(22499) Wt.29652/1800 100,000 10/42 " " Forms/B.115/58

Army Form B 115.
Appendix B

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at

on the 18th day of APRIL 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G23629 Pte LEBEL L P

DECLARATION.

The Court declare, that No G23629 Pte Lebel L P NORTH SHORE (NEW BRUNSWICK) REGIMENT illegally absented himself without leave at 2145 hrs 24 Mar 45, that he is still so absent, and that on the 18th day of apr 45 he was deficient and that he is till deficient of articles to the armount of $27.02

Exhibit "A"
JS

Appendix A

Exhibit "B" JS

SCHEDULE "F"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No G23629 Rank Pte Name LEBEL L.P

Unit North Shore 3 Cdn Div was arrested at Nijmegen (Place)

at 2300 (hour) on 17 Apr 45 (date) and that at the time of his arrest he was wearing (military uniform) xxxxxxxxxxxxxxxxxxxx

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

" L E Wilson " Lieut

O i/c Nijmegen

3rd Witness for the Prosecution

G2766 Pte Jones B.C., North Shore New Brunswick Regiment being duly sworn is examined by the prosecutor:-

The night of the 24 Mar 45 we moved up to the west bank of the Rhine. We were warned not to go out of voice control.

Around 2145 hrs we were moving off to cross the Rhine, Pte Lebel was not there. I helped the section comd to search the area. He could notbe found, and we crossed the Rhine without him.

No cross-examination

In the opinion of this Court RP 83 (b) need not be complied with.

The witness withdraws.

The Prosecution is closed.

The Prosecution presents to the Court AFB 115, being certified true copy of Record of Declaration of Court of Enquiry and a certificate of apprehension under PC 2797, referring to the accused.

The above documents were accepted by the court, read and marked exhibits "A" and "B" respectively.

STATEMENT BY DEFENDING OFFICER IN MITIGATION

The accused is 20 years of age. He joned the army at the age of 18. He came overseas in June 1943 and served with the North Shore Regiment in England and again on the continent from Sept 44 until he went A.W.L.

During the time spent in action he was evacuated on two occasions on account of his nerves. He claims that when he went away this time he could not have gone further, as his nerves had already started to give way. He was evacuated to hospital in the early part of March and was detained thee 7 days. During this period he was under observation. At the end of this period he was discharged from hospital and returned to his Unit.

I would like the Court to take his nervous condition into consideration before passing sentence and also the fact that the accused is still a very young man.

1st Witness for the Prosecution

Lieut M H Rogers, 3 Platoon "A" Coy, being duly sworn is examined by the Prosecutor: -

On the morning of the 24 Mar 45 I was ordered to brief my platoon, giving details of the Operation Plunder. I did this during the afternoon explaining the crossing of the Rhine and the action which was expected to take place following the crossing. Pte Lebel L.P., was present in this briefing.

At approximately 1800 hrs I was ordered to act as Coy Comd and lead the company to the concentration area near the Rhine. On ariving in this concentration Area, I ordered the Platoon Commanders to keep their men within voice control while in the area since we were liable to move at any time. I checked that this was done.

At approximately 2145 hrs as we were ready to move off the Acting Platoon Comd of No 3 Platoon reported to me that Pte Lebel L.P. and 2 others were absent.

On reassuming the command of my platoon after crossing the Rhine, I did not see Lebel during the action which took place nor until we had been notified of his apprehension by the Canadian Provost Corps.

Cross-examined by Defending Officer

Q Mr. Rogers, regarding the briefing you gave your platoon on the afternoon of the 24 Mar 45, was it just general or the final briefing?

A This was the final briefing, and included much detail that we had been given.

Q Did you personally check the platoon to see if everyone was present before the briefing?

A I checked the count of the platoon only. The acting Platoon Sgt. having reported to me that the platoon was present.

No Re-examination

In the opinion of this Court RP 83 B need not be complied with

The Witness Withdraws.

2nd Witness for the Prosecution

G22184 Cpl Dube L J, being duly sworn is examined by the Prosecutor:-

On the night of the 24 Mar 45, we were ordered to proceed on exercise Plunder. We proceeded to a Concentration area and as I was Acting Platoon Commander, I was given orders by the Acting Coy Comd to keep my Platoon within voice control. Pte Lebel was present when I gave out the order. At 2145 hrs we were ordered to proceed to the Rhine crossing point. I fell in my platoon and made a check to see that all were present. Pte Lebel was absent. I searched the area and could not find him. I then reported the matter to the Acting Coy Comd and reported him absent. We then proceeded on our way.

No Cross examination

In the opinion of this Court RP 83 (b) need not be complied with.

The Witness Withdraws.

Prosecutor: Opening Address

Gentlemen, I have to bring before the Court a case of desertion. I will prove that the accused went A W L after having been warned to take part in an action against the enemy and by going absent was not present during the action for which he was warned.

MEDICAL CERTIFICATE FOR COURT MARTIAL

NORTH SHORE (NEW BRUNSWICK) REGIMENT C.A. (O/S)

I certify that I have this morning examined No G23629 Pte LEBEL L P, and in my opinion he is fit to undergo trial by Court-Martial.

" J McCater " Capt
M.O. North Shore Regiment.

In the Field
Date. 22 May 45

JS

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G23629	Pte		Louis Philip	LEBEL	N Shore R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 17 May endorsed by me~~, (or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". JAR

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ JAR

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder. JAR

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ JAR

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. JAR

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J P Secord	QOR of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	H C Elliott	QOR of C
Lieut	A E Chalkin	QOR of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	N/A	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in HOLLAND (Country.) " Jas A Roberts " (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 17 May 45 Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JS

CHARGE SHEET

The accused G23629 Private Louis Philip LEBEL, "A" Coy, North Shore (New Brunswick) Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 12 (1) (a) WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the field at 2145 hrs, 24 Mar 45 after having been warned for Action against the enemy on OPERATION "PLUNDER", with intent to avoid such Service absented himself without leave from 2145 hrs 24 Mar 45 until apprehended by a member of No 7 Pro Coy, Cdn Pro Corps at 2300 hrs 17 Apr 45. (Absent 24 days 1 hr 15 mins.)

" O L Corbett " Major

(O L Corbett) Major
T/Comd North Shore (NB) Regiment.

In the Field
10 May 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" Jas A Roberts "

Signed in the Field
This 17 day of May 45

(J A Roberts) Brig
Comd 8 Cdn Inf Bde.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A)*.) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H)*.) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38*.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A)*.)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans.....[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.[1]
(*1. If "yes", see RP 39(A) for procedure. Statement re evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~addl~~ opening address.[1] JS
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ JS
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. No. Do you intend to call witnesses on your behalf?
Ans. No. Are they witnesses as to character only? Ans. No.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf ABS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes witnesses, statement, evidence and any summing up by the JA under RP 42, 103(m).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.[2] The Court is re-opened. JS
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.[1] JS
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.[2] JS
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans. No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy ~~(copies)~~ of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier of having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.[3] JS JS
(*1. MFB 2551 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. No.[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.[2]
(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 61, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 116, 119(A), KR Can 308, 330, 543-566, Overseas RO 309, 1223, MML p 60, 715-739. As to sentences assigned for civil offences by the law of England see AA 4(1)(b), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : G23629 Pte Louis Philip LEBEL

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 12 (1)(a)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1) JS

(1. Insert sentence being served, or delete, if not applicable. See RP 46(F). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for eighteen (18) months.

(Sgd) ..... 22 May 45 (Sgd) " J P Secord " Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) JAR

(1. AA 57A. Delete if not used.)

(Sgd) " Jas A Roberts " Brig

Date 29 May 45 Commanding 8 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
G23629 Pte LEBEL L P	2 Jun 45	" M D Morton " Capt & Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN ... 54-98

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brigadier J A Roberts Comd 8 Cdn Inf Bde dated 17 May 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G/23629	Pte		Louis Philip	LEBEL	N Shore R

CERTIFIED TRUE COPY
[illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 22 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 33/9

A1. The President, Members, waiting Member, ~~JAs if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. JS

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) JS
The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and JS
each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1055 hours trial commences. JS

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) JS
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the (1) (2).~~ JS

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans ..... JS

The Interpreter is sworn.(1) Do you object to B63879 L/Cpl Smith as shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J P Secord	QOR of C
Member	Captain	H C Elliott	QOR of C
Member	Lieut.	A E Chalklin	QOR of C
Judge-Advocate			
Prosecutor	Lieut.	W W Steen	North Shore R
Defending Offr	Captain	R G Albert	North Shore R

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G23629 Pte Louis Philip LEBEL before arraignment make(s) (no) ~~(a)~~ plea JS
(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ JS
not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- JS
ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 G 2 P 10

52-99.

Pte. Lebel, L. P.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-10305 Rank Pte Name LEBEL L of Regt de Chaud Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		No MFM 6 available		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of June 1945

MAJoobe Lt
O/c Records

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ///// years,

In the rank of ///// years

In the rank of ////////// years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-10315	Pte	LEBEL L	Regt de Chaud

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, pro-minence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	No M F M 6 Available times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, ~~or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence to~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 52 days in military custody, making a total of 52 days, of which Nil No days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 35 years 1 month

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 26 Nov 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to, no~~ military decoration ~~or military award (or is in possession of or entitled to (state any military decoration or reward)†)~~ 6 V S M with the Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

(*15646) Wt.30760/972 75,000 12/40 A.& E.W.Ltd. Gp.678

LIST OF WITNESSES

PROSECUTION Gaston VAN DEN ABEELE Int-Corresp to SIS 2 CBRG

DEFENCE N/A

LIST OF EXHIBITS

Written statement of accused taken by Gaston VAN DEN ABEELE Int-Corresp to SIS 2 CBRG "A"

I, E-10305 Pte LEBEL L, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet free of charge on 27 May 45.

L. LeBel

E10305 Pte LEBEL L

I, the undersigned desire the Convening Authority to select an Officer to defend me at my forthcoming trial by FGCM.

L. LeBel

E-10305 Pte Lebel L

LeBd L

placé "Permanent Guard Duty". Là je demandais de ne confier n'importe quel ouvrage, excepté d'être de garde, parce que je me sentais pas capable de prendre la responsabilité de garde. Mon système nerveux était tellement ébranlé, que le soir j'aurais tiré sur n'importe quoi.

Je pense que c'était le 24 février 1945, mais c'était à 40.00 hrs que je m'enfuyais du 25 Cdn Arm. Del. Regt. G.G. pour Zele où je suis resté jusqu'au 18 Avril 1945 à midi, quand j'étais arreté par un M.P. et un Sgt du Prov. Corps. Je suis sur que c'était le 24 février 45 quand je m'enfuyais.. C'était un samedi.

Le jour que je m'enfuyais du 25 Cdn Army, je possédais 3500 frs belges, au moyen desquels je pourvoyais dans mes besoins.

Tout le temps de ma désertion, je suis resté à Zele, où j'ai loué une chambre dans un café. Je sais que c'était le café TIVOLI, où je disais à la tenancière que j'étais attaché à la 20 Coy, car si cette femme aurait su que j'étais un déserteur, elle ne m'aurait jamais loué sa chambre.

Je tiens à dire que je ne recevais aucun congé de repos depuis le 21 janvier 1944.

Le 25 avril 1945 j'étais transféré au TOWN GUARDROOM à Gand, venant de Zele, où j'étais dans la prison communale depuis le 18 Avril 1945

Je désire être accepté comme volontaire dans l'Armée d'Occupation pour l'Allemagne, après que j'ai fait ma punition pour désertion de l'Armée. Si possible, je désirerais obtenir un petit congé avant de partir pour l'Allemagne.

LeBd L.

Witnessed by:

Gaston Van den abeele,
Interpreter-Correspondent,
S.I.S. Cdn Prov. C. 2 CBRG.

2nd Witness
B.76047 S/Sgt. [signature] (M.W. CHESTER) SIS-CPROC-2 CBRG

Exhibit A
M. Rousseau Capt

CANADIAN PROVOST CORPS

COMPANY: S.I.S. 2CBRG FORMATION: 21 A. Gp.

LOCATION: Field DATE: 25 May 45 FILE NO: S/S/ A-1/93-CBRG

STATEMENT

Reg No: E.10315 Rank: Pte. Name: LEBEL LORENZO.

UNIT: Reg. de Chaud. Att. 25 Cdn. Arm. Del Regt.

STATES: "I have been warned that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I fully understand the meaning of this caution, and to show that I do so I sign my name herewith."

Signature. L. Bel L.

J'ai 35 ans et je suis marié. Je m'engageais dans l'Armée Canadienne le 26 Novembre 1940 et faisait partie du "Regiment de la Chaudière". Je quittais le Canada avec mon Regiment et arrivais en Angleterre en juillet 1941, en même temps que la 3ème division.

Je quittais l'Angleterre avec mon Regiment le 3 juin 1944 et arrivais en France le 6 du même mois.

Lors d'une attaque que mon régiment exécutait en Hollande, je fus fait prisonnier par les Allemands le 19 octobre 1944. Je fus délivré par les troupes Canadiennes à Knocke le 2 Nov. 1944.

J'étais immédiatement envoyé en pleine bataille, pour remplacer les Armées Américaines, mais comme j'étais très malade, je demandais un repos de 48 heures, quelque chose qui me fût refusé.

Il avait été dit qu'au bout de six mois après le "D. Day" on aurait pu obtenir un congé de repos.

Je demandais mon congé à deux reprises, mais je ne l'obtenais jamais.

Le 2 janvier 1945 je quittais mon regiment pour l'hopital à Tilbury, de là je venais à l'hopital n° 12 à Bruges, et de Bruges je venais au 3CBRG. Quelques jours après, j'étais envoyé au 3 C.R.C. Là ils m'ont classé M.S.3. Après cela ils m'ont envoyé au 19 Sp. Emp. Coy. L.L.

De là je partais le lendemain matin (pour le 25 Cdn Arm Del Regt) il pouvait être le 12 février 1945; c'est là qu'ils m'ont

L. Bel L.

TRANSLATION
(FRENCH - ENGLISH)

D.A.P.M. OFFICE
MAY 26 1945
2 CDN BASE RFT. GP

Certified true Copy Exhibit A
M. Rousseau Capt

SIS - 2 CBRG 21 A Gp

Field 25 May 45 SIS/A-1/93-CBRG

E-10305 Pte LEBEL, Lorenzo

Reg de Chaud - att 25 Cdn Arm'd Del Regt

(Sgd) LeBel L

I am 35 years old and I am married. I enlisted in the Canadian Army, in the Regt de Chaudiere, on 26 Nov 40. With my Regiment I left Canada and arrived in England at the same time as the 3rd division, in July 41.

With my Regiment I left England on 3 Jun 44 and arrived in France on the 6th of the same month. When my Regiment attacked in Holland I was taken prisoner by the Germans, on the 19 Oct 44, and was freed by Canadian troops at KNOOKE on 2 Nov 44. I was immediately sent to the front line to replace American troops, but being sick I asked for a 48 hrs leave, but it was refused.

It was said that six months after "D" Day everybody could obtain a leave. I asked for my leave but I didn't get it.

On 2 Jan 45 I left my Regt for the Hosp at TILBURG, from there I went to No 12 Hospital at BRUGES, and from Bruges came to 2 CBRG. Some days later I was transferred to 3 CRC where I was classified as M1 & S3. I was then sent to 19 Spec Emp Coy, and from there the following morning I went to 25 Cdn Arm'd Del Regt., it was then about 12 Feb 45, and was posted to permanent Guard duty. I told them I was able to do whatever They wanted, except sentry duty, as I was too nervous to take the responsibility as sentry had while on duty, especially in the darkness. I should fire at anything I supposed to be moving.

I think it was the 24 Feb 45, exactly at 1000 hrs when I went absent from 25 Cdn Arm'd Del Regt and went to ZELE, where I remained until midday of the 18 Apr 45 at which time I was arrested by a member of the Military Police and a Sgt of the Cdn Pro C - I am sure it was 24 Feb 45 when I went absent. It was on a Saturday.

When I went absent from 25 Cdn Arm'd Del Regt I possessed 3500 Belgian Francs, and with this I covered all my expenses.

The whole time of my absence I stayed at ZELE where I occupied a room in a Cafe. It was the Cafe "TIVOLI", the proprietress of which I told that I was attached to No 20 Coy. If I had told her I was a deserter the woman surely would not have let me have the room I asked for.

I want to say that I didn't have any leave since 21 Jan 44.

I was removed to the Ghent Town Guardroom on 25 April 45, from ZELE, where I had remained in the village gaol since 18 Apr 45.

I wish to volunteer in the Cdn Army for the occupation of Germany, after I have done my punishment for desertion of the Army. Before starting for Germany I wish to get a small leave if possible.

Statement taken down in writing, translated and witnessed by Gaston Van den Abeele, Int-Corresp to SIS - 2 CBRG
Witnessed by B 7[illegible] S/Sgt H.W. Chester, SIS C Pro C - 2 CBRG

(Sgd) LeBel L

"A"

Summary of Evidence in the case of E-10305 Pte LEBEL L, Regt de Chaud, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

FIRST WITNESS Gaston VAN DEN ABEELE Int-Crresp to SIS 2 CBRG sworn states:

On the 25 May 45, I interviewed the accused E-10305 Pte Lorenzo LEBEL, attached to 1 Cdn Discipline Centre, whom I now recognize. After making known my identity I cautioned him in French as follows:-"Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve." The accused understood the caution and signed his name to the statement which was read over to him. I now produce this statement and it is attached to these proceedings as Exhibit "A".

The accused declines to cross-examine this witness.

Gaston VAN DEN ABEELE

Q. Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

A. Je n'ai rien a dire.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

M. Rousseau Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
27 May 45

Plea in Mitigation

I should like to draw the attention of the Court to the sworn statement of the accused attached to the proceedings as an exhibit. In it Pte Lebel gives his reasons for going AWL (reads to Court)

Pte Lebel joined the army 26 Nov 40, and came overseas in July 1941. He landed at Normandy on D Day, and served with his Regt at the front for 8 mos. He was a prisoner of war for some weeks and was finally liberated. Upon his return he was given a category S-3. He was asked to do work which he claims was physically impossible - he was given no leave.

The circumstances of this case are unique and merit special consideration by the Court. This is the first serious charge against the accused. The accused has served 52 days under close arrest awaiting trial.

Lt Brown Capt
Defending Officer

The Court being satisfied that the misnomer of the accused is 10315 Pte Lorenzo Lebel Reg. as stated and not as stated in the charge sheet amend the charge sheet accordingly.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined E 10315 (No.)
Pte (Rank) LEBEL L. (Name) and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD

Date 8/6/45

Capt. (Medical Officer) (Cgd)

Unit 1 SDAL DISC CENTRE.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for stating (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10305	Pte		Lorenzo	LEBEL	(R de Chaud) att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 JUN 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A E LEFROY	Seaforth Highrs	Cdn C M Centre

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	M R M DALE		Cdn C M Centre
Capt	R G L MILES	RCA	Cdn C M Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signature of Offr. RP 105 fn 2.) Brigadier (Rank.)

(J G SPRAGGE)

Date 6 JUN 45

Commanding 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, E-10365 Pte Lorenzo LEBEL, Regt de Chaud, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1000 hrs 24 Feb 45 until apprehended at 1200 hrs 18 Apr 45.

(Total absence: 53 days 2 hrs)

Remanded for Summary of Evidence

In the Field
27 May 45

(J N Medhurst) Lt col
Commanding
1 Cdn Discipline Centre

Remanded for Field General Court-Martial

In the Field
27 May 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
6 Jun 45

(J C STRAGGE) Brigadier
Commanding
2 Cdn Base Rft Gp

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No - Sir. (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 44, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*B*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)(2)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*l*) (*g*) (*h*), and (ii) they purport to refer to (a) witness(es) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'B' and Ex — respectively.(3)

(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, in mitigation of punishment by my Defending Officer

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to give evidence on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA if any.~~(2)

(1. *When several accused tried separately see RP* 47 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*F*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-10305 Pte Lorenzo LEBEL (R de Chaud) att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty.	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As against sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 52 days, of which Nil. days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 60 days.

(Sgd) _____ Judge-Advocate, if any. 8 June 45 Date awarded. (Sgd) A E Lefroy Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks for the portion unserv~~ (1)

(1. AA 57A. Delete if not used.)

Date 12 Jun 45 (Sgd) J.G. SPRAGGE Brigadier Commanding 2 Can Base Ref GP. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 10305 PTE LORENZO LEBEL	16 JUN 45	H Richmond Lt-Col. Comdg 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 50-12.

FIELD GENERAL COURT-MARTIAL

CFAES (To lieu of AFAS) 40/P & S/1698 (4/45)

4/388

26 JUN 1945

Convened by Order of Brig J G SPRAGGE DSO OBE Comd 2 CBRG dated 6 Jun 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10305	Pte		Lorenzo	LEBEL	(R de Chaud) att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED

28 June 45

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 8 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 11.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to Arnold Hoeck as Interpreter? Ans No - Sir.

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No - Sir. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge-Advocate~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A E LEFROY	Seaforth Highrs Cdn C M Centre	
Member	Capt.	M.R.M. Dale.	Cdn. C.M. Centre	
Member	Capt.	R.G.L. Miles	R.C.A.	Cdn. C.M. Centre
Judge-Advocate	—	—	—	—
Prosecutor	Capt.	G. T. Dale.	Cdn. C.M. Centre	
Defending Offr	Capt.	R.R. Brown.	Cdn. C.M. Centre	

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused E-10305 Pte Lorenzo LEBEL before arraignment make(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 27), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is directed next~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol VIII p. 118

30-12.

Pte. Label. L

3. The accused is not under sentence at the present time,

~~or,~~

~~The accused at the present time is under sentence for --~~
~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for - days in Civil Custody,

and 8 days in Military Custody.

Total 8 days.

Of which -- days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ MFM 4, is 17

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 30 Sep 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ---

8. The accused is entitled to deferred pay or gratuity in respect of ---- years' service.

9. The accused is entitled to reckon --- years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to ---

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ~~ppp~~ ---

12. (*In the case of an officer.*) The accused holds in the army the rank of ---- ---- , dated ---- , and in his regiment (*or* corps *or* department) the rank of ---- dated ----

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date, ----

Date of Promotion.

In the rank of ---- , years, ----

In the rank of ---- , years, ----

In the rank of ---- , years, ----

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name E-49674 Pte. LEBEL J.H.H.L. of the No 1 Cdn Gen Rft Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
NIL	NIL	NIL	NIL	NIL

(*Continued overleaf.*)

Description of Court by which tried, or name of Officer disposing of the charge or disposing with Trial	Date and place of Trial or summary award, or of Order disposing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted
NIL.	NIL.	NIL.	NIL.	NIL.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of November 1943.

Officer i/c Records, No.1 C.G.R.U.

B

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

E.49674, Pte. Lebel, J.H.H.L. of the No.1 Cdn Gen Reinf Unit.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For -----	times	--- times
For ---	times	--- times
For	times	times
For ---	times	--- times

Number of instances of gallantry or distinguished conduct.

Nil

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.~~

E49674 No. | LEBEL, Joseph, Henri, Hector, Laurent Name | Sqn., Battery, or Company | R.C.A.S.C. Corps | Date of enlistment 30-9-42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. I MacLean, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of six months service No entries.					

Certified true copy of the original document in my possession this 3rd day of Nov. '43.

(R.T.Dickson) Capt.
Officer i/c Records.,
1 Cdn Gen Hft Unit
Cdn Army, Overseas.

(P.T.O.)

I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Field on the 27th day of Oct 43, preliminary to my Court Martial.

Dated At Field

30 day of Oct 43. H H L Lebel

I hereby request that the convening officer appoint an officer to represent me at my trial.

I desire the services of ✓

if he is available.

Dated at Field

30 day of Oct 43 H H L. Lebel

Summary of Evidence in the case of
E.49674, Pte. Joseph Henri Hector Laurent LEBEL No.1 CGRU

"A" THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

First Witness for Prosecution

Lieut. K.G. Cooke, No.1 Cdn Administrative Coy., RCASC, having been duly sworn, states:

About 1615 hours, Sunday 24 Oct 43 I approached the gate of our unit lines. The guard, Pte. Watters was checking out a station wagon. As I arrived at the station wagon, Pte. Watters asked the driver of said station wagon for his work ticket. The driver, whom I now recognize as the accused, stated that he did not have a work ticket but that he was going to the hospital where the Major; who had ordered him to come for the car was, and he would get his work ticket then. The guard refused the accused to leave and ordered him to put the car back where he had found it. After the accused had returned the station wagon to the lines and was walking out of the gate, I stopped him and asked for his pay book, which the accused could not produce. I asked him for his name and number. He said his name was "Pageau" and that he came from No.1 C.I.R.U. that he was attached to No.8 Canadian General Hospital as a driver. I became suspicious and took the accused to the A.T.O., Major Watmore who accompanied the accused and myself to the unit guard room where he, Major Watmore, instructed the guard to place the accused under close arrest. I questioned the accused again and he stated his name was "Lebel" from No.1 C.G.R.U. and had taken a station wagon to go back to No.1 C.G.R.U. The accused produced the keys for the station wagon and stated that a friend of his, whose name he did not know but whom he could recognize, belonging to No.1 Transport Company had given him the keys and informed him, the accused, the W.D. Number of the vehicle. In the station wagon with the accused was Pte. Hardy of No.1 C.G.R.U.

The accused declines to cross-examine this witness.

Kenneth G. Cooke

Kenneth G. Cooke, Lieut.

Second Witness for Prosecution.

G.52217, Pte. Watters, W.A., No.1 Cdn Administrative Transport Coy., R.C.A.S.C., having been duly sworn, states:

I was on R.P. duty at the gate of unit lines, No.1 Canadian Administrative Company, R.C.A.S.C. on Sunday, 24 Oct 43. At approximately 1600 hrs. motor vehicle bearing W.D. Number CM 195327 station wagon was stopped by me at the gate. I asked the driver, whom I now recognize as the accused, to sign the duty form. The accused signed the name of "Pageau" on said form. I asked the accused for his work ticket. He said he would have to go to the 8th Canadian General Hospital to get it. I informed the accused he would have to put the vehicle in the vehicle park, and then go and get his work ticket before he could get the vehicle out past the gate. The accused backed the vehicle to the vehicle park and Lieut. Cooke took charge of the accused. In the station wagon with the accused was another Canadian soldier. The accused and other soldier were placed in the guard room by

NO.1 CDN.GEN.REIN.UNIT.

STATEMENT IN MITIGATION OF PUNNISHMENT OF E49674, Pte, JOSEPH HENRI HECTOR LAURENT LEBEL.

1. The Accused was misled by some person unknown in that he was given the keys to the vehicle and told that it would be alright to go for a drive. He was also requested to call for this person at the Farnborough YMCA.

2. He enlisted at the age of seventeen and has been overseas for only a few months. He is now eighteen which is still too young for Overseas and in my mind, too young for the army for a boy of eighteen has not the sense of responsibility that is needed in a man who is going to handle expensive and vital equipment and who ~~xxxxxxxxxxxxxxxx~~ has the many opportunities of doing the wrong thing.
He is full of life and devilment which we all like to see in a young lad but this time his urge to have a bit of fun backfired on him and he has to pay the penalty for it.

3. The charge reads that he did use the motor vehicle without authority; but he did have the authority of the man whom he thought was the driver of the vehicle and he thought this would suffice. He has a rather impetuous nature and just did not stop to think that he was doing something that was not allowed.

4. There was no harm done to the vehicle, not even wear and tear nor consumation of petrol as the vehicle was not driven more than a few yards.

5. I therefore recommend that this soldier be not punnished severely but given another chance to become an asset to the Canadian Army which I feel sure he will. I also recommend that an investigation be made as to why this boy was taken on strength and sent Overseas at the age of seventeen. (His age is shown clearly in his pay book) Perhaps a transfer to the Auxilliary-Services would be the answer.

6. I say again that the boys age and also the circumstances of the case should be carefully considered by the court before awarding any punnishment.

Lieut.

E-49674 Pte. LEBEL, Joseph Henri Hector Laurent
1 CGRU

Accused PLEADS GUILTY

DEFENDING OFFICER to ACCUSED (after being sworn)

Q When were you born. A 31 Jan 26

Q That makes you 17 A Yes sir

Q What age are you in your Pay Book A 17 sir, 31 Jan 26

Q Did you report that you were under age when warned for draft A Yes sir, and they said that would cause further complication and they said to stay put on the draft. I asked the O.C. Draft to take me off the draft but he would'nt and the three of us who wanted to get off the draft were put in handcuffs.

Q Did you come over under escort?

A Yes sir, on the boat they put me in the clink.

Q Did you have a chance to be paraded before your C.O.? A No sir, not before the draft train. The whole question was never settled and was put off and off.

CROSS EXAMINATION BY PROSECUTER.

Q What age did you give on enlistment?

A 18 sir

President Q When did you come overseas? A 6 Apr 43

Plea for mitigation attached.

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFAB) 40/FA&R/1697 (D668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-49674	Pte.		Joseph Henri Hector Laurent	LEBEL	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXXX]committed the offence[s] set forth in the Charge Sheet[X] attached and on (date) 2 Nov 43 endorsed by me, [XXXXXXXXXXXXXXXXXX]" To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; [XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. [XXXXXXXXXXXXXXXXXXXX

Medical Officers Certificate
K.R.(cah) para 557.

I certify that I have this morning examined E-49674 Pte Lebel J.H.H.L. and in my opinion is Fit ~~Unfit~~ to undergo trial by Court-Martial.

J A Corson Capt
Medical Officer.

Field
~~Oct~~ 3
3 Feb 47

CHARGE SHEET

The accused, E.49674, Pte. Joseph Henri Hector Laurent LEBEL, Administrative Wing, No.1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC. 40 A.A.

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

At Lille Barracks, Farnborough, Hants., at approximately 1615 hours 24 Oct 43 improperly and without authority use Canadian Motor Vehicle No. CM 195327.

Field

30 Oct 43.

(J.R. Barber) Major.
A/O.C. No.1 Cdn Gen Reinf Unit,
Canadian Army Overseas.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

2 Nov 43

(C.W. Dewey) Colonel,
A/Commander
"G" Gp Cdn Rft Units.
Convening Officer.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No. sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (one) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) (accepts) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No. sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and so marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No. sir.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VV-88

FIELD GENERAL COURT-MARTIAL

CPA98 (In lieu of AFA3) 40/P & S/1698 (2864)

Convened by Order of Colonel C.W. Devey A/Comd "G" Gp CRU dated 2 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-49674	Pte.	Joseph Henri Hector Laurent	LEBEL	1 CGRU

Proceedings Reviewed
Ellis Lieut
3 Dec 43

Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 3 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 3. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1640 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1)~~ Do you object to as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major Cwobeee	(Capt & Adjt R)	7 CIRU
Member	Capt H.W.Smith	(Edmn R)	1 CIRU
Member	Lieut H.~~W.Smith~~ Bennett		5 CIRU
Judge-Advocate			
Prosecutor	Lieut P.I. Pocock		1 Cdn RU
Defending Offr	Lieut R.B. Barker		1 Cdn RU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~before arraignment makes(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 6, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.~~(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 49674 Pte Joseph Henri Hector Laurent LEBEL 1 CGRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA SEC 40	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ beginning on ~~(date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which —— days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of thirty days with loss of pay.

(Sgd) Judge-Advocate, if any. 3 Nov 43 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46b(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barrack until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) R Stewart Lough Lt

Date 14 Nov 43 Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 49674 Pte J.H.H.L. LEBEL	15 Nov 43.	[illegible] Lieut Adjutant.

No. 1 Cdn. Gen. Rein. Unit. C.A. (p.s.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

VV.85

PTE LEBEL J.H.H.L.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of May 44 J. J. Herron Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.B. 395
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.124433	Private	SYLVESTRE, N.M.	5 Cdn Armd Tps Wksp

1. The following is a fair and true summary of the entries in the ~~Service and Casualty~~ Regimental ~~Conduct Sheet~~ Pay Book, ~~Conduct sheets~~ ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~AR 284(xxx)~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	Sec 15 (1) A^A. A.W.L. 2 times	Sec 15 (1) A.W.L. 3 times
For	Sec 40 AA conduct +o prej. 2 times	Sec 40 AA conduct +o prej. 2 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

~~Nil~~

~~There are no entries to be shown on the record~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Nil~~

~~Previous convictions by Court-Martial or Civil Court or summary awards under AR 284(xxx) Section 47 of the Army Act are not to be shown on the record unless specified in this statement~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused is under sentence of~~

~~as of~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~Nil~~ days in civil custody, and ~~Nil~~ 3 days in military custody, making a total of ~~Nil~~ 3 days in custody, of which ~~Nil~~ Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 25 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is ~~Nil~~ 10-9-41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is ~~in possession of the following decoration or reward~~ in possession of or entitled to). State any ~~decoration~~ military decoration or reward. Cdn Volunteer Service Medal and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

"F"

VV-85.

ATE LEBEL J.H.L.

M.F.B. 356
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.124433	Private	SYLVESTRE, N.M.	5 Cdn Armd Tps Wksp

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~Conduct sheets~~ ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec 15 (1) A^A. A.W.L.	2 times	Sec 15 (1) A.W.L.	3 times
For	Sec 40 AA conduct to prej.	2 times	Sec 40 AA conduct to prej.	2 times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

~~[illegible]~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~[illegible]~~

3. The accused is not under sentence at the present time.

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~5~~ 3 days in military custody, making a total of ~~5~~ 3 days in custody, of which Nil ~~5~~ days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 25 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is ~~[illegible]~~ 10-9-41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is ~~[illegible]~~ is in possession of or entitled to). State any ~~[illegible]~~ military decoration or reward. Cdn Volunteer Service Medal and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

"F"

[illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

N/A unit

dated ....., and in his regiment (or corps), the rank of

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of N/A ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Army

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 May 44 day of J. J. Herron Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E.20573	Private	LEBEL, G.A.	5 Cdn Armd Troops Wksp

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec 40 conduct to prej.	4 times	Sec 15 (1) AA.AWL	2 times
For	Sec 15 (1) AA.AWL	1 times	Sec 8 (2) AA using insubordinate language	1 times
For		times		times
For		times	Sec 40 AA conduct to prej.	4 times

Number of instances of gallantry or distinguished conduct nil

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under AA 13 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for [illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 12 ~~5~~ days in military custody, making a total of 12 ~~5~~ days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 25 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is ~~N/A~~ 16-3-42

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward (or is~~ in possession of or entitled to). State any ~~air force~~ military decoration or reward. Cdn Volunteer Service Medal and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

"D"
WMWS

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-7-43	P+e		AA Sec 15 (1) AWL from parade 1330 hrs 30-7-43 un+il 1800 hrs 30-7-43 (To+al absence 4 hrs 30 minu+es)	Cpl Burn, R.A.	forf+ 3 days pay FR&I 149 (2)	31-7-43	Cap+ F.M. Gynn	Forf+ 3 days pay FR&I 149 (2)
Field	28-11-43	P+e		Neglec+ +o prejudice e+c, in +ha+ he failed +o a++end church parade con+rary +o Par+ I Orders	Sg+ Phillips, L.C.	14 days C.B.	29-11-43	W.M.Gonder, A/Cap+	
Field	3-1-44	P+e		AA Sec 40 WCAS failing +o have in his possession iron ra+ions which were issued +o him.	Cpl Fowler,	Forf+ 14 days pay FR&I 149 (2)	4-1-44	L+. R.G. Howard, A/O.C.	

CERTIFIED TRUE COPY OF REGT'L DOCUMENTS HELD BY THIS UNIT..

E. [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						2 days loss pay	2 Oc+ 43	(J.H. Fox) Major	
Field	30 Sep 43	P+e		Sec 15(1) AA AWL 3 hrs 30 mins	Sg+ MacDonald, J.H.				
Field	10 Dec 43	P+e		(1) Sec 40 AA Conduc+ +o prejudice did cause food +o be was+ed (2) conduc+ +o +he prejudice e+c did resis+ arres+ by Guard commander Sec 40 A.A. (3) Sec 40 AA used abusive language +o his superior officer. (4) Sec 40 AA conduc+ +o +he prej. was improperly dressed when walking ou+.	L/Cpl Hea+herington, C. P+e. S+andish, DA P+e McNaugh+on, E	28 days F.P. 28 days loss of pay FR&I 149 (2) (b)	10 Dec 43	(D.W. Thomson) Lieut A/O.C.	

CERTIFIED TRUE COPY OF REGT'L DOCUMENTS HELD BY THIS UNIT..

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. D.124433 Name SYLVESTRE, N.M. Sqn., Battery, or Company — Corps RCOC — Date of enlistment 10-9-41 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: NA — No. and date of last drunk: NA — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Old sheet destroyed on completion of six months service.				R.G. Howard, Lieut	
Barriefield	10-10-42	L/Cpl		AA Sec 15(1) AWL in that he WCAS did absent himself without leave from 0235 hrs 10-10-42 to 0300 hrs 23-10-42 (Total absence 13 days 15 minutes)	Documentary	Reduced to ranks	26-10-42	Lt-Col E.A. Steer Forf. 14 days pay FR&I 149 (1)	
Field	16 Jun 43	Pte		AA Sec 15(1) AWL from 2215 hrs 16 Jun 43 until 2200 hrs 17 Jun 43 (Total absence 23 hrs 45 mins)	Cpl Ascott,	2 days forf. pay FR&I 149 (2)	18-6-43	J.R. Barber Aut. forf. 1 day pay FR&I 149 (1) (a)	

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. E.20573 Name LEBEL, Gaston Sqn., Battery, or Company — Corps R.C.O.C. — Date of enlistment 16-3-42 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: N11 — No. and date of last drunk: N11 — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.: L.A. Lacroix Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
								(L.A. Lacroix) Major OC No.5 Ord Depot Coy, RCOC (CA)	
Quebec P.Q.	- - - - - - -			Certified no entry - - - - - - - - -					
Laurentide Camp (Field)	23 Jan 43	Pte		WCAS (1) AWL from 2200 hrs 23 Jan 43 to 2315 hrs 23 Jan 43 (Total absence 1 hrs 15 minutes) A.A. Sec 15 (1) (2) Using insubordinate language to his superior Officer at approx 2330 hrs 23 Jan 43 shaking his fist at C.100604 A/CSM Burns, D. said "I'll fix you when this is over" A.A. Sec 8(2)	C.100604 A/CSM Burns, D. C.42222 Sgt Sayeau, C.A. C.94459 L/Cpl O'Heare, C.E. (RCOC)	14 days F.P. forf 14 days pay FR&I 149 (b)	25 Jan 43	HCA Hervey, Lt-Col	

(P.T.O.)

The accused having been duly cautioned in accordance with R.P. 4 (E) says:-

E.20573 Pte LeBel, G.A. - "I have nothing to say, Sir. The only thing, we were drinking lots of wine".

D.124433 Pte Sylvestre, N.M. - "No, Sir".

The accused are asked if they wish to call any witnesses in their defence.

Reply - "No, Sir".

The accused are asked if they wish to have a defending officer to represent them at the trial and if so whom.

Reply - Yes, Sir we desire the services of Capt. J.P. Sherren or Lieut. C.W. McLeod.

G.A. LeBel
(E.20573 Pte. LeBel, G.A.)

N. Sylvestre
(D.124433 Pte Sylvestre, N.M.)

Certified that R.P. 4 has been complied with.

J.P. Sherren
(J.P. Sherren) Captain.
Officer detailed to take
Summary of Evidence.

Woms

A.- Yes Sir, Both of them.

Q.- Who was carrying the Tommy Gun then?

A.- Pte Sylvestre, Sir.

Q.- Was there anyone else with them?

A.- No, Sir.

The accused decline to cross examine the witness.

L. Bennett
(C.21632 Pte. Bennett, L.)

Third Witness - for the prosecution.
M.62304 Armt/SM Millar, R.R., 5 Cdn Arm'd Tps Wksp, having been duly sworn states:-

Sir, at 0815 hours on 4 Apr 44 the Marshal of the Carabinieri reported the shooting affiar. I went to the house, found eight bullet holes through the door and in the walls, and received eight empty cartridges from the Marshall. I had the Armourers investigate the unit's weapons and received a unit Tommy Gun that had been fired recently, smelling of smoke. The number of this gun was 383676.

Q.- by Capt. Sherren - Who was the owner of Tommy Gun No. 383676?

A.- Pte Taylor,L.E., Sir.

Q.- How did you identify the accused in order to arrest them?

A.- The woman of the house gave me a description of the men of whom I identified one as Pte Bennett. I questioned him and information received led me to Ptes Simard, LeBel, and Sylvestre. I also received information from S/Sgt Gauthier that Ptes LeBel, Sylvestre, and Simard were out late at night.

The accused decline to cross examine the witness.

R.R. Millar
(M.62304 Armt/SM Millar, R.R.)

Fourth Witness - for the prosecution.
K.43080 Pte. Taylor, L.E., 5 Cdn Arm'd Tps Wksp, having been duly sworn states:-

Q.- by Capt. Sherren - What is the number of your Tommy Gun?

A.- 383676, Sir.

Q.- Have you fired your Tommy Gun recently?

A.- No, Sir.

Q.- Have you any reason to think it has been fired recently?

A.- Yes Sir, as a result of what S/Sgt Lennie told me.

L.E. Taylor
(K.43080 Pte. Taylor, L.E.)

WMS

Q.- Was there any further shooting after accused entered the room?

A.- No, Sir.

Q.- Was the room in darkness?

A.- Yes, Sir, except for one coaloil lamp.

The accused declines to cross examine the witness.

R. Simard.
(D.125806 Pte Simard, R.)

Second Witness - for the prosecution.
C.21632 Pte. Bennett, L., 5 Cdn Arm'd Tps Wksp, having been duly sworn states:-

Sir, I was in bed with a woman in a brothel about 500 yards from a church. Pte Simard was on the other bed on floor ~~xxx~~ on the other side of the room. A firearm was discharged. After the first two shots I got out of bed and pushed the woman off the other side of the bed and stood by the fireplace. I would say four more shots were fired. The firing ceased and I opened the door. The accused whom I recognize, walked in. Pte LeBel used abusive language to Pte Simard. Pte Simard more or less asked Pte LeBel not to hit him.

Q.- by Capt. Sherren - Approximately how many shots were fired?

A.- About six shots, Sir.

Q.- Did the bullets come through the door?

A.- Yes, Sir they did.

Q.- Who was carrying the firearm when the accused entered?

A.- Pte Sylvestre was carrying it, Sir.

Q.- What type of firearm was it?

A.- A Thompson Sub Machine Gun , Sir.

Q.- Were any blows struck after the accused entered the room?

A.- There were two blows struck by Pte LeBel and one by Pte Sylvestre.

Q.- Who was struck?

A.- Pte Simard received the blows, Sir.

Q.- What did the abusive language and any other conversation consist of?

A.- Pte LeBel said "You yellow Son of a Bitch, I'll teach you".

Q.- To whom was this addressed?

A.- To Pte Simard, Sir.

Q.- Did Pte Sylvestre retain possession of the Tommy Gun while in the room?

A.- Yes Sir, He did.

Q.- When you opened the door could you see the accused plainly?

W.M.S.

First Witness - for the prosecution.
D.125806 Pte. Simard, R., 5 Cdn Arm'd Tps Wksp, having been duly sworn states:-

Sir, I was in the company of the accused, whom I recognize, at the door of a brothel near a church. We knocked but were refused admission. Pte Bennett stated that the place was closed for the night. The accused said they would be back and for me to wait. After they had gone Pte Bennett opened the door and I got in and I took off my tunic. I was lying on the bed. There was a knock at the door and a voice said "Open Up". We didn't want to open up. I heard a shot. Pte Bennett said "Stop shooting, I'll open up". The shooting stopped, the door was opened and the accused walked in. Pte Sylvestre struck me twice and Pte LeBel once. I didn't fight back.

Q.- by Capt Sherren - Were the accused drunk?

A.- They must have been, Sir.

Q.- Did both accused have arms?

A.- I never saw any arms, Sir.

Q.- What kind of firearm do you think made the noises?

A.- A Tommy Gun, Sir.

Q.- How many shots were fired?

A.- I couldn't say, Sir.

Q.- Were there more than 5 shots?

A.- I couldn't say, Sir.

Q.- Was there more than one shot?

A.- Yes, Sir.

Q.- Could you tell from where the shots were coming?

A.- From outside the door, Sir.

Q.- Did the bullets come through the door?

A.- I didn't see them coming through the door Sir.

Q.- When the door opened were the accused alone?

A.- I saw the accused alone when the door was opened, Sir.

Q.- After the accused entered was there any conversation between the accused.

A.- Yes Sir, Pte LeBel said to Pte Sylvestre "Give me that and I'll kill the bastard.

Sheet I

SUMMARY OF EVIDENCE IN THE CASE OF

E.20573 Pte. LEBEL, G.A., 5 Cdn Arm'd Tps Wksp.
and
D.124433 Pte. SYLVESTRE, N.M., 5 Cdn Arm'd Tps Wksp.

Jointly Charged - under (1st charge) A.A.Sec. 6 (3)(e)
When on Active Service, committing an offence against the property of an inhabitant of the country in which he is serving,
in that they, In the Field, on the night of 3 Apr 44 gained entry to a house by discharging firearms at the door thereof.

under (2nd charge) A.A.Sec.41.
When on Active Service, committing a civil offence that is to say, common assault,
in that they, In the Field, on the night of 3 Apr 44 assaulted D.125806 Pte SIMARD, R.

The Officer Commanding directs that all evidence be taken on oath.

The accused are informed of their rights.

LIST OF WITNESSES

Herewith List of Witnesses in the case of E.20573 Pte LEBEL, G.A. 5 Cdn Armd Tps Wksp and D.124433 Pte SYLVESTRE, N.M. 5 Cdn Armd Tps Wksp.

First Witness - for the prosecution
D.125806 Pte Simard, R. 5 Cdn Armd Tps Wksp

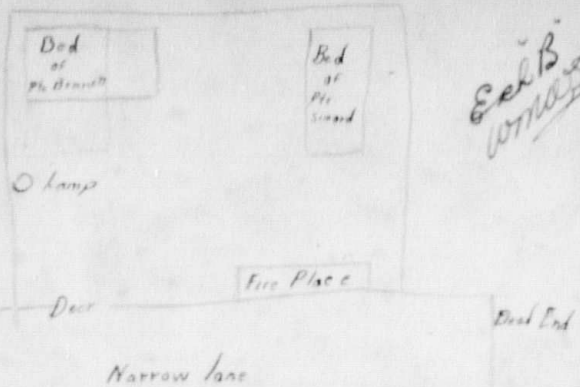
Second Witness - for the prosecution
C.21632 Pte Bennett, L. 5 Cdn Armd Tps Wksp

Third Witness - for the prosecution
M.62304 Armt/SM Millar, R.R. 5 Cdn Armd Tps Wksp

Fourth Witness - for the prosecution
K.43080 Pte Taylor, L.E. 5 Cdn Armd Tps Wksp

(C.F. Cockshutt) Capt
A/ Officer Commanding.

Prosecutor's Opening Address



Exh B
WMAS

Sir I submit the above sketch which may be of some assistance to the court. Also the following remarks:- The prosecution will prove beyond a shadow of a doubt that the accused did use a tommy gun to gain entrance to the house of an inhabitant of this country and also that they did assault Pte Simard and that in a manner which drew blood!

It appears to me that this was a premeditated assault in that they broke into the house with the intention of assaulting Pte Simard

J Pennington Capt

Exh A
WMAS

WMWS

what happened - Simard not certain what was said and had been drinking. - Neither witness qualified to tell what caused noise in room - did not see any gun fired - possible that Bennett mistaken about Weapon. - contradictory evidence regarding number of blows struck - submit reasonable doubt as to what happened."

Prosecutor - Prosn evidence given under oath only slight discrepancy as to number of blows - only one blow sufficient - accds condition - San Croce small town - lane dark & rocky - accd found way to brothel & were able to carry out an assault which was premeditated on Simard -

Judge Advocate - In opinion of Court & JA not necessary for JA to sum up.

Plea in Mitigation - Nil.

WMWS

Note:- Capt or Lt to be detailed by ADMS not being available due to absence, waiting member takes his place as a member of the court

WMWS

R. P. 83(B). Witness withdraws.

~~3rd Witness~~. Prosecution closed.

Pte Sylvester -

"Was with Libel on 3 Apr 44. Lemaid suggested they go to this house. Got to door and asked admission which was refused. When realized could not get entry decided to go back to billets. Lemaid got admission but not others. After Lemaid went in accd were on way when heard shots. Libel & I started running for door - were afraid for Lemaid - door open - we entered - dark inside & Lemaid tried to attack me - I did not take a chance & struck him. Left house then and went home."

First Witness. K43080 Pte Taylor, L.E. 5 Cdn Armd Inf Wksp duly sworn states:

On 2 Apr accd on gd & loaned Lemay gun to Pte Sylvester - quite a number of dogs around Les Croc - did not notice if weapon had been fired when Pte Sylvester returned gun.

Cross - Nil.

JA. - Gun returned day later - could not say for certain what day it was - did not examine weapon.

Court - Pte Sylvester on gd - was on around midnight - Recognize Pte Sylvester - not certain when I got weapon back.

R. P. 83(B) complied with. Witness withdraws.

Defence closed.

Def Offr - submits that Pte Sylvester shot ~~weapon~~ at dog when on gd. Reasonable doubt as to

comes

mad - all seemed to want to beat Semard up - spoke that way - pushed me out of way - they then proceeded to beat Semard up - saw Sylvestre strike Semard twice + Lebel struck Semard once - a little they left - they then went down the lane and proceeded to billets - accd left brothel first - opened door - noticed firearm on Sylvestre carrying it behind back - was TMC - they came in as soon as door opened - noticed no one else in alley - this (B) fair sketch of room - would say they embedded themselves in wall above bed - door splintered but that is all

Cross - did not see anyone fire weapon - have not had armourers course - can recognize different types of machine gun - accd offered violence when entered - was not clear on how many blows struck by Lebel - room not well lit up - was groping his way in room due to both drink + darkness - light enough to see accd certain was 3 Apr. - lady of house only wanted one to come in and not all - lamp to left of door on wall on mantle - Sylvestre struck me with left hand - did not let go of weapon.

Re-Exam -

Ft - lamp dimly lit - Semard made no attempt to attack them

Court - pushed woman out of bed because figured she might get hit - bullets coming close - were slightly intoxicated - got back to barracks alright - would not say accd crazed with drink + did not know what they were doing - saw Sylvestre had something behind his back - brought weapon to his side in room - saw only one gun - did not look close enough to see holes in door - would say were bullets coming through door - three chairs + bureau in room - chairs would be in line of fire.

so after shots - was a single shot and then automatic - more than one round - came thru door - lamp burning when they came - certain was accd who came in - both struck me Lebel once + Sylvestre twice - in face.

Court - Bennett opened door - had been drinking with accd - had two or three bottles of wine between us - was around midnight when they left - none of us had passes - no curfew then - tattoo at 9.15 - lights out 10 o'clock - went back couple days later to see door - woman standing in front of door obstructing my view - could not see any holes at night - was on right of door - had an argument before house - Sylvestre asked me to come down + have it out - before we went to brothel. - Lebel struck me twice + Sylvestre once - remember giving evidence on summary of evidence - not correct - Sylvestre struck once + Lebel struck me twice - must have been misunderstanding.

R.P. 83(B) complied with. Witness withdraws.

2nd Witness, C21632 Pte Bennett, L - 5 Cdn Armd Tps Whsp - duly sworn states:

"Recognize accd as Pte Lebel + Sylvestre - On night 3 Apr in brothel in bed with a woman. Came a knock on door. Heard 2 voices wanting admission - answer was house was closed for night - woman not working any more - repeated closed for night - swore a little + left - accd that is - Simard remained at door - let him in - in 15 mins accd returned - demanded admission or they would shoot - paid little attention to them until first two shots fired - fired at least four more shots - coming thru door - striking directly behind bed in which I was - accd entered + very

Opening Address: (Exhibit A)
~~Room intend to prove that accd gained entry to a house and also assaulted Pte Simard.~~

First Witness D125806 Pte Simard, B - 5 Ldn Armd Tps Wksp duly sworn states.
"Recognize accd as Ptes Lebel & Sylvestre. On night 3 Apr 44 I and 2 accd stopped at brothel & knocked at door. Bennett inside answered closed for night and impossible to get in. Accd said to wait they would be back. As soon as they left Bennett let me in. Took off tunic & cap & laid on bed. Few minutes later knock on door and shooting. Opened door and accd came in and Sylvestre hit me in face & Lebel hit me just above eye. Then Lebel said "Hand it over & I'll kill the bastard" - Had a T machine C - both then left and Bennett & I left a few minutes after & I went to my billets. This was about 500 from church in San Croce. - Heard a single shot - did not see any arms when they entered house.
Cross - Was in company of accd previous to incident - was in wine shop with them, can say I recognize their voices behind doors - I judged by sound of shooting was T MC - heard more than one shot - fired in single rounds - also heard a burst - do not know how many shots in burst - conversation in room - do not know what Lebel referred to when he said "Give me that" - coal oil lamp in room - could recognize accd - did not see any arms.
Re-Exam - recognize sketch of room (submitted as Appx B) - represents room.
JA - was alright that night - had been drinking - think accd same as I was - recognized both voices - before we opened - both said "open up - before shots - door opened a minute or

2 May 44

X

5 CANADIAN ARMOURED TROOPS WORKSHOP

I have medically examined the u/m person and find him fit to undergo trial by Court Martial.

E-80573 - Pte Lebel, G.A.

Medical Officer

2 May 44

5 CANADIAN ARMOURED TROOPS WORKSHOP

I have medically examined the u/m person and find him fit to undergo trial by Court Martial.

D-124433 - Pte Sylvestre, N.M.

Medical Officer

V

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E20573	Pte		Gaston A.	LEBEL	5 Cdn Armd Tps Wksp
D124433	Pte		Normand Maurice	SYLVESTRE	RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 1 May 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". JLS

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~ JLS
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ JLS
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	L S Eckardt	5 Cdn Armd Div Tps Coy RCASC
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt or Lt	To be detailed by ADMS, 5 CDN ARMD DIV	~~[illegible]~~
Capt or Lt	To be detailed by	5 Cdn Armd Div Sigs
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lt	To be detailed by	CREME 5 Cdn Armd Div
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt	W M W Shaw	ADJA 5 Cdn Armd Div
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally: RP 105 fn 2.) (Rank.)

Date 1 May 44

Commanding (J L Sparling) Lt-cel RCASC 5 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, E.20573 Pte. Gaston A. LEBEL.
and
D.124433 Pte. Normand Maurice SYLVESTRE.

soldiers of the Canadian Army Overseas, are jointly charged with:-

First Charge Section 6 (3)(d) Army Act

When on Active Service, committing an offence against the property of an inhabitant of the country in which they are serving,

in that they, In the Field, on the night of 3 Apr 44, gained entry to a house by discharging firearms at the door thereof.

Second Charge Section 41 Army Act

When on Active Service, committing a civil offence, that is to say, common assault,

in that they, In the Field, on night of 3 Apr 44, assaulted D.125806 Pte. SIMARD, R.

~~(C.F. Cockshutt)~~ Captain
A/Officer Commanding
5 Cdn Arm'd Tps Workshop.

To be tried by Field General Court Martial.

(J L Sparling) Lt-col
Commanding
RCASC 5 Cdn Armd Div.

In the Field,
1 May 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 45 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement at ... The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans Pte Rebel, No, Sir. Pte Sylvestre, No, Sir.
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1) Each "A"
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court so finds, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Pte Rebel, do neither. Pte Sylvestre, make a statement. Do you intend to call witnesses on your behalf? Ans Pte Rebel, Yes. Pte Sylvestre, No. Are they witnesses as to character only? Ans No.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ■ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No, Sir (Both)
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" "D" and Ex "E" "F" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No, Sir.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas MO 319, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECEIVED
5 JUN 1944
JAG BRANCH
G.H.Q.

RECORDED AT CMHQ IN AB 160 : NNN-26 NNN-27

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF23) 40/P & S/1698 (2864)

Convened by Order of Lt-col J L Sparling Comd RCASC 5 CAD dated 1 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E20573	Pte	7 Jun 44	Gaston A.	LEBEL	5 Cdn Armd Tps Wksp RCOC
D124433	Pte		Normand Maurice	SYLVESTRE	

WOT from WG 138

PROCEEDINGS OF TRIAL.

58-59

Held in the Fd in (*country*) ITALY on (*date(s)*) 2 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ are amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is~~ are brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused ~~is~~ are fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to D/57072 Pte Beasley E.J. as interpreter ? Ans No, Sir

The Interpreter is sworn.(1) Do you object to A/52795 Sgt Hendeffer R.A. as shorthand writer ? Ans No, Sir
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans Pte Lebel, No, Sir
Pte Sylvestre, No Sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	L.S. Eckardt	5 CAD Wksp RCASC
Member	Capt	E Beauregard	5 CAT Wksp RCOC
Member	Lt	D. Smith	Sig 5 Cdn Armd Div
Judge-Advocate	Capt	W.M.W. Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	J.P. Sheren	5 CAT Wksp RCOC
Defending Offr	Lt	C.W. McLeod	5 CAT Wksp RCOC

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused ~~is~~ are (are) arraigned (separately) on all charges in the charge sheet.(1) The accused ~~does~~ do (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E20573 Pte Gaston A LEBEL
D124433 Pte Normand Maurice SYLVESTRE } both 5 CAT Wksp RCOC

Charge. ("Alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge — Pte Lebel	Not guilty	guilty	
Pte Sylvestre	Not guilty	guilty	
2nd Charge — Pte Lebel	Not guilty	guilty	
Pte Sylvestre	Not guilty	guilty	

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Accused present under sentence (in~~ ~~custody since (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting ~~present~~ trial a total of 12 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
E20573 Pte Gaston A Lebel to be imprisoned with hard labour for one year
D124433 Pte Normand Maurice Sylvestre to be imprisoned with hard labour for one year

(Sgd) W.M.W. Shaw Capt — 2 May 44 — (Sgd) L.S. Eckardt Major — President. (RP 45, 50.)
Judge-Advocate, if any. — Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 3rd May 44 (Sgd) J.L. Sparling Lt-Col. Commanding 5TH CDN. (ARM'D) DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E Lebel	4 May 44	J C Blatchford Major
N Sylvestre	4 May 44	Officer Commanding 5 Cdn Armd Tps W/Shop

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

JOINT TRIAL

NNN-26 PIE LEBEL GA.
NNN-27 PIE SYLVESTRE NM.

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date Jan. 22 1943 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL

AA 15(1)

for which I was remanded for Court Martial.

(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut D. Munro if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 85 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Sig of Accused)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D51292 Rank Private Name Lebel, G of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		"No MFM 6 Available"		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of January 1945

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

IV. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of . . . years.

In the rank of . . . years.

In the rank of . . . years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Exhibit "D"

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D61292	Private	Lebel, G	4 Cdn Rft Bn - 1 CBR Gp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 627, K.R., 1940.

* The entries herein stated should correspond with the number or extract in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	"No MFM 6 Available" times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.*

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____.

4. The accused has been in confinement awaiting trial on the present charges, for from 1300 hrs 6 Jan 45 days in civil custody, and 16 days in military custody, making a total of 16 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~MARRIAGE~~ is 23 yrs

6. The date of his ~~ENLISTMENT~~ attestation specified in his record of service ~~ATTESTED PAID~~ is 1 May 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, *or* entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____, and in his regiment (*or* corps *or* department) the rank of N/A dated _____

(*16428*) W 16822/144 121,000 6/41 A.S.E.W.Ltd. Gp.698

EA 'B'

174/G

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

I, Luggi Lieut. certify that No. D 51292 Rank Pte.

Name LEBEL G. of the Royal 22e Regt. 1 Cdn. Div.

surrendered himself to No. A 59864 Rank L/C Name Thomas C.S.

of the No.3 Cdn.Provost Coy.Cdn.Provost Corps.(Rome Detach) at Rome

at 1300 hrs, on the 8th day of January 194.5.as absent, without leave.

Edward B.
Thomas Capt

Date 8 Jan.1945

Officer Commanding Detachment
3rd Cdn.Provost Company,Rome,
of which L/C Thomas C.S.
A 59864 is a member.
Luggi. Lieut.

I called the R 22e R roll on arriving at 4 Bn and found the u/m soldier was absent. Porter C SM A Coy

STATEMENT OF EVIDENCE in the case of D 51292 Pte LEBEL G (R22e R

I am No. Lieut H N LASH (WNSR) of Coy

4 Cdn Rft Bn - 1 Cdn Base Rft Group, C.A., C.M.F.

On the day of 19 , the a/m

was on strength of the said Coy (#

) and his name and number were on the Nominal Roll rolls.

At about 1000 hrs on the 31 Dec 1944, in performance of my duty, as i/c draft enroute from 1 Bn, I called the R 22e R roll, including the number and name of the a/m soldier. He did not answer nor was he present on parade. I thereupon searched the calling his name, and inquiring as to his whereabouts, but was unable to locate him or to obtain any information concerning him. I thereupon reported him absent without leave from 1000 hrs, 31 December 19 44.

Date 31 Dec 44 19 . Signature

(# or in Guard Room, or as the case was)

Exhibit "C" 10.

Summary of Evidence in the case of D61292 Private Lebel, G, of 4 Cdn Rft Bn, 1 C B R G who is charged with WOAS Absenting himself without leave AA Sec 15 (1).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: Lieut H N Lash, WNS Regt

A written statement of the evidence of this witness purporting to have been signed by him has been read over to the accused and is attached hereto as Exhibit "A".

I certify that owing to the exigiencies of the Service and the time and expense involved the attendance of this witness at the taking of this summary cannot be readily procured.

(R R Brown) Capt
Officer taking Summary

The accused does not demand the presence of this witness for cross-examination.

2nd Witness: A3885 Pte Knowles, H of 4 Cdn Rft Bn 1 C B R G having been duly sworn states:

I am A3885 Pte Knowles, H, file clerk in 4 Cdn Rft Bn Orderly Room.

I produce a Certificate under A A 163 (1)(j) purporting to relate to the accused and showing that D61292 Private Lebel G surrendered himself at Rome at 1300 hrs 8 Jan 45 (produced shown to accused, marked Exhibit "B" and attached hereto). H. Knowles
(A3885 Knowles H)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

I have nothing to say at this time.

I certify that R F 4 (c) (d) (e) (f) and (g) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

(R R Brown) Capt
Officer taking Summary

In the Field
22 Jan 45.

PLEA IN MITIGATION IN THE CASE OF D51292 PRIVATE LEBEL C 4 CDN RFT EN I C B R GP

Mr President and Members of the Court. With regards to Private Lebel the evidence produced shows he is guilty, we can see that, but with regards to his service in the Army for three years, served with Fus MR with Second Division in England and in October he came out here, been in action, has seen quite a bit, and has not had any leave for a time. He felt like a change in the New Year, get tight and let off thinking about the rest of the Army and took his own leave and I think the Members of the Court should be lenient in regards to punishment of the accused.

without

MEDICAL OFFICER'S CERTIFICATE

JAN 24th 1945

K.R. (CAN) Para 557

I hereby certify that I have this morning examined No D 51292 PTE LEBEL. C on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

W. J. Grant Capt
Medical Officer 4 Cdn Rft Bn.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAS) 40/FAR/1497 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 67(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61292	Private		Gerard	Lebel	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has xxxx committed the offence(x) set forth in the Charge Sheet(x) attached and on (date) 22 Jan 45 endorsed by me, (xxxxxxxxxxxxxxxxxxxx), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(x) should be tried by an ordinary General Court-Martial; (xxxxxxxxxxxxxxxxxxx

CHARGE SHEET

THE ACCUSED, NUMBER D61292 PRIVATE GERARD LEBEL of 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 1000 hrs 31 Dec 44 until surrendering himself at 1300 hrs 8 Jan 45 (8 days 3 hrs).

L J Flynn

In the Field
22 Jan 45.

(L J Flynn) Lt-col
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - C M F

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

In the Field
22 Jan 45.

(L J Flynn) Lt-col
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - C M F

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B); 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114; ER Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....
Do you intend to call witnesses on your behalf?
Ans.....
Are they witnesses as to character only? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces a statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)(2)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D ~~and Ex respectively.~~(2)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46; KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) ~~and Conduct Sheet(s)~~, and in mitigation of punishment?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 51292 Privat. Gevard Lebel

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 90 days

(Sgd) ..... 24 Jan 45 (Sgd) Jean Denault capt

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

DATED JAN 29 1945 (Sgd) ..... COMMANDER 1 CDN BASE RFT GROUP

Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D51592 Pte Lebel G. 31 Jan 45 Capt

R22 Regt

2 Cdn Reallocation Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 4R-109

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA3) 40/P & R/1608 (2864)

Convened by Order of Lt-Col L.J. Flynn Comd 4 Cdn Rft Bn 1 C.B.R.G. dated 23 Jan 1945

16 FEB 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 51292	Privat		Gevard	Lebel	4 Cdn Rft Bn 1 C.B.R.G.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 24 Jan 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 2. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(1).~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~an interpreter I do~~ ~~The Interpreter is sworn.~~(1) Do you object to G 22080 Cpl L. Roy PA as shorthand writer? Ans No Sir. The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	L. Denisot	4 Cdn Rft Bn
Member	Capt	A. Arnold	4 Cdn Rft Bn
Member	Lieut	E.N. Ross	4 Cdn Rft Bn
Judge-Advocate			
Prosecutor	Capt	R.R. Brown	4 Cdn Rft Bn
Defending Offr	Lieut	D. Munro	4 Cdn Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Sir Is the Defending Offr a lawyer? Ans No Sir

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ.)

A8. The accused D 51292 Pte Lebel G before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per margin.)

A10. The Court ~~is cleared~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4R-109

Pte. Lebel G.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been servedwith a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....Major Fernand Trudeau Royal 22e Regiment No 6 Cdn Inf Rft Unit.....

if he is available.

Algonquin Camp,
Witley, Surrey,
2nd Day of October....1943.

.....hrs

Lebel C.....

Fernand Trudeau Major

Received at 1530
2/10/43

SUMMARY OF EVIDENCE

In the case of No E-6054, Private Conrad LEBEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcemnt Unit, a soldier of the Canadian Army Overseas.

Fifth Witness for the Prosecution (Continued)

I hereby produce Pte Lebel's statement as Exhibit "A"

The accused declines to cross-examine this witness.

J.R.R. Carriere .....Sgt.

Sixth Witness for the Prosecution.

M-36743 L/Cpl Matthew, A., of the Special Investigation Section, Cdn Provost Corps, having been duly sworn, states as follows:

On 25 Sep 43 I took Pte Reeve to the Medical Officerfor examination. He was examined by Capt Brown, CMHQ. I was present during the examination, and Capt Brown handed me a sick report which I hereby produce as Exhibit "B". I also took Pte Reeve To Queen Alexandra Military Hospital, Millbank, London, on 26 Sep 43, for the purpose of having an X-ray taken of his skull. This was attended to, but the print is not yet available. On 27 Sep 43, I took from Pte Lebel a pair of trousers. They had on the left leg what appeared to be a blood stain which had been wasked off to a certain extent. I produce these trousers as Exhibit "C".

The accused declines to cross-examine this witness.

[signature] .....L/Cpl.

The accused was cautioned in French as follows; "Do you wish to make any statement of to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you may say or any evidence you give, will be taken down in writing and may be used or given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by in the presence and hearing of the accused and that Rules of Prosedure 4 (C), (D), (E), (F) and (G) have been complied with.

[signature] .....
Officer detailed to take the Summary of Evidence.

[signature]

Algonquin Camp,
Witley, Surrey,
30th day of Sep 1943.

MPM/JLN

SUMMARY OF EVIDENCE

In the case of No E-6054, Private Conrad LEBEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Third Witness for the Prosecution (Continued).

now recogniseas Pte Lebel. They appeared to be struggling and Pte Reeve was shouting for help. We went into the room and Lebel got up and rushed out, disappearing down the hall. We assisted Pte Reeve to the office for medical attention, as he was bleeding profusely from a cut over the left eye, which seemed rather serious.

The accused declines to cross-examine this witness.

.....AC 1

Fourth Witness for the Prosecution.

No 1525226 LAC Turner, H., of 14 School of Technical Training, RAF, having been duly sworn, states as follows:

At about 2330 hours on 24 Sep 43, I was in my room at the Union Jack Club in company with AC 1 Lavery, When I heard shouts for help. We rusehd out. The shouts led us into another room, Where I saw two soldiers on the bed. One, Pte Reeves, was lying on the bed shouting for help. The other, whom I now recognise as Pte Lebel, was over him and they appeared to be struggling. Upon seeing us Pte Lebel rushed out of the room and disappeared down the hall. Reeve was bleeding profusely from a cut over the left eye. We assisted him down to the office for medical treatment.

The accused declines to cross-examine this witness.

.....LAC

Fifth Witness for the Prosecution.

C-41986 Sgt Carriere, J.R.R., Special Investigation Section, Cdn Provost Corps, having been duly sworn, states as follows:

On 25 Sep 43, I interviewed Pte Lebel, whom I now recognise. I warned him that he need not say anything, but that whatever he might say would be taken down in writing and might be used in evidence. I then questioned him in connection with an alleged assault upon Pte Reeve, J.A., RAMC. He elected to make the following statement, which I hereby produce as Exhibit "A", and which was signed by the accused in my presence:

"I have been warned by Sgt Carriere, J.R., of the Cdn Provost Corps, London, that I need not say anything unless I wish to do so, but that whatever I may say will be taken down in writing and may be used in evidence."

(SIGNED) Conrad Lebel, E-6054

"I came to London on leave for 7 days. My leave finished on Sept 28th. Last night, 24 Sep 43, I was at the Union Jack Club and there I met Pte Valliere for the first time. I told him I had only two pence and that I had nowhere to sleep. Valliere asked me to go and sleep with him in his room, No 41, at the Union Jack. It was then about 11 o'clock in the evening. When I again saw Valliere at the Union Jack. Valliere left me to take a cup of tea with an English soldier. Later I noticed that Valliere was gone with the English soldier. I went upstair looking for him and got to the English soldier's room. Vallier was there. The English soldier touched my private parts. I got mad and punched him in the face. He fell on his bed. Valliere ran away and, as I was going away, two men ran into the room. They took me by the arms, but I got loose telling them in French "He touched my private parts andI hit him." I then walked away Valliere met me and I accompanied him to his room. It was there that I was arrested by the military police. I had no intention of robbing him and I did not put my hands in his pockets. The blood on my trousers is that of the English soldier, with whom I fought. I have read. This is the truth.

(SIGNED) Conrad Lebel.

SUMMARY OF EVIDENCE

In the case of No E-6054, Private Conrad LEBEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution.

No 14271987 Pte Reeve, J.A., of 162 Field Ambulance, RAMC, having been duly sworn, states as follows:

At the Union Jack Club, Waterloo, in the evening of 24 Sep 43, I was sitting in the bar having tea. A young soldier came and sat beside me. I now recognise this soldier as Pte Valliere. He said: "No tea. No Money." I bought him a cup of tea and some sandwiches. After we had finished eating I told him I was going to bed. He replied: "I go to bed." We walked up to my room on the fourth floor. No sooner had I opened the door that I received a blow on the back of the head. Turning around, I caught a glimpse of another man, whom I now recognise as Pte Lebel. I had seen this man in the bar earlier in the evening. I then received a blow on the side of the head and fell onto the bed. I received another blow on the back of the head and felt someone go through the pocket of my tunic. I shouted for help and 2 RAF men came to my assistance. My assailants ran away, before they could take any money from me. There was no light in the room, but there was a dim blue light in the corridor enabling us to see fairly well.

The accused declines to cross-examine this witness.

.....Pte.

Second Witness for the Prosecution.

M-10792 L/Cpl Elliott, J., of No 6 Provost Company, Cdn Provost Corps, having been duly sworn, states as follows:

On 24 Sep 43, at about 2330 hrs, I was on duty in the Union Jack Club, Waterloo, in company with L/Cpl Johnson, S., when we were approached by Pte Reeve, who was supported by two RAF men. Pte Reeve said he had been attacked by two Canadian Soldiers. From the description he gave of them I suspected them to be two soldiers I had seen in the Club during the evening. Pte Reeve was bleeding profusely from a wound near his left temple and we sent him out for first aid. We then conducted a search of the Club, and fould the accused whom I suspected to be one of the guilty persons. With him was the other suspect, Pte Valliere. They were conducted to the office, where their particulars were taken and their passes checked, and they were detained for investigation. The accused had a large blood stain on the left leg of his trousers. He had several small spots of blood on his forehead and a smudge of blood on his right wrist. This blood appeared to be fairly fresh. He was not wearing his flashes of the Royal 22e Regiment, which I had seen him wearing earlier in the evening. His tunic however showed signs that the flashes had been ripped off. The two men were questioned but would not admit anything. Later Pte Reeve came in and instantly recognised the two men as his assailants. In the course of my investigation, I went up to Reeve's room, where I saw some bloodstains on the bed and on the floor.

The accused declines to cross-examine this witness.

.....L/Cpl.

Third Witness for the Prosecution.

No 1564273 AC 1 Lavery, W., of 14 School of Technical Training, RAF, having been duly sworn, states as follows:

At the Union Jack Club, Waterloo, at about 2300 hrs on 24 Sep 43, I was in my room with LAC Turner when I heard shouts of help which we traced to another room. The door of this room was open. Going into this room I saw a soldier, whom I now know to be Pte Reeve, lying on the bed. Over him was another soldier, whom I

Ex 1
1117

Quote No.....

CANADIAN PROVOST CORPS
No. 6 COMPANY

TELEPHONE: TEMPLE BAR 5684.

ST. PETERS HOSPITAL,
HENRIETTA STREET,
LONDON, W.C.2.

CANADA

111

C'est la ou j'ai été arrêté par la police militaire. J'avais aucune intention de le voler et je n'ai pas mis mes mains dans ses poches. Le sang qui est sur mes culottes est le sang du soldat anglais avec qui je m'ai battu.

J'ai lu ses la vérité Conrad LeBel

Witness.
J. Carrière

II

Il était alors à peu près 11 hrs du soir lorsque j'ai vu Vallière de nouveau au Union Jack. Vallière m'a laissé et a été prendre une tasse de thé avec un soldat anglais.

Plus tard je me suis aperçu que Vallière était parti avec le soldat anglais après ça j'ai monté pour chercher Vallière et j'ai arrivé dans la chambre du soldat anglais. Vallière était là. Le soldat anglais m'a touché avec parles premiers je me suis faché et je lui ai donné un coup de poing dans la figure. Il a tombé sur son lit. Vallière s'est sauvé et comme j'allais pour m'en aller deux gars sont arrivés à la course dans la chambre. Ils m'ont pris les deux bras et je me suis fais relacher et je leur ai dit en français il m'a fris le "Ku" et je l'ai frappé. J'ai ensuite laissé un moment, Vallière est venu à ma rencontre et je l'ai accompagné à sa chambre.

C.L.

Exhibit "A"

Quote No.....

CANADIAN PROVOST CORPS

No. 6 COMPANY

CANADA

TELEPHONE: TEMPLE BAR 5664.

ST. PETERS HOSPITAL,
HENRIETTA STREET,
LONDON, W.C.2.

E 41

Déclaration de: E. 6054 Soldat LEBEL C.
6 C.I.R.U.

J'ai été avertes par le Sgt. Carrière J.R. du Cdn. Provost Corps. Londres, que je ne suis pas obligé de dire quoi, mais que tout ce que je dirai sera pris en écrit et pourra servir comme preuve.

Lebel Conrad E6054

Je suis venu en passe a Londres pour 7 jours. Ma passe finissait le 28 Septembre. Hier soir le 24 Sept. 43 j'etais au Union Jack et la j'ai rencontré le soldat Vailleux pour la premiere fois je lui ai dit que j'avais seulement une livre penny et que je n'avais pas de place pour me coucher. Vailleux m'a invité d'aller coucher avec lui dans sa chambre numero 441 au Union Jack.

C.L.

Know who it was

The Court is closed for the Finding

The Court Reopened.

The President announced that the Court finds the accused not Guilty.

The Accused was released

The Court was adjourned

[illegible] Col

Trial of E 6054 Pte Lebel C - 6 C I R A
Page 5

asked me to come up to his room and finally I went up. He showed me a picture of a Dancing man and Reeves danced in his room. Reeves embraced me wrapping his legs around me. He gave me a paper with his room no on it ~~and~~ 374 and the words, ~~Eve~~ Eleven - Twelve.

On 24th Sept Pte Reeves asked me to have tea and Reeves paid for it. Reeves asked me to his room. Thinking I might get a drink I went up. Reeves touched his privates. I saw Lebel lying in Reeve went toward Lebel and tried the same thing on Lebel. Lebel hit him and I ran out.

Cross Examined by the Prosecutor

I showed Lebel my room before I went up with Reeves on the 24th. After I ran out about 5 minutes elapsed before Lebel found me again.

End of case for Defence.

The Defending Officer said on the Finding Prosecutor have proven no attempt to Rob. Two witness say Reeves had bad intentions to them. Lebel knocked Reeves down because of Reeves bad intentions and not with attempt to Rob.

The Prosecutor addressed the Court The accused had only 2 pence. Reeves said someone searched his pocket Vallière said he knew it was Lebel who came into Reeves Room alone he had told Sgt Carrière that he didn't

2nd witness for the Prosecution
C 41986 Sgt J R R Carriere S I S C Prov C
being duly sworn states
On 25th Sept 1943 I interviewed the accused
I cautioned him and ~~asked~~ told him
of the complaint of Sgt Reeves. and asked
if he wished to make a statement
He said first that he had never seen
Reeves but later he said I did strike
him because I got mad with him
when he Reeves put his hand on my
privates. I noticed what appeared to
be blood on his battle dress trousers
I asked if he wished to make a statement
He said he did I wrote out the Caution
in French He signed it. I wrote out
a statement from his dictation He read
it and signed it. I submit it
(Def officer said he had no objection
statement admitted and marked E X 1)
The accused had only 2 pennies in
his possession when I searched his
belongings.
Cross Examined by Def Officer
The accused gave his statement freely
3rd witness for the Prosecution
1564273 A C I. Lavery W. R a F being
duly sworn states
at about 2300 hrs 24th Sept 1943
I was going to bed in Union Jack Club
Waterloo. I heard a cry for help.
I and L a C Turner went to the
room from which the call came
the door was open. Pte Reeves was
lying on the bed. another soldier
the accused was lying on top of them

There was a struggle, legs were lashing
around. My pal said "what's going on
here". The accused got up and ran
away. There was no 3rd soldier there
we took Turner Reeves down stairs
for medical attention. He said he had
felt someone in his pocket (He didn't
indicate that it was the accused. He
said he thought it was an attempt to
rob.
Cross Examined by Def Officer.
My room was about 30 yds from Reeves
rooms. It took us about 5 minutes to
find the room from which the calls
for help was coming.
4th witness for the Prosecution
15-25-226 L a C Turner H. R a F being
duly sworn states
at about 2330 hrs. 24 Sept I was in the
Union Jack Club I heard a call for
help. I and Lavery ~~heard~~ went to in
answer. It took about 20 seconds
from the time I left my room until I
got into the room where the cries were.
~~I saw~~ where I saw Pte Reeves lying on
the bed with accused on top of him
They were struggling. The accused ran
away. We took Reeves downstairs
to wash his face. Then to the C. Prov C
officer on duty. ~~The~~ Pte Reeves was
badly cut on the temple. His face was
covered with blood.
The Def officer declined to cross examine

case pass. The Prosecution is closed.
The President address the accused who
note 2 R P 40
1st witness for the Defence
2 nd appear who oath the whole stand
I give to Sgt Carruthers which is now
in evidence and I say further that I
did not know where the Englishmans room
was but I heard Vallins voice saying
went about the door I ont shut the door.
and when I had looked in he saw Rives
touching Vallins private parts. when
Vallins backed away from Rives.
Rives came up and touched my private
parts I took Rives by the collar and
pushed him 2 or 3 times and Rives
fell on the bed. I did not touch
Rives pockets. I had no intention to
rob. I pushed him only because Rives
touched my private parts.

Cross examined by Prosecutor

I did not know Vallins before 24th
Sept. I don't remember the number of
the Room: I had been drinking much
I was wandering about looking for
Vallins

2nd witness for the Defence.
B 427704 Pte R. Vallins 6 C I R a being
duly sworn states
On ~~24th~~ 23rd ~~Sept~~ I was in town Jack Clubb
The M P s called for my pass. I went
back to get it and met Pte Rives. He
asked me to come to his room I refused
He followed me to my room. He came
in. I went out and Rives followed me
when we got to the end of the corridor he

the accused when arraigned Plead not Guilty
The Question under R P 39 A" was asked
The answer "no" was recorded.
1st witness for the Prosecution
1427184 Pte J a Rives being duly sworn
states
I was in town Jack Clubb Waterloo
on 24 Sept 1943. I was sitting in the Bar
having tea with Pte Vallins after I went
up to my room on 5th floor. Pte Vallins
was behind me. I opened the door. I got
a blow on the back of my head. I half
turned I saw the accused and Vallins
They were coming into the Room. I fell
on the bed. I then got another blow on my
left temple I shouted "Help" 2 Air Force
men came to my assistance. Up to 10 minutes
elapsed from the time I opened the door
until the Air Force men arrived when on
the bed one was lying on the back
of the neck shoving my face into the bed
I felt someone feeling in my left breast
pocket. My cigarette case and pay book
were there. They were not taking. There
was money in my trouser pockets.
Nothing was taken from me. My
head bled profusely. I had it
treated. I have no reason to believe it
was intended to rob me except the
person feeling in my pocket.

Cross examined by Defence officer

During the up to 10 minutes I was
on the bed with my face being shoved into
the bed. The Vallins parties go to the
ceiling. I never made any sexual suggestion
to either of these soldiers.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

HELD AT Algonquin Camp, Witley, Surrey.
ON THE 4th DAY OF October 1943

The accused F/6037 Pte. LEBEL, Conrad Unit 6 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22 and 23.

The accused is brough before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court. Lt. W.R. Michaud is sworn as interpreter. The accused when asked having no objections.

The following constitute the Court:-

President Lt-Col. D.L. Redman VD. Unit HQ CRU

Members Capt. W.R. Skinner Unit 2 C.I.R.U.

Lt W.F. Aitken Unit 2 C.I.R.U.

The officers under instruction are duly sworn:-

Lt. A. Johannesson Unit 2 C.I.R.U.

..... Unit .....

Prosecutor Lt. M.P. Menard Unit 6 C.I.R.U.

Defending Officer Maj. P. Tourigny Unit 6 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P.35(B)~~ is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P.37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P.46(B).

Pursuant to R.P.37 THE ACCUSED:-
(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

Proceedings follow on Foreground

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: Pte C. LEBEL E. 60[illegible]
(Rank) (Name)
of _____ and in my opinion he is fit to undergo
trial by Court Martial.

Station Willey Surrey

Date 4th Sept 43

Sgd [illegible] Capt.
(Medical Officer)

CHARGE SHEET

The accused, No. 126054, Private Conrad LEBEL, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 40 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ASSAULT WITH INTENT TO ROB CONTRARY TO LARCENY ACT 1916 SEC 23,

in that he,

at the Union Jack Club, London, at 2300 hours, 24 Sep 43, assaulted 14271987 Pte. Reeve, J., and attempted to rob his person, inflicting grievous bodily harm to the said Pte Reeve, J.

W Taschereau

(G.O. Taschereau) Lt-Col.,
Comd. "H" Wing 6 CIRU

30 Sep 43
Witley, Surrey

To be tried by Field General Court Martial

J A Calder

(J.A. Calder) A/Col.,
Comd.,
"A" Gp Cdn Rft Units,
C.A.(C).

2 Oct 43

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-[illegible]54, Pte. Conrad LEBEL Cdn Inf Corps, 9 Cdn Inf Rft Unit	First Charge A.A.Sec. 41 (5)	not Guilty	not Guilty	
		4th Oct 1943		
	(SEE CHARGE SHEET ATTACHED)			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" Answer - no

Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (Signed) [signature]
(J.A. Calder) A/Col.,
Commanding "A" Gp Cdn Rft Units,
C.A.(O) Confirming Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 4th day of October 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 7[illegible] M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

E-6054 Pte. Conrad LEBEL
Canadian Infantry Crops,
6 Cdn Inf Rft Unit.

RR-17

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourth day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" Group Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(I am unable to appoint:)~~

~~*(1. Three Officers to form the Court.)~~

*(2. A Field Officer as President.)

~~for the following reasons, namely:—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank	Name	Regiment
Lt.-Col.	D.L. Redman, VD	HQ CRU

Members.

Rank	Name	Regiment
Capt.	M.R. Skinner (L. Sup. R.)	2 CIRU
Lt.	W.F. Aitken (R. Wpg. R.)	"
Lt.	A. Johannesson (Canadians of C.)	"

*Waiting Member

*Signed (J.A. Calder) A/Col., "A" Gp Cdn Rft Units,
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialed by him.

Commanding

RR-17
PTE LEBEL C.

LIST OF WITNESSES

In the case of B 118330 Pte Herbert Vernon LeBARR, CIC, on strength of 2 C.I.T.R, a soldier of the Canadian Army Overseas.

(For the Prosecution)

1. Lieut B Y MacLeod — Asst Adjt 2 CIDB, 2 CITR

(For the Defence)

Nil

LIST OF EXHIBITS

In the case of B 118330 Pte Herbert Vernon LeBARR, CIC, on strength of 2 C.I.T.R., a soldier of the Canadian Army Overseas.

(For the Prosecution)

Exhibit "A" Certif True Extract of 2 CITR Pt II Daily Order No. 120 d/ 23 May 45, showing the accused AWL from 2359 hrs 16 May 45.

Exhibit "B" Certificate of Surrender AF 01617, showing that accused surrendered himself to Civil Police at Watford at 0230 hrs 18 Jun 45.

Exhibit "C" CMHQ Form 100:55 showing cost of apprehension of accused was £0-2-8.

Exhibit "D" CMHQ Form 100:55 showing additional cost of apprehension of accused was £0-7-11.

(For the Defence)

Nil

REQUEST FOR DEFENDING OFFICER

I, B 118330 Pte Herbert Vernon LeBARR, CIC, hereby request that the Convening Officer appoint ~~Lieutenant Shaw~~ A/ to represent me at my forthcoming trial by Court-Martial, ~~should he be available.~~

In the Field

28 Jun 45

H V Lebarr
.....Pte
(H V LeBARR) B 118330

RECEIPT FOR DOCUMENTS

I, B 118330 Pte Herbert Vernon LeBARR, CIC hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

In the Field

28 Jun 45

H V Lebarr
.....Pte
(H V LeBARR) B 118330

No B-118330 Name LEBARR L.H. Sqn, Battery, or Company | Corps CIC | Date of enlistment 28-8-42 GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature GC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK 25	Mar 45	Pte		AWL from 25 Mar 45 to 14 Apr 45		27 days F.P. &Forf.47 days Pay. Stoppage of Pay 2/9	17 Apr 45		

CERTIFIED TRUE EXTRACT FROM MFM.2

By Mc Leod Lt

(B.Y.McLeod)Lt.

Officer having custody of original Regt'l Books.

30 Jun 45

(PTO)

11. [illegible] unit

..... dated ....., [illegible]

..... dated .....

12. The [illegible]—

[illegible]

[illegible] ..... [illegible]

[illegible] of ..... [illegible]

[illegible] of ..... [illegible]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number B-118330 Rank Pte

Name LEBARR L.H. of CIC 2 C.I.T.R. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N/A			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~29 [illegible]~~ 6th day of June 45 B. J. Mac Lead Lt asst/adjt 2 CIDB

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-118330	PTE	LEBARR H.V.	CIC 2 CITR.

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A.Sec.(15)(1)	1 times	A.A.Sec.(15)(1)	1 times
For		times		times
For		times		times
For		times		times

~~[illegible]~~

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

~~or,~~

~~[illegible]~~ Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~[illegible]~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~[illegible]~~ The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 17 days in ~~Air Force~~ military custody, making a total of 18 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 yrs. 7 mon

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper ~~20 yrs. 7 Months~~ 19 Oct 42

7. ~~[illegible]~~

8. ~~[illegible]~~

9. The accused is in possession of or entitled to ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward (or is in possession of or entitled to). State any air force decoration or reward.

military CVSM and Clasp

10. ~~[illegible]~~

"B" [illegible]

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-118330	PTE	LEBARR H.V.	CIC 2 CITR.

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.A.Sec.(15)(1) 1 times	A.A.Sec.(15)(1) 1 times
For	times	times
For	times	times
For	times	times

~~[illegible]~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

~~[illegible]~~

Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~[illegible]~~ The accused is not under sentence at the present time

or,

~~The [illegible] at the present time is under sentence for~~ beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 17 days in Air Force military custody, making a total of 18 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ service is attestation paper is 20 yrs. 7 mon.

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper ~~20 yrs. 7 Months~~ 19 Oct 42

7. ~~[illegible]~~

8. ~~[illegible]~~

9. The accused is in possession of or entitled to ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward (or is in possession of or entitled to). State any air force decoration or reward.

military CVSM and Clasp

10. ~~[illegible]~~

EXHIBIT "D"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. B-118330 Rank Pte Name Le Barr, H.V. Unit 2 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London to Hassocks

Date	Particulars (1/3 Portion)	Amount £	s	d
19 June 45	Escorts return fare from LONDON To Hassocks		4	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London to Hassocks		3	5
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	—	7	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.P. Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

3,100-55
S.S./483 (6762)

Expense Voucher Re—

EXHIBIT "C"

Ref: KR & O (Can) 539

Reg No. B-118330 Rank Pte Name Le Barr, H Unit 2C 1TR

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Watford

Date	Particulars (½ portion)	Amount		
18 June 45	Escorts return fare from LONDON To Watford		1	4
	Prisoners single fare to LONDON From Watford		1	4
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		2	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R P Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

'Q 100:55
& S/483 (6762)

I CERTIFY that the man whose personal description is given below surrendered himself to* 16333 Worsham at Watford at (hour) 0230 hrs on the 18 day of June as being No. 3118330, (Rank and Name) Pte LEBARR H.V. a deserter (or absentee without leave) from Essex Scottish Canada and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 21 Height 5 Feet 6 Inches

Complexion Fresh Hair Dk brown

Eyes Brown

Marks Scar on palm and forehead.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	19.10.63 Toronto.
Probable Date of Desertion or beginning of absence, and from what place	16.5.65. Shilo, Manitoba.

Signature of Officer of Police in charge of Watford Station

18 June 1965 Date of Signature.

Army Form O.1617
R.A.F. Form 1917

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....

who surrendered to the Police at .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

EXHIBIT "A"

Last Order No. 119 d/ 22 May 45

2 CANADIAN INFANTRY TRAINING REGIMENT
PART II DAILY ORDERS BY
COL D C CAMERON (DSO), A/COMDR

This Order No. 120 d/ 23 May 45.

Para: 12. ABSENT WITHOUT LEAVE

(d) AWL from 2359 hrs 16 May 45. Still absent 2359 hrs 17 May 45.

B-118330 PTE LEBARR H V (ESR)

(sgd) (A. EDMONDSON) Lieut.
for (A J A BAXTER) Major
A/Regt Adjutant
2 CITR

Certified True Extract

13.Jun.45.
Date

(J. CARTSIDE) Capt.
Records Officer 2 CITR

SUMMARY OF EVIDENCE

In the case of B 118330 Pte Herbert Vernon LeBARR, CIC, on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

.....

First Witness — Lieut B Y MacLeod, Asst Adjt 2CIDB, 2 CITR, having been duly sworn states as follows:-

"I am Lieut B Y MacLeod, Asst Adjt, 2 CIDB, 2 CITR, and I produce the following documents pursuant to Overseas R.O. 5352, which have been read over and shown to the accused and which are attached hereto as exhibits."

"Exhibit "A" Certif True Extract of 2 CITR Pt II Daily Order No. 120 d/23 May 45, showing that B 118330 Pte LeBARR, H.V. Illegally absented himself without leave from 2359 hrs, 16 May 45.

"Exhibit "B" Certificate of Surrender, AF 01617, showing that B 118330 Pte LeBARR, H.V. surrendered himself to Civil Police at Watford at 0230 hrs on 18 Jun 45.

"Exhibit "C" CMHQ Form 100:55 showing that cost of apprehension of B 118330 Pte LeBARR, H.V. was £0-2-8.

"Exhibit "D" CMHQ Form 100:55 showing that additional cost of apprehension for B 118330 Pte LeBARR, H.V. was £0-7-11.

The total cost of apprehension was therefore £0-10-7.

Which above exhibits pertain to the accused herein".

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

(Sgd)..B.Y. MacLeod..Lieut
(B Y MacLeod)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

In the Field
28 Jun 45

Ex A

.....
(A H Krieger) Lieut
Officer detailed to take the Summary of Evidence.

PLEA IN MITIGATION

B 118330 pte Le Barr W. V.

Pte. Le Barr is twenty years of age and his home is at Orillia Ontario. This man was engaged in learning coremaking in a foundry when he enlisted in the army. He joined the army in Oct 43 and arrived in England on May 44. Went to France 11 July 44 to reinforce the Essex Scottish. He was wounded 20 July 44 by machine gun fire receiving leg wounds.

He arrived at 2 C.I.T.R. 14 Feb and a week later he was posted to 6 Bn. He had received no sick leave.

I respectively ask that the Court be lenient with this man as he has a good war conduct and was a good civilian. He is desirous of returning to Canada so that he may take up his former occupation.

E-3

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can.Para 557

I certify that I have this morning examined No. B118330

PTE. LEBARR and in my opinion he

is FIT to undergo trial by Court-Martial.

~~UNFIT~~

Station: Laurentide Camp [signature] Capt.
(RCAMC) attached to 2 CITR

Date: 6-7-45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1097 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B-118330	Pte		Herbert Vernon	LEBARR	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 4 Jul 45 endorsed by me, [illegible], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible].
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd		2 CITR
Captain	to be detailed by Comd		5 CITR

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd		2 CITR
[illegible]			
(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England *(Country.)*

Date 4 Jul 45

K Blackader
(Signed personally. RP 105 fn 2.)

Brigadier *(Rank.)*

Commanding 13 Cdn Inf Trg Bde
(K G Blackader)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, B 118330 Pte Herbert Vernon LeBARR, CIC, on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE

Sec 15 (1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 2359 hrs, 16 May 45, illegally absented himself without leave until surrendering himself to Civil Police at Watford at 0230 hrs, 18 Jun 45, thereby incurring costs of apprehension and return to unit in the amount of £0-10-7.

(Total time absent: 32 days, 2 hrs, 31 mins)

In the Field

28 Jun 45

(J.G. Bourne) Lt Col.
A/Comd, 2 CITR.

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
4 Jul 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (E); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)[1]. If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans NO, SIR.[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers~~ the accused's statement.[1] The Court decides (and) ~~to advise accused to change~~ his (their) ~~plea(s) of Guilty~~ to Not Guilty on ..... charge(s). The ~~accused is~~ (are) so informed, and he (they) change(s) his (their) ~~plea(s)~~ on ..... charge(s). Part I of the ~~Schedule~~ is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereupon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.[3]
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans NO - SIR. (WRITE AT T)[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-118330 Pte Herbert Vernon LEBARR - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA SEC 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for a period of sixty (60) days and to be put under stoppages of pay until he has made good £0-10-7 the expenses of return to unit.

(Sgd) ..... Judge-Advocate, if any. Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 10 Jul 45 (Sgd) ..... Commanding 17 Gd Bde / 18 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.118330 Pte. LeBarr, H.V.	12 Jul 45.	(F.G. Wray) Maj. Reg. Adjt. 2 CITR.

ENTERED ORDER No. 167 DATE 13 Jul 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5P 125

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & H/1698 16(44) 4/38B

RECEIVED 25 JUL 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 4 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-118330	Pte		Herbert Vernon	LEBARR	CIC 2 CITR

PROCEEDINGS REVIEWED 25 July 45 ESR 7

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 6 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~B/118126 Pte~~ as interpreter? Ans .....

~~The Interpreter is sworn.(1)~~ Do you object to CPL SINCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ CRE
Member	CAPT	J T ROBB	2 CITR
Member	CAPT	J J LEFRANCOIS	5 CITR
~~Judge-Advocate~~			
Prosecutor	LT	P SAPERIA	2 CITR
Defending Offr	LT	A H KRIEGER	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SP-125

Mt. Lebanon, N. Y.

COUNTER NUMBER 77874

HOUR 14:30

OPERATOR'S INITIALS GDV.

RELIEVING OPERATOR LS

11. XXX XXX XXX

12. XXX XXX XXX

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army act, and of cases in which trial has been dispensed with of accused, Number C-2394 Rank SPR Unit
Name LEBANO, Michael John of No. 1 C.E.R.U. Regiment

Note:-A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	19 Mar 41	A.A.8(2) A.A.40 A.A.11 A.A.24(2) A.A.15(1) A.A.8(1) A.A.15(1)	15 months Detention Stoppage of pay £10-0-4½.	130 days
Durham County Police Court	Welling, Durham, 1 Apr 43	LARCENY	3 Months HARD LABOUR Civil Court Total Forf. 99 days pay	25 days
	See also fol 24 of this man's CMHQ personal file			

I hereby certify that the foregoing schedule of convictions and dispensation with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Nov. 43 "G.F.B. Humble"
(G.F.B. Humble), Lieut.,
Records Officer,
No. 1 C.E.R.U.

The above statement (with the schedule of convictions and of case in which trial has been dispensed with) is read, marked _____ signed by the president, and annexed to the proceedings.

Ex "B" "DLR"

M.F.B. 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-2394	Spr	LEBANO, M.J.	No. 1 C.E.R.U.

1. The following is a fair and true summary of the entries in the XXXX XXXXXXXXXXXXXXXXX XXXXXXXX XX Comapny Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, XXXXXXXXX of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlsitment or appointment	
For	A.A.15(1) 1	times	A.A.15(1) 6	times
For	Nil 1	times	A.A. 8(1) 1	times
For	nil Nil	times	A.A. 8(2) 1	times
For	A.A.40 1	times	A.A.24(2) 1 A.A.40 2	times

XXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXX XX

There are no entries in the conduct sheets of the accused.

Note:- If the charge is for drunkenness, the entries for drunkennes must be stated separately.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXX

Previous convictions of the accused by a court-martial or a civil court of summary awards under XXXXXXXXXXX XXXXXXXX Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. XXXX

XXXXXXXXXXXXXXXXXXXX

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3Jan 41	Spr		(5) A.A.11 Neglecting to obey a routine order.3 Jan41,(Edinburgh) (6) A.A.24(2) Losing by neglect etc., 27 Jan 41 (7) A.A.15(1) AWL 21 Jan 41 while Doc in close arrest.			19 Mar 41	F.G.C.M.	
RELEASED FROM THE DETENTION BARRACS AT WITLEY ON Feb 7, 1942 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" - 130 days.									
Field	25Mar 42	Spr		A.A.15(1) AWL in that he failed to answer tattoo roll call.	Cpl.Tyrrell	7 days C.B.	26Mar 42	Lt.-Col.CN Mitchell	
Field	28Apr 42	Spr		A.A.15(1) AWL 7 hrs, 15 min.	Cpl.Tyrrell	Forf.2dys.pay A.A.46	28Apr 42	Lt.-Col.CN Mitchell	For.1 Dys.pay FR&I 149
Field	19Aug 42	Spr		A.A.15(1) AWL 7 days, 2hr, 20 min. Doc		21 days F.P.	27 Aug 42	Col. G.H. Whyte	Fort.7 dys. pay FR&I 149

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Oct 43			Certified true copy of original document. "F.X. Chaballe Capt" (F.X. Chaballe) Capt., Officer having custody of original document. 1 Nov 43					

Old sheet destroyed 6 July 42, C.A.R.O. 2084

No C-2394 Name LEBANO, M.J. Sqn, Battery, or Company N/A Corps R.C.E. Date of enlistment 31 Jan 40 GC Badges

Date of last entry in Company Conduct Sheet 31 May 40 No and date of last drunk Period not reckoning towards freedom from extra fine N/A Sheet No 1. Signature OC Company, etc Service or Proficiency Pay Character

MFM 6 (AFB 122) 40/PAS/156 (5428)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Oct 40	Spr		(1) A.A.15(1) AWL from 13 Oct 40 until 1230 hrs. 3 Jan 41. Cost of apprehension £8-10-2.	Doc	15 mos.detn. stoppage of pay confirmed £8-10-2	19 Mar 41 22 Mar 41	F.C.C.M.	
	2 Jan 41	Spr		(2) A.A.Sec 8(1) WOAS using violence, to his Superior Officer 3 Jan 41 at Edinburgh.	Doc Sgt. Ward, R.C.M.P.	Stoppage of pay £10-0-4½ for loss of kit			
	3 Jan 41	Spr		(3) A.A.Sec 8(2) WOAS using xxxxxx threatening language to a superior officer at Edinburgh 3 Jan 41.	Doc.	xxx			
	3 Jan 41	Spr		(4) A.A.40 Conduct to the prej.etc., Edinburgh 3 Jan 41 wearing rank chevrons of a Cpl.while a spr. wearing service dress jacket of issue to Imperial Australian Forces.	Doc	xxx Ex "C" "DLR"			

No C-2394 Name LEBANO, M.J. Sqn, Battery, or Company Corps R.C.E. Date of enlistment 31 Jan 40 GC Badges

Date of last entry in Company Conduct Sheet 31 May 40 No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2. Signature OC Company, etc Service or Proficiency Pay Character

MFM 6 (AFB 122) 40/PAS/156 (5428)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Sep 42	Spr		(1) A.A.15(1) WOAS AWL from 1345 hrs 21 Sep 42 till 1030 hrs. 12 Oct 42.(Absent 20dys,20hrs.45min.)	Doc	27 days Detn.	28 Oct 42	Lt./Col. V[illegible] Thompson	Forf.21dy.Pay PR&I 148(1)a Total forf. 48 days pay Cost of appr £2-2-11
Field	21 Sep 42	Spr		(2) A.A.40 Conduct to the prej. etc., in that he when apprehended was in possession of a document purporting to be a genuine pass, signed with a fictitious name, well knowing that it was not genuine,	Doc				
Field	1 Apr 43	Spr		Larceny		3 months H.L.	1 Apr 43	Civil Court	Forf.91dyPay PR&I 149(5) Forf.8 dys.Pa PR&I 149(1)c Total forf. 99 days pay

Remission earned under "Rules for Detention Barracks and Military Prisons" 23 days, D.O. 261 d/ 30 Oct 43.

Summary of Evidence

5th. Witness
For the prosecution

L-74167 A/L/Cpl. Davis C.E., corporal 1 C.E.R.U. Pack Stores, having been duly sworn, states:-

"I, L 74167 A/L/Cpl. Davis C.E., corporal 1 C.E.R.U. Pack Stores, state that the kit deficiencies, signed me, called "Exhibit C" to be a correct list made by me, in the presence of C2394 Spr. Lebano, M.J., on the 25th. of Oct. 43."

"L-74167 A/L/Cpl C.E.Davis"

The above record was read to the witness and accused.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

xxxxxxxxxxx "G.R.W."

The accused declines to make any statement, or to question the witness

"M.J. Lebano"

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) & (G) have been complied with.

"Geo. R. Warner" Lieut. R.C.E.
(Officer detailed to take down Summary of Evidence)

1 Nov 43

Ex "A"

"DLR"

Summary of Evidence

Summary of Evidence in the case of C 2394 Spr. Lebano, Michael John, Royal Canadian Engineers, on the strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st. Witness
For the prosecution — Documentary - Certified extract of No 1 C.E.R.U. Pt. II D.O. 76 d/30 Mar. 43 as amended by D.O. 79 d/2 Apr. 43.
Exhibit "A".

2nd Witness
For the prosecution — Documentary - Record of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on the 2nd. day of Sep. 43 for the purpose of investigating and recording the absence without leave, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of C 2394 Spr. Lebano, M.J.

Exhibit "B".

3rd Witness
For the prosecution — Documentary - Certified true copy of list of deficiencies of kit, if any, kit being examined by the storeman of 1 C.E.R.U., of C 2394 Spr. Lebano, M.J.

Exhibit "C".

4th Witness
For the prosecution — Documentary.
(a) Expense Voucher showing cost of apprehension of the accused on 4 Sep. 43 to be £1-14-0.
Exhibit "D"
(b) Certificate of apprehension by the Civil Police at St. Helens, Lancashire, of the accused, at 1100 hrs. 4 Sep. 43

Exhibit "E".

(c) Certificate of apprehension by the Civil Police at Durham, of the accused, at 2345 hrs. 24 Mar. 43

Exhibit "F".

"DLR"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C-2394 Spr. LEBANO, Michael John, Royal Canadian Engineers, No. 1 Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution — Documentary - Certified extract No. 1 C.E.R.U. Pt. II Order No. 76, d/30 Mar 43 as amended by D.O. 79 d/2 Apr. 43 - EXHIBIT "A"

SECOND WITNESS for the prosecution — Documentary - Record of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U., on the 2nd day of Sep. 43 for the purpose of investigating and reporting the absence without leave, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries or Clothing, of C-2394 Spr. Lebano, M.J. - EXHIBIT "B".

THIRD WITNESS for the prosecution — Documentary - Certified true copy of lsit of deficiencies of kit, if any, kit being examined by the Storeman of No. 1 C.E.R.U. of C-2394 Spr. Lebano, M.J. EXHIBIT "C"

FOURTH WITNESS for the prosecution — Documentary -

(a) Expense Voucher showing cost of apprehension of the accused on 4 Sep. 43 to be £1-14-0 - EXHIBIT "D"
(b) Certified of Apprehension by the Civil Police at St. Helens, Lancasgire, of the accused, at 1100 hours, 4 Sep. 43 - EXHIBIT "E".
(c) Certificate of Apprehension by the Civil Police at Durham, of the accused, at 2345 hours, 24 Mar. 43. EXHIBIT "F".

FIFTH WITNESS for the prosecution — L-74167 A/L/Cpl. Davis, C.E., Cpl. of No. 1 C.E.R.U. Pack Stores, having been duly sworn states:

"I, L-74167 A/L/Cpl. Davis, C.E., Cpl. of No. 1 C.E.R.U. Pack Stores, state that the kit deficiencies signed by me, called exhibit "C" to be correct list, made by me, in the presence of C-2394 Spr. Lebano, M.J., on the 25th day of OCT. 43".

L-74167 A/L/C. Davis, C.E.

The above record was read to the witness.

The accused was cautioned as follows, "Do you wish to make any statement or give evidence on oath? You are not obliged to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to question the witnesses.

I certify that the foregoing summary of evidence consisting of two pages (original written Summary of Evidence is two pages) was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

"G.R.Warner" Lieut. R.C.E.
(G.R. Warner). Lieut., R.C.E.
Officer detailed to take Summary of Evidence.

In the Field
1 Nov. 43

LIST OF WITNESSES

FOR THE PROSECUTION

L-74167 AL/Cpl. DAVIS, C.E., (No. 1 C.E.R.U.)

FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Charge 1	(a)	Certified extract of No. 1 C.E.R.U. Pt. II Daily Order No. 76 d/30 Mar. 43 as amended by D.O. 79 d/2 Apr. 43. EXHIBIT "A"
	(b)	Certificate of Apprehension by the Civil Police at Durham, at 2345 hrs. 24 Mar. 43 EXHIBIT "B"
Charge 2	(a)	Record of Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on the 2 Sep. 43. EXHIBIT "B".
	(b)	Certificate of apprehension by the Civl Police at St. Helens, Lancashire at 100 hrs. 4 Sep. 43 EXHIBIT "E".
	(c)	Expense Voucher showing cost of apprehension of £1-14-0. EXHIBIT "D".
Charge 3	(a)	Record of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on the 2 Sep. 43. EXHIBIT "B"
Charge 4	(a)	Certified true copy of list of deficiencies of kit EXHIBIT "C".

C 2394 Spr. LEBANO, M.J. requests Lieut R. Gundy to represent him at his trail. If Lieut. Gundy is not available Spr. Lebano would like to be represented by Lieut. Carr-Harris.

"Spr. M. J. Lebano"

Exhibit "E"

CERTIFICATE IN ACCORDANCE WITH SECTION 163(1)(m) of the ARMY ACT.

I certify that the person whose description is given below was arrested at (place) St. Helens at (hour) 1100 hrs on the 4th day of September, 1943.(Received into custody)

Regimental particulars of soldier referred to above:-

No. C.2394

Rank. Sapper

Name Micheal John LEBANO

Unit No. 1 Canadian Reinforcement Unit.

Age. 26 yrs. Height 5' 7½"

Descripton:-

Complexion swarthy Hair black curly

Eyes brown Marks birthmark size of 1/- on left knee.

Signature of Officer of Police IN CHARGE of police station where the above named person was taken or placed in custody on arrest or surrender.

"E. Dean"
Acting superintendent
WB.

"DLR"

Exhibit "P" Army Form O.1618

DESCRIPTIVE RETURN OF Sapper C.2394 Michael John LEBANO who was apprehended at Blaydon (hour) 2345 on the 24th day of March, 1943 and was committed to confinement at H.M. Prison, Durham on the 1st day of April, 1943 for larceny as a deserter (or Absentee without leave) from the No. 1 Engineers Reinforcement Unit, Gilmore Barracks, Cove. (Canadian Forces).

Age Born 4-5-17 Height 5 feet 8 inches
Complexion Swarthy Hair Black Eyes Brown
Marks -- In uniform or plain clothes Battle Dress.

Probable date and place of attestation	31-1-40. Cornwall, Ontario, Can.
Probable date of desertion or beginning of absence and from what place	March, 1943. Gilmore Barracks, Cove
Name, occupation and address of the person by whom or through whom means the dester (or Absentee without leave) was apprehended and secured.	Joseph Mitford. Det.Con. 662, Durham County Constabulary. Stationed at Blaydon-on-Tyne.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	. Charge jointly with Sapper H.13025 CERETTI, H.G., with larceny of a handbag and contents, value £8-13-9, at Blaydon, on 24-3-43. At Gateshead County Petty Sessions on 1-4-43, he was committed to Prison for 3 months H.L.. Five other cases of larceny were taken into consideration.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he-

Superintendent "C.W. Linaker" Signature) xxx
Police Station Residence) xxx
Felling-on-Tyne Post Town) xxx

the before-mentioned Corps 27 October 1943 Date of Signature

Signature of Prisoner

"J. Mitford, Det. Con. 622 Signature of Informant

Or where the Prisoner confessedm and evidence if the truth ir falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adhourned until the day of for the purpose of obtaining such evidence.

Signature) Magistrate
Residence)
Post Town)
Date of Signature

.Care should be taken to insert Army No. and Rank.
:Insert" was apprehended" or "surrendered," as the case may be.
:It is important for the public Service, and for the interest of the Deserter or absentee without lear, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
: Insert "is" or "is not a Deserter" or "Absentee without leave from "or" does not belong to," as the case may be.

"DLR"

Exhibit "D"

Expense Voucher Re—: **Ref: K.R. & O. (Can) 539**

Reg. No. C.2394 Rank Spr Name LEBANC, M.J. Unit 1 CERU

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Liverpool

Date	Particulars (½ portion)	Amount		
22 Oct 43	Escorts return fare from LONDON To Liverpool		15	2
	Prisoners single fare to LONDON From Liverpool		15	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ portion		3	8
	Total £	1	14	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"L.S Grayson" Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

"DLR"

C.M.H.Q. 1000-55
40/P & S/483

Exhibit "C"

KIT DEFICIENCIES OF C-2394 SPR. LEBANO M.J.

25 Oct. 43.

			$	$
Anklets	Prs.	1.	0-77	0-61
Badges, Cap, RCE		1.	0-09	0-06
Badges, Shoulder	prs.	2.	0-10	0-06
Boots, Ankle	prs.	2.	9-62	7-22
Braces, Dress	prs.	1.	0-29	0-22
Brushes, shaving		1.	0-30	0-20
Caps, Comforter		1.	0-25	0-17
Caps, Fiels Service		1.	0-82	0-61
Discs, Identity		3.	0-03	0-02
Forks, Table		1.	0-09	0-06
Housewives		1.	0-50	0-37
Jacket Sweater		1.	1-51	1-13
Knife, Clasp		1.	1-16	0-85
Knife, Table		1.	0-18	0-12
Overals, Benim, Trousers	prs	1.	2-65	1-97
Razors, [illegible]		1.	0-42	0-35
Shirts, Angola		2.	4-10	3-08
Shoes, Canvas	prs.	1.	0-74	0-55
Socks, Worsted	prs.	4.	1-48	1-12
Spoon, Table		1.	0-08	0-05
Towels, Hand		2.	0-42	0-28
Shorts, Gym	prs.	2.	0-86	0-66
Vests, Gym		2.	0-68	0-50
Shorts, Cellu	prs.	2.	0-92	0-70
Bags, Ration		1.	0-04	0-03
Haversacks, W.E.		1.	2-14	1-61
Slings, Rifle		1.	0-24	0-18
Straps, Shoulder, W.E. Right		1.	0-45	0-34
Tins, Mess		1.	0-57	0-43
Capes, A/G		1.	4-43	3-32
Ointment. A/G Boxes		2.	0-52	0-38
Nets, Camof		1.	0-06	0-05
			36-51	27-28
			100%	75%

Kit INSPECTED BY 4.74167 A/L/Cpl. DAVIS C.E. PACK STORES?
Checked against Prov. Scale of Issue and Priced in accordance with PRICE LIST of Clothing and Equipment.
NOTE:- As no evidence i available to assess the cost of unexpired wear of the above Deficiencies, 75% of vocabulary rates will be charged AUTHY. R.O. 2111, 4 June, 42.

75% Total, $27-28

L-75167 A/L/Cpl "C.E.Davis"

"DLR"

EXHIBIT "A"

DEFICIENCIES IN KIT OF C.2394 SPR. LEBANO, M.

			£	S	D	£	S	D
Anklets, web	Prs	1	0	3	5½	0	2	7
Badges, cap, RCE		1	0	0	5	0	0	4
Badges, shoulder	prs	2	0	0	11	0	0	9
Boots, ankle,	prs	2	2	3	0	1	12	3
Braces, prs		1	0	1	3½	0	0	10½
Brushes, shving		1	0	1	4	0	1	0
Brushes, tooth		1	0	0	4½	0	0	3½
Cap, F.S.		1	0	3	8	0	2	9
Forks, table		1	0	0	5	0	0	4
Housewives		1	0	2	3	0	1	6½
Jackets, sweater		1	0	6	9	0	5	1
Knives, clasp		1	0	5	2½	0	3	11
Knives, table		1	0	0	9½	0	0	7
Trousers, denim	prs	1	0	11	9	0	8	10
Razors		1	0	1	10½	0	1	5
Shirts, angola		2	0	18	4	0	13	9
Shoes, canvas, P.T.	prs	1	0	3	4	0	2	6
Socks,	prs	4	0	6	8	0	5	0
Spoons, table		1	0	0	4½	0	0	3½
Towels, hand		2	0	1	11	0	1	6
Shorts gym	prs	2	0	3	10	0	2	11
Vests, gym		2	0	3	0	0	2	3
Shorts cellular	prs	2	0	4	1	0	3	1
Vests, woolen		2	0	10	2	0	7	8
Combs, hair		1	0	0	2	0	0	1½
Braces, W.E. right		1	0	2	0½	0	1	6½
Haversacks, W.E.		1	0	9	7	0	7	2
Slings, rifle		1	0	1	1	0	0	10½
Straps, shoulder	prs	2	0	4	0	0	3	0
Tins, mess		1	0	2	6½	0	1	10½
Capes, A/G		1	0	19	10	0	14	10½
Ointment, A/G	tins	2	0	2	4	0	1	7
Nets, camouflage		1	0	0	8	0	0	6
			£ 8	11	5½	£ 6	13	2½
				100%			75%	

EXHIBIT "B"

EXTRACT FROM PART II ORDERS

No. 1 Canadian Engineer Reinforcement Unit Pt II D.O. 143 d/16 Jun43.
Colonel G.M. Whyte, M.C., V.D., Commanding Officer

Paragraph 15-A-(1)

On 12 June 43 placed under stoppages of pay of £4-12-0½ for an offence under AA24(20 losing by neglect his regtl. equipment and necessities to the value of £4-12-0½ (75%0

C.-2394 Spr. Lebano, M.J.

Records
1 CERU

Exhibit "B"

RECORD of the Declaration of a Court of Inquiry assembled at at No. 1 C.E.R.U. on the 2nd day of September 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C-2394 Spr. LEBANO, M., R.C.E., #1 C.E.R.U.

DECLARATION

The Court Declare.

That C-2394 Spr. Lebano, M., R.C.E., #1 C.E.R.U. illegally absentd himself without leave at 0610 hours on the 15th day of June 1943 by escaping from Unit Detn "GHW" ~~while awaiting trial by R.C.C.M.~~: that he is still so absent, and that on the 1 September 1943 he was deficient, and that he is still deficient of the following articles - see Exhibit A. (Overleaf). In respect of this deficiency, Spr. Lebano has already been placed under stoppage of pay of £4-12-0½ and has not at this date been issued with the articles.

Signed in the Field this 2nd day of September 1943,

Names of President and Members:

P.L. Cleveland Lieut, R.C.E., 1 CERU President

G. Reid . . Lieut, R.C.E., 1 CERU, Member

R. Thibodeau Lieut, R.C.E., 1 CERU, Member

Signature of Commanding Officer (G.H. Whyte) Colonel

Certified true copy "C.C. Hunter Maj
Signature of Officer having custody of original record.

ENTERED PART II ORDERS
Date 11 Sep 43 Order No 218
No 1 Cdn. Engineers' Holding Unit C.A. "DLR"

M.F.B. 575

Exhibit A

Certified true extract of No. 1 C.E.R.U. Pt. II order No. 76 d/30 Mar., para- 9-B sub para (d), as amended by D.O. 79 d/29 Apr. 43 para 9-C sub para (a):

"Reported A.W.L. 2200 hours, 5 Mar. 43, still absent 220 hours, 27 Mar. 43 (22nd day effective)

C-2394 SPR. LEBANO, M.J.

"G.F.B. Humble"
(G.F.B. Humble), Lieut.,
Records Officer,
No. 1 C.E.R.U. C.A.(O.S.)

/hws "DLR"

STATEMENT IN MITIGATION OF PUNISHMENT

C-2394 Spr.LEBANO, M.J., No 1 C.E.P.U. was granted trades pay as a shoemaker, Group "B" from 11 Apr. 42 to 9 Oct. 42. During that interval of time, he was posted as a P.E. Shoemaker at this unit. He was taken off this work as he was "A" Medical category and transferred to the 4th Fd. Pk. Sqn. R.C.E. He returned to this Unit some time later [redacted] due to illness. Since losing his Trades Pay of fifty cents per day, Spr. Lebano has lost considerable enthusiasm for army life and proceeded to absent himself from duty without leave on several occasions. He leaves his sentence upon the mercy of the Court.

NOTE [redacted] E3

"DLR"

"E. Bracci, Lieut."
Defending Officer

CASE OF C-2394 PTE. M. J. LEBANO 1 C.E.R.U.

EVIDENCE FOR PROSECUTION ON 3RD CHARGE

M5384 L/Cpl T.A. Sherritt of 1 C.E.R.U. being duly states:- NOTE D 3

On 15 June 1943 I was a member of Unit R.P. and in charge of the Detention Barracks from 2359 hrs 14 June/43 until 0800 hrs 15 June/43. At 0610 hrs I let the prisoners out of the cells to wash. The accused was in confinement awaiting F.G.C.M., At 0610 hrs he was missing. I reported to Orderly Officer. The bars of one of the cells were sawn thru. The accused escaped. Ceratti also escaped. I took over 32 men and at 0610 only 30 were there.

Def Officer declined to cross examine

Case for Prosecution on 3rd charge is closed

"DLR"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/F&S/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-2394	Spr		Michael John	LEBANO	. CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Nov 43 endorsed by me, [illegible] Martial ". "T"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial: [illegible] "T"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X] and to consist of the Offrs appointed or detailed hereunder.

4. [illegible] "T"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible] "T"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Lt-col	D.L. Redman	HQ CRU

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Captain	to be detailed by	1 CASCRU
Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

Country.	Signed personally. RP 105 fn 2.	Rank.
in England	"H.A. Tyner"	Col

Date 4 Nov 43

A/Commanding
HQ B Gp CRU

(H.R. Tyner) Colonel
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"DLR"

MEDICAL OFFICERS'S CERTIFICATE

K.R. (Can) PARA 557

I certify that I have this morning examined

No C2394 Spr. LEBANC, M.J.

of No. 1 C.E.R.U. and in my opinion he

is fit to undergo Trial by Court Martial.

Station Cove

Date 8-11-43

"??????????"
Medical Officer.

"DLR"

CHARGE SHEET (sheet 2 of 2 pages)

Anklets, Web	Prs.	1	.77	.61
Badges, Cap, RCE		1	.09	.06
Badges, Shoulder	prs.	2	.10	.06
Boots, Ankle	prs.	2	9.62	7.22
Braces, Dress		1	.29	.22
Brushes, Shaving		1	.30	.20
Caps, Comforter		1	.25	.17
Caps, Field Service		1	.82	.61
Discs, Identity		3	.03	.02
Forks, Table		1	.09	.06
Housewives		1	.50	.37
Jacket Sweater Knife, clasp		1	1.51	1.13 — 116 .85
Knife, Table		1	.18	.12
Overalls, Denim, Trousers prs		1	2.63	1.97
Razors		1	.42	.33
Shirts, Agola		2	4.10	3.08
Shoes, Canvas, T.P.	prs.	1.	.74	.55
Socks, Worsted	prs.	4	1.48	1.12
Spoon, Table		1	.08	.05
Towels, Hand		2	.42	.28
Shorts, Gym	prs.	2	.86	.66
Vests, Gym		2	.68	.50
Shorts, Cellu	prs.	2	.92	.70
Bags, Ration		1	.04	.03
Haversacks, W.E.		1	2.14	1.61
Slings, Rifle		1	.24	.18
Strapes, Shoulder, W.E. Rt.		1	.48	.34
Tins Mess		1	.57	.43
Capes, A/C		1	4.43	3.32
Ointment, A/C Boxes		2	.52	.38
Nets, Camol.		1	.08	.05
			36.51	27.28

100% 75%

75% of Total $27.28

COVE, Hants,
28 day of October, 1943

"A.S Rutherford"
(A.S. Rutherford), Lieut-Colonel RCE
O.C. No. 1 Training
Wing No.1 C.E.R.U. C.A.(O.S)

"DLR"

CHARGE SHEET

The accused C.2394 Spr. Lebanc, Micheal John, Royal Canadian Enginneers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:-

~~FIRST CHARGE~~
~~A.A. 15(1)~~

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

FIRST CHARGE
A.A. 15(1)
"MSB" "B"

in that he

at Guillemont Barracks, Cove, Hants, absented himself without leave from 2200 hours, 5 Mar. 43 until apprehended by the Civil Police at Blaydon, Durham, at 2345 hours, 24 Ma4. 43 (Absent 19 days, 1 hours 45 mins.)

XXXXXXX
XXXXXXX
SECOND CHARGE
A.A. 15(1)
"MSB" "B"

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Guillemint Barracks, Cove, Hants, absented himself without leave from 0610 hours, 15 Jun 43 until apprehended by the Civil Police at St. Helens, Lancashire, at 11 hours 4 Sep43 (Absent 81 days, 4 hours, 50 mins). Cost of apprehension £1.14.0

XXXXXXX
XXXXXXX
THIRD CHARGE
A.A. 22
"MSB" "B"

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT, ESCAPING

in that he

When in confinement at Guillemint Barracks, Cove, Hants, at 0610 hours, 15 Jun 43 did unlawfully break out of Unit Detention Barracks, and escaped.

XXXXXXX
XXXXXXX
FOURTH CAHRGE
A.A 24(2)
"MSB" "B"

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

was deficient of his equipment, clothing and regimental necessaries as follows:

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"H.R. Tyner"
(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

8 Nov 43

"DLR"

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 2394 Spr. Micheal Joseph LEBANO 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd ~~Not~~ Guilty	amended to Not Guilty	Guilty	
4th	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 4.)

"R" ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for a period of (21) Twenty-one months and to be put under stoppages of pay until he has made good £1-14-0 the expenses of the arrest - return and $27.28 the value of his kit lost by neglect.

(Sgd) Judge-Advocate, if any. 9 Nov/43 Date awarded. (Sgd) "D.L. Redman" Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~[illegible]~~ "T"

(1. AA 57A. Delete if not used.)

(Sgd) "H.R. Tyner Co"

Date 13 Nov 43

A/ Commanding "B" Gp CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-2394 Spr. LEBANO M.J. ENTERED PART II ORDERS	16 Nov 43	"R.C.E. Bray" Lieut RCE "????????????" Asst Officer i/c Records No 1 Cdn Engineer's Holding Unit. C.A.

Date 20/12/43 Order No 304

No 1 Cdn Engineer Holding Unit C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir .(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change ~~his~~ plea of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and in (that) event ~~his~~ plea(s) on charge(s) Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A" initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

"R" The Summary showing no satisfactory evidence on 3rd chage

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form ~~Except~~ D for 3rd charge then Record Form E.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"R" to that charge Court enters a plea of Not Guilty to

Pin here Loose Sheets of Record.

3rd

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO [redacted] CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir .(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

"R" D2. The Prosecutor makes ~~his~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) Note Att
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

"R" D4. The Prosecution having (1) the Defending Offr submits that the evidence for the Prosecution does not [redacted]
"R" [redacted] a charge, [redacted] charge(s)(2) The Court
"R" [redacted] the submission.(3) The Court is re-opened, and the President announces that the submission
"R" [redacted]
"R" [redacted] charge(s) and does so as to
"R" [redacted]
"R" [redacted] and that accordingly, the trial will proceed on the former, and the accused is (are) found Not Guilty of
"R" the [redacted] charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1; See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans No Sir
Do you intend to call witnesses on your behalf?
"R" Ans No Sir
[redacted]
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*) NONE

"R" D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

"R" D8. The President announces the finding(s) of, any of Not Guilty, and states to the accused that the finding(s)
"R" [redacted] charge(s) [redacted] confirmation, will be promulgated later.(1)
"R" [redacted] Part I of the Schedule is amended accordingly.
"R" [redacted]
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Only by my Def Officer .(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 109, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

XX - 47

CFA96 (In lieu of AFA81) 40/P Ac S/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col H.R. Tyner A/Comd B Gp CRU dated 8 NOv 42.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname	Unit.
C.2394		Spr	Michael Joseph	LEBANO	1 CERU

PROCEEDINGS REVIEWED
"W.C.Inch Lieut - Rev 4
8 Dec 43
21 Dec 43
REVIEWING OFFICER(JAG) BRANCH
C.M.H.Q.

Certified true copy of original proceedings herein:
J. A. Mcllwain Capt
25 Aug 44.

PROCEEDINGS OF TRIAL.

"R" Held in the Fd in (*country*) England on (*date*) 8 Nov/43 J.A.G. Before

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

"R" A1. The President, Members, ~~Waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

"R" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(X) attached thereto.(1)

"R" The Court is satisfied that it is properly convened and constituted(2), accused is(X) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

"R" A3. The Court is opened. The accused is(X) brought before the Court. At 1645 hours trial commences.

"R" A4. The Prosecutor produces a Medical Certificate that accused is(X) fit to undergo trial by court-martial.(1)

"R" ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"R" ~~A5. President to accused: Do you object to~~ as interpreter ? Ans~~X~~

"R" ~~The interpreter is sworn.(1) Do you object to~~ as shorthand writer ? Ans~~X~~

"R" ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

"R" A7. The President, Members, ~~Judge Advocate~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.L. Redman	H.Q. C.R.U.
Member	Capt.	J.H.J. Emberley	1 CASCRU
Member	Lt.	R.S. Tate	1 CERU
"R" ~~Judge Advocate~~			
Prosecutor	Capt.	M. Sadlier-Brown	1 CERU
Defending Offr	Lt.	E. Bracci	1 CERU

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for Information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 3.)

"R" A8. The accused before arraignment make(s) (no) (~~a~~X) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

"R" A9. The accused is(X) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does(X) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"R" A10. The Court(X) ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Y.X-47 (Case #2)

SPR LEBANS M.T.

See A-197 for 1st case

CASE OF H 62861 Rfmn LeBAR W R

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Copy of the Declaration of a Court of Inquiry on the Illegal Absence of a soldier

(b) Certificate of apprehension

(iv) LIST OF EXHIBITS FOR DEFENCE Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

.....
(LeBAR W R) Rfmn
H 62861

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of .....
if he is available.

.....
(LeBAR W R) Rfmn
H 62861

Signed at Field

this 11 day of

June, 1945

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Oct 44	Pte		Sec 15(1) AA. AWL from 2359 hrs 8 Oct 44 to 1025 hrs 8 Nov 44. Absent 30 days 10 hrs 26 mins	Documentary	45 days pay FR&I 149(2)	1 Dec 44	FGCM	Forf 31 dys pay FR&I 149(1)(a) Forf 25 dys pay FR&I 149(1)(c)(i)
Field	15 Mar 45	L/Cpl		Sec 15(1) AA. AWL from 2300 hrs 15 Mar 45 to 1305 hrs 16 Mar 45	Documentary	Reverts to Pte	25 Mar 45	CO	Forf 1 dys pay FR&I 149(1)(a)

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT
IN MY POSSESSION
5 JUL 45

W. Murray

(W Murray) Capt & Adjt
No 1 Cdn Gen Hft Unit
Canadian Army Overseas

No. H62861 Name LeBAR W R | Sqn, Battery, or Company | Corps R Wpg R | Date of enlistment 16 Oct 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/FAS/138 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	EXTRACTS TAKEN FROM MFM 4 - MFM 6 NOT AVAILABLE.								
Field	20 Dec 42	Pte		Sec 15(1) AA. AWL 14 dys 19 hrs 15 mins Cost of apprehension £2-2-7	Documentary	14 dys FP 14 dys pay FR&I 149(2) Stopp of £2-2-7 FR&I 158(2)	7 Jan 43	OC	15 dys pay FR&I 149(1)(a)
Field	19 Feb 43	Pte		Sec 15(1) AA. AWL 1 day 20 hrs 15 mins	Documentary	7 days CB	20 Feb 43	OC	2 dys pay FR&I 149(1)(a)
Field	12 Apr 43	Pte		Sec 15(1) AA ALW 12 hrs	Documentary	8 dys FP 8 days pay FR&I 149(2)	12 Apr 43	OC	1 dys pay FR&I 149(1)(a)

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 1 Dec 44	Sec 15(1) AA. AWL from 2359 hrs 8 Oct 44 to 1025 hrs 8 Nov 44. Absent 30 days 10 hrs 26 mins	45 days pay	No

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of ~~June~~ July 45

(W Murray) Capt & Adjt
No 1 Cdn Gen Hct Unit

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H 62861	Rfmn	LeBAR Wesley Roy	No 1 CGRU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 15(1) AA 4 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 7 Jan 43

Date of last entry in Field Conduct Sheet 27 Mar 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~[illegible]~~

~~[illegible]~~

4. The accused has been awaiting trial on the present charges for 2 days in civil custody; and for 17 days in military custody, *i.e.*, NIL days in open arrest, 17 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 22 years

6. The date of his attestation ~~[illegible]~~ is 16 Oct 41

7. The service which the accused is allowed to reckon is --

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

Ex B

Mny

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/2701 32,000 9-44 A.& E.W.Ltd. Gp.698

DESCRIPTIVE RETURN OF § H 62861 Rfl Hesley Roy Lib
‡ Arrested at Victoria (hour) 11 00 on the 16th
of June, and was committed to confinement * to await enquiry
on the 18 day of June as a ~~Deserter~~ (or Absentee without
leave) from the No 1 Bn. of the Canadian Gra R.E.I.U. Coast
Regiment of Aldershot.

Age 20 Height 5 feet 8 inches
Complexion fresh Hair dark brown Eyes grey
Marks — In uniform or plain clothes uniform

Probable date and place of attestation	Port Arthur Ontario 10 10/41
Probable date of desertion or beginning of absence and from what place	19 5/45 Aldershot
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	arrested by P.C. 620 B McDonald. Gerald Road Station for Surrey of Khaki coat
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is an Absentee from the before-mentioned Corps.

Bertrand Watson — Signature
Residence
Post Town
of Committing Magistrate.

One of the Magistrates of the Police Court of the Metropolis sitting at Tom Street Police Court

18th June 1945 Date of Signature

[illegible] Signature of Prisoner

Charles McDonald PC 620 B Signature of Informant

[illegible] where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then [illegible]ng.

[illegible]REBY CERTIFY that the above-named [illegible] confessed to the circumstances [illegible]ated, but that evidence of the truth [illegible]hood of such confession is not forth[illegible] and that the case was adjourned until the ..... day of ..... for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O.1618

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ..... of .....
Regiment at ..... on ..... by .....
who was committed as a Deserter (or Absentee without leave) on the .....

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Def. of Kit; M-62861 Pte LeBarr, W.R.

APPENDIX "A" (57)

AWL from 20 May 45.

			100%	75%
Anklets, Web, prs	-	1	0 - 4 - 5	0 - 3 - 4
Battle Dress, Blouse	-	1	1 - 9 - 1	1 - 1 - 9
Boots, Ankle, prs	-	1	1 - 6 - 0	0 -19 - 6
Socks, worsted, prs	-	4	0 - 8 - 2	0 - 6 - 2
Badges, cap	-	1	0 - 0 - 5	0 - 0 - 3½
Braces, prs	-	1	0 - 1 - 5	0 - 1 - 0
Brass, Cleaning	-	1	0 - 0 - 2	0 - 0 - 1½
Brush, button, B	-	1	0 - 1 - 2	0 -11 - 10½
Brush, Cloth	-	1	0 - 2 - 2	0 - 1 - 7½
Brush, Hair	-	1	0 - 1 - 6	0 - 1 - 1½
Brush, Shaving	-	1	0 - 1 - 3	0 - 1 - 3
Brush, Shoe, polishing	-	1	0 - 0 -10	0 - 0 -11
Holdall	-	1	0 - 0 - 9	0 - 0 - 7½
Housewife	-	1	0 - 0 - 5	0 - 0 - 6½
Razor, Safety	-	1	0 - 1 - 6	0 - 0 - 2
Towels, Hand	-	1	0 - 1 - 4	0 - 1 - 1½
Brace, W.E.L.	-	1	0 - 0 - 8	0 - 1 - 0
Haversack	-	1	0 - 2 -10	0 - 0 - 6
Straps, Sling, Rav	-	2	0 - 1 - 5	0 - 2 - 1
Tins, Mess	-	1	0 - 0 - 4	0 - 1 - 0
Capes, A.G.	-	1	0 -12 - 4	0 - 9 - 3
			£ 5 - 6 - 8	£ 2 -19 - 8½

Certified the a/m is the list of deficiencies of kit of M-62861 Pte LeBar, W.R., from the normal scale of issue.

R. E. McAllister

B-51755 R.S.M. R.E. McAllister, R.E.

Exhibit A

Names of President and Members

PRESIDENT - Capt J M READ - Gen List
MEMBER - Lieut B B ELLIOTT - CIC
MEMBER - Lieut L Rudin - CIC

Signature of Commanding Officer (Sgd) (B.R. Ker) Colonel No 1 CGRU

CERTIFIED TRUE COPY.

W Murray

Signature of Officer having custody of the Original Record.

(W Murray) Capt & Adjt
No 1 Cdn Gen Rft Unit CAO

(21200) Wt.10085/791 100,000 4/42 A.& E.W.Ltd Gp.698
(22400) Wt.2010/21800 100,000 10/42 " " Forms B.115/58

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 12 day of June 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H 62861 Rfn LEBAR W R

DECLARATION.

The Court declare that No. H62861 Rfn LEBAR W R, R Wpg R, General Coy No 1 CGRU, illegally absented himself without leave from No 1 CGRU at 0630 hrs on the 19th day of MAY 45; and is still so absent and that on the 12 JUN 45 he was deficient, and that he is still deficient of articles listed in Appendix "A".

Exhibit A.

SUMMARY OF EVIDENCE

in the case of

No. H-62861 Rfmn LeBAR, W.R., R Wpg R, on the strength of General Company, No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

I produce the following documents pursuant to Overseas Routine Order 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:

(1) CERTIFIED TRUE COPY of the Declaration of a Court of Inquiry on the Illegal Absence of a soldier, dated 12 JUN 45. (Attached as Exhibit "A").

(2) CERTIFICATE OF APPREHENSION of the Accused by 620B Charles McDonald of the London Civil Police. (Attached as Exhibit "B")

D. Sutherland
(D. Sutherland), Capt.,
Officer detailed to take Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the Accused does not wish to make any statement or give evidence on oath.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c), (d) (e) (f) and (g) have been complied with.

D. Sutherland
(D. Sutherland), Capt.,
Officer detailed to take Summary of Evidence.

IN THE FIELD
THIS 21st DAY of
JUNE, 1945.

E+A
1147

(2) LEBAR PLEA CONT....

to his unit while the fighting in Europe continued. Instead he has been kept around holding units, a strain on a man who wishes action. He was at one time put on a draft for Canada but was taken off this to go to Germany as part of the occupation forces after the fighting was over. By this time he had volunteered to fight in the Pacific and repeatedly asked to be sent to the Pacific rather than go as part of the occupational force. It was when he could not gain this that he went A.W.L.

In conclusion - the war is over in Europe. The accused will eventually go home or to the Pacific with a good military record. We submit that no useful purpose would be served in imposing a long sentence. A light sentence will free him for the Pacific rather than keeping him in custody when there is still fighting to be done.

E-3

TRIAL OF

H. 62861 RFM. LEBAR W.R - 1 C.G.R.U.

①

PLEA IN MITIGATION
(BY DEF OFFR)

In pleading guilty the accused is saving the court time and trouble and is avoiding any tricks or deception in the presentation of his evidence.

A humane and reasonable sentence is asked for on the basis of his military record. Joining the army at the true age of sixteen, he transferred to a fighting formation - the Winnipeg Rifles on coming overseas at his own request.

After being promoted to a corporal he landed on D DAY and was eventually taken prisoner. After being in German hands for some time he escaped with considerable danger to himself and fought with the French FFI for some time. Eventually rescued by the Americans, he was awarded a mention in Despatches for ~~quote~~ "Gallantry and Distinguished Service" (see R.O. 5643 (app to) March '45) He has also been wounded as well as being cited for the "Medale Militaire" by a French Col. I submit as evidence the document given him by the interrogation officer after he returned as a repatriated P.O.W.

He made every effort to get back

MORE ——

TRIAL OF

H.62861 Rfm LEBAR WR 1 CGRU

E-1 STATEMENT BY THE ACCUSED
(ON OATH)

Sir, on the last court-martial I had I was tried by you and you asked me if I wanted to go back to the line and I said yes I would like to and I was given a very lenient sentence on that account.

When I got back I asked if I could go back but I was not sent. It was my category that was holding me up which is a floating category on acct of a bad foot but it's alright now. I went to 1 CITR and from there I thought I could get back to my regt, but I was put on a draft for Can and when VE Day came I was taken off this draft for Canada and put on a draft for occupational tps. I had asked to be sent to Burma instead of this but they said it wasn't possible. After that I went AWL because I don't want to go to Germany. I won't mind going to Germany to fight there but not as occupational tps - I want to go to Burma.

I'm unmarried, Sir, and in civil life I was a bushman.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

MEDICAL OFFICER'S REPORT

I certify that No. H 62861 Rfmn LeBAR W R

of No 1 CGRU is in a Good state of health,

and fit to undergo Trial by Court martial.

B. J. [illegible] Capt

Medical Officer
No 1 Cdn Gen Rft Unit
Canadian Army Overseas

Station Field

Date 5th July June, 1945

M. F. B. 246
25M—6-42 (4744)
H.Q. 1772-39-480

Offr Under Instr

LT. R. A. CLOUTIER - 1CRD

[illegible]

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-62861	Rfmn		Wesley Roy	LEBAR	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[x] named above as the accused, being subject to military law, has ([illegible] committed the offence[x]) set forth in the Charge Sheet[x] attached and on (*date*) this date endorsed by me, ([illegible]), " To be tried by Field General Court-Martial ". HB

2. And whereas I am of opinion that it is not practicable that such offence[x] should be tried by an ordinary General Court-Martial ; [illegible] HB

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[x], and to consist of the Offrs appointed or detailed hereunder.

4. [illegible] HB

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible] HB

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col	D.L. Redman, VD	HQ CRU
(Rank.)	*(Must be named. RP 106.)*	*(Unit.)*

MEMBERS.

Captain	To be detailed by CO	1 VRD
Lieutenant	To be detailed by CO	4 VRD
(Rank.)	*(Named or detailed. RP 106.)*	*(Unit.)*

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	*(Unit.)*

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in ENGLAND *(Country.)*

Herr Brownfield Brigadier

(Signed personally. RP 105 fn 2.) *(Rank.)*

Date 3 Jul 45

Commanding "C" Group, Cdn Reinforcement Units

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA90 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H-62861 Rfmn LEBAR, Wesley Roy - 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. 5 JUL/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ AA

(1. AA 57A. Delete if not used.)

Date 6 Jul 45

(Sgd) H.O.N. Brownfield

Commanding (H.O.N. Brownfield) Brigadier Commanding "C" Group Canadian Reinforcement Units

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-62861-Rfmn Lebar, W.R.	9 Jul 45	W.M. Murray, Capt. Adjutant. No. 1 Can. Gen. Rein. Unit. C.A. (o.s.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans NO SIR (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 60(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans YES ~~SIR~~ NOTE-ATI
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans BY ANY OFFR'S (NOTE ATI)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(8), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.(2)~~
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 5P-22

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brig HON Brownfield CBE MC Comd "C" Gp, CRU dated 3 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-62861			Wesley Roy	LEBAR	1 CGRU

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
A Ready Capt 19 July 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 3 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to D28126 SGT AH SINCLAIR as shorthand writer? Ans NO The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO, SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	B.W. PORTER	1VRD ICCOD
Member	LT	J.S.N. HARRISON	4VRD ICCOD
~~Judge-Advocate~~			
Prosecutor	LT	L. RUDIN	1CGRU
Defending Offr	LT	M.H. HOLMES	1CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~closed~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, No H 62861 Rfmn LeBAR Wesley Roy, R Wpg R, on the strength of General Company, No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field, did absent himself without leave from 0530 hrs 19 MAY 45 until apprehended by London Civil Police at approximately 1140 hours 16 JUN 45.

Absent 28 days, 6 hrs and 10 mins.

(B.R. Mer) Colonel
Comd No 1 Cdn Gen Rft Unit
Canadian Army Overseas

In the Field

This 29th day of

June, 1945

To be tried by Field General Court Martial

H.W. Brownfield Brigadier
Commanding "C" Group, Cdn Reinforcement Units

3 Jul 45
Bordon, Hants.

5P-22

Rfmn. Lebar, W.R.

CERTIFICATE

If he is available I wish Lieut. Mahaffey Can. Provost Coy. of 1 C.C.R.U. to defend me.

W.R. LeBar
(Signature of Soldier)

CERTIFICATE

I, H.62861 Pte W.R. LeBar. 1 Canadian Reception Depot, hereby acknowledge receipt of a true copy of the Charge Sheet in connection with the charges pending against me. I also acknowledge receipt of one True Copy of the Summary of Evidence.

W.R. LeBar
(Signature of Soldier)

LIST OF WITNESSES

In the case of H.62861 Pte W.R. LeBar on strength of 1 Canadian Reception Depot. a soldier of the Canadian Army Overseas.

		(Corps)	(Location)
PROSECUTION	A/Capt L.E. Donkin	C.I.C.	# 1 C.R.D.
DEFENCE	Nil		

LIST OF EXHIBITS.

In the Case of H.62861 Pte W.R. Lebar on strength of 1 Canadian Reception Depot, a soldier of the Canadian Army Overseas.

Exhibit "A" Certified true copy # 1 C.R.D. Part II Order No. 69

Exhibit "B" Certified true copu # 1 C.R.D. Part II Order No. 94

Exhibit "C" Certified true copy # 1 C.R.D. Part II Order No. 91

Exhibit "D" Certificate in accordance with P.C. 2797.

No. H62861 Name LeBar, W.R. Sqn., Battery, or Company — Corps CFC — Date of enlistment 16 Oct 41 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122) 40/P.& S/136 (2687)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Dec 42	Pte		AA SEC 15 (1) AWL		14 days F.P. 28 days pay FR&I 149(2)	2 Jan 43	O.C.	Cost of apprehension £1-15-7
Field	12 Jan 43	Pte		AA SEC 15(1) AWL		8 days F.P.	12Jan 43	O.C.	9 days pay FR&I 149 1(a)
Field	14 Feb 43	Pte		AA SEC 15(1) AWL		7 days C.B.	17 Feb 43	O.C.	2 days pay FR&I 149 1(a)

CERTIFIED TRUE COPY

L.E. Donkin Capt

(L.E. Donkin) Capt., Officer in possession of original document.

EXC MM

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~15 th~~ 1ST day of ~~November~~ December 1944

L.E. Donkin Capt

(L.E. Donkin) Capt. Offr in
posession of original docs

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H- 62851	Pte	LeBar W.R.	1 Candian Reception Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 3 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 20 Dec 42

Date of last entry in Field Conduct Sheet 14 Feb 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 24-23 days in military custody, *i.e.*, Nil days in open arrest, 24-23 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 83 11 April 1923

6. The date of his attestation is 16 Oct 41

7. The service which the accused is allowed to reckon is 3 years 1 month

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSN & Clasp

9. ~~The accused is a Warrant Officer or N.C.O.~~ The accused has served continuously ~~with his rank~~ to the present date.

~~Date of Attestation~~

~~Date substantive rank of~~

~~Date acting rank of~~

~~Date acting rank of~~

E & D RWY

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.46670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(22450) Wt.29726/1873 60,000 9/42 " " Forms/B.296(War)/2

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

E.R. "D"

I certify that No. H-62[illegible]I. Rank. Cpl. . Name. Lehar .W.R. . . .

Unit. No. I. Can. Rec'pt. Depot (CRU) was arrested at. London. . . .(place)

at. 1025. . .(hour) on. 8-Nov-44.(date) and that at the time of his arrest he was wearing (military uniform) or([illegible]) Signature of Provost-Marshal, Assistant Provost-Marshall, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable),

London
9-Nov-44.

R.R. Holmes

(R.R.Holmes), Major.
A.P.M. C.M.H.Q.

Certified True Copy

L C Drakeley Capt & Adjt.
No. 1 CANADIAN RECEPTION DEPOT

No1 CANADIAN RECEPTION DEPOT
PART II ORDERS
PAGE 4

No.91
22 Nov 44

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7. STRENGTH DECREASE (CONT'D)

(t) S.O.S. to Y3 List 1 CRD on Adm to 4 C.G.H. wef 20 Nov 44
A 102080 PTE BOUCHER E.J.

(u) S.O.S. to Y3 List 1 CRD on Adm to 4 C.G.H. wef 20 Nov 44
M 105691 GNR BURKHARDT E.

(v) CANCELLATION Part 11 DO 42 para 12 (k) d/2 Sep 44 insofar as it concerns the u/n is Cancelled
A 35193 SGT RATCLIFFE J.

(Ronald H Back) Lt/Col.,
Officer Commanding,
No1 Cdn Reception Depot.

7. STRENGTH DECREASE (CONT'D)

(g) S.O.S. 2 CACRU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)

B 114941	TPR	EASTMAN	C.K.	DVR MECH "C"
B 134636	SGT	O'BRIEN	P.J.	

(h) S.O.S. to 1 CARU wef 22Nov44(Auth:406/Realloc/1(Org)3 d/22Aug44,

C 18671	GNR	BLOW	G.O.	FITTER"B"
D 128128	SGT	FORTIN	R.	
C 50778	GNR	LANGDON	W.D.	SURVY "C"

(i) S.O.S. to 1 CSRU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)

D 61715	SGM	LESCARBEAU	L.

(j) S.O.S. to 1 CGRU wef 22Nov44(Auth:44/Desp/4(AG2B)d/21Nov44)

A 55098	SGT	PATERSON	C.R.	CLERK "B"
B 85805	L/CPL	ASPDEN	N.R.	
C 101573	L/CPL	BURTON-FORSTER	W.R.	

(k) S.O.S. to 1 CGRU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)

K 29114	SGT	REDGE	T.L.
C 51574	PTE	SWAIN	C.W.

(l) S.O.S. tol CERU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)

M 35047	SPR	DANIEL	H.	D.M. "C"
D 19089	SPR	FINNEN	J.E.	
B 56538	SPR	HARBRIDGE	L.	DVR OP "C"

(m) S.O.S. 1 CASCRU wef 22 Nov 44(Auth:406/Realloc/1(Org)3d/22Aug44)

B 8040	PTE	LANE	H.	BUTCHER "C"
C 12551	SGT	TURNER	J.S.	BUTCHER "B"
B 119136	PTE	WOOD	E.H.	

(n) S.O.S. 1 CASCRU wef 22 Nov 44(Auth:44/Desp/3/3(AG2a)d/3Aug44)

L 8697	PTE	BUSKEY	J.

(o) S.O.S. to 1 COMERU wef 22Nov44(Auth:406/Realloc/1(Org)3/22Aug44)

H 64992	CFN	KINSEY	E.J.	METAL WORK "B"
H 3014	CFN	MAC KENZIE	R.	FITTER "A"
L 65135	CFN	QUINTIN	J.C.	

(p) S.O.S. to CAMP COMMANDANT CMHQ wef 21 Nov 44 (Auth:AT2485 d/ 20Nov44

M 25630	SGT	ONRAET	A.	COOK "B"

(q) S.O.S. to 1 CNETD wef 21Nov44(Auth:44/Desp/3/3(AG2a)d/18Oct44)

M 1083	PTE	HODGINS	G.R.

(r) S.O.S. to 1 CNETD wef 20Nov44(Auth:AT 2474 (AG2A)d/16 Nov 44)

B 136286	SGM	CHALMERS	H.	
D 105836	SGT	DENOFSKY	S.	
B 76179	PTE	PETTIE	C.F.	STOREMAN "C"
C 16608	ARM/S/SGT	SEABROOK	D.J.	ARM ART "A"

(s) S.O.S. to 1 CNETD wef 20 Nov 44 (Auth:44/Desp/3/3 (AG2a) d/18 Oct 44)

D 13209	GNR	CLAMEN	J.J.	ARTY SIG "C"
B 20025	PTE	DOWNARD	W.N.	
B 58790	PTE	HAMPTON	R.S.	
A 55796	A/CPL	PUTMAN	S.J.	GUN OPER "C"
F 80716	PTE	SCHNARE	G.J.	COOK "C"
C 78059	A/SGT	SCHIARIZZA	A.P.	

Certified True Copy

L E Donkin Capt. & Adjt.
No. 1 CANADIAN RECEPTION DEPO

3. STRENGTH INCREASE (CONT'D)

(e) Disemb UK and T.O.S. 1 CRD from X8 List (AEF) wef 21 Nov 44 (Auth:44/Desp/4(AG2B) d/21 Nov 44)
A 55098 SGT PATERSON C.R. CLERK "B" (CMSC)
B 85805 L/CPL ASPDEN W.R.
C 101573 L/CPL BURTON-FORSTER W.R.

(f) CANCELLATION Part 11 DO 36 para 4 (d) d/22 Aug 44 insofar as it concerns the u/n is Cancelled
A 35193 SGT RATCLIFFE J.

(g) AMENDMENT Part 11 DO 73 para 6 (a) d/23 Oct 44 insofar as it concerns the u/n is amended to read "H 62861 L/Cpl LEBAR W.R."
H 62861 CPL LEBAR W.R.

4. LEAVE OF ABSENCE

(a) Granted 7 days P.L. plus 48 hrs (9 days) with Allce in lieu of rations from 20 Nov 44 until 29 Nov 44 (Auth:O.R.O. 3363)
B 43087 SGT FALLON G.J.

5. REVERSIONS

(a) Reverts to Permanent grade of Pte and to draw $1.50 per diem Regt'l Pay wef 22 Nov 44 (Auth:ORO 4668)(Subject to Confirmation)
E 10435 L/CPL LABBEE R.

(b) Reverts to Permanent grade of Pte and to draw $1.50 per diem Regt'l Pay wef 15 Sep 44
H 62861 L/CPL LEBAR W.R.

6. MARRIAGES

(a) Granted Permission to Marry Cpl Audrey Neilsen Shorrock on or after but not before 21 Nov 44 (Under provision of RO 3744(7))
M 10156 BDR HULL F.K.

7. STRENGTH DECREASE

(a) S.O.S. to 2 CITR wef 22 Nov 44(Auth:406/Realloc/1(Org)3 d/22Aug44
B 67054 PTE AGNEW R.R.

(b) S.O.S. to 3 CITR wef 22 Nov 44(Auth:44/Desp/3/3(AG2a)d/18Oct44)
C 5036 PTE STOUGHTON D.K.

(c) S.O.S. to 4 CITR wef 22 Nov 44(Auth:406/Realloc/1(Org)3d/22Aug44)
C 41508 PTE DELCOURT C.A. CLERK "C"
E 10435 PTE LABBEE R.

(d) S.O.S. to 1 CACRU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)
M 12161 CPL SUMMER H.E.

(e) S.O.S. to 2 CACRU wef 21Nov44(Auth:44/Desp/3/3(AG2a)d/18Oct44)
G 344 MQMS WELOCK S.H. MECH "A"

(f) S.O.S. to 3 CACRU wef 22Nov44(Auth:406/Realloc/1(Org)3d/22Aug44)
C 58295 TPR SHARPE R.M. DVR MECH "C"

No. 1 CANADIAN RECEPTION DEPO
Capt & Adjt.

Exhibit C.

No1 CANADIAN RECEPTION DEPOT
PART II ORDERS
Issued By
LT/COL R.H.F BACK, E.D (CAC)

Last Order
No.90
21 Nov 44.

This Order
No.91
22 Nov 44.

Certified True Copy
L.E. Donkin Capt. & Adjt.,
No 1 CANADIAN RECEPTION DEPO

SECTION"A"

1. STRENGTH INCREASE

(a) Disemplaned UK and T.O.S. 1 CRD from X8 (AAI) wef 16 Nov 44
(Auth:MS 4429 d/17 Nov 44)
MAJOR W. BLAKE (R.C.SIGS)

(b) Disemb UK and T.O.S. 1 CRD from X8 (AEF) wef 16 Nov 44
(Auth:MS 4343 d/13 Nov 44)
A/CAPT Bryson Fraser KEARNS (H.L.I.)

(c) T.O.S. 1 CRD from Y3 List on Disch from Massey Foundation Conv Home wef 17 Nov 44
A/MAJOR William Everett WILLIAMSON (R.C.A.P.C.)

2. STRENGTH DECREASE

(a) S.O.S. to 1 CSRU wef 16 Nov 44 (Auth:MS 4429 d/17 Nov 44)
MAJOR W. BLAKE (R.C.SIGS)

(b) S.O.S. to 1 CNETD wef 20Nov44 (Auth:MS 4274 d/8 Nov 44)
LIEUT James Glen CURRIE
LIEUT Lawrence Clifton Sutton ROXBOROUGH

(c) S.O.S. to 1 CGRU wef 22 Nov 44 (Auth:MS 4274 d/8 Nov 44)
LIEUT Ruliff GRASS

(d) S.O.S. to 1 CNETD wef 20 Nov 44 (Auth:MS 4317 d/11 Nov 44)
LIEUT Robert Warren ERSKINE

(e) S.O.S. to 1 CERU wef 22 Nov 44 (Auth:MS 4317 d/11 Nov 44)
MAJOR Rex Edward Varney FRANGLEY

SECTION"B"

3. STRENGTH INCREASE

(a) Disemb UK and T.O.S. 1 CRD from (X8 AEF) wef 21 Nov 44
(Auth:F/7DB/7-1-0 d/17 Nov 44)(Comp Ret Can)
G 45554 SGT BARKER J.W. MECH "A" C.F.C.

(b) T.O.S. from Y3 List on Disch from 19 C.G.H. wef 18 Nov 44
M 1083 PTE HODGINS G. 1 LA.

(c) T.O.S. from Y3 List on Disch from 1 Cdn Spec Hosp wef 18Nov44
B 44818 RFN KLUZ J.

(d) T.O.S. from Y3 List on Disch from 1 Cdn Spec Hosp wef 22Nov44
D 6760 GNR MAC DONALD D. R.C.H.A.

10. MARRIAGES

(a) Granted permission to marry Miss Sylvia Davis on or after but not before 23 Dec 44 (Auth:ORO 3744 (7))
B 52003 PTE MC CULLIGH E.B.

(b) Married with permission to Joyce Aida Seward at Wandsworth Reg Office wef 22 Nov 44 (Auth:Cert Wa 942365)
K 57103 CFN SEWARD W.C.

11. STRENGTH DECREASE

(a) DELETE

(b) S.O.S. to 1 CGRU wef 27 Nov 44 (Auth:44/UKIT 6(Org2)d/21Nov44)
D 48 TPR BERGER P.
A 59718 CDSM KING E.P.

(c) S.O.S. to 1 Admin Transport Coy RCASC wef 16 Nov 44 (Auth:REC/H 2280 (R4) d/23 Nov 44)
H 2280 PTE COOK P.A.

(d) CANCELLED Part 11 DO 89 para 10 (1) d/17 Nov 44 insofar as it concerns the u/n is Cancelled (Auth:REC/H 2280(R4)d/23Nov44)
H 2280 PTE COOK P.A.

SECTION "C"

12. STRENGTH INCREASE

(a) The u/n Personnel of (EXAG38) Disemb UK & T.O.S. 1 CRD from (ASF) X8 List wef 25 Nov 44 (Auth:506/METD/1 AAG 1 Sch 21 A Gp d/30 Aug 44)
Mr(Ex-Lieut) William Edward CANTLIDGE (S.W.S.) SD&DF
Mr(Ex-Lieut) William Donald DRYSDALE (DISPinUK) C.I.C.
Mr(Ex-Lieut) Robert Selkirk SNYDER (DISPinUK) C.I.C.

(Ronald H Beck) Lt/Col.,
Officer Commanding,
No1 Cdn Reception Depot.

Certified True Copy
L. E. Soakin
Capt. & Adjt.
No 1 CANADIAN RECEPTION DEPO

6. ATTACHED

(a) Att fap from 25 Nov 44 to 28 Nov 44 whilst proceeding ON COMMAND from 9 CBRB K10 List (AEF) to AFV School Bovington Dorset (Auth:502/Course/(AG1) 508/CAC/1 d/20 Nov 44)

A 11835	SGT	CAMPBELL	L.J.		6 CAR
L 36023	A/CPL	GARDEN	G.	DR MECH "C"	6 CAR
B 132494	L/CPL	KOHLS	G.A.H.	CN OP "C"	27 CAR
H 26318	L/SGT	NIVON	C.J.		10 CAR
H 26722	L/SGT	OLSON	F.S.		10 CAR

7. LEAVE OF ABSENCE

(a) Granted 7 days Sick Leave with Allce in lieu of rations from 24 Nov 44 until 1 Dec 44 (Auth:ORO 3363)
L 87699 PTE HEAD G.E.

(b) Granted 7 days P.L. plus 48 hrs (9 days) with Allce in lieu of rations from 1 Dec 44 until 10 Dec 44 (Auth:ORO 3363)
L 87699 PTE HEAD G.E.

(c) Granted 14 days P.L. with Allce in lieu of rations from 24 Nov 44 until 8 Dec 44 (Auth:ORO 3363)
M 10156 BDR HULL F.A.

(d) Granted 14 days P.L. with Allce in lieu of rations from 27 Nov 44 until 11 Dec 44 (Auth:ORO 3363)
G 797 TPR MAUNDER R.E.

8. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0800 hrs 21 Nov 44 RETURNED 1830 hrs 22 Nov 44
E 11163 PTE GOSSELIN L.

(b) A.W.L. from 0800 hrs 18 Nov 44 Still absent 0800 hrs 26 Nov 44 (8th Day)
A 4052 PTE MERLIN G.F.

(c) AMENDMENT Part 11 DO 69 para 7 (b) d/14 Oct 44 insofar as it concerns the u/n is amended to read "H 62861"
H 62821 CPL LE BAR W.R.

9. PUNISHMENTS

(a) On 22 Nov 44, Awarded 7 days C.B. and a forf of 7 days pay for an offence under A.A.SEC 15 (1) WOAS AWL from 0800 hrs 18Nov44 until 1645 hrs 21 Nov 44 (Absent 3 days 8 hrs 45 mins) Forf 7 days pay FR&I 149 (2) 4 days pay FR&I 149 (1)(a) TOTAL Forf of 11 days pay
B 69511 TPR AIKMAN W.

(b) On 23 Nov 44, Awarded 7 days C.B. for an offence under A.A.SEC 15 (1) WOAS AWL from 0800 hrs21 Nov 44 until 1830 hrs 22 Nov 44 (Absent 1 day 10 hrs 30 mins) Forf 2 days pay FR&I 149 (1)(a)
E 11163 PTE GOSSELIN L.

SECTION "B"

1. STRENGTH INCREASE

(a) The u/n Personnel of (EKAG 38) Disemb UK and T.O.S. 1 CRD from AB List (AEF) wef 25 Nov 44 (Auth:506/NSTD/1 AAG 1 Ech 21 A Gp d/30 Aug 44)

MISCELLANEOUS

L 2	S/SGT	WILLIAMS	E.J.	CLERK "B"	14 Fd Regt
C 32547	SGT	HAIG	I.W.	CLERK "C"	CMSC
A 44807	SGT	KISONER	C.A.	MECH "A"	25 C.A.C.
H 41449	A/SGT	HINITT	E.A.		R.W.R.
D 3140	CPL	ALBERT	G.		7 RECCE
M 17225	CPL	FIFE	L.E.	D.M. "C"	REG. RIFLES
C 102871	CPL	GRANGER	J.B.		R.H.C.
K 72955	L/CPL	ARTHURS	J.C.		C. PROV C.
M 100270	PTE	ANDERSON	L.B.		RCASC
M 63061	PTE	BARGY	W.C.		AUX SERV
D 48	TPR	BERGER	F.		6 HUSSARS
A 49808	SGM	BLEWETT	J.C.	SELECT "C"	R.C.SIGS.
L 106480	RFN	BOXALL	E.		R.W.R.
D 62176	PTE	COUTURE	P.J.	D.M. "C"	FUS MONT R
D 142698	RFN	DARBYSON	C.		Q.O.R.
B 167960	PTE	DAVIS	A.E.		4 ARMD BDE
C 122630	RFN	EGGLETON	J.H.		Q.O.R.
A 59718	GLSM	KING	H.P.		GRNM GUARDS
B 52893	CFN	MAC DONALD	H.A.	COACH PAINTER "B"	RCEME
B 37346	PTE	PARSONS	T.		H.L.I.
W 95870	PTE	REDDIN	P.T.	STOR "C"	RCOC
B 52166	CFN	RICHARDSON	N.	STOR "C"	RCEME
B 75463	PTE	SMART	F.R.		L.S.R.
B 75580	PTE	WALKER	M.M.	COOK "C"	RCASC

S.U.S.

B 148780	PTE	LACEY	D.J.		ESSEX SCOT
H 76097	PTE	IMBEAU	A.T.		L.S.R.
B 75893	PTE	DAVIES	R.R.		RCASC
B 40914	PTE	SMITH	W.L.		LINC & WELL
B 19566	TPR	FLANAGAN	J.W.		6 C.A.R.
B 135914	PTE	REID	J.		R.H.C.
G 23546	PTE	MAILLET	G.J.		R.R.C.
B 149716	PTE	MC NENLY	C.V.		R.R.C.
C 120641	PTE	ROBINSON	G.J.		S.D. & G.H.
H 42016	RFN	LAMIRANDE	A.		REGT de CHAUD
G 2127	PTE	HEFLER	D.C.		CAL HIGH
B 52434	RFN	THOMPSON	R.R.		R.W.R.
B 118900	PTE	YEATES	W.J.		S.S.R.
D 135960	PTE	HILL	G.		RCASC

(b) AMENDMENT Part II DO 93 para 3 (d) d/25 Nov 44 insofar as it concerns the u/n is amended to read "L 86799 PTE HEAD G.E. (LER)"

L 86799	L/CPL	HEAD	G.E.		L.S.R.

4. STRENGTH DECREASE (CONT'D)

(d) S.O.S. to 1 CNETD wef 25 Nov 44 (Auth:AG2563 d/25 Nov 44)
A/LT/COL David Alistar Murray MAC LAREN 8 LAA

(e) S.O.S. to 13 Cdn Gen Hosp wef 27 Oct 44 (Auth:MS 4092 d/26Oct44)
MAJOR A. E. PARKS RCAMC

(f) S.O.S. to 1 CNETD wef 20 Nov 44 (Auth:C.N REC/5731 d/25 Oct 44)
CAPT K. C. GREER RCAMC

(g) S.O.S. to 1 CITR wef 24 Nov 44 (Auth:MS 4550 d/24 Nov 44)
CAPT W. H. MULHERIN PPCLI

(h) S.O.S. to 1 CSHU wef 26 Nov 44 (Auth: MS 4359 d/14 Nov 44)
CAPT Joseph MacNaugh MAC CALLUM R.C.SIGS.

(i) S.O.S. to 1 CNETD wef 25 Nov 44 (Auth: REC/6144 d/21 Nov 44)
CAPT Conrad Sanford RILEY

(j) S.O.S. to 1 CNETD wef 26 Nov 44 (Auth:35/AEF EVac/1 d/30Jun44)
A/CAPT Frederick D'Alton GOODERHAM

(k) S.O.S. to 1 CNETD wef 25 Nov 44 (Auth:34/AEF EVac/1 d/30Jun44)
LIEUT Joseph Marcel TELLIER RRCTdeMAIS

(l) S.O.S. to 1 CNETD wef 25 Nov 44 (Auth:509/CWSC/1/3(MS1)d/21

MAJOR	Fredrick Hosking	BALDWIN	27 CANov 44)
A/MAJOR	Colin Campbell	DUMBRILLE	R.C.O.S.
CAPT	Arthur Albert	BLACK	R.R.of C.
CAPT	Arthur Connaught	BRETT	LINC & WELL
A/CAPT	Laird Wansbro	BOVAIRD	C.I.C.
A/CAPT	George Christopher	CAMPBELL	C...C.
CAPT	George Whiteway	CARNAGIE	RCASC
CAPT	Francis Erick	COCHRAN	RCASC
CAPT	Fraser Griffin	COOKE	P.L.FUS
CAPT	George Arthur	DONALD	RCOC
CAPT	Thomas	DORAN	R.C.A.
CAPT	Geoffrey Thomas	HARRIS	L.R.R.
A/CAPT	William James	HINAS	RCASC
CAPT	Walter Stafford	JOHNSTON	C.A.C.
CAPT	John Brownfield	LESSLIE	R.C.A.
CAPT	Alfred Gray	MAC DONALD	P.L.FUS
CAPT	Frank Gordon	MC GAVIN	R.C.A.
A/CAPT	Charles Ernest	MC GUIRE	S.D. & G.H.
A/CAPT	Arthur Redpath	MC MURRICH	R.R. of C.
CAPT	John Brian Patrick	MAHONY	RCOC
CAPT	Norman Leslie Joseph	MOULD	GEN LIST
A/CAPT	Daniel Noel	OSBORNE	R.W.R.
CAPT	John F	TERRETT	R.C.A.
A/CAPT	John Graham	PRICE	C.A.C.
CAPT	Edward James	RADIGAN	R.C.A.
CAPT	George William	ROBINETTE	R.C.A.
A/CAPT	Joel Aitchen	SMITH	C.A.C.
CAPT	William James	STRACHAN	RCOC
CAPT	Robert Colin	WEST	R.C.E.
A/CAPT	Alexander Drummond	WHITE	C.I.C.
CAPT	George Harold	WHITE	ST JOHN FUS
CAPT	Robert Francis	WODEHOUSE	C.I.C.
LIEUT	Ian Malcolm	BELL-IRVING	S.H. of C.
LIEUT	George Drummond	BIRKS	R.H. of C.
LIEUT	William Gordon	FANCOTT	C.A.C.
LIEUT	Thomas Watson	MEREDITH	C.A.C.
LIEUT	Thomas Muir	MITCHELL	R.C.A.
LIEUT	Colin Sewell	ROSS	C.A.C.

1. STRENGTH INCREASE (CONT'D)

(f) Disemb UK and T.O.S. 1 CRD from X8 (AEF) wef 26 Oct 44 (Auth:MS 4092 d/26 Oct 44)
MAJOR A. E. PARKS RCAMC

(g) Disemb UK and T.O.S. 1 CRD from X8 List (AEF)wef 11Nov 44 (Auth:C.N REC/5731/ d/25 Oct 44)
CAPT K. C. GREER RCAMC

(h) Disemb UK and T.O.S. from X8 List (AEF) wef 25 Nov 44 (Auth:REC/6144/ d/21 Nov 44)
CAPT Conrad Sanford RILEY R.C.A.

(i) DisemplanedUK and T.O.S. 1 CRD from X8 List (AAI) wef 23 Nov 44 (Auth:MS 4550 d/24 Nov 44)
CAPT W. H. MULHERIN PPCLI

(j) The u/n Officers of (EXAG) 39) Disemb UK and T.O.S. 1 CRD from X8 List (AEF) wef 26 Nov 44 (Auth:506/NETD/1 AAG 1 Ech 21 A Gp d/30 Aug 44)
COURSE

CAPT	Robert	BEAUVAIS	FUS M ROYAL
CAPT	Joseph Patrick	DOWNEE	S.D. & G.H.
CAPT	Neil Richard	EDWARDS	REGL RIF.
A/CAPT	Frederick D'Alton	GOODERHAM	TOR SCOTS
CAPT	Warren Gardiner	HARVEY	N.SHORE REGT
CAPT	Galibert Jean-Marie	ROCQUE	N.N.S.H.
CAPT	Gordon Charles	WATT	R. WPG. REGT
LIEUT	Robert Donica	DICKIE	R.H.L.I.
LIEUT	Charles Flavius	DRAPEAU	REGTdeCHAUD.
LIEUT	Albert Alva	LOVERIDGE	A.R. of C.
LIEUT	Kenneth Alan	MAC KENZIE	7 RECCE
LIEUT	Owen	MC KENNA	7 RECCE
LIEUT	Royce Stanley	MARSHALL	CDN SCOTS.

2. ATTACHED

(a) DELETED

3. LEAVE OF ABSENCE

(a) Granted 14 days P.L. with Allce in lieu of rations from 2 Nov 44 until 9 Dec 44 (Auth:ORO 3363)
LIEUT Robert Clement BURTWELL
LIEUT Daniel Arthur JONES

4. STRENGTH DECREASE

(a) S.O.S. to 1 CCHU wef 12 Nov 44 (Auth: MS 4556 d/25 Nov 44)
COL. G. A. SINCLAIR RCAMC

(b) S.O.S. to 1 CNSTD wef 9 Nov 44 (Auth:MS 4226 d/4 Nov 44)
LT/COL C. M. GARDNER RCAMC

(c) S.O.S. to 1 CAHU wef 19 Oct 44 (Auth:10/Lander HW/1(MS3)d/16 Oct 44)
LT/COL K. N. LANDER R.C.A.

1. STRENGTH INCREASE (CONT'D)

(a) Cont'd.

DUTY IN UK

LIEUT	John Curtis	BELMAR	TOR SCOTS
LIEUT	Charles Thomas	BLORE	C.H. of O.
LIEUT	Robert David	COLLINS	C.H. of O.
LIEUT	Edwin Ainslie	ELLIOTT	TOR SCOTS
LIEUT	Alan MacKenzie	KEITH	C.I.C.
LIEUT	Duncan John	LALONDE	C.H. of O.
LIEUT	Gerald Phillip	LEGERE	N.B. RANGERS
LIEUT	Donald Heath	MC CALLUM	C.H. of OL
LIEUT	Orville Lawrence	RANGER	C.H. of O.
LIEUT	James Kristian	REID	C.I.C.
LIEUT	Godfrey Charles	SCOTT	C.I.C.
LIEUT	Charles Leonard	SEELEY	N.B. RANGERS
LIEUT	Cyril Douglas	SHARMAN	C.I.C.
LIEUT	Thomas Henry	SMITH	TOR SCOTS
LIEUT	Aime Joseph	ST PIERRE	N.B. RANGERS
LIEUT	Walter Douglas	TERRY	C.I.C.
LIEUT	Joseph Donald	TOBIN	C.H. of O.
LIEUT	Jack Gilbert	WARE	C.I.C.
LIEUT	Thomas Strethill	WRIGHT	C.I.C.

EXCHANGE

MAJOR	Lea Ferguson	AILANACH	C.D.C.
CAPT	St.Clair	DUNCANSON	C.D.C.
MAJOR	Clarence William	HAMILTON	C.D.C.
MAJOR	Hewitt Reid	KERR	C.D.C.
MAJOR	Ian Grant	MAC KENZIE	C.D.C.
MAJOR	Alexander	MINTZ	C.D.C.
MAJOR	Alexander Bruce	SUTHERLAND	C.D.C.
A/MAJOR	Arthur Christian	AHRENS	C.D.C.

MISCELLANEOUS

MAJOR	Raymond John	FISHER	3 L.A. (RCA)
MAJOR	Scott	LYNN	R.C.E.
CAPT	William Alexander	EWENER	R.C.E.
CAPT	Joseph MacNaught	MAC C LLUM	R.C.SIGS
CAPT	William Andrew	MARTIN	
CAPT	Malcolm	TURNER	8 Cdn Fd(RCE)
A/CAPT	William Ervin	LEE	2 A/TK (RCA)
LIEUT	Florent	BERTRAND	R.H. of C.
LIEUT	Edwin Lewis	JONES	C.I.C.
LIEUT	Earl Herbert	SHEPPARD	21 C.A.A.
LIEUT	Joseph Marcel	TELLIER	REGTdeMAIS

(b) Disemplaned UK and T.O.S. 1 CRD from X8 List (AEF) wef 12 Nov 44 (Auth:MS 4556 d/25 Nov 44)

COL	G.	A.	SINCLAIR	RCAMC

(c) Disemplaned UK and T.O.S. 1 CRD from X8 List (AEF) wef 3 Nov 44 (Auth:MS 4226 d/4 Nov 44)

LT/COL	C.	M.	GARDNER	RCAMC

(d) Disemb UK and T.O.S. 1 CRD from X8 (AEF) wef 18 Oct 44 (Auth:10/LANDER KN/1(MS3) d/16 Oct 44)

LT/COL	K.	N.	LANDER	RCA

(e) Disemb UK and T.O.S. 1 CRD from X8 List (AEF) wef 24 Nov 44 (Auth:AG 2563 d/25 Nov 44)

A/LT/COL	David Alistar	Murray	MAC LAREN	8 L.A.

Ex. B

No1 CANADIAN RECEPTION DEPOT
PART II ORDERS
Issued By
LT/COL R.H.F BACH, M.D (C.A.C)

Last Order No.93 25 Nov 44.

This Order No.94 27 Nov 44.

SECTION"A"

1. STRENGTH INCREASE

(a) The u/n Officers of (EX.C 38) Disemb UK and T.O.S. 1 CRD from AS List (MEF) wef 25 Nov 44(Auth:506/NFTD/1 A.G 1 Ech 21 A Gp d/30 Aug 44)

STAFF COURSE

MAJOR	Fredrick Hoskins	BALDWIN	21st A Gp
A/MAJOR	Colen Campbell	DUMBRILLE	R.C.SIGS
CAPT	Arthur Albert	BLACK	S.S.R.
CAPT	Arthur Connaught	BAETT	R.H.L.I.
CAPT	George Whiteway	CARNEGIE	RCASC
CAPT	Fraucie Erick	COCHRAN	RCASC
CAPT	Fraser Griffin	COOKE	P.L.FUS.
CAPT	George Arthur	DONALD	RCOC
CAPT	Thomas	DOYLE	R.C.E.
CAPT	Geoffrey Thomas	HARRIS	L.E.R.
CAPT	Walter Stafford	JOHNSTON	HQ 2nd A Bde
CAPT	John Brownfield	LESSLIE	R.C.A.
CAPT	Alfred Gray	MAC DONALD	P.L.FUS.
CAPT	Frank Gordon	MC GAVIN	R.C.A.
CAPT	John Bryan Patrick	MAHONY (VC)	RCOC
CAPT	John F	PERRETT	R.C.A.
CAPT	Edward James	RADIGAN	R.C.A.
CAPT	George William	ROBINETTE	R.C.A.
CAPT	William James	STRACHAN	RCOC
CAPT	Robert Colin	WEST	R.C.E.
A/MAJOR	George Harold	WHITE	C.H.of C.
CAPT	Robert Francis	WODEHOUSE	C.I.C.
A/CAPT	Laird Wansbro	BOVARD	21st A Gp.
A/CAPT	George Christopher	CAMPBELL	21st A Gp.
A/CAPT	William James	HINES	RCASC
A/CAPT	Charles Ernest	MC GUIRE	S.D.& G.
A/CAPT	Arthur Redpath	MC MURRICH	R.R.C.
A/CAPT	Danial Noel	OSBORNE	R.WRG RIF.
A/CAPT	John Graham	PRICE	21 A Gp
A/CAPT	Joel Kitchen	SMITH	21 A Gp
A/CAPT	Alexander Drummond	WHITE	C.A.S.C.
LIEUT	Ian Malcolm	BELL-IRVING	S.H.of C.
LIEUT	George Drummond	BIRKS	R.H.of C.
LIEUT	William Gordon	FAWCETT	17 Hussars
LIEUT	Thomas Watson	MEREDITH	21 A Gp
LIEUT	Thomas Muir	MITCHELL	R.C.A.
CAPT	Norman Leslie Joseph	MOULD	GEN LIST
LIEUT	Colin Sewell	ROSS	HQ 4 Div.

TACTICAL COURSE

A/MAJOR	George William	GORDON	6 C.A.R.
CAPT	James Alexander	FRASER	10 Armd Regt
CAPT	Norman Robert	RUSHFORTH	10 C.A.R.
CAPT	Elliott	STAFFORD	27 C.A.R.
LIEUT	James Fredrick	BOWES	16 C.A.R.
LIEUT	Edgar Windsor	ALLEN	18 C.A.R.
LIEUT	Charles Walter	PHELPS	18 C.A.R.

Capt. & A/J.
No.1 CANADIAN RECEPTION DEPO

(12) STRENGTH DECREASE (CONT'D)

(j) SOS 1 CRD to 1 Para Trg Coy wef 13 Oct 44 (Auth: Rec/34/AEF KVac/1 dated 30 Jun 44)

M 104112	Pte	ADAMS	W.U.H.	
A 37913	Pte	AMOS	N.A.	
B 44221	Pte	BARNETT	R.E.	
D 77526	Pte	BROWN	W.F.	
K 74235	Pte	DAVIES	E.C.	
H 40557	Sgt	IRVINE	W.	
A 115015	Pte	PILON	R.E.	
B 146160	Pte	PRICE	D.T.	
H 37134	Cpl	RIMMER	N.	Armb "B"
D 142531	Pte	SYLVESTER	G.	

(k) SOS 1 CRD to 1 CARU wef 13 Oct 44 (Auth: 406/Realloc/1(Org)3 dated 22 Aug 44)

B 15669	RSM	HALL	T.

(l) SOS 1 CRD to 2 CARU wef 13 Oct 44 (Auth: 406/Realloc/1(Org)3 dated 22 Aug 44)

G 50565	Gnr	LEBLANC	G.J.

(m) SOS 1 CRD to Y-3 List on adm to 4 CGH wef 12 Oct 44

C 522	Tpr	BREWER	M.T.

(13) STRENGTH DECREASE (AMENDMENT)

(a) Part II DO 63 para 12(an) d/4 Oct 44 insofaras it concerns the u/m is amended to read "SOS to 3 CIRU Y-2 List wef 30 Oct 44."

B 59716	Pte	LIZOTTE	O.

(14) STRENGTH DECREASE (CANCELLATION)

(a) Part II DO 66 para 7(b) d/10 Oct 44 insofaras it concerns the u/m is cancelled

D 6760	Gnr	MacDONALD	D.A.

Certified True Copy.

Capt. & Adjt.,
No. 1 CANADIAN RECEPTION DEPO

(Ronald H. Back) Lt.Col.,
Officer Commanding,
No. 1 Cdn Reception Depot.

(9) TRADESMENS RATES OF PAY

(a) Ceases to draw TRP as Dvr Mech Gp "C" wef 31 Aug 44 (admitted to detention)
B 59716 Pte LIZOTTE C.

Certified true Copy
L.E. Dorkin Capt. & Adjt.
No. 1 CANADIAN RECEPTION DEPOT

(10) CHANGE OF ADDRESS OF NEXT OF KIN

(a) D 57103 Pte NAEGLE C. (3 22 R)
Change of Next of Kin to:-
Mrs Eugenie Naegle
6355 Christopher Colomb St,
Montreal, Que.

(11) HONOURS & AWARDS (CANCELLATION)

(a) Part II DO 16 para 25(a) d/22 Jul 44 insofaras it concerns the u/m is hereby cancelled
B 137976 Pte LAW A.

(12) STRENGTH DECREASE

(a) SOS 1 CRD to 1 CERU wef 13 Oct 44(Auth: 406/Realloc/1(Org)3 dated 22 Aug 44)
M 50592 Spr JORDAN J.G.

(b) SOS 1 CRD to 1 CGRU wef 13 Oct 44(Auth: 406/Realloc/1(Org)3 dated 22 Aug 44)
B 67590 Cpl HARPER J.W. (Aux Serv)

(c) SOS 1 CRD to 1 CGRU wef 13 Oct 44(Auth: 44/Despatch/3/3(AG2a) dated 13 Sep 44)
B 92211 Sgt McINNIS J.H.

(d) SOS 1 CRD to 1 CASCRU wef 13 Oct 44(Auth:406/Realloc/1(Org)3 dated 2 Jun 44)
A 10023 Pte HAINES H.W.

(e) SOS 1 CRD to 1 CASCRU wef 12 Oct 44(Auth:44/Despatch/3/3(AG2a) dated 13 Sep 44)
D 76879 Pte JONES P.R. Cook "C"

(f) SOS 1 CRD to 1 CASCRU wef 12 Oct 44(Auth: Rec/34/AEF EVac/1 dated 30 Jun 44)
B 86014 Pte McCLURE J.A.

(g) SOS 1 CRD to 1 CACRU wef 13 Oct 44(Auth: 406/Realloc/1(Org)3 dated 22 Aug 44)
M 45095 Tpr BRADBURY E.E.
A 86755 Tpr BRYSON G.G.A.

(h) SOS 1 CRD to 1 COMERU wef 13 Oct 44(Auth:406/Realloc/1(Org)3 dated 22 Aug 44)
L 22947 Cfn McCARTY C.J.

(i) SOS 1 CRD to 1 CNETD wef 12 Oct 44 (Auth: 44/Despatch/3/3 (AG2a) dated 13 Sep 44)
F 31133 Pte MacKINNON J.D.

Certified true copy

L E Donkin Capt. & Adjt.,
No. 1 CANADIAN RECEPTION DEPO

NO. 1 CANADIAN RECEPTION DEPOT
PART II ORDERS
Page 2

No. 69
14 Oct 44

(5) STRENGTH INCREASE (CONT'D)

(e) TOS 1 CRD from Y-3 List(1 CRD) on disch from 19 CGH wef 11 Oct 44
S 17477 Gnr STAINTON E.T. (2 LAA R)

(f) TOS 1 CRD from Y-3 List(1 CRD) on disch from 4 CGH wef 10 Oct 44
B 4532 Tpr WILLIAMS J.L. (1 CACRU)

(6) LEAVE OF ABSENCE

(a) Granted 14 days P.L. with allce in lieu of rations from 9 Oct 44 to 23 Oct 44 (Auth: 45/Repat/1/2(AAG(Pers) d/21 Jun 44)
F 60378 Pte BURKE J.P.

(b) Granted 7 days P.L. plus 48 hrs (9 days) with allce in lieu of rations from 12 Oct 44 until 21 Oct 44 (Overseas RO 3363)
A 82135 Cpl CHAMBERS G.H.

(c) Granted 14 days P.L. with allce in lieu of rations from 16 Oct 44 until 30 Oct 44 (Overseas RO 3363)
C 51060 Bdr GIBSON G.H.

(d) Granted 14 days P.L. with allce in lieu of rations from 11 Oct 44 until 25 Oct 44 (Overseas RO 4544)
M 58679 Pte McCALLUM M.A.

(e) Granted 7 days P.L. plus 48 hrs (9 days) with allce in lieu of rations from 13 Oct 44 until 22 Oct 44 (Overseas RO 3363)
K 52001 RSM MAITLAND J.

(7) ABSENT WITHOUT LEAVE

(a) AWL from 1800 hrs 21 Sep 44 and returned from AWL wef 2030 hrs 25 Sep 44
M 42028 Pte BENTLEY F.

(b) AWL from 2359 hrs 8 Oct 44
H 62821 Cpl LEDAR M.R.

(c) AWL from 2359 hrs 21 Sep 44 and was still absent at 2359 hrs 29 Sep 44 (8 days)
M 61003 Gnr RENNIE R.G.

(d) AWL from 2359 hrs 21 Sep 44 and was still absent at 2359 hrs 13 Sep 44 (22 days)
M 61003 Gnr RENNIE R.G.

(e) Part II DO 66 para 5(c) d/10 Oct 44 concerning the u/m is amended to read "E 15266 Pte Martin L.J."
E 5266 Pte MARTIN L.J.

(8) REVERSIONS

(a) Ceases to hold appt as A/CPL, and to draw regt rate of pay of $1.50 per diem wef 15 Sep 44 (Auth: ORO 4668). (Subject to confirmation)
L 7945 Pte(A/Cpl) MARSHALL E.L.

(b) Ceases to hold the appt of L/SGT wef 9 Oct 44 (Auth: ORO4427)
H 37134 Cpl(L/Sgt) RIMMER N. (1 Para Bn)

Ex. A.

No1 CANADIAN RECEPTION DEPOT
PART II ORDERS
Issued By
LT/COL R.H.F BACK E.D. (CAC)

Last Order No. 68 ** 12 Oct 44

This Order No. 69** 14 Oct 44

SECTION "A"

(1) STRENGTH INCREASE

(a) TOS 1 CRD from Y-3 List on disch from BN&PS Hosp wef 3 Oct 44
CAPT Gerard COTE (27 Armd R)

(2) ATTACHED

(a) Att f.a.p. from 1 CNETD wef 21 Sep 44(Auth:A 7711 d/11 Sep 44)
LIEUT Jean Jacques Yvon FORGET

(3) LEAVE OF ABSENCE

(a) DELETE

(4) STRENGTH DECREASE

(a) SOS 1 CRD to 1 CERU wef 11 Oct 44(Auth:Rec/34/AEF EVac/1 dated 30 Jun 44)
LIEUT Arthur George KEITH (RCE)

(b) SOS 1 CRD to 1 CGRU wef 11 Oct 44(Auth:Rec/34/AEF EVac/1 dated 30 Jun 44)
CAPT Hugh Thomas SMITH (5 Educ Sec)

(c) SOS 1 CRD to 2 CARU wef 11 Oct 44 (Auth: Rec/34/AEF EVac/1 dated 30 Jun 44)
CAPT Robert Andrew CAMERON (2 Svy RCA)

(d) SOS 1 CRD to 4 CGH wef 11 Oct 44 (Auth: Rec/34/AEF EVac/1 dated 30 Jun 44)
CAPT Rupert Dudley CODDINGTON (RCAMC)

(e) SOS 1 CRD to 1 CNETD wef 10 Oct 44(Auth: Rec/34/AEF EVac/1 d/30 Jun 44 - MS 3859 d/9 Oct 44)
MAJOR Francis Wilfred HAYTER (RCAMC)
MAJOR George Iveson NORTON (RCAMC)
CAPT Brian Ormsby BLACK (RCAMC)
CAPT Raoul David LANDRY (RCAMC)

(f) SOS 1 CRD to 1 CNETD wef 12 Oct 44 (Auth: AT 2001 (AG2a d/10 Oct 44)
LIEUT Joseph Marion MOSS (RCAMC)

Certified true Copy.
[illegible] Capt & Adjt.
No 1 CANADIAN RECEPTION DEPO

SECTION "B"

(5) STRENGTH INCREASE

(a) TOS 1 CRD from 4 CIRU wef 7 Oct 44 (Auth: 45/Repat/1/2(AA) (Pers) d/21 Jun 44)
F 60378 Pte BURKE J.P. (NNSH)(PW)

(b) TOS 1 CRD from Y-3 List(1 CRD) on disch from hosp wef [illegible]
B 15227 Bdr IDE T.S. (5 LAA R

(c) TOS 1 CRD from Y-3 List(1 CRD) on disch from 1 Cdn Spec Hosp wef 22 Sep 44
B 56509 Pte MacPHERSON J.R. (PW)
M 63250 Pte YORK H.C. D.M. "C"

(d) TOS 1 CRD from Y-3 List(1 CRD) on disch from 11 CGH wef 30 Sep 44
C 25769 Pte SPENCE R.C.

SUMMARY OF EVIDENCE

In the case of H.62861 Private Wesley Roy LeBar, on the strength of 1 Canadian Reception Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
For the Prosecution

A/Capt. L.E. Donkin, Adjutant, 1 Canadian Reception Depot, having been duly sworn states:-

I am A/Capt L.E. Donkin, Adjutant, 1 Canadian Reception Depot.

I hereby produce a certified true copy of 1 Canadian Reception Depot Part II Order No. 69 showing H.62821 Cpl Lebar, W.R. absent from 2359 hrs 8 Oct 44. Copy produced as Exhibit "A".

I also produce as Exhibit "B" a certified true copy of 1 Canadian Reception Depot Part II Order No. 94 amending Part II Order No. 69 to read H.62861 Cpl LeBar, insofar as it concerns the accused.

I also produce as Exhibit "C" a certified true copy of 1 Canadian Reception Depot Part II Order No. 91 showing the true rank of the accused to be that of Private with effect 15 Sep 44.

I produce as Exhibit "D" a certificate in accordance with P.C. 2797 showing Cpl LeBar, to have been arrested in London at 1025 hrs on 8 Nov 44.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:- Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence that you give will be taken down in writing and may be used as evidence.

The accused reserves his defence.

Certified that Rules of Procedure 4 (c), (d), (e), (f) and (h) have been complied with.

D.R. Todd Lieut.

(D.R. Todd) Lieut.
Officer detailed to take
Summary of Evidence.

Field

27 Nov 44.

E+F
137

she was in trouble and that he was responsible. Wishing to do the right thing if it were true and not wanting to be pushed into marriage if it were not true he overstayed his pass in London until he found out the truth. He has since seen the padre and has taken the first steps leading up to marriage with this girl.

This soldier's category is indefinite right now owing to the wounds he received but he expects to be given an "A" category shortly so that he may rejoin his unit at the front.

This man has a fine record so far, as is evidenced by his deeds in France and would be very useful at the front right now instead of spending away in detention. Therefore I asks that the sentence be made as light as possible.

BM

Plea for mitigation of punishment for H 62861 Rfn. Le Bar W.B: E-3

This soldier joined the Canadian Army on the 16 Oct. 41, enlisting with the Can. Forestry Corps. In December 41 he came overseas with that unit and in March 1942 he transfered to the infantry at his own request, joining the R.W.R.

He stayed with the R.W.R. until D-Day when he landed in France with them as a L/Cpl. On the 7 June he was made an acting corporal in an infantry platoon. On the 9 June 44 he was captured by the enemy and held as a P.O.W. until 22 July 44 when he ~~succeeded~~ succeeded in escaping from a prison train en route to Germany.

After escaping he joined the F.F.I. and fought with them from the 22 July until the 7 Sept. This soldier made such a fine showing with the F.F.I. that he was awarded the French Military Medal by a Colonel of the French Foreign Legion. During the fighting with the F.F.I. he was wounded in the foot and on contacting the Americans at Tours he was sent to England by plane.

On arrival in England he reported to C.M.H.Q. who interrogated him and then sent him to 1 Can. Reception Depot. Here he was granted 14 days leave which he spent with his girl friend in London & then returned to 1 C.R.D. Shortly after he was granted a 48 hr. pass and returned to London again. When he returned his girl friend told him that

F.G.C.M. IN THE CASE OF

H 62961 Pte Lebar, W.R., 1 CRD

1 Dec 44

EVIDENCE IN MITIGATION NOTE E 1

The Accused duly sworn states:

Sir,

I joined the army on 10 Oct 41, I joined the Cdn Forestry Corps. I was with them from 10 Oct 41 until 16 Mar 42. I went from there to the Wpg Rifles at my own request. I was with Wpg Rifles from Mar 42 until 6 Jun 44 when we went to France, I was a L/Cpl in the unit at that time. On D-day we landed in France and on the next day I was promoted to full cpl. On the 9 Jun I was taken prisoner by the Germans and take away by prisoner train to a camp. I was at Rennes for a month and a half then they put us on another train to take us to Germany. We were travelling through Tours on the 2? Jul and myself and two Americans broke out of the prisoner train outside of Tours and escaped. We contacted the Free French Forces of the Interior and started to fight with them. I was wounded in the left leg and was also awarded the Medal Militaire by a French Colonel in the Foreign Legion. Shortly after I was wounded, which was on the 15 Aug, I contacted the Americans at Tours and was flown back to England. After arrving here I was interrogated in CMH? and sent to 1 CRD. There I was given 14 days leave and I went to London and spent it with my girl friend. On return from leave I spent about five days in camp and my friend wrote that she was in the family way. I asked for 48 hours pass and was given it, I went to see her and was not sure that she was pregnant so stayed to find out for sure. I had intended to marry the girl and still do, but I did not want to be rushed into it or bluffed into it and I wanted to make sure whether or not she was going to have a child before I did anything. I was apprehended by the civil police or I would have surrendered as soon as I could have. In civil life I was a bushman, I went to grade 8 in school. At the present time I am category L3 pending a reboard when I am told I will get an "A" back. I am anxious to go back to France or Italy to go on with this war.

PLEA IN MITIGATION IS ATTACHED. E-3

1 Dec 44.

MEDICAL OFFICERS CERTIFICATE

I certify that No. H62861 Rfm. Lebar W. R.

of No. 1 C. R. D. Unit, is fit to undergo trial by

Court Martial.

W. J. Russell Capt.

Medical Officer.
1 Canadian Reception Depot.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his cumd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-62861	Pte		Wesley Roy	LeBar	1 CRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 30 NOV 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	*(Must be named. RP 106.)*	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	*(Named or detailed. RP 106.)*	(Unit.)
Captain	to be detailed by OC	1 CASCRU
Lieutenant	to be detailed by OC	1 CASCRU

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)

On Active Service in the Fd

in England *(Country.)*

Dat 30 Nov 44

(A.B. Connelly) *(Signed personally. RP 105 fn 2.)*

Brigadier *(Rank.)*

Commanding HQ "B" Gp Cdn Rft Units

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 66 (In lieu of AFA 3) 40-9-44 (6242)

(See overleaf for oaths and rules for use on trial.)

CHARGE SHEET

The accused H.62861 Private Wesley Roy LeBar, on strength of 1 Canadian Reception Depot, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
AA SEC 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

at Leipzic Barracks, Crookham, Hants, absented himself without leave from 2359 hrs 8 Oct 44 until apprehended by the Canadian Provost at London at about 1025 hrs 8 Nov 44. (Total Absence 30 days 10 hrs 26 min).

(Ronald H. Back) Lt-Col.
Officer Commanding
1 Canadian Reception Depot.

Field

27 Nov 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Eft Units.

30 Nov 44

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-62861 Pte Wesley Roy LeBAR 1 CRD

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which NIL days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of forty five (45) days.

(Sgd) Judge-Advocate, if any. 1 Dec/44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the court, but I mitigate the sentence so that it shall read, "to forfeit all ordinary pay for a period of thirty (30) days," and I confirm the sentence as so mitigated.

I direct that the accused be not committed to prison or detention barracks until further orders.(2)

(1. AA 57A. Delete if not used.)

(Sgd) A.B. Connelly (A.B. Connelly) Brig

Date 6 Dec 44

Commanding B Op HQ, CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. H 62861 Pte LeBar W.R. 1 C.R.D. Date. 7 Dec 44

Signature of Offr. Lt. Loakin Capt & Adjt 1 C.R.D.

1 C.R.D. Part II Order 101 d/8 Dec 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (E); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO - SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10,* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans I do not give evidence NOTE - AIT
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, I do NOTE - AIT (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(a), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 4H-98

RECEIVED 15 DEC 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8) 40/F & S/1698 (6144) 4/38B

Convened by Order of Brig A.B. Connelly Comd "B" Gp CRU dated 30 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-62861	Pte		Wesley Roy	LeBar	1 CRD

PROCEEDINGS REVIEWED
H of as Arrières Lieut
16 Dec 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 DEC. 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1630 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ~~as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to SGT SHULLIZAE P.38776 as shorthand writer? Ans No Sir
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	D.L. Redman, VD	HQ CRU
Member	Capt.	M.E. McCormick	1 CASCRU
Member	Lieut.	C.M. Thompson	1 CASCRU
~~Judge-Advocate~~			
Prosecutor	Lieut	D.R. Todd	1 CRD
Defending Offr	Lieut	M.J. Burnside	1 CRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused / / / before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet use RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4H-98.

Pte. Le Bar. W. R.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of February 1944

W. S. Parkenyhent.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Ex 2 signed by the president, and annexed to the proceedings.

D. A. C. Charlesworth Major

President

Ky 2 J.a. L'6.

M.F.B. 355
12M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B40094	Private	Leavoy, J.A.	#33 LAD att 13 Cdn Fd Regt., RCA

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct Sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec 15 (1) AA	10 times	Sec 15 (1) AA	11 times
For	Sec 40 AA	1 times	Sec 40 AA	1 times
For	Sec 10 AA	1 times	Sec 10 AA	1 times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused~~

~~Note: If the charge is for drunkenness, the entries for drunkenness must be stated separately~~

~~2. The accused has not been previously convicted~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement~~

3. ~~The accused is not under sentence at the present time~~

~~The accused at the present time is under sentence for xxxxxxxxx beginning on the xxxxxxxx day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~$~~ 12 ~~days~~ wk in military custody, making a total of ~~$~~ 12 ~~days~~ wk in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 38 yrs 11 mons

6. The date of his ~~xxxxxxx~~ attestation specified in his ~~record of service in~~ attestation paper 23 Feb 42

7. The service which the accused is allowed to reckon towards discharge is 2 yrs

8. The accused is entitled to reckon 2 yrs service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of an entitled to no air force decoration or air force award or in possession of an entitled to Sector and air force decoration or award~~ ~~military~~ ~~military~~ ~~military~~

10. ~~(If the accused is a [illegible] after 1 The accused before he was made a warrant officer has [illegible] the regimental rank of~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Oct 43			WOAS AWL from 2359 hrs 31 Oct 43 until apprehended by Cdn Provost at Westminster YMCA London at 0325 hrs 6 Nov 43. Total time Absent 6 days 3 hrs 26 mins) AA Sec 15(1)	Cpl Powers R.A. L/Cpl DeSmet F Documentary	28 days Detn Forfs 28 days pay FR&I 149(1) (b)	8 Nov 43	Major FT Shoebridge	Forfs 7 days pay FR&I 149 (1)(a)
Field	4 Dec 43			AA Sec 15(1) WOAS AWL from 2200 hrs 4 Dec 43 until apprehended by the M.P. at Farnham BR Station at 0215 hrs 5 Dec 43. Absent 4 hrs 15 mins	Documentary Cpl Turner	Awarded forf 3 days pay FR&I 149(1)(b)	8 Dec43	Major S.E. Lewis	

CERTIFIED TRUE COPY

M.F.M. 6
(F. B.122)
40/[illegible]/8136 (2965)

No. B-40094 Name LEAVOY, J.A. Sqn., Battery, or Company Corps R.C.O.C. Date of enlistment 23 Feb 42 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Sep 43			Sec 15(1) WOAS AWL from 2200 hrs 1 Sep 43 to 0245 hrs 10 Sep 43	Documentary L/Cpl Hebert	10 Days pay	11.9.43	C.H.Williams Major	9 Days Pay FR&I 149(1)
CORU	25 Sep 43		1.	AA Sec 40 Improperly dressed-found wearing RCA patches.	Documentary	28 days FP	28 Sep 43	HM Baily Col	Forf 8 days pay FR&I 149 (1)(a) and forf 28 days pay FR&I 149 (1)(b)
			2.	AA Sec 15(1) WOAS AWL from 0630 hrs 17 Sep 43 to 0300 hrs 25 Sep 43. Absent 7 days 20 hrs 30 mins.					
Field	3 Oct 43			AWL in that he WOAS absented himself without leave from Tattoo Roll Call on 3 Oct 43 to 0700 hrs 4 Oct 43. Absent-8 hrs 45 mins. AA Sec 15(1)	Documentary	Admonished Forfs 1 days pay FR&I 149(1)	6 Oct 43	FT Shocking Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18.5.43	Pte		AA Sec 15(1) WOAS AWL from 1700 hrs 18 May 43 till 1945 hrs 19 May 43. Absent 1 day 2 hrs 45 mins)	Sgt Willis Documentary	Admonished	22 May 43	FW Hearn Lt-Col	2 days Auto Forf pay
Field	4 Jun 43	Pte		AA Sec 15(1) WOAS AWL from 2359 hrs4 Jun 43 to 1915 hrs 3 Jun 43 (2 days 19 hrs 16 mins)	S/Sgt James Documentary	12 days Forf pay	10 Jun 43	Major SE Lewis	Forfs 4 days pay FRAI 139(1)(a)
Field	18 Jun 43	1.		AA Sec 15(1) WOAS AWL f om 0740 hrs 13 Jun43 to 1410 hrs 12 Jun 43. Absent 1 day 6 hrs 30 mins	Cpl H Richardson S/Sgt James				
		2.		AA 10 Whilst under open arrest did break barracks from 0900 hrs 20 Jun 43 to 0630 hrs 21 Jun 43. Total 20 hrs 30 mins)	Cpl Oakley	14 days FP 14 days Pay	22 Jun 43	FW Hearn Lt-Col	0 days Auto Forf pay

EY 3 7 a L M.F.M. 6

No. B-40094 Name LEAVOY, J.A. Sqn., Battery, or Company Corps R.C.O.C. Date of enlistment 23 Feb 42 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified no entries on completion of six months service, 23 Aug 42					
Field	25.12.42			WOAS AWL 2359 hrs 25 Dec 42 to 2015 hrs 27 Dec 42 Absent 44 hrs 16 mins AA 15(1)	Col Dinkeon C.S.	Forfs 5 days pay	28 Dec 42	Capt T.A. Miller	Auto Forf 2 days pay FRAI for 7 days pa
Field	26.2.43		1.	WOAS AWL from 2300 hrs 26 Feb 43 to 0600 hrs 27 Feb 43 Absent 7 hrs AA 15(1)	Cpl Hayes Sgt Murray	Forfs 2 days pay	1 Mar 43	Capt T.A. Miller	
			2.	WOAS AWL from 0830 hrs 27 Feb 43 until apprehended in Redhill at 2e 1730 hrs 28 Feb 43 Absent 1 day 8 hrs AA Sec 15(1)	Cpl Hayes Sgt McCullagh	21 days FP 21 days Pay Total Forf 23 days pay			

(PTO)

7th Witness:
Captain J.C. Dale, R.H.Q., 13 Cdn Fd Regt., R.C.A., having been duly sworn states:-

I am Captain J.C. Dale, Adjutant 13 Cdn Fd Regt., R.C.A. In due course of mail the documents which are appended as Exhibits "A"(Certificate of Surrender to the Civil Police of a Deserter or Absentee Without Leave); Exhibit "B" (Army Form B 252) and Exhibit "C" (Certificate in accordance with P.C. 2797 of 10 Apr 42) were received by me. I certify that these documents refer to the prisoner present, B 40094 Pte. Leavoy, J.A.

The accused declined to cross examine the witness.

Signature of Witness J.C. Dale
(J.C. Dale)

B 40094 Pte. Leavoy, James Arnold, 33 LAD RCOC, att 13 Cdn Fd Regt R.C.A. was asked:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be used in evidence".

After the above caution the accused elected to give evidence as follows:-

I am B 40094 Pte. Leavoy, J.A., I have for the past eight months suffered a bad nervous condition which at times causes me to lose my bearings and I am not responsible for my actions. That has been the cause of my previous troubles.

Signature of Accused J.A. Leavoy
(J.A. Leavoy)

I hereby certify that Rule of Procedure 4 has been comlied with.

Taken before me in the presence of the accused in the field this 15th day of February 1944.

(E.R. Davis) Lieut.
13 Cdn Fd Regt., R.C.A.

4th Witness:

M 43483 Gnr. Baumann, T., 22nd Cdn Fd Bty, 13 Cdn Fd Regt R.C.A., having been duly sworn states:-

I was a member of the Regimental Headquarters Guard on 29 Jan 44. I mounted guard at 1600 hrs. Gnr. Smith and I took Pte. Leavoy, J.A. and Gnr. Brown, E. to supper at 1700 hrs and returned with the prisoners at 1730 hrs. I then relieved Gnr. Morden on post at the entrance to R.H.Q. to allow him to have supper. Gnr. Morden then relieved me between 1740 and 1745 hrs. I returned to the Guard Room at 1750 hrs. Pte. Leavoy was at that time in the Guard Room. I went into a nearby lavatory to urinate and when I returned in about two minutes Pte. Leavoy had disappeared. Gnr. Smith was in the Guard Room at that time. I asked Gnr. Smith if he had seen the prisoner and he answered that he had not. We searched the billets and when Bdr. Carter returned from supper at approximately 1800 hrs we informed him and again searched the billets. The next time I saw Pte. Leavoy was on the morning of 12 Feb 44.

The accused declined to cross examine the witness.

Signature of Witness T. Baumann
(T. Baumann)

5th Witness:

D 118946 Gnr. Smith, R.L., 22 Cdn Fd Bty., 13 Cdn Fd Regt., R.C.A. having been duly sworn states:-

I am D 118946 Gnr. Smith, R.L., 22 Cdn Fd Bty., 13 Cdn Fd Regt R.C.A. I was a member of Regimental Headquarters Guard on 29 Jan 44. At 1700 hrs Gnr. Baumann and myself took Pte Leavoy and Gnr. Brown up to supper. We returned to the Guard Room at 1730 hrs. I was left in charge of the two prisoners. At 1755 I heard Gnr. Baumann shout to me and ask me if I had seen the prisoners and I said "No". We then searched the building and couldn't find them and reported to Bdr. Carter at 1800 hrs that the prisoners had escaped. The next time I saw Pte. Leavoy was on the morning of 12 Feb 44.

The accused declined to cross examine the witness.

Signature of Witness R L Smith
(R.L. Smith)

6th Witness:

M43421 Bdr. Carter, A.L., 22 Fd Bty., 13 Cdn Fd Regt., R.C.A. having been duly sworn states:-

I am M43421 Bdr. Carter, A.L., 22 Fd Bty, 13 Cdn Fd Regt., R.C.A. I was Bombadier of the Regimental Guard on 29 Jan 44 and mounted the Guard at 1550 hrs. At 1700 hrs Pte Leavoy was taken to eat. They returned at 1730 hrs. Then I went to supper. When I returned at 1800 hrs Gnr. Baumann informed me that Pte. Leavoy had escaped. I then notified Captain G.C. Langille, Officer i/c Rear Party, at 1825 hrs, that the prisoners had escaped.

The accused declined to cross examine the witness.

Signature of Witness A L Carter
(A.L. Carter)

4th Witness: M 43483 Gnr. Baumann, T., 22nd Cdn Fd Bty, 13 Cdn Fd Regt R.C.A., having been duly sworn states:-

I was a member of the Regimental Headquarters Guard on 29 Jan 44. I mounted guard at 1600 hrs. Gnr. Smith and I took Pte. Leavoy, J.A. and Gnr. Brown, E. to supper at 1700 hrs and returned with the prisoners at 1730 hrs. I then relieved Gnr. Morden on post at the entrance to R.H.Q. to allow him to have supper. Gnr. Morden then relieved me between 1740 and 1745 hrs. I returned to the Guard Room at 1750 hrs. Pte. Leavoy was at that time in the Guard Room. I went into a nearby lavatory to urinate and when I returned in about two minutes Pte. Leavoy had disappeared. Gnr. Smith was in the Guard Room at that time. I asked him if he had seen the prisoner and he answered that he had not. We searched the billets and when Bdr. Carter returned from supper at approximately 1800 hrs we informed him and again searched the billets. The next time I saw Pte. Leavoy was on the morning of 12 Feb 44.

The accused declined to cross examine the witness.

Signature of Witness T. Baumann
(T. Baumann)

5th Witness: D 118946 Gnr. Smith, R.L., 22 Cdn Fd Bty., 13 Cdn Fd Regt., R.C.A. having been duly sworn states:-

I am D 118946 Gnr. Smith, R.L., 22 Cdn Fd Bty., 13 Cdn Fd Regt R.C.A. I was a member of Regimental Headquarters Guard on 29 Jan 44. At 1700 hrs Gnr. Baumann and myself took Pte Leavoy and Gnr. Brown up to supper. We returned to the Guard Room at 1730 hrs. I was left in charge of the two prisoners. At 1755 I heard Gnr. Baumann shout to me and ask me if I had seen the prisoners and I said "No". We then searched the building and couldn't find them and reported to Bdr. Carter at 1800 hrs that the prisoners had escaped. The next time I saw Pte. Leavoy was on the morning of 12 Feb 44.

The accused declined to cross examine the witness.

Signature of Witness R.L. Smith
(R.L. Smith)

6th Witness: M43421 Bdr. Carter, A.L., 22 Fd Bty., 13 Cdn Fd Regt., R.C.A. having been duly sworn states:-

I am M43421 Bdr. Carter, A.L., 22 Fd Bty, 13 Cdn Fd Regt., R.C.A. I was Bombadier of the Regimental Guard on 29 Jan 44 and mounted the Guard at 1550 hrs. At 1700 hrs Pte Leavoy was taken to eat. They returned at 1730 hrs. Then I went to supper. When I returned at 1800 hrs Gnr. Baumann informed me that Pte. Leavoy had escaped. I then notified Captain G.C. Langille, Officer i/c Rear Party, at 1825 hrs, that the prisoners had escaped.

The accused declined to cross examine the witness.

Signature of Witness A.L. Carter
(A.L. Carter)

SUMMARY OF EVIDENCE

Ex 1
J.A.G.

Summary of evidence in the case of:- B 40094 Private James Arnold Leavoy, 33 Light Aid Detachment, attached 13 Canadian Field Regiment R.C.A. a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

Lieut Col F le P.T. Clifford, Officer Commanding, 13 Canadian Field Regiment, R.C.A. directs that all evidence be taken on oath.

1st Witness:

C 16602 AQMS Pearson, A., 33 Light Aid Detachment, attached 13 Canadian Field Regiment RCA having been duly sworn states:-

I am C16602 AQMS Pearson, A., WO II, 33 LAD RCOC, att 13 Cdn Fd Regt., R.C.A. On afternoon of 10 Jan 44 Pte.Leavoy was taken by the Provost for questioning concerning a typewriter that was missing from the LAD. At approximately 1630 hours 10 Jan 44 Pte. Leavoy was returned to the L.A.D. billets and ordered to stay at the billets for further questioning. At approximately 2230 hours on the night of 10 Jan 44 I made a personal check of personnel in billets and Pte. Leavoy was absent.

The accused declined to cross examine the witness.

Signature of Witness A. Pearson
(A Pearson)

2nd Witness:

B 76198 Sgt. Drinnan, J., 33 Light Aid Detachment, attached 13 Canadian Field Regiment, R.C.A. having been duly sworn states:-

I am B 76198 Sgt. Drinnan, J., 33 LAD RCOC, att 13 Cdn Fd Regt R.C.A. On the afternoon 10 Jan 44, AQMS Pearson, A. and a member of the Cdn Provost Corps came down to see Pte. Leavoy and questioned him. The Provost then left. AQMS Pearson asked me to keep an eye on Pte. Leavoy because he was needed for the questioning. I saw Pte. Leavoy at approx 1700 hrs 10 Jan 44 but later in the evening when looking for him, I could not find him. The next time I saw Pte. Leavoy was the morning of 14 Feb 44.

The accused declined to cross examine the witness.

Signature of Witness J. Drinnan
(J. Drinnan)

3rd Witness:

K 9027 RSM Harman, A.E.V., R.H.Q., 13 Cdn Fd Regt., R.C.A., having been duly sworn states:-

I am R.S.M. Harman, A.E.V. of 13 Cdn Fd Regt., R.C.A. Part of my daily routine is to visit the Guard Room. Pte. Leavoy was absent from the Guard Room from the 29 Jan 44 until 7 Feb 44. I did not see him between those dates. On the 28 Feb 44, Pte Leavoy was in the Regimental Guard Room under close arrest for an A.W.L. Charge.

The accused declined to cross examine the witness.

Signature of Witness A.E.V. Harman
(A.E.V. Harman)

Ex. 6 2 a.s.6.

EXHIBIT "C" Coff & Ads

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I CERTIFY THAT NO. B-40094 NAME Pte LEAVOY J.A.

UNIT: 33 L.A.D., RCOC, Att. 13 Fd Regt R.C.A., 3 Cdn Inf Div.

was arrested at SOUTHAMPTON, Hants. at 2240 hrs. 9 Feb 1944

and at the time of his arrest he was wearing Military Uniform.

Signature of Provost Marshal, Assistant Provost Marshal, or the Commanding Officer, W.O., N.C.O. in charge of the Detatchment of the Cdn. Provost Corps, Cdn. Army, into whose custody the above named person was taken at time of arrest.

J Spealman Lieut.

No.4 Cdn. Provost Company
Cdn. Provost Corps

I CERTIFY that the man whose personal description is given below surrendered himself to* WR 58 Stradley at Pole at (hour) 1 am on the 24th day of January 1944 being No. B.400 94 (Rank and Name) Pte James Arnold LEAVOY a ~~deserter~~ (or absentee without leave) from 13th Field Sgt. RCOC and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 39 Height 5' Feet 8½ Inches

Complexion Sank Hair brown Eyes Blue

Marks Scar upper right side of lip

In uniform or plain clothes uniform

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	14th January 1944 Bournemouth.

L. Archer. Sgt 39

Signature of Officer of Police in charge of Market St. Pole Station.

24th January 1944 Date of Signature.

DORSET CONSTABULARY POOLE 24/1/44 SERGEANT'S OFFICE

Army Form O.1617
R.A.F. Form 1617

PART 2.

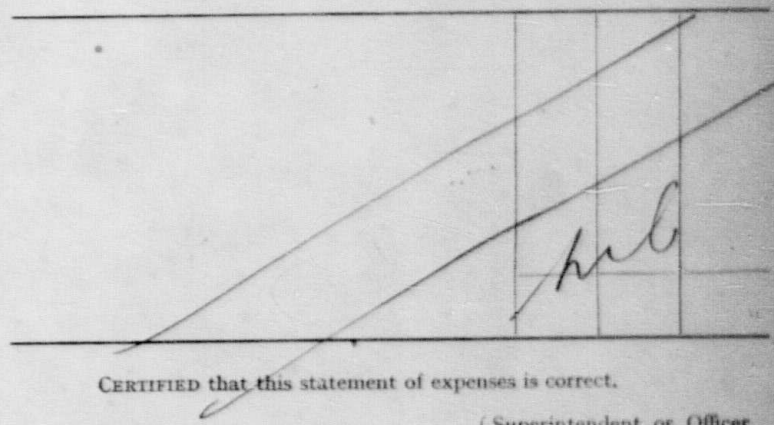
This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Dorset County Police in the case of No. B 400 94 Pte James Arnold LEAVOY who surrendered to the Police at Pole on 24 1. 1944

Payable to

Pole



CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

EXHIBIT 17

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

Ex 4 7.a.1.6.

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(15038) Wt.27430/757 25,000 9/40 A.& E.W.Ltd. Gp.698
(17083) Wt.41200/1441 20,000 2/41 " " Forms/O.1617/14

Plea in mitigation of sentence for B40094 Pte. James Arold Leavoy, #33 L.A.D., R.C.O.C., att 13 Cdn Fd Regt., R.C.A.

Mr. President you have seen the statement of the accused taken under oath in the Summary of Evidence. I wish to elaborate on that.

The accused contracted VD in the spring of 1943 and spent 4 months in hospital at that time. He was first treated for the disease on 23 Apr 43. His record of treatment can be found in his Record of Treatment book which he has on his person. I submit, Mr President , that his bad nervous condition is a result of this disease. Since that time his nerves react violently with the least amount of excitment and he has stated to me that this has caused him to drink more than usual. His eyes have also been affected by his condition as well as xx his power of concentration. The accused states that his mind has gone blank a number of times. At one time for a number of days he did not even know his own name. His first offence of AWL with which he is accused today was further aggravated by the fact that he missed treatments at this unit over the 13 days he was away. The accused states that he did not even know what he was doing when he escaped confinement on the 29 Jan 44. That is up to the Court to decide. I submit that the guard was asleep at the time, should also be taken into consideration. It was a great temptation to any man .

I ask this Court to give this case a lot of thought. This man has never had a reboard although he has been told 3 times that he was going to be reboarded. The probable reason he was not reboarded is due to the fact that he has been shifted around xx from one station to another recently.

Mr President I submit that the accused would make a ~~better~~ good soldier if he was in good health. He joined the army voluntarily and as a civilian he had a good job in his trade, as a plumber and pipe fitter with a Toronto firm. I plead leniency Mr President and suggest that the accused be sent to a Mental Hosp and his case dealt with there.

E3 7a. 6.6

F.a. 16.

This is to certify that the u/m was medically examined by me on the 21 Feb 44 and found medically fit to undergo trial by Field General Court Martial.

B40094 Pte. Leavoy, J.A.

J. W. Latimer Capt.
22 Fd Amb.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8)
40/PA8/1697 (2nd8)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-40094	Pte		James Arnold	LEAVOY	33 L.A.D., att 13 Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 17 Feb 44 endorsed herein, and To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~A navy apptmt as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	F.A.L.	CHARLESWORTH (Must be named. RP 106.)	4 Lt AA Regt RCA (Unit.)

MEMBERS.

Capt.	J.D.	MATTHEWS	4 Lt AA Regt RCA
Lieut. (Rank.)	E.G.	DUNBAR (Named or detailed. RP 106.)	4 Lt AA Regt RCA (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	J.H.	TURPIN (Named or detailed, if any. RP 106.)	3 A Tk Regt RCA (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 17 Feb 44

H.S. Griffin
(Signed personally RP 105 fn 2.)

(H.S. Griffin) Lt.-Col., (Rank.)
Commanding A/CRA 3 Cdn Inf Division
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, No. B 40094 Private James Arnold Leavoy, 33 L.A.D., att 13 Canadian Field Regiment, R.C.A. a soldier on Active Service with the Canadian Army (Overseas) is charged with:-

1st Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, absented himself without leave from 2230 hrs 10 Jan 44 until he surrendered to the Civilian Police at 0100 hrs 24 Jan 44.

Absent 13 days 2 hrs 30 minutes.

2nd Charge
Section 22
Army Act.

WHEN IN CONFINEMENT ESCAPING,

in that he

In the field, at 1750 hrs 29 Jan 44 when in confinement (in the Regimental Guard Room) escaped.

3rd Charge
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, absented himself without leave from 1750 hrs 29 Jan 44 until apprehended by Military Police in SOUTHAMPTON at 2240 hrs 9 Feb 44.

Absent 11 days 5 hrs 10 minutes.

(F. le P.T. Clifford) Lt-Col
Comd 13 Canadian Field Regiment, RCA

In the Field
15 Feb 44

To be Tried by F.G.C.M.

(H.S. Griffin) Lt.-Col.,
A/CRA 3 Can Inf Division

17 Feb 44.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 40094 Pte James Arnold Leavy 22 Inf Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15 (1)	Guilty	Guilty	
2nd 22	Guilty	Guilty	
3rd 15 (1)	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial a total of 12 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months

(Sgd) ..... Judge-Advocate, if any. 21 Feb 44 Date awarded. (Sgd) F. G. Shirley-Beavan Lt-Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the Court but remit three months.

~~I cannot now be satisfied that the finding of guilty was~~ ~~and I do not confirm the sentence.~~

(1. AA 57A. Delete if not used.)

(Sgd) (H.S. Griffin) Lt.-Col.,

Date 25 Feb 44. Commanding A/CRA 3 Can Inf Div.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B40094 Pte James Arnold Leavy	26 Feb 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N o .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex / , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N o
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Services(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 2 and Ex 3 respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2) 7/(C)
(*1. When several accused tried separately see RP 7(2)(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2103, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 98(2), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ENTERED IN RECORDS OF C.M. FFF 107

CPA96 (In lieu of AFA3)
40/P & S/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col H. S. Griffin Comd 9 Cdo 3 Cdo Bde Dated 17 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 400 94	Pte.	James Arnold	Lemon	33 L.A.A.

PROCEEDINGS REVIEWED
W. C. Jack Lieut
29 Mar 44 Rev 3
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Date 16 Mar 44
Mr. Cl. 1

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 21 & 26 Feb 45 in FIRST CDN ARMY

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At ~~1~~ hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter ? Ans _____

~~The Interpreter is sworn.(1)~~ Do you object to _____ as shorthand writer ? Ans _____

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D. G. L. Blackwell	4 R.A.A. Regt R.C.A.
Member	Capt	K.D. Mathers	4 R.A.A. Regt R.C.A.
Member	Lt.	E.J. Arnold	4 R.A.A. Regt R.C.A.
Judge-Advocate			
Prosecutor	Lt.	W.M. Rowberry	13 Can Fd Regt RCA
Defending Offr	Capt	W.W. Bowyer	13 Can Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B 400 94 Pte James Arnold Lemon before arraignment make(s) (no) plea (2)

make one plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 4 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

FFF-107

PTE LEAVOY J.A.

Q. 1 Did youx hear the CSM ask the other soldier for his service book?
A. 1 Yes.

Q. 2 Where were you standing at the time.
A. 2 About two or three feet away.

Q. 3 What did the accused do when the CSM asked the other soldier for his service book?
A. 3 I do not know.

The accused declines to question the witness.

The evidence is read over to the witness. RP 83 (b) has been complied with.

G. Langlois
C44692 Sgt. Langlois G. 3/CH of O (MG)(COF)

THIRD WITNESS - C-115515 Cpl. Severin ED, 3/CH of O (MG) (COF) having been duly sworn states:

"I am C-115515 Cpl Severin, ED, 3/CH of O (MG)(COF). On 6 Jul 45 at approximately 2030 hrs. I came across a 15 cwt, WD veh on the road running north from B Coy camp. It was in the ditch. The accused was behind the truck. There was also another soldier some civilians and a team of horses there. I asked the accused and the other soldier how the truck got there. They were working at the truck - the accused was behind the truck. I did not get no reply and I do not know whether they heard me or not. At that time CSM Jamieson of B Coy appeared at the scene. He asked the accused and the other soldier who was driving the truck. They both said had not been driving. The CSM told Sgt Langlois to put them under arrest and take them back to camp. The soldier with the accused refused to go. I was ordered by the CSM to go back to camp to get a veh and an armed guard. I met the accused on my way back with the armd guard and veh. The accused and the other soldier were walking with Sgt langlois on the road back to camp.

Q. 1 Did you hear the accused say anything to the CSM?
A. 1 The only thing I heard him say was that he was not driving the veh.

Q. 2 What was the condition of the accused?
A. 2 He had been drinking, he was down in behind the truck when I was there and before he came out of the ditch the arguments had pretty well started between the CSM and the other soldier.

The accused declines to cross examine the witness.

The evidence is read over to the witness. RP 83 (b) has been complied with.

E.D. Severin
C115515 Cpl Severin ED, 3/CH of O (MG)(COF)

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (C),(D),(E),(F) and (G)(13) have been complied with.

W. Bowman
(W.C. Bowman) Lt.
3/CH of O (MG) (COF)

In the Field
13 Jul 45

SUMMARY OF EVIDENCE IN THE CASE OF C-73757 Pte. LEAVER F.W. 3 Bn, Cameron Highlanders of Ottawa, (MG) (COF), a soldier of the Canadian Army Occupation Force.

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS - C-79000 CSM Jamieson E.D., 3/CH of O (MG)(COF) having been duly sworn states:

"I am C-79000 CSM Jamieson ED, 3/CH of O (MG)(COF). At about 2145 hrs 6 Jul 45 I was walking along the road which leads north from B Coy area. About half a mile north of B Coy camp I saw a WD vehicle No. CZ4228705 lying on its side at about a 45 degree angle on the left hand side of the road. The accused and another soldier and Sgt Langlois and Cpl Severin were near the vehicle. The accused was down underneath the back of the vehicle trying to fasten a chain. I immediately asked what had happened and who was driving and I received no answer. I repeated the question directing it to the accused and got an unsatisfactory answer - it was non-committal - it did not say anything. I asked a third time and the accused said he was not driving. I asked the accused and the other soldier in turn if they had any authority for the use of the vehicle. Either the accused or the other soldier answered that there was a work ticket but they did not know where it was. I told the accused and the other soldier that they were to consider themselves under arrest and ordered them to proceed back to camp immediately under Sgt Langlois and Cpl Severin. They did not go but remained standing in the centre of the road. I ordered them again to go and they refused so I ordered Cpl Severin to proceed back to camp and get an armed escort and a gehicle. Then the other soldier adopted a threatening manner and I asked him for his service book. The discussion got general and the accused said among other things, " I have been waiting for this for a long time. No God damn Sgt Major is going to push me around."

Q. 1 What was the condition of the accused?
A. 1 In my opinion the accused was not drunk. His speech was clear and his carriage straight.

The accused declines to cross examine the witness.

The evidence is read over to the witness. RP 83 (b) has been complied with.

D E Jamieson
.....
C79000 CSM Jamieson ED 3/CH of O (MG)(COF)

SECOND WITNESS - C-44692 Sgt. Langlois, G., 3/CH of O (MG)(COF) having been duly sworn states:

"I am C-44692 Sgt Langlois, G., 3/CH of O (MG)(COF). I went for a walk on the evening of 6 Jul 45 with Cpl Severin on the road running north from B Coy camp. I saw the accused and another soldier standing near a truck that was in the ditch. I asked them how they got there and who was driving the truck but they shrugged their shoulders as if nobody knew. CSM Jamieson of B Coy came along and asked the accused and the other soldier for a work ticket. He said "No Sgt Major will boss me around" or something like that. The CSM told me to put the accused and the other soldier under arrest but I could not. The reason I could not put them under arrest was because the other soldier turned on the CSM and the accused and I tried to stop him.

...../2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of July 1945 A R Kuller A/Capt & Adjt

ARMY FORM B. 296 (WAR.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-73757	Pte.	LEAVER G.W.	3/CH of O (MG)(COF)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Neglect to the prejudice etc. times.

For ~~Negligent~~ Negligent operation of a WD veh times.

For times.

For times.

Date of first entry in Field Conduct Sheet 8 JUL 43

Date of last entry in Field Conduct Sheet 8 JUL 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~dated~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody ; and for 4 days in military custody, *i.e.*, NIL days in open arrest, 14 days in close arrest ; of which NIL days were spent in hospital.

5. The present age of the accused is 21 years, 9 mos

6. The date of his attestation / calling up for military service is 10 Dec 42

7. The service which the accused is allowed to reckon is 2 years, 7 mos

8. The accused is in possession of** CVSM & Clasp

**State the military decorations (if any) held by accused.

9. *(If the accused is a warrant officer or N.C.O.)* The accused has served continuously without reduction, to the present date —

Date of Promotion.

In the substantive rank of N/A

In the war substantive rank of N/A

In the acting rank of N/A

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

"Military offences frequently consist in the use of threatening, insubordinate or obscene languuage. Great care should be taken to discriminate between mere agry or irritable expressions, and words indicating a deliberate intention to be insubordinate or to resist lawful authority. A soldier in an outhurst of momentary irritation or excitement often uses violent language without intending to be insubordinate. Again, allowance must be made for the coarse expressions which a man of inferior education will often use as mere expletives. Such expressions may be insubordinate if used to a commissioned officer but not so when used to a non-commissioned officer, or when used in one set of circumstances but not in another. Language, therefore, should be construed with due regard to all surrounding circumstances; and the intention of the user of it should be carefully considered before it is held to constitute the grave offence of using threatening or insubordinate language to a superior officer"

In closing I wish to remind you again that the accused must be given the benefit of any reasonable doubt you may have and if you have such doubt he must be acquitted

PLEA IN MITIGATION BY DEFENDING OFFICER

This soldier who is accused of this crime has been in the Army twenty-eight months. While serving in Canada he gotinto a M. D. accident for which he had to pay damage in the civil court and that is the only crime the man has had in twenty-eight months. He has served overseas in action and not hearing anything to the contrary hischaracter is good. In this case he told the sergeant-major that he was not going to be pushed around by any God-damned sergeant-major. Whether that is true or not I can see where it has in my opinion very little bearing for the very simple reason that there are no other witnesses who have been brought before this court.

Another point I want to bring out, that may have led to this thing was this, that he had a certain number of points - 61 to be exact and when he came to Holland with the H & PE he was told there by somebody that he would not be held for COF, that only men under 50 points would be held there and naturally on being automatically drafted into this Army of Occupation he felt an injustice had been done him and I think therefore the sergeant-major's attitude at the time that if there was anything said under the state of drunkenness or alcoholism he was in that it was said without prejudice or any meaning to it at all. I think it was just one of those things which just happen because he was drunk and was done on the spur of the moment without any real malice behind it. I think that point should be brought out and taken into consideration.

Certified to be a true transcript of
the shorthand notes taken by me at
the F.G.C.M. described on page 1

(F.J.Metherout) S/Sgt
Court Reporter
3 Cdn Inf Div CAOF

21 Jul 45

The only thing one can do in summing up is to say that the accused by his own admission was drunk. He does not remember swearing at the Sergeant-Major. Therefore, he does not know whether or not he swore at the Sergeant-Major so whether he did or not by his own evidence is nothing because he claims he was drunk. The Sergeant-Major who was the only witness who was in his own state of mind at the time swears on oath that the accused said to him the words as they appear in this charge-sheet.

Therefore, I will leave it to the court to decide whether or not the evidence that the Sergeant-Major gave is more valid or less valid than the evidence given by a man who claims he was drunk at the time and he couldn't remember having even seen the Sergeant-Major by his own admission

THE DEFENDING OFFICER MAKES THE FOLLOWING CLOSING ADDRESS

There is one thing I want to bring out there. This boils down now to the Sergeant-Major's word stating that the man said what he did in the charge. Now the Sergeant-Major not having any witnesses to back it up I can't see where that will affect the accused here. It is just a case of one man's word against another's and there just seems to be no proof. I can't see any proof that he did it so I say that the accused should be dismissed on the ground that there is no proof

THE JUDGE-ADVOCATE MAKES THE FOLLOWING SUMMING-UP

Again it is my duty to remind the court of its function which is that of deciding and adjudicating on the points of fact in this case as well as points of law although for the law part they should not disregard my advice.

Before going any further I would like to remind you that an accused man is presumed to be innocent until proved guilty. Therefore the accused stands before you charged with an offence in no way should be interpreted that he has committed that offence. The prosecution has on its shoulders all through the trial an additional onus, an additional burden which is the burden of proof. That is, it is up to the prosecution to bring evidence proving guilt on the part of the accused. That evidence should be beyond reasonable doubt by which I mean a common-sense doubt arising out of the evidence and not a doubt based on imagination, fancy or undue sympathy.

This charge is laid under A.A Sec 8(2) using insubordinate language to a superior officer. In this case the particulars allege that on the date in question when ordered into close arrest by S/M Jamieson he answered "I have been waiting for this for a long time and no God-damned Sergeant-Major is going to push me around"

Now, you have heard the defence giving evidence on its own behalf and he states that he had been drunk on that night to a considerable extent, some Dutch liquor and that as a result of that he forgot everything that happened. On the point of drunkenness it is a principle of military law that drunkenness is no excuse for crime. I will quote again MML p 25 para 48 - but drunkenness should be taken into consideration as far as mitigation is concerned. The only case where drunkenness might be a defence to a crime would be that quoted in MML p.106 para 9 where temporary intoxication goes to such an extent that it is tantamount to temporary insanity. In this case you have not got a specific intent but you certainly have in any offence an intent on the part of the accused.

Now on insubordinate language, there is also on p.58 MML para 71 -

D. 6 - Evidence for the Defence

1st Witness for the Defence, the accused, C.73757 Pte Leaver, F. W., 3 CH of O (MG) (CAOF) having been duly sworn is examined by the Defending Officer

Q. 7 - Will you tell the court in your own words just exactly what took place on the night of the 6 Jul before the accident occurred?
A. 7 - On the evening of 6 Jul I was sitting in the tent in camp listening to the radio. A Dutchman came up the road and asked me if I would sell him some cigarettes. I told him "No". He asked me if I would give cigarettes for whiskey. I said "Yes" so I took a bottle of whiskey. I met Pte Swant coming down the road before I moved very far, offered him a few drinks and he had a few drinks in him. He stayed there for a while and talked and drank and carried on up the road a ways and had a few more drinks and finished the bottle. We sat down and were talking and I don't remember anything after that
Q. 8 - When did you next remember anything?
A. 8 - When I woke up in the guardroom the next morning under arrest
Q. 9 - You don't remember then - - You heard the Sergeant-Major's testimony. Do you remember saying that to him?
A. 9 - No, sir

QUESTION BY PROSECUTOR

Q.10 - You reiterate again that you were drunk and that you don't remember anything in connection with S/M Jamieson that evening?
A.10 - No, sir

RE-EXAMINATION BY DEFENDING OFFICER

Q.11 - Did you ever have any trouble with the Sergeant-Major before?
A.11 - No, sir

QUESTIONS BY THE COURT

Q.12 - What period of time would you say elapsed from the time you first met Swant until you finished the bottle?
A.12 - Couldn't say, sir
Q.13 - Had you been drinking before you bought that bottle?
A.13 - No, sir, I had not
Q.14 - Had nothing to drink?
A.14 - No, sir
Q.15 - You have no idea of the period of time from the time you got the bottle until the bottle was finished?
A.15 - No, sir
Q.16 - You say you walked down the road. How far did you walk?
A.16 - Probably 200 yards
Q.17 - And then you don't remember anything after that?
A.17 - I remember drinking more after that
Q.18 - You don't remember how long it was?
A.18 - I couldn't say, sir
Q.19 - Have you any idea what was in the bottle?
A.19 - Couldn't say for sure, sir. I thought it was gin but probably it was a mixture
Q.20 - Have you ever drank to any extent before?
A.20 - No, sir
Q.21 - How long have you been in this country?
A.21 - 10 Apr, sir
Q.22 - And during that time you had never struck anything akin to this before?
A.22 - I don't remember, sir

IN THE OPINION OF THE COURT AND THE JUDGE-ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P.83(B)

THE WITNESS RESUMES HIS SEAT

THE PROSECUTOR MAKES THE FOLLOWING CLOSING ADDRESS:

D. 3 - Evidence for the Prosecution

1st Witness for the Prosecution, C.79000 CSM Jamieson, E. D., 3/CH of O (MC) (CAOF) having been duly sworn is examined by the Prosecutor.

Q. 1 - Sergeant-Major, do you recognize the man involved in this case?
A. 1 - Yes, sir
Q. 2 - Will you tell in your own words the story of the incident which took place on the evening of 6 Jul 45?
A. 2 - At approximately 2145 hours on the evening of the 6 Jul I was walking along the road which leads south from B Coy area. I proceeded about half a mile, turned a sharp corner and came across a W. D. vehicle lying on its side in the ditch on the left hand side of the road. The accused and another soldier, Sgt Langlois and Cpl Severin were standing beside the truck. I asked them what had happened and got no answer. I repeated the question and directed it in turn to the accused and the other soldier and got a sort of non-committal answer, - didn't say very much of anything. I don't remember the exact words. At the third question the accused said something to the effect that he had not been driving. I asked if there was a work ticket for the vehicle and after some hesitation either he or the other soldier said that they couldn't find it. I questioned them further as to how the accident happened. I couldn't get any satisfactory answers and ordered them into arrest and told them they were to proceed back to camp under escort of Sgt Langlois. They didn't go but remained standing in the centre of the road. I again ordered them into arrest and got an answer but what it was I don't know. I asked the other soldier for his paybook and the discussion got quite abusive. In the course of the discussion the accused said among other things that he had been waiting for this opportunity for a long time and that"no God-damned sergeant-major was going to push him around". I left the accused for the time being after ordering him back to camp again, went over to the side of the road to examine the vehicle and the accused then started off for camp. I told him to get properly dressed before going back to camp. I was then struck by the other soldier. The accused after some hesitation together with Sgt Langlois placed his hand on the arm of the other soldier and he went back to camp

CROSS-EXAMINATION BY DEFENDING OFFICER

Q. 3 - Was there anybody else near to hear the man say this to you?
A. 3 - As far as I know Sgt Langlois and Cpl Severin. They were close enough to have heard it. Whether they did hear it or not I don't know
Q. 4 - You say they should have heard it?
A. 4 - They were quite close enough to have been able to hear it, sir

QUESTION BY JUDGE-ADVOCATE

Q. 5 - In what condition was the accused?
A. 5 - He had been drinking, sir. He was not drunk. His carriage was straight and his speech was clear

QUESTIONS BY THE COURT

Q. 6 - Have you ever at any time before had any lack of respect shown you from the accused?
A. 6 - Yes, sir

IN THE OPINION OF THE COURT AND THE JUDGE-ADVOCATEIT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P.83(B)

THE WITNESS WITHDRAWS

THE PROSECUTION DOES NOT WISH TO CALL ANY FURTHER WITNESSES

THE PROSECUTION IS CLOSED

3/CAMERON HIGHLANDERS OF OTTAWA (MG) (CAOF)

C-73757 Pte. LEAVER F.W.

10 July 19 45.

I certify that the a/m has been medically examined and is fit to undergo trial by Court Martial.

B. F. Ingalls Capt.
MEDICAL OFFICER 3/CH of O (MG)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-73757	Pte	-	Franklin William	LEAVER	3 CH of O(MG) CAOF

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has XXXX committed the offence(X) set forth in the Charge Sheet(X) attached and on (date) 17 Jul 45 endorsed by me, ~~for by an officer my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(X) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(X), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint (a) three Offrs to form the Court, (b) an Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	G A Gordon	4 Cdn Grn Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC	4 R Wpg Rif CAOF
Lt	to be detailed by OC	4 Reg Rif CAOF

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Maj	A P L DesRosiers	DJA 3 Cdn Inf Div CAOF

On Active Service in the Fd

in GERMANY
(Country.)

Dat 17 Jul 45

K A Hunter
(Signed personally. RP 105 fn 2.)
(K A Hunter) ADMS Col
(Rank.)
Commanding RCAMC 3 Cdn Inf Div CAOF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

A2

CHARGE SHEET

The Accused C-73757 Pte. Franklin William LEAVER, 3 Bn, Cameron Highlanders of Ottawa (MG), a soldier of the Canadian Army Occupation Force, is charged with

FIRST CHARGE: A.A.Sec 8(2) — WHEN ON ACTIVE SERVICE USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

in the field in Holland on 6 July 1945, when ordered into close arrest by C.S.M. Jamieson, his superior officer, said "I've been waiting for this for a long time" and "No God-damned Sergeant-Major is going to push me around".

Geo B. Buchanan Maj.
Commanding Officer
3 Bn, Cam Highrs Of C (MG) (COF)

In the Field
13 Jul 45

To be tried by FGCM

K A Hunter
(K A Hunter) Col
ADMS 3 Cdn Inf Div CAOF

In The Field
17 Jul 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.73757 Pte Franklin William LEAVER 3 CH of O (MG) CAOF

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 8(2)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~AY PRECEDING SENTENCE~~ [illegible] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 180 days

(Sgd) [illegible] Judge-Advocate, if any. 20 July 45 Date awarded. (Sgd) Chas A. Tucker, Major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I have this day promulgated the said sentence as directed, but do not wish further steps~~ Kath

(1. AA 57A. Delete if not used.)

Date 26 July 45 (Sgd) K A Keller Lt Col Commanding ADMS 3 Can Inf Div (CAOF) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 73757 Pte Leaver, F.W.	27 Jul 45	A.R. Keller Capt adjt. 3/C H of O. (MG) (CAOF)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3; MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, sir.(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes his (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Officer has no evidence to call. The Prosecutor does not submit a case to answer against the accused on the charge(s). The Court is cleared, and the President announces that the accused is acquitted on the charge(s); and allowed on the charge(s). The Court is cleared, and the President announces that the accused is found Not Guilty on the charge(s); and that accordingly the trial will proceed on the former, but the accused is not found Not Guilty on the charge(s).(2)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Give evidence as a witness. Do you intend to call witnesses on your behalf ? Ans No, sir. Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No, sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans In mitigation of punishment, sir.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 136. When accused already under sentence of imprisonment or detention see AA 44(18), 66(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECEIVED 2 - AUG 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160

C.A.O.F. 1-2.

FIELD GENERAL COURT-MARTIAL

CFAR6 (In lieu of AFA3) 40-P-M-1698 (3-44)

Convened by Order of Col K. A. Hunter Comd 3 Cdn Inf RCAMC Div CAOF dated 17 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C.73757	Pte		Franklin William	LEAVER	3 CH of (D)(MC) CAOF

PROCEEDINGS REVIEWED

J. Judge Advocate General.

4 Aug 45

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held at the Fd in (country) on (date(s)) 20 Jul 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~XX~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~XX~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~XX~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~XX~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the O/C.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~DO YOU OBJECT TO~~ ~~AT PRESENT I AM~~

~~The Interpreter is sworn.~~(1) Do you object to S/Sgt Nethercut ~~XX~~ as shorthand writer ? Ans No, sir The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ? Ans No, sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C. A. Gordon	4 Cdn Grn Bn
Member	Captain	G. J. Booth	4 R Wpg Rif CAOF
Member	Lieut	H. E. Wilson	4 Bn Reg Rif CAOF
Judge-Advocate	Major	A. F. L. DesRosiers	HQ 3 Cdn Inf Div CAOF
Prosecutor	Lieut	H. W. Watson	3 Bn CH of D CAOF
Defending Offr	Lieut	C. H. Bongard	3 Bn CH of D CAOF

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (8) and fn 2 were not followed. See Dif p 3.)

A8. The accused C.73757 Pte Leaver, F. W. before arraignment makes(s) (no) (~~XX~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(f), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~XX~~ arraigned (~~XXXXXX~~) on all charges in the charge sheet.(1) The accused does ~~XX~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet (3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~XXXXXX~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~II~~ B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CAO F. – 1 – 2

Pte. Leamy, F. W.

MEDICAL OFFICER CERTIFICATE

I certify, that I Have this morning examined.

No. B.94330...Leather.J..L/Cpl.....

Of.No.1.Cdn.Ord..Reinforcement.Unit..And find in my

opinion, He is fit to undergo trial
~~unfit~~

By Court, Martial

Stationed.New.Martinque.Barracks.....

Date 27 Jan 42. Bordon, Hants.....

W H Clare Lt. RCAMC

~~W.H.Clare Lt.~~

~~(R.S. Daymond) Capt.~~ R.C.A.M.C.

M.O. for No.1. R.C.O.C. H.U.

MEDICAL OFFICER CERTIFICATE

I certify, that I Have this morning examined.

No. B94330 L/Cpl Leathen J.

Of #1 RCOC RU And find in my

opinion, He is fit ~~Unfit~~ to undergo trial

By Court Martial

Stationed Martinique Barracks, Bordon.

Date Jan 26/42

W H Clare LT.

~~(R.S. Daymond) Capt.~~ R.C.A.M.C.
M.O. for No.1. R.C.O.C. H.U.

Ques. 4 You couldn't give me the date could you?

Ans: 4 No just sometime in November.

Ques. 5 You say Sgt. Hood gave you an application for leave for one of the fellows. If you look back you can see who it was for?

Ans: 5 I could look back in the records but I couldn't say who the application was for definitely.

QUESTION BY MAJOR MILLER

Ques. 1 Are there not applications daily from members of the cookhouse staff?

Ans: 1 Yes sir. Applications for short passes are made every day.

J.E.O. Chapdelaine

The accused having been duly cautioned in accordance with Rule of Procedure 4(E) says, "Ihave no statement to make and reserves his defence."

Certified that Rule of Procedure ~~xx~~ 4 (D) (E) (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 15th day of January 1942 at Bordon Hants.

E.M. Miller.

(E.M. MILLER) MAJOR

4th Witness B.94866 L/Cpl. Chapdelaine, J.E.A. No. 1 C.O.R.U., having been duly sworn, states:

"Some time in November I was in Room B.11 Martinique Barracks delivering mail when Sgt. Hood called me to the N.C.O's. room in B.11. He called me from the doorway. I went into the room where were Sgt. Hood and L/Cpl. Leathen and no one else. When I first went in Sgt. Hood gave me an application for a pass as I was Orderly Room clerk. I noticed two towels on the bed and L/Cpl. Leathen had one in his hand."

QUESTION BY MAJOR MILLER

Ques. 1 Is this L/Cpl. Leathen? (Pointing to accused)

Ans: 1 Yes sir. I had some conversation with Sgt. Hood but none with Cpl. Leathen.

Ques. 2 At the end of your conversation did Sgt. Hood say anything to Cpl. Leathen?

Ans: 2 He said put them away Jimmy. He told him to put them in the cupboard.

Ques. 3 What did Cpl. Leathen say or do?

Ans: 3 He took the two towels off the bed and the one he had in his hand and put them in the cupboard. I then left.

Ques. 4 I show you a towel exhibit ~~XXX~~ "A".

Ans: 4 That is about the length and the same material and same colour as the towels I saw in the room.

MAJOR MILLER TO ACCUSED

Ques. 1 Do you wish to ask this witness any questions?

Ans: 1 I would like to ask him some questions and have Sgt. Hood present.

MAJOR MILLER

You may call Sgt. Hood as a witness if you wish but any question you wish to ask this witness must be asked now and ~~IX~~ not in the presence of Sgt. Hood.

CROSS-EXAMINED BY THE ACCUSED

Ques. 1 What time was it?

Ans: 1 About ~~XXXXX~~ 11:15.

Ques. 2 Isn't that the busiest time of the day when Sgt. Hood and I should both be in the kitchen?

Ans: 2 It might be the time when you both should be in the kitchen but there could be exceptions. You were both in the N.C.O's. room at the time I was there.

Ques. 3 What was I supposed to be doing with Sgt. Hood at that time?

Ans: 3 I don't know what you were supposed to be doing. All I know is that you were there.

RA

1st Witness Recalled — B.28025 Pte. Talbot, W.A. continues:

QUESTION BY MAJOR MILLER

Ques. 1 — I show you a towel. Where did this towel come from?

Ans: 1 — It came from the A.D. Stores.

(TOWEL MARKED EXHIBIT "B")

Ques. 2 — You got exhibit "B" from the A.D. Stores?

Ans: 2 — Yes, we called at the A.D. Stores on our way up here.

Ques. 3 — Is this towel (Exhibit "B") of the same kind as the towel xxx that you have already stated in your evidence you delivered to Cpl. Leathen?

Ans: 3 — Yes sir.

Ques. 4 — Were they all the same?

Ans: 4 — Yes sir.

Ques. 5 — Were any of them different in any way?

Ans: 5 — No sir.

The accused does not wish to cross-examine this witness.

Wm G Talbot

3rd Witness — Lieut. L.A. Winter, No. 1 C.O.R.U. having been duly sworn, states:

"I belong to the Edmonton Reg't. and am at present attached to No. 1 C.O.R.U. as A.D. Officer. The towel Exhibit "B" is described as Towel, bath, turkish and is one of the towels issued from government stores to the Unit A.D. I have checked the Unit A.D.Stores and find that there are missing 51 towels of this kind. I was present when Pte., Talbot called this afternoon (15 Jan. 42) at the A.D. Stores for this towel. The A.D.Store towels are all white towels of the same size and material as exhibit "B" but some of them bear different makers names. I have examined the A.D. Towels and have noted that the hem or border vary somewhat in the pattern but otherwise they are identically the same."

The accused does not wish to cross-examine this witness.

L.A. Winter Lieut

RA

postage on this parcel was one shilling and two pence. I bought stamps at the Post Office at Hedley. Cpl., Leathen had given me 18 pence for the postage. Postage for one parcel cost one shilling and two pence and a letter two pence half-penny. (2½d)"

Question by MAJOR MILLER

Ques. 1 What happened to the change?

Ans: 1 I have to give it to the Corporal.

Ques. 2 Have you seen him since?

Ans: 2 No sir.

Ques. 3 How did you come to post the parcel?

Ans: 3 Cpl. Leathen asked me if I would post him a parcel which he wanted to go to Scotland and of course, going right by the Post Office, I said "Yes."

Ques. 4 Was the parcel ready when he spoke to you?

Ans: 4 Yes the parcel was ready and addressed.

Ques. 5 And the letter too?

Ans: 5 Yes sir.

Ques. 6 To whom was the letter addressed?

Ans: 6 I am par practically certain it was the same, Mrs. Leathen in Scotland.

Ques. 7 Did Cpl. Leathen say anything to you about going on leave?

Ans: 7 No sir.

Ques. 8 You had known Cpl. Leathen around the cookhouse for some time?

Ans: 8 Yes sir.

Ques. 9 And this is the Cpl. Leathen to whom you refer?

Ans: 9 Yes sir.

Ques. 10 Had you ever posted a parcel for him before?

Ans: 10 No sir.

The accused does not wish to cross-examine this witness.

W J Chrenham

SUMMARY OF EVIDENCE in the case of B.94330 L/Cpl., Leathen, J. No. 1 Canadian Ordnance Holding Unit. By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st witness for the Prosecution

B.28025 Pte. Talbot, W.A. No. 1 C.O.H.U. having been duly sworn, states:

"I belong to the 2nd Field Park, R.C.E. and since the 26 July 41 have been attached to No. 1 C.O.H.U. From the 15 Sept. 41 until 26 Dec. 41, I was corporal in the A.D. No. 1 C.O.H.U. As such, I had charge of the keys to the A.D. Stores and during this period I took some of the A.D. articles and disposed of them. Among other things I took 40 Turkish Towels which are public property and which are valued according to the official price list at 3s and 3d each. I delivered them to L/Cpl. Leathen, J. of No. 1 C.O.H.U. and in return received 2s and 6d a towel. I delivered these in bunches of 10 to his quarters in Block B Room 11, over a period of about 6 weeks, the last delivery being about the end of November. He paid me for each delivery at the time. Most of my deliveries were made in the evening and one or two in the daytime. I usually carried them in a cardboard box and once I remember in my kit bag, which he gave back to me later. There were frequently other men in the room when I took these bundles in but we didn't open them while I was there and I [redacted] don't think anybody noticed what was going on. Leathen told me he was going to send them away for Christmas presents. These towels were stamped with the Government broad Arrow and Leathen said he could get them washed out by one of his relatives. I do not know which one or who it was."

Ques. 1 Did you sell any other stores to L/Cpl. Leathen?

Ans: 1 No sir.

Ques. 2 Did you know him before the formation of this Holding Unit in July 41?

Ans: 2 No sir.

W. J. Talbot.

The accused does not wish to cross-examine this witness.

2nd Witness Mr. William Chesham, Primrose Cottage, Hedley, Bordon Hants, having been duly sworn, states:

"I am a civilian fireman employed by the Royal Engineers i/c of Martinique Barracks and fireman at No. 2 Cook house in Martinique Barracks. On the 27 Dec. 41 I posted in the civilian Post Office at Hedley, a parcel addressed to Mrs. Leathen and I am not quite sure of the exact address but it was to a place in Scotland. The

CHARGE SHEET

The accused, No. B.94330 Pte. (A/L/Cpl.) Leathen, J. No. 1 C.O.R.U., a soldier of the Canadian Army Overseas is charged with, while on Active Service:-

1st Charge
Sec. 41
Army Act.

"Committing a civil offence, that is to say, receiving stolen goods"

in that he at Bordon, between 15 Sept. 41 to 26 Dec. 41 did receive forty (40) towels, bath, turkish, A.D., Stores, of the value of £6-10-0, knowing the same to have been stolen.

Bordon Hants,
16 Jan. 42.

(HAROLD M. BAILEY) Lieut.-Col.
O.C. NO. 1 CDN. ORD. REIN. UNIT.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units

Farnborough, Hants
This 22nd day of Jan 42.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-84330 PTE. (Wd/D/Cpl.) LEATHEM, J. No.1 Dtn Pnl Reinf Unit.	First Charge A.A. sec 41 See charge sheet attached.	Not Guilty	Not Guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

Signed D.M. Mulock Brigadier (*Signed*) Roger Dupuis Major

Commanding Cdn Reinforcement Units, *Convening Officer* (*c*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of January, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ The shorthand writer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of January, 1942.

Roger Dupuis Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of A.C.I. 576 of 1918 have been complied with~~

~~Signed this day of~~ XXX

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the sentence passed in the margin be carried into execution accordingly.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19

, Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(43758) Wt. 40133—883 200 m 3/40 P. St. C. 540

B-94330 Pte. (a/L/Cpl.)Leathem,J.
No.1 C.O.R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 22nd day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]

*(1. [illegible])

*(2. [illegible])

*(3. [illegible])

[illegible]

Judge-Advocate Lieut. G.M. Forbes H.Q.,C.R.U.

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	R. Dupuis	2 Cdn Div Inf Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	R.D. Ramsay	No.1 Cdn Arty Reinf Unit
Lieutenant	W.K. Guiltinan	2 Cdn Div Inf Reinf Unit
Lieutenant	A.F. Curry	No.1 Cdn Arty Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

374 E - Pte Leathem J.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8066-69-70)
H.Q. 1773-39-67

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if awarded dispensed with trial	By whom awarded	Remarks
Field	19 Oct 44	Pte		WOAS-Disobeying a lawful command Sec 9(2) Army Act	Cpl Berethlot Pte Peterson	28 days F.P. 28 days Pay.	21 Oct 44	Lt-Col J.R.Stone	MC

"Certified True Copy"

Lieut A.R.Rowe
for (E.L.Boyd) Capt & Adjt
The Loyal Edmonton Reg't

Ex. III. O.H. m

No. M45821 Name LEASK, P. Sqn., Battery, or Company Corps C.I.C. Date of enlistment 3 Jun 41 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 17531—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Jun 43	Pte		Sec 15(1) A.A. AWL from 1030 hrs 13 Jun 43 until 1130 hrs 16 Jun 43. Absent 3 days 1 hour.		Forfs 6 days pay	17 Jun 43		Forfs 4 days pay FR&I 149 (1a)
Field	3 Apr 44	Pte		WOAS-Conduct to the Prej, ect. Sec 40 A.A. WOAS-AWL from 1930 hrs 3 Apr 44 until 2100 hrs 3 Apr 44. Absent 1 hr 30 mins. Sec 15(1)AA	Cpl Bower L/C McKay	10 days F.P. 10 days Pay	5 Apr 44	Lt-Col E.W.	Day ED
Field	16 May 44	Pte		WOAS-AWL from 1330 hrs 16 May 44 until 0900 hrs 17 May 44. Total Absence 19 hrs 30 mins. Sec 15(1) A.A.	Sgt Kirkness Documentary	14 days F.P. 21 days D.P.	20 Jun 44	Lt-Col Bell-Irving	

Released from 1 Cdn Div Field Punishment Camp w.e.f. 4 July 1944.

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of Nov 1944

(E.L.Boyd) Capt & Adjt
for The Loyal Edmonton Reg't

Cpl. U of M

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M45821	Private	LEASK, P.	The L Edmn R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Disobeying a lawful command Sec 9(2) 1 time~~x~~

For Absent without leave 15(1) A.A. 3 times.

For Conduct to the Prej. Sec 40 A.A. 1 time~~x~~

For _____ _____ times.

Date of first entry in Field Conduct Sheet 6 Jul 42

Date of last entry in Field Conduct Sheet 19 Oct 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. Nil.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for 28 days (Sec 40 AA) 9(2).

beginning on the ~~XXXX~~ 31st day of Oct 1944

4. The accused has been awaiting trial on the present charges for _____ days in civil custody; and for 37 days in military custody, *i.e.*, Nil days in open arrest, 37 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 years

6. The date of his attestation ~~XXXXXXXXXXXXXXXXXX~~ is 3 Jun 41

7. The service which the accused is allowed to reckon is 3 years 4 months

8. The accused is in possession of‡ CVSM&Clasp.

‡State the military decorations (if any) held by accused.

9. (I~~XXXXXXXXXXXXXXXXX

A.H.M.

3rd Witness. M15559 C.S.M. Davies W. G. of the Loyal Edmonton Regiment having been duly sworn states,

I am M15559 C.S.M. Davies W. G. of A Coy. the Loyal Edmonton Regiment. At approximately 1700 hrs the 19 Oct. 1944, I was helping unload blankets from the Company truck. Cpl Berthelot came up the road with Pte Leask under escort. Cpl Berthelot told me he had a man under arrest. At this time I heard Pte Leask say to Cpl Berthelot "You are chicken-shit, all the corporals are chicken-shit Especially you and Robb" Or words to that effect.

Question by accused.

How many men brought me up to the Company Truck.

Answer. I think three men including Pte Leask, but as I did not notice the party until they had started to mix with the troops around the truck, it is hard to say definitely

W. G. Davies

The accused was cautioned as follows.

Do you wish to make any statement or to give evidence upon Oath? You are not obliged to ~~do~~ GAD say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused on the 7 Nov. 1944 and that Rules of Procedure 4 (c) (d) (e) (f) and (g) were complied with.

7 Nov. 1944
In the Field

G A Donaldson Capt.
Officer Taking Summary

Ex I. O.K. M.

Summary of Evidence in the case of 1745821 Private Pat Leask, of the Loyal Edmonton Regiment, a soldier of the Canadian Army A.A.I.

By order of the Commanding Officer evidence is taken on oath.

1st Witness L13504 Cpl Berthelot C.B. D.C.M. of the Loyal Edmonton Regiment, having been duly sworn states

I am L13504 Cpl. Berthelot C.B. a member of 7 Platoon A Coy, the Loyal Edmonton Regiment. At approximately 1600 hrs on the 19 October 1944, I placed Pte Leask under arrest for firing a German weapon after having been ordered not to do so. He became very annoyed and said, "You are chicken-shit, all the Corporals are chicken-shit. Especially you and Robb." Or words to that effect. He continued to make similar statements until I turned him over to C.S.M. Davies at Company Headquarters at 1700 hrs. Pte Leask was then sent back to Platoon Headquarters for his belongings. As he was coming back to Company Headquarters I passed him on the road. He then said to me, "You had better get killed at the front or you will get killed on civvy street" or words to that effect.

GBB GAD

GAD GBB

The accused declines to cross examine this witness.

G.B. Berthelot

2nd Witness. L12090 Pte Thrussell L.R. MM of the Loyal Edmonton Regiment, having been duly sworn states,

I am L12090 Pte Thrussell of 7 Platoon A Coy, the Loyal Edmonton Regiment. Pte Leask is also a member of 7 Pln. On the 19 October 1944 Pte Leask had a German Flare Pistol. He was ordered by CPl. Berthelot not to fire it. After he fired it Cpl Berthelot placed him under arrest and detailed two men to take him to Company Headquarters. Pte Leask then said to Cpl Berthelot and Cpl. Robb. "You are chicken-shit. All the Corporals are chicken-shit" Or words to that effect. On returning to the platoon from supper I was walking with Cpl. Berthelot. Pte Leask was coming from Pln. H.Q. When he passed us I heard him say to Cpl Berthelot "You had better get killed at the front or you will be killed on civvy street. Or words to that effect.

The accused declines to cross examine this witness.

L.R. Thrussell

Plea in mitigation of Sentence 25th Nov 44

D.O. I would like to point out to the members of the court that the accused has previously been punished for the misdemeanour implied in the summary. To my mind the charge of disobedience is the more serious one than that of using insubordinate language. May I ask the court to bear this relation in mind when ~~the~~ considering the accused. In mitigation of the crime I say previous to the accused firing the german flare pistol others have fired it and not been apprehended accused naturally enough therefore had justification for his conveyance. It is also a point that in Canadian army terminology 'chicken-shit' is merely a vulgar interpretation of the word fussy and for this reason I think the implied insubordination is slight.

End of statement
E M K MacTaggart Lieut

1100 hrs
25th Nov 44

D.O.

O.H.Sec

MEDICAL CERTIFICATE
F.R. (Can) 537

This is to certify that M45821 Pte Leask, P. of the
The Loyal Edmonton Regiment is fit/~~unfit~~ to undergo trial by
Field General Court Martial,

In the field
25 Nov 44

(R.M. Levine) Capt & M.O.
The Loyal Edmonton Regt.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M45821	Private		Pat	Lesk	L E R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable, for duty, the trial for reference to a superior qualified offr~~).

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I have exercised appointing (a) these Offrs to form the Court, (b) a Bd Offr as President, for the reasons I have stated herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Duties appointed as Judge Advocate have the Offr mentioned therefor.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	O.H. Mace	Seaf of C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A.M. Campbell	PPCLI
Lt	J. Rachlis	PPCLI

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	D.A. Nagelsion	Seaf of C

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 22 Nov 44

J.R. Stone (Signed personally. RP 105 fn 2.) — Lt Col (Rank.)

A/ Commanding 2 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Prmtd. (2) Pers. of AFAS) (See overleaf for oaths and notes for use on trial.)

O.K. Mac

CHARGE SHEET

THE ACCUSED M45821 Private LEASK, P of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is Charged With:

WHEN ON ACTIVE SERVICE

First Charge
Sec 8 (2)
Army Act

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

in the field, on the 19th day of October 1944, having been ordered under close arrest by Cpl Berthelot for discharging a German weapon that he had been previously ordered not to fire, said to Cpl Berthelot, "you are chicken-shit, all Cpls are chicken-shit, especially you and Robb." "you had better get killed at the front or you will be killed on civvy street."

In the Field
Date 21.11.44

A.E. Macdonald Major
A/Comd The L Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Date 22 Nov 44

(J.P. Stone) Lt-Col
T/Comd 2 Cdn Inf Bde.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M45821 PTE. LEASK P. L.E.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st SEC 8. (2) AA	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Disobeying a lawful command for 28 days F.P. & pay beginning on (date) 31 Oct. 44. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo 180 days detention.

(Sgd) ..... Judge-Advocate, if any. 25 Nov. 44 Date awarded. (Sgd) O.H. Mace, Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ M.L.

(1. AA 57A. Delete if not used.)

(Sgd) W. L. Bogert Lt Col

Date 2 Dec 44 A/ Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M45821 Pte Pat Leask	6 Dec 44	[illegible] The Royal Edmonton Regiment

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court see eg RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to restrict proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 39(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 25 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO (5)
(1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 25(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides ~~how~~ to advise accused to change his ~~~~ of Guilty to Not Guilty on NO charge(s). The accused is ~~then~~ so informed, and he ~~then~~ ~~~~ his ~~~~ plea(s) on NO charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 5 initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....Do you intend to call witnesses on your behalf?
Ans .....Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
Ans NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex II and Ex III respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans ~~NO~~ YES (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). Give sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas 80 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 48(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECEIVED AT CMHQ IN AD 160. 42-78.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & R/1698 (2964)

Convened by Order of Lt Col J.R. Stone A/ Comd 2 Cdn Inf Bde dated 22 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
M45821	Private		Pat	Leask	L.E.R.

PROCEEDINGS REVIEWED

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 25 Nov 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-57

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ ? Ans

The Interpreter is sworn.(1) ~~And the~~ object to ~~as shorthand writer~~ ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.O. (2)

(1. RP 110. 2. If no objection, waiting member returns. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ.	O.H. MACE	S.H. of C.
Member	CAPT.	A.M. CAMPBELL	P.P.C.L.I.
Member	LT.	V. RACHLIS	P.P.C.L.I.
Judge-Advocate			
Prosecutor	CAPT.	G.A. DONALDSON	L.E.R.
Defending Offr	LT.	E.M.H. MACGREGOR	L.E.R.

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused M45821 PTE LEASK L.E.R. before arraignment make(s) (no) ~~his~~ plea

(1.)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in (1) to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

H5/3
F13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

40-78

Pte. Leask P.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be)

(*INSTRUCTION*—*A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of March, 1942

Shirley, Lieut R.C.A.

Adjutant 14 Can. Fd. Regt. R. C. A.

If the accused has served as a non-commissioned officer continuously without reduction, to the present date,

	Date of Promotion
In the rank of Lance Bombdier	22 Sep. 40
In the rank of Bombdier	15 Feb. 41
In the rank of Sergeant	11 Mar. 41
	10 Aug. 41

(CONTINUED)

Exhibit "I" to affidavit of J.A. Calder, Capt. JA.

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-12537	Sgt.	LEARMONTH, William Alex	14 Cdn Fd. Regt., R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

NIL

~~Number of instances of gallantry or distinguished conduct~~ —

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement~~.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 3 days in military custody, making a total of 3 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 24 yrs, 6 mos, 14 days.

6. The date of his ~~commission~~ / attestation specified in his record of service / ~~attestation paper~~ is 20 JUN 1940

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity to the extent of~~ ~~years~~.

9. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his position, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award ~~, or is in possession of or entitled to (state any military decoration or award)~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds or has ceased to hold the rank of~~ ~~in the~~ ~~and in his regiment (or corps or department) the rank of~~ ~~substan-~~

(*18240) Wt.30248/5402 75,000 12/40 A.& E.W.Ltd. Gp.686

Army Form B.122

D-12537 No. William Alex LEARMONTH Name

Sq., Batty., or Company: 81 Bty

Corps: 14 Cdn Fd Regt, R.C.A.

Date of enlistment: 20 JUN 40

Sheet No.

Date of last entry in Company Conduct Sheet:

No. and date of last drunk:

G.C. Badges:

Long Service and G.C. Pay:

Signature O.C. Company, etc.: D.R.Agnew. Lt-Col. O.C. 14 Cdn Fd Regt, R.C.A.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Nil					

Certified true copy

(J.S.Linley) Lieut. & Adjt.
14 Cdn Fd Regt, R.C.A.

[P.T.O.

Fifteenth Witness (Cont'd.)

The sum of £5-10-0 which was handed to me by BSM JEFFREY as having been found on the person of the accused and alleged to belong to L/Sgt. ALLARD was composed in part of four new one pound notes bearing serial numbers as follows,

U47D474368
U47D474369
U47D474370
U47D474371

The total amount that I received from BSM JEFFREY as having been found on the accused's person and in a small khaki cloth bag ~~xxx~~ inclusive of the above mentioned £5-10-0 was £14-7-11 three farthings and one U.S. cent. This amount was £0-1-7¾ over the amounts stated to have been lost or stolen by the witnesses. I made an arbitrary division of this amount according to the amounts stated to have been lost and placed these sums in separate envelopes (£0-1-7¾ in separate envelope). I sealed all these envelopes, had them stamped with the Battery Stamp on the flaps and signed my name on each flap. I turned these envelopes and the small khaki cloth bag over to the Adjutant.

Accused declines to cross examine.

Sixteenth Witness. Capt. J.D. Morison Paymaster 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

On 13 Mar 42 Sgt. LEARMONTH drew two pounds - acquittance roll #188.

Bills for Pay Parade 13 Mar 42 were drawn in two lots of £500. In one lot the pound notes were in order of serial number in the other lot the pound notes were in order of serial number except that a few notes had come from another series.

Accused declines to cross examine.

The accused, having been duly warned, declines to make any statement.

Rules of Procedure 4 (C), (D), (E) have been complied with.

Taken by me In The Field this 16th. day of March 1942.

A.W. Duguid Capt.
(A.W.DUGUID) Capt. R.C.A.
14 Cdn. Fd. Regt., R.C.A. (C.A.)

Eleventh Witness (Cont'd)

At about 0815 Hrs., 14 Mar 42 Capt. DUGUID told me to place a Sgt's Guard on the accused and to search his belongings for lethal weapons and any money which may be there. I did not find any money in Sgt. LEARMONTH'S kit. I ordered him to turn out his pockets. From the large pocket of his Battle Dress trousers he turned out £5-10-0 composed of one £0-10-0 note, four new £1-0-0 note, one old £1-0-0 note which was the description of the money that L/Sgt. ALLARD had lost. There were some copper coins in other pockets. I I turned this money over to Major BLAIKIE at the Battery Office.

Accused declines to cross examine.

Twelfth Witness. D-7540 Sgt. WORSLEY, J. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At 0830 Hrs., 14 Mar 42 I was detailed by BSM JEFFREY to act as guard on Sgt. LEARMONTH.

Shortly afterward BSM JEFFREY ordered Sgt. LEARMONTH to turn out his pockets I saw Sgt. LEARMONTH produce some 4 or 5 notes and some change of which BSM JEFFREY took charge.

Accused declines to cross examine.

Thirteenth Witness. D-12521 Sgt. DAVIES, G.A. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At about 0830 Hrs., 14 Mar 42 I saw the accused Sgt. LEARMONTH hand over some 5 notes to BSM JEFFREY.

Accused declines to cross examine

Fourteenth Witness. D-7553 Sgt. SAUNDERS, A. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

I sleep in Sgt. LEARMONTH'S hut. During the night 13/14 Mar 42 I was wakened by some sergeants of 66 Bty., who woke me and asked me where Sgt. LEARMONTH and BSM JEFFREY slept. When BSM JEFFREY arrived he woke Sgt. LEARMONTH and started to search his kit. He found some money in a cloth bag hanging near Sgt. LEARMONTH'S bed.

I saw Sgt. LEARMONTH escorted from the hut soon after. He had been undressed.

At 0815 Hrs., 14 Mar 42 I saw BSM JEFFREY receive from the accused some £5-0-0 in bills also some small change.

Accused declines to cross examine.

Fifteenth Witness. Major K.G. BLAIKIE, Officer Commanding 81 Canadian Field Battery, 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states :-

At approximately 0300 Hrs., 14 Mar 42 I was wakened by BSM JEFFREY who was accompanied by BSM HENNETT. BSM JEFFREY reported to me that he had handed Sgt. LEARMONTH over to the Sgt. of the Guard and that the charge against him was stealing money from some of the Sergeants of 66 Bty.

At about 0900 Hrs., 14 Mar 42 I instructed that charge sheet be made out and witnesses called for my investigation at 1130 Hrs., 14 Mar 42. During my investigation I received from BSM JEFFREY and from some of the witnesses certain sums of money in notes and in loose change. I placed these sums of money in envelopes in the following manner,

One £1 note # U47D473529 - from BSM MANSFIELD
Two £1 notes # U47D474408
U47D474409- from L/Sgt. McCREA
Two £1 notes # U47D474393
U47D474394- from Sgt. FINCH
Three £1 notes # U47D474387
U47D474388-
U47D474389 - from Sgt. BRUNSTROM

Eighth Witness (Cont'd)

I looked in my trousers and found no money missing. I then woke Sgt. ROCHE and told him to look through his pockets. He found about £2-0-0 missing. We woke nearly everyone in the hut and decided to go over to Sgt. LEARMONTH'S hut.

Sgt. LEARMONTH was undressed in bed and apparently asleep. The lights were out in his hut. Someone went and got BSM JEFFREY who came and roused Sgt. LEARMONTH. BSM JEFFREY searched Seargeant LEARMONTH'S kit and found a small cloth bag which was hanging on the wall. This contained money in bills.

Accused declines to cross examine.

Ninth Witness. D-7659 L/Sgt. McCREA, D.E. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

After Pay Parade 13 Mar 42 I paid to Sgt. ROCHE £1-0-0 that I had borrowed.

During the night 13/14 Mar 42 I was wakened by a noise. I saw a man strike Sgt. FINCH and run out of the door of the hut. Though the man was similar in build to the accused I could not positively identify him.

On the morning of 14 Mar 42 I turned over to Major BLAIKIE the £2-0-0 that I had left of my pay.

Accused declines to cross examine.

Tenth Witness. D-7513 Sgt. BRUNSTROM, T. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

On 13 Mar 42 I was paid immediately before Sgt. EVANS.

During the night 13/14 Mar 42 I woke up and saw someone running out of the door of the hut. The lights were on. I went back to sleep.

On the morning 14 Mar 42 I turned my pay of £3-0-0 over to Maj. BLAIKIE.

Accused declines to cross examine.

Eleventh Witness. D-7554 BSM JEFFREY, J.T. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At about 0215 Hrs., 14 Mar 42 I was wakened by L/Sgt. METCALFE who tole me what had happened. He asked me to come over and take charge. I dressed and went with him. The lights in Sgt. LEARMONTH'S hut were on and BSM BENNETT, Sgt. ROCHE, Sgt. KEATING, L/Sgt. ALLARD and Sgt. FINCH were there. Three Sgt's in the hut were awake - Sgt. McCULLOCH, Sgt. WALSH and Sgt. SAUNDERS. I woke Sgt. LEARMONTH and got permission to search his kit. I asked Sgt. SAUNDERS which was Sgt. LEARMONTH'S kit.

Having gone through Sgt. LEARMONTH'S great coat I saw a small Khaki cloth bag hanging on the wall over Sgt. LEARMONTH'S table. I opened the bag and dumped the contents on a bed, some money fell out first. I did not count the money but took the money and the bag and turned it over to Sgt. BERESFORD 34 Cdn. Fd. Bty., 14 Cdn. Fd. Regt., R.C.A. who was Sergeant of the guard. He counted the money which came to £8-17-0 and some odd pennies. He then replaced the money in the bag and turned it over to the L/Bdr. of the guard. Two sentries were sent with the Guard Commander to put Sgt. LEARMONTH under close arrest in the Guard Room. I reported to Major BLAIKIE the battery Commander of the accused and Lieut. CHABOT the Regimental Duty Officer. I went to bed.

At breakfast 14 Mar 42 I checked on the total sum in notes reported to have been lost. Sgt. ALLARD'S loss of £5-10-0 seemed to be the difference between what had been lost and what had already been recovered.

Cont'd,

Fifth Witness. D-7561 Sgt. EVANS, F.A.L. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At about 0600 Hrs., 14 Mar 42, Sgt. ROCHE asked me if I had lost any money. I looked in my trouser pocket and £2-10-0 in notes was missing.

On Pay Parade 13 Mar 42, Sgt. BRUNSTROM preceeded me and Sgt. FINCH followed me.

Accused declines to cross examine.

Sixth Witness. D-7557 BSM BENNETT, W.R. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At about 0200 Hrs., 14 Mar 42, I was awakened by a noise and heard someone run down the hut and out the door. I asked Sgt. METCALFE what was happening. He told me that Sgt. LEARMONTH had been in the hut going through men's pockets, so I looked in my clothes and found that my pockets had been gone through and that £3-10-0 was missing from my pay book.

I went with Sgt. METCALFE, Sgt. ROCHE and L/Sgt. ALLARD to Sgt. LEARMONTH'S hut and found Sgt. LEARMONTH apparently asleep. Sgt. METCALFE went to fetch BSM JEFFREY. BSM JEFFREY woke Sgt. LEARMONTH and searched his kit. BSM JEFFREY found some money in a khaki cloth bag belonging to Sgt. LEARMONTH. BSM JEFFREY placed the accused under arrest.

Accused declines to cross examine.

Seventh Witness. D-7600 Sgt. FINCH, R.E.G. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

During the night 13/14 Mar 42, I was wakened by someone prowling about the hut. At first I thought that it was the man in the next bed but the prowler seemed to be going from bed to bed. I tried to light a match but it only burnt long enough for me to see a form at the other side of the hut which humped behind a bed.

I got out of bed and turned the light on. Then I went over to the corner where the man was hiding under a bed. On the way over I shook L/Sgt. McCREA but he did not waken. The man was behind Sgt. METCALFE'S bed and Sgt. METCALFE woke up.

I shook the prowler by the shoulder and asked him what he was doing there. There was a pause and the man stood up. It was Sgt. LEARMONTH. He stood still for a moment, then he struck me on the left hand side of my face and knocked me onto Sgt EVAN'S bed. While I was still off balance he struck me again and then ran out the door. By this time others were awake and when I told them what had happened they examined their pockets and found money gone.

BSM BENNETT, Sgt. KEATING, L/Sgt. ALLARD , L/Sgt. METCALFE and I went to Sgt. LEARMONTH'S hut. One man went to get BSM JEFFREY. Sgt. LEARMONTH was in bed apparently asleep so BSM JEFFREY woke him and searched his kit after getting the accused's permission. BSM JEFFREY found a cloth bag hanging on the wall at the head of Sgt. LEARMONTH'S bed. The bag contained bills and change. Sgt. LEARMONTH was placed under arrest. The time was 0230 Hrs.

On Pay Parade 13 Mar 42 I preceded Sgt. KEATING and followed Sgt. EVANS. I gave the £2-0-0 that I had left of my pay to Major BLAIKIE on the morning of 14 Mar 42.

Accused declines to cross examine.

Eighth Witness. D-7582 L/Sgt. METCALFE, E.W. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At about 0200 Hrs., 14 Mar 42 I woke up and saw Sgt. LEARMONTH standing at the foot of my bed. Sgt. FINCH was standing at one side of my bed. The lights were on in the hut. Sgt. FINCH ~~said~~ said something to Sgt. LEARMONTH then Sgt. LEARMONTH struck Sgt. FINCH twice and ran out the door.

Cont'd,

Summary of evidence in the case of D-12537 Sgt. LEARMONTH, W.R. 81 Cdn. Fd. Bty., 14 Cdn. Fd. Regt., R.C.A. a soldier of the Cdn. Army (OVERSEAS)

First Witness. D-92703 A/L/Sgt. ALLARD, G.D. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At approximately 0200 Hrs., 14 Mar 42, I was wakened in the Sergeants Hut of the 66 Cdn. Fd. Bty., R.C.A. and was told by various Sergeants to look in my pockets to see if my money was still there. My Battle Dress tunic was on the floor with both pockets unbuttoned and from the left hand pocket £5-10-0 in bills was missing. From my right hand trouser pocket £0-5-6 was also missing. Some of the other Sergeants and myself went to Sgt. LEARMONTH'S hut and L/Sgt. METCALFE went to find BSM JEFFREY of 81 Cdn. Fd. Bty., R.C.A. who was Sgt. LEARMONTH'S BSM.

BSM JEFFREY arrived at Sgt. LEARMONTH'S hut and took charge. He woke Sgt. LEARMONTH who appeared to be asleep and asked permission to search his kit. After obtaining permission BSM JEFFREY proceeded to go through the kit of the accused. He found a small cloth khaki bag hanging on the wall which he emptied on the accused's bed. There were bills and change in it. BSM JEFFREY placed the accused under arrest and I went back to bed.

Accused declines to cross examine.

Second Witness. D-6702 BSM MANSFIELD, E.S. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

On Pay Parade 13 Mar 42, I was paid immediately following BSM BENNETT. The bill I received was turned over to BSM JEFFREY and I watched him seal it in an envelope. The bill number was U47D473529.

Accused declines to cross examine.

Third witness. D-7532 Sgt. ROCHE, J.K. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At approximately 0200 Hrs., 14 Mar 42, I was wakened by L/Sgt. METCALFE who informed me that someone had been prowling in the hut and going through peoples' pockets. I looked in my trouser pockets and found that my change was missing. This consisted of £0-1-7 and a United States cent. £2-10-0 in bills was missing from my wallet, this was made up of a one pound note and three ten shilling notes.

I got dressed and accompanied BSM BENNETT, Sgt. METCALFE and Sgt. FINCH, to Sgt. LEARMONTH'S quarters. Sgt. METCALFE went to get BSM JEFFREY.

When BSM JEFFREY arrived he woke Sgt. LEARMONTH who appeared to be asleep and asked permission to search his kit. This was given. From a cloth bag hanging on the wall near Sgt. LEARMONTH'S bed BSM JEFFREY removed some bills and change. I returned to my quarters and went to bed.

The serial number of the pound note I lost ended in the numbers 07. The reason that I remember this is that L/Sgt. McCREA paid me £1-- which he owed me and when he paid me we had a discussion about serial numbers. Also after my money disappeared the numbers of the bills which L/Sgt. McCREA had left from his pay ended in the figures 08 and 09.

Accused declines to cross examine.

Fourth Witness. D-7664 Sgt. KEATING, J.K.C. 14 Cdn. Fd. Regt., R.C.A. having been duly sworn states:-

At approximately 0200 Hrs., 14 Mar 42, I was wakened by L/Sgt. ALLARD who said that Sgt. LEARMONTH had been prowling about, He suggested that I look to see if any of my money was missing.

I went through my trouser pockets and found three pence and one farthing missing. My pocket book which I carry in my inside tunic pocket was on the floor but my money in my pay book was still there. I went back to sleep.

Accused declines to cross examine.

F

Sentence.

The Court sentence the accused

Sentence

REDUCED TO THE RANKS
6 MONTHS DETENTION
AND MEDALS TO BE
RETURNED TO THE
K.C.O.S DESCRIBED
IN THE CHARGE SHEET

See para 2. A.F.A.3.

[signature]
Capt
J.A.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. J. S. Lindsey R.C.A. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "F", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

No Questions

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

Do you wish to give evidence yourself or to call any witnesses as to character? NO

Question to the accused.

Answer.

Evidence as to character

CC

Proceedings on Plea of Guilty.

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D12[illegible]7 Sgt William Alle Learmonth 14 Cdn Fd Rgt R Ch is found guilty of ALL CHARGES AS LAID.

†The summary (or abstract) of evidence is read, marked "I" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

NO

Answer. The accused in mitigation of punishment says :—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 20 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

GUILTY. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

GUILTY *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? GUILTY *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? GUILTY *Question.*

ARE YOU GUILTY OR NOT GUILTY OF THE ~~FOURTH~~ FIFTH CHARGE AGAINST YOU WHICH YOU HAVE HEARD READ? *Answer.*

ARE YOU GUILTY OR NOT GUILTY OF THE SIXTH CHARGE? GUILTY GUILTY

The accused having pleaded Guilty to ~~all~~ charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field.

on the 30 day of March 19 42 by order of

Major. General. C. B. Price

Commanding 3 Cdn Division

dated the 28 day of March 19 42.

President.

Major. E. Pickering.
13 Canadian Fld Regt.

Members.

Captain. G. Wright
12 Cdn Field Regt

Captain H. A. Hutson
3 A/T Regt

Capt. R. A. Lemie
R.C.A. , Judge Advocate.

Trial of* B. 12537 Sgt. W. A. Learmouth.
14 Cdn Fd Regt, R.C.A.

The order convening the Court, the charge-sheet and the summary ~~[illegible]~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing~~ to

~~[illegible] member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut Marler 14 Fld Regt.

~~Counsel‡ or~~ defending officer† ~~[illegible]~~ Major Holt 14 Fld Regt

At o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

CHARGE SHEET (Cont'd.)

SIXTH CHARGE
SEC. 37(1)
ARMY ACT

"Striking a Soldier".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, struck D-7600 Sergeant FINCH, R.E.G., 66 Canadian Field Battery, 14 Canadian Field Regiment Royal Canadian Artillery, A soldier of the Canadian Army (Active Force)

In The Field
16th. March 1942

D. R. Agnew.

(D.R.AGNEW) Lieut.- Col., R.C.A.
Officer Commanding 14 Cdn. Fd. Regt., R.C.A.

To be tried by Field General Court-Martial.

C. B. Price

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

Signed in the Field,
this 17th day of March, 1942.

QB

CHARGE SHEET

The accused Number D-12537 Sergeant William Alex. LEARMONTH 81 Canadian Field Battery., 14 Canadian Field Regiment, Royal Canadian Artillery, a soldier of the Canadian Army (Active Force), is charged with:-

FIRST CHARGE
SEC. 18 (4)
ARMY ACT

"Stealing money, the property of a person subject to Military Law".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, stole the sum of three pounds ten shillings, the property of D-7557 BSM BENNETT, W.R., 66 Canadian Field Battery, 14 Canadian Field Regiment, Royal Canadian Artillery, a person subject to Military Law.

SECOND CHARGE
SEC. 18 (4)
ARMY ACT

"Stealing money, the property of a person subject to Military Law".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, stole the sum of two pounds ten shillings, the property of D-7561 Sergeant EVANS, F.A.L., 66 Canadian Field Battery, 14 Canadian Field Regiment, Royal Canadian Artillery, a person subject to Military Law.

THIRD CHARGE
SEC. 18 (4)
ARMY ACT

"Stealing money, the property of a person subject to Military Law".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, stole the sum of two pounds eleven shillings seven pence, and one cent in the currency of the United States of America, the property of D-7532 Sergeant ROCHE, J.K., 66 Canadian Field Battery, 14 Canadian Field Regiment, Royal Canadian Artillery, a person subject to Military Law.

FOURTH CHARGE
SEC. 18 (4)
ARMY ACT

"Stealing money, the property of a person subject to Military Law".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, stole the sum of Five pounds fifteen shillings and six pence, the property of D-93703 Lance Sergeant ALLARD, G., 66 Canadian Field Battery, 14 Canadian Field Regiment, Royal Canadian Artillery, a person subject to Military Law.

FIFTH CHARGE
SEC. 18 (4)
ARMY ACT

"Stealing money, the property of a person subject to Military Law".

In that he,
in the field, at about 0200 Hrs., 14th. March, 1942, stole the sum of three pence one farthing, the property of D-7664 Sergeant KEATING, J.C.K. 66 Canadian Field Battery, 14 Canadian Field Regiment, Royal Canadian Artillery, a person subject to Military Law.

/Striking a Soldier"

I hereby direct that the monies found in possession of D-12537 Sgt William Alex Learmonth, be restored to the persons specified in the charge sheet, who severally appear from the evidence herein to be the lawful owners thereof.

Signed in the Field, this 4th day of May, A.D. 1942.

C. B. Price

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-12537 Sergeant William Alex LEARMONTH, 81st Canadian Field Battery, 14th Canadian Field Regiment, R.C.A.	First Charge. Sec. 18 (4) A.A.	GUILTY	GUILTY	Confirmed C.B.P.
	Second Charge. Sec 18 (4) A.A.	GUILTY	GUILTY	
	Third Charge. Sec 18 (4) A.A.	GUILTY	GUILTY	
	Fourth Charge. Sec 18 (4) A.A.	GUILTY	GUILTY	
	Fifth Charge. Sec 18 (4) A.A.	GUILTY	GUILTY	
	Sixth Charge. Sec 37 (1) A.A.	GUILTY	GUILTY	
			REDUCED TO THE RANKS 6 MONTHS DETENTION ~~[illegible]~~ J.A.	
			DATED. 30 MARCH 1942	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) C.B. Price (C.B.Price) Major-General.
Commanding 3rd Canadian Division.
Convening Officer (e)

(Signed) E. Pickering Major R.C.A.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30 day of MARCH, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
~~*(4. The officers under instruction)~~
were duly sworn. 3. THE JUDGE ADVOCATE

* Omit if not applicable.

Signed this 30 day of MARCH 1942.

J.A. Ritchie Capt J.A.

E. Pickering Major R.C.A.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of~~

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 1st day of April 1942

C.B. Price
Confirming Officer.

Promulgated and extracts taken in the case of D 12537 Sgt. William Alex Learmonth

(a) (Dated) 11 April 42 (Signed) [illegible] Lt
Adjt. Can. Fd. Regt. R.C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

D-12537 Sergeant W.A. Learmonth
81 Cdn Fld Battery,
14 Cdn Fd Regt, R.C.A. 77H

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

6 "G"
E. Pickering
Major R.C.A.

A.

Order convening the Court

V.A. Ritchie Capt
Judge Advocate.

PROCEEDINGS.

On Active Service, this 28th day of March, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~[illegible]~~ appointed or detailed hereunder.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

PROCEEDINGS REVIEWED.

[illegible] Capt
22 Apr 42

Judge Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	E. Pickering	13 Cdn Fd Regt, R.C.A.

Members.

Rank.	Name.	Regiment.
Captain	G. Wright	12 Cdn Fd Regt, R.C.A.
Captain	H.A. Hutson	3 A/Tk Regt, R.C.A.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C.B. Price
(C.B. Price) Major-General.
3rd Canadian Division.
Commanding Convening Officer.

77 H. Sgt. LEARMONTH W.A.

O. H. M. S.

M. F. B. 270
1000M 12-40 (8068-66-70)
H.Q. 1772-36-67

Exhibit 3

Ref: K.R.& O.(Can.)639

Regt. No. G-17097

Rank L/Cpl.

Name Leard A.D.

Regt. Carleton and York

Unit; "A" Coy.

The following expenses were incurred in apprehending and returning the M/W soldier to his unit from London

DATE	PARTICULARS	AMOUNT		
	third(Portion) 2 escorts)			
17 Jan.42	Escort return fare from London to Worthing	0.	6.	2.
	Prisoners single fare to London from			
17 Jan.42	Prisoners Single fare from London to Worthing	0.	4.	8.
	Escorts expense for bed,meals,bus fares and meals for the prisoner.	Nil.	.....	.....
	TOTAL ---------- £	0.	10.,	10.

I certi y that the above statement of expenses is correct and that the amounts are fair and just.

L.A. Whittington Lieut.
for O.C. No 8 Prov. Coy.
Canadian Provost Corps.

Exhibit 2 mjC

Certificate in accordance with the Army Act Section 163 (1) (JJ).

I certify that REG'T NO. C-17097 RANK L/Cpl. NAME LEARD, A.D.
UNIT Carleton York "A" Coy WAS ARRESTED at (PLACE London
at HOUR 1545 hrs on DATE 16 Dec 42 and that at the time of his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken in arrest ..... D.A.P
CANADIAN MILITARY POLICE
LONDON AREA.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557.

Exhibit 1 mjC

I certify that I have this morning examined
No. C 17097 L/Cpl. Leard, A.D.
of Carleton & York Regiment and in my opinion he is fit
to undergo Trial by Court Martial.
Station In the Field
Date 27 JAN. 42

J.S. Maclean Capt.
Medical Officer

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
WITLEY ENG	11-1-41	PTE		NOT WEARING ANKLETS IN GODALMING AA. 40	CPL PIPHER	7 DAYS C.B.	12-1-41	MAJOR W.J. McCallum	
WITLEY ENG	1-2-41	"		NOT WEARING ANKLETS, WEARING A TIE WITH A TUNIC OPEN IN GODALMING AA 40	L/cpl. AMOS L/cpl. SCHRIVER L/cpl. CONGUER	3 DAYS C.B.	11-2-41		
				(2) NOT CARRING A RESPRITOR IN GODALMING AA 11					
WITLEY ENG	22-4-41	"		A.W.L. FROM 2769/22-4-41 TO 0930/23-2-41 AA 15 (1)	CPL. FIRLOTTE L/cpl. CARPENTER	3 DAY C.B.	24-2-41	LT. D.W. HAY MAJOR W.J. McCallum	FORFEITS 1 DAYS PAY.
WITLEY ENG	2-3-41			A.W.L. FROM 1070/2-3-41 TO 0630/3-3-41 AA 15 (1)		7 DAYS C.B.	3/3/41		
" "	[illegible] 41			PRODUCE TO (NOT CARRING PAY BOOK KRAM)	SST FOUCHARD	7 DAYS C.B.	[illegible] 41		RELEASE FROM DETENTION BARRARS WITLEY MAY 29 1941 SENTANCE HAVINING EXPIRE REMISSION EARNED UNDER RULE FOR DETENTION BARRARS AND MILITARY PRISONS NIL DAYS FORFEITS
WITLEY ENG	21-4-41	"		(1) USED IM PROPER LANGUAGE TO SUP. OFFICER	L/cpl. AUTRY	27 DAYS DETENTION	3-5-41		
				A.W.L. FROM 1245/21-4-41 TO 2[illegible]/2-5-41	CPL ORR PSM DENNISON				
LAURENTIUS	26-2-41	"		IMPROPERLY DRESSED		4 DAYS C.B.	30-7-41		

LT. COL. FS MATHEWSON 7 DAYS PAY
LT. COL. FS MATHEWSON [illegible]

for OCA [illegible] CERTIFIED TRUE COPY 12 JAN 42

Exhibit 4 pge

No. G11097 Name LEAD, A.D. Sqn. Battery, or Company A. Corps CARLETON + YORK REGT. Date of enlistment 29-2-40 G.C. Badges Service or Proficiency Pay MFM (A.F.B. 122) Character

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine Signature O.C. Company, etc.) Sheet No.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ALDERSHOT				AWL FROM 1530/6-4-40 TO 1530/22-4-40	L/Cpl. POLA Cpl. MERCE			LT. Col. BGK. HOLDER	FORFEITS 17 DAYS PAY
BARDONEAU		PTE		AWL FROM 2200/11-6-40 TO 2000/22-6-40	SIT. BUTLER	7 DAYS C.B.	1-7-40	MAJOR LT. M°CALLUM	FORFEIT 4 DAYS PAY
ON 29 AUG 40 THIS ORDER COMPLETED 6 MONTHS SERVICE AND IN ACCORDANCE WITH R.O. 71 CA.I.F. (OVERSEAS) THE ABOVE ENTRIES WERE TRANSFERRED FROM PARADE SHEET WHICH WAS DESTROYED IN FEB 41									
ODIHAM		PTE		NEGLECTED TO OBEY AN ORDER GIVEN BY A SENIOR N.C.O.	A/C SM CLIFFORD Cpl. LLOYD.	7 DAYS C.B.	12-9-40	LT. E. LA WERENCE	
ODIHAM				APPEARING ON PARADE WITH A DIRTY RIFLE.	SIT. LLOYD.	3 DAYS. C.B.	30-9-40	LIEUT W.L. BEATTY	
ODIHAM				AWL FROM 2359/30-10-40 TO 1155/31-10-40	L/Cpl. FOWLER	10 DAYS C.B.	11-11-40	LIEUT LAWERENCE	FORFEITS 1 DAYS PAY.
WITLEY				AWL FROM 1745/29-11-40 TO 1515/1-12-40	SIT. PARSONS SIT. ARSENEAU	2 DAYS DETENTION	19-12-40	LIEUT. COL. G.S. NETHERSON	FORFEITS 2 DAYS PAY

CERTIFIED TRUE COPY 22 JAN 45

Exhibit 6

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

G17097 Pte (A./L/Cpl Leard, A.D. Carleton & York Regiment.

(a) The accused has been in confinement awaiting trial on the present charges for.....days in Civil Custody and..11..... days in military custody making a total of....11...days of which.....days ~~were~~ were spent in hospital.

(b) The present age of the accused according to his attestation paper is...22....

(c) The date of his attestation specified in his attestation paper is...29.7.40.....

(d) The accused is in possession of, or entitled to no military decoration or military reward, ~~or is in possession of or entitled to~~

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

Lieut
A/Adj.

Summary of evidence in the case of G17097, Pte (AL/Cpl) Leard, A.D., a soldier of the Carleton & York Regiment, Canadian Army (Overseas).

By direction of the Commanding Officer the summary of evidence is taken on oath.

First Witness for Prosecution

G27092, Cpl Scott, W.R., "A" Company, Carleton & York Regiment, having been duly sworn, states as follows:-

I am and was at all times material hereto G27092, Cpl Scott, W.R., No. 7 Platoon, "A" Company, Carleton & York Regiment. On the night of 7/8 Jan 42 I was guard commander for "A" Company. At approximately 0200 hrs Major MacCallum ordered me to check on the men who had been issued with late passes that night. At 0200 hrs I found L/Cpl Leard absent from the billets. I kept on checking during the night all through the building that houses our company and at no time was L/Cpl Leard present. For the week 10 Jan 42 to 17 Jan 42 I was acting as orderly serjeant for "A" Company. L/Cpl Leard was absent every night I was on this duty, that is, until the night of 16 Jan 42.

Cpl. Wm R. Scott.

Accused declines to cross-examine the witness.

Accused having been duly cautioned in accordance with Rule of Procedure 4 E elected not to make a statement.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this twenty-first day of January, 1942, in the Field.

Lieut.

Lieut. J.R. Campbell, Carleton & York Regt., having been duly sworn states:

"I was posted to A Coy, Carleton & York Regt, last August and took over 7 platoon..Pte. Leard was in this platoon at that time. I knew that before this time Pte. Leard's record as to conduct was not so good, and he had been AWL two or three times before. After being in the platoon for some months I found that Pte. Leard had learned his lesson and was becoming a very good soldier, and he was promoted to a/l/cpl. He has been doing a very good job in his section."

Rule 83(3) was complied with mfc

The accused G17097 Pte.(A/L/Cpl) Leard, Carleton & York Regiment made the following address to the court:

" I didn't intend to go AWL. I had gone eight months without being AWL. I have been having some family trouble recently. I tried to staighten matters out over the phone, but was unable to do so. I kept thinking about it and went out and after a few drinks I went to try and arrange things personally."

mfc

FORM C

PAGE / 4

After finding

Lieut C. M. G. Arthur, Carleton & York Regt.

is sworn and states:-

I produce a certified true copy of ~~A.F.B. 115~~ M.F.M. 6 relating to the accused. (The said copy is marked Exhibit 4 signed by the President, and attached to the Proceedings). also short statement as to the service of the accused (marked exhibit 5) also exhibits 2. & 3. relating to cost of apprehension. mjc.

Question to the Accused

Do you wish to address the Court, or to call evidence as to character?

Answer. yes. I wish to address the court and to call a witness as to character. mjc

(see page 5)

The (~~accused~~) (Defending Officer) makes the following plea in mitigation of sentence:-

" The accused has been making a real effort to go straight. He was succeeding until family worries proved too much. It was because of these family difficulties that the accused went AWL, but normally in the past eight months he has been a good and efficient soldier. " mjc

mjc

FORM A

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL held in the Field on the day of 1942.

Trial of No. J 17097 Pte (a/L/Cpl) Leard A D Carleton & York Regt.

Prosecutor Lieut C. M. G. Arthur, Carleton & York Regt

Defending Officer Lieut J. R. Campbell, Carleton & York Regt

Officer under Instruction nil

1. The Order convening the Court is read in the prescence of the accused.

2. The accused is asked the following question:-

Do you object to being tried by the President or any Members of the Court, whose names you have heard read over?

Answer - No.

3. The President, Members, ~~Judge Advocate, Officers under Instruction, Shorthand Writer, and Interpreter~~ are duly sworn. mjc.

4. (a) The accused having pleaded guilty to the charge ~~is complied with.~~ - R P. 35(B) mjc.

5. The accused is asked the question at the foot of Page 2 of A.F.A. 3 and ~~his answer is recorded beneath the question.~~ na mjc

6. The ~~Prosecutor makes (no)~~ (the na ~~opening~~ mjc

mjc

Charge Sheet

The accused, G17097, Pte (A/L/Cpl) Leard, A.D., a soldier of the Carleton & York Regiment, Canadian Army (Overseas), is charged with:-

First Charge
Sec 15(1) A.A.

When on Active Service, absence without leave in that he

in the field, did absent himself without leave from 0200 hrs, 8 Jan 42 until apprehended in London at 1545 hrs 16 Jan 42, the cost of apprehension and return to unit being ten shillings tenpence.

In the Field

Date 22 Jan 42

(W.C. Lawson) Lt.-Col.,
Comd Carlt & York Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(H.N. Ganong) Brigadier,
Comd 3 Cdn Inf Bde.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-17097 Pte(A/ L/Cpl) Leard, A.D. Carlt & York R	Sec 15 (1) A.A. 1st Charge:-	Guilty	Guilty Reduced to permanent rank and to undergo 60 days detention and to forfeit 6 pay to the amount of ten shillings and ten pence mjC	Sentence commuted to being reduced to the ranks, and to be placed under stoppage of pay to the amount of Ten shillings and Ten pence. W.E. Lawson Brig
	See Charge Sheet Attached			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on the proceedings sheet if necessary*):— mjC.

(Signed) W.E. Lawson Brig. (Signed) M.J. Clennett Maj
Commanding 3rd Cdn Inf Bde. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of January 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

mjC *(3. ~~The interpreter~~)
mjC *(4. ~~The officers under instruction~~)

were duly sworn.

Signed this 27th day of January 1942.

M.J. Clennett Maj.
President of the Court Martial.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C. Certificate in case of death sentences.

Signed this 19

mjC
President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be kept in custody in prison until further orders.~~

Signed this 27 day of Jan 19 42

W.E. Lawson Brig.,
Confirming Officer. Comd 3 Cdn Inf Bde

Promulgated and extracts taken in the case of

(*a*) (Dated) 28 Jan 42 (Signed) Wde Lawson Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W. 4013—93] [illegible] P. St. G. Ltd.

West N.S.R.

Correspondence to be PINNED here.

Entered AEJ

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twentyfourth day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ } Hug

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~* I am unable to appoint—~~

~~* Three Officers to form the Court~~

~~* Field Officer as President~~

~~* Three Officers having more than one year's service~~ } Hug

[for the following reasons, namely :—]

PROCEEDINGS REVIEWED

Gen Graham Capt
Reviewing Officer (8 Ag) Cmt
Feb 4 42

President.

Rank.	Name.	Regiment.
Major	M.G. Clennett	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt	G Poulin	R 22e R
Lieut	C.L. Putnam	West N.S.R.
(Waiting) Lieut	J.B. Jalbert	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brig.,

Commanding 3rd Cdn Inf Bde

Convening Officer.

285 E. L/Cpl. Lead. A.D.

O. H. M. S.

M. F. B. 270
[illegible]
H.Q. [illegible]

21

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

C 17097 Pte Leard. a. D. Carleton & York Regiment

(a) The accused has been in confinement awaiting trial on the present charges for N/L days in Civil Custody and 32 days in military custody making a total of 32 which N/L were spent in hospital.

(b) The present age of the accused according to his own statement is 22

(c) The date of his attestation specified in his attestation papers is 29 Feb 40

(d) The accused is in possession of, or entitled to no military decoration or military award (or is in possession of or entitled to

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

Major

Lieut

President

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley, Eng	11-1-41	Pt		Not wearing ankles in Godalming A.A. 40	Cpl. Pipher F/Cpl. Amos	7 days. C.B.	17-1-41	Maj W.J. Mac-Callum	
Witley Eng.	1-2-41	"		Not wearing ankles, wearing a tie with tunic open in Godalming (A.A. 40)	F/Cpl. Schliuer F/Cpl. Conquer.	3 days C.B.	11-2-41		
Witley Eng	22-2-41	"		Not carrying a respirator in Godalming (A.A. 40) O.W.I. from 2200/22-2-41 to 0920/23-2-41 A.A. 15(1)	Cpl. Pillott F/Cpl. Carpenter	3. days C.B.	24-2-41	D.W. Hay Lt	forfeits 1 days pay
Witley Eng	2-3-41	"		O.W.I. from 1020/2-3-41 to 0620 hrs/3-3-41 A.A. 15(1)		7 days C.B.	3-3-41	W.J. Mac Callum Maj	Forfeits 1 days pay
" "	13-3-41	"		Prejudice to (not carrying paybook) A.A. 40 Used improper language to superior off. A.A. 40	Sgt. Fouchard F/Cpl. Autry.	7 days C.B.	15-3-41		
" "	21-4-41	"		A.A. 15(1) A.W.I. from 1345/21-4-41 to 2220/2-5-41.	P.S.M. Dennison.	37 days Detention	3-5-41	Lt-col. F.B. Mathewson.	

Released from Detention Barracks [illegible] May 41

No. G17097 Name Leard, A.D. Sqn. Battery or Company Corps Carleton & York Regt Date of enlistment 29-2-40 G.C. Badges Service or Proficiency Pay 2d M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet 31-4-41 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot Cmp	26-7-41	PC		Improperly dressed. A.A. 40		4 days C. B.	30-7-41	Lt-Col Matheson	
Field		Tpr		A.W.L. A.A. 15 (1)		Remarks number and stoppage of pay 0 [illegible]		F.G.C.M.	11 days pay. Forfeits Maj. W.J. Mac Callum
Field.	10/10-42	PC.		Neglect & disobey Order for parade. A.A. 40.	Sjt Congick.	7 days C. B.	11 Oct 42	Maj W.J. Mac Callum	
"	12-10-42	"		AWL from 2359/18 Oct 42 to 0925/19 Oct 42 A.A. 15 (1)	Cpl Longe	5 days F.P. Extra D.	19-Oct 42	Lt-Col F.P. Tisdale	5 days pay

CERTIFIED TRUE COPY.

[signature] Lt.-col.,
for Comd Carlt & York Regt.

No. G17097 Name Leard, A.D. Sqn. Battery or Company Corps Carleton & York Regt Date of enlistment 29-2-40 G.C. Badges Service or Proficiency Pay 1d M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet [illegible] No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot Cmp	8-9-40	Tpr		AWL from 1530 hrs/ 8-9-40 to 1130/23-9-40	Tpr Roth Cpl Pearce			Lt-Col. C.C.S. HOLDER	Forfeits 15
Carlton Cmp.	18-6-40	PC		AWL from 2200 hrs/18-6-40 to 2000/20-6-40 A.A. 15 (1)	Sgt Rowlett	7 days C.B.	1-7-40	Maj. W. J. Mac Callum	2 days pay Forfeits 4 days pay
Ogilvy Cmp	12-9-40	PC		neglected & obey an order given by a senior N.C.O.	NCO Clifford Cpl Floyd	7 days C.B.	18-9-40	Lt. E. Lawrence	
Carlton Cmp.	28-9-40	PC		Appearing on parade with a dirty rifle.	Sgt Floyd	3 days C.B.	30-9-40	A.W.I. Beatty	
Carlton	21-10-40	"		AWL from 2359/20-10-40 to 0115/31-10-40	Tpr/Cpl Fowler Sjt Knowles	10 days C.B.	4-11-40	Lt. E. Lawrence	Forfeits 8 days pay.
Wellington Cmp	29-11-40	"		AWL from 1926/29-11-40 to 1525/ 15-12-40 at Strumbling Carlton Corner A.A. 15 (1)	Sjt Parsons Sjt Arsenault	21 days Detention	19-12-40	Lt-Col. F.S. Matheson	Forfeits 21 days pay

[signature] Lt.-col.,
for Comd Carlt & York Regt.

18

SLYTHEHURST,
EWHURST,
GUILDFORD
SURREY

This is to certify that I visited Mrs Agnes Leard professionally on May 18th 1942. She informed me that she had several fainting attacks & that her Mother - with whom she lives - was away in Scotland. She has a young baby.

William H. Forshaw
F.R.C.S.

August 2nd 1942.

Gaardonon Major
President

 Army Form B 115.

12

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION.

The Court declare.

	£	s	d
Bottles, water		2	11
Braces, left		3	3
Braces, right		2	11½
Carriers, water bottle		3	3
Frogs, bayonet		1	6
Haversacks		10	5
Helmets, steel Mk 11		9	0
Packs, web		10	6½
Pouches, basic		8	8
Straps, shoulder, left		3	4
Straps, shoulder, right		3	4
Straps, web supporting		2	2
Capes, anit-gas		12	3
Sheets, ground		10	9
Blankets	3	5	6
Total	£17 -	18s -	3d

Names of President and Members

President - Lieut D.C. Kennedy
Members - G18024 CSM Upton, D.E.
- G20065 Sjt Connick, D.A.

Examination Inquiry President

Signature of Commanding Officer F D Tweedie Lt-Col
Carleton & York Regiment

CERTIFIED TRUE COPY.

[illegible] Capt Capt & Adjt
Signature of Officer having custody of the Original Record.

Army Form B 115. 11

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 24 day of June 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G17097 Pte Leard, A.D. - "A" Coy - Carleton & York Regiment.

DECLARATION.

The Court declare, (1) That G17097 Pte Leard, A.D. of "A" Coy, Carlt & York R illegally absented himself without leave from his unit in the field on 31 May 42 at 1330 hrs, and that he is still so absent.

(2) That on 24 Jun 42 he was deficient and that he is still deficient the following articles:-

	£	s	d
Battle dress, blouse	1	7	8
Battle dress, trousers pr	1	7	11
Boots, ankle	1	1	6
Cap comforter		1	1½
Greatcoat	3	17	½
Holdall			9
Jackets, sweater		6	9
Blouse, denim		12	9
Blouse, trousers		11	9
Shoes, canvas		2	3
Tins, mess		3	1
Covers, mess tin			3
Ration bag			1½
Belts, waist		6	8½

Names of President and Members

(Over)

Edwards Major
President

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(12281) Wt.34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.598 Forms/B/115/55

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 10

Reg. No. G17097 Rank Pte. Name Leard A. D. Unit Carlton & York Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount		
5/7/42	Escorts return fare from LONDON To Worthing (¼ portion)		~~3~~ 2	~~1~~ 4
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Worthing		4	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Coadjutor Major President

H. D. Grimm ..... Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 9

Reg. No G-17097 Rank Pte. Name Leard A. B. Unit Carl. & York Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~From~~ London from Newcastle

Date	Particulars	Amount		
5/7/42	Escorts return fare from LONDON To Newcastle (½ portion)		21	1
	Prisoners single fare to LONDON From Newcastle		21	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ portion)		9	3
	Total £	2	11	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

E. A. Watson Major President

H. D. Bremen Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

8

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (J1)

I certify that No. 97097 Rank P/E Name LEORD O.P.

D. Coy. Carleton & York Regt. Canadian Army was arrested at NEWCASTLE

at 2230 C. on 2.7.42. and that at the time of the arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M., or other officer into whose custody the above-named person was taken on arrest

J. McLaren
MAJOR
GARRISON ADJUTANT,
Tyne Ports Garrison

Gordon Major
President

1

ABSTRACT OF EVIDENCE

In the case of G17097 Pte Leard, A.D. Carleton & York Regiment

Take notice that Captain W.C. Johnson will present at your trial by Field General Court Martial a Certificate of apprehension showing you to have been apprehended by the Military Police in the field at 2230 hrs 2 Jul 42 at Newcastle in accordance with Section 163 (1) (jj) Army Act.

W.C. Johnson Capt.

List of Exhibits in the case of G17097 Pte Leard, A.D. Carleton & York Regiment.

1. Certificate of Apprehension.
2. Certificate showing cost of return to Unit.
3. Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.(A.F.B. 115).

List of Witnesses in the case of G17097 Pte Leard, A.D. Carleton & York Regiment.

FOR THE PROSECUTION

Name	Unit	Address
G18106 Cpl Crockett, D.	Carleton & York R	In the Field.
G27517 Sjt Coates, G.S.	Carleton & York R.	In the Field.
G17666 CQMS Shields, A.L.	Carleton & York R.	In the Field.

FOR THE DEFENCE

N I L.

Defending Officer in the case of G17097 Pte Leard, A.D. Carleton & York Regiment.

I, G[redacted] 17097 Pte Leard, A.D. desire the services of Lieut A.H. Oliphant to assist me at my trial by Court Martial.

A.D. Leard

A.H. Oliphant Major
President

ABSTRACT OF EVIDENCE. 6

In the case of C17027 Pte Leami. A.D. Carleton & York Regiment.

Take notice that Captain W.C. Johnson will present at your trial by Field General Court Martial as an exhibit, the two certificates showing cost of return to your Unit.

Take notice that Captain W.C. Johnson will also present at your trial by Field General Court Martial as an exhibit, a certified true copy of the declaration of the Court of Inquiry on the illegal absence of a soldier.

W C Johnson Capt.

E Addison Major
President

Third Witness for Prosecution

G17666 CQMS Shields, A.L. CQMS of "A" Coy Carleton & York Regiment, having been duly sworn states as follows:-

"I am and was at all times pertinent hereto G17666 CQMS Shields, A.L. CQMS of "A" Coy Carleton & York Regiment.

On 10 Jul 42 I checked the kit of the accused and found him to be deficient the following articles:-

Boots, ankle 1 pr value £1-1s-6d; cap comforter value 1/1½; greatcoat value £3-17s-0½d; blouse denim value 12/9; trousers denim 11/9; shoes canvas value 2/3; tins mess value 3/1; covers mess tin 3d; ration bag value 1½d; belts waist value 6/8½d; bottles water 2/11; carriers water bottle 3/3; braces left value 3/3; braces right value 2/11½; frogs bayonet value 1/6; haversacks 10/5; helmets steel Mk. II value 9/0; pack web value 10/6½; pouches basic value 8/8; straps shoulder left value 3/4; straps web supporting value 2/2; capes anti-gas value 12/3; sheets ground value 10/9; blankets four value £3-5s-6d; Total - £14-15s-2d. (75% of vocabulary rate = £11-1s.-4d.)

straps shoulder right value 3/4;

A.L. Shields

Sgd G17666 CQMS Shields, A.L.
Carleton & York Regiment.

Accused declines to cross-examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4 E elected not to make a statement.

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused, in the field, this tenth day of Jul 42.

W.C. Johnson Capt.

E. Davidson Major
President

4

Summary of evidence in the case of G17097 Pte Leard, A.D. Carleton & York Regiment a soldier of the Canadian Army (Overseas), in the field.

By direction of the Commanding Officer the summary is taken on oath.

First Witness for Prosecution

G18106 Cpl Crockett, D. of "A" Company Carleton & York Regiment, having been duly sworn, states as follows:-

"I am and was at all times pertinent hereto G18106 Cpl Crockett, D. of "A" Company Carleton & York Regiment.

On 16 May 42 I was duty N.C.O. at "A" Coy - the accused had a late pass until 2359 hrs that date - he failed to turn his pass in to me at 2359 hrs, and I reported him absent - I did not see the accused again until after exercise "TIGER"!

D. Crockett.

Sgd G18106 Cpl Crockett, D.
Carleton & York Regiment.

Accused declines to cross-examine this witness.

Second Witness for Prosecution

G27517 Sjt Coates G.S. Pay Sergeant Carleton & York Regiment, having been duly sworn states as follows:-

"I am and was at all times pertinent hereto G27517 Sjt Coates, G.S. Pay Sergeant Carleton & York Regiment.

On 20 May 42, the Regiment had left on exercise "TIGER" and I was N.C.O. in charge of the rear party. At approximately 2100 hrs that date the accused reported to me that he was back, and I placed him under open arrest. On 31 May last I was N.C.O. in charge of the rear party Carleton & York Regiment. At 1330 hrs roll call that date, the accused was absent and I reported him as being absent from that time - I did not see him again until 6 Jul last when he was on on charge before the C.O.

G S Coates

Sgd G27517 Sjt Coates G.S.
Carleton & York Regiment.

Judge Advocate
President

Accused declines to cross-examine this witness.

H. J. D. Angherton

No

I submit that my closing address be taken as plea in mitigation of sentence.

Ed Dawson Major
President

No

Yes - (Documentary, produced by ~~defending officer~~)

No

Goodwin
President

Major

and the Regt. to which he belongs. I want to put before the court a hypothetical case which might easily have ensued had Pte Heard left his wife in her dilema. The child would of necessity have been neglected because of the mothers inability to give it proper care and the ensuing indisposition on the part of the child might quite easily have resulted in the serious illness of the parent. I'm not going to carry this point any farther but I want the court to give Pte Heard the credit for acting as any decent husband would in very trying circumstances. I ask the court to remove charge one in the indictment against the accused.

C. A. Watson Major
President

2nd witness
G 27517 Sgt Coates G.S.

Q. Will you tell the court what you know about the case of the accused.

A. At approximately 2100 hrs 30 may 42 ~~Sgt~~ Pte Leard. reported to me at Sandgate Park. saying that he was reporting back from an over due pass. He was with us until 1330 hrs 31 may 42 when he did not report at my defaulters roll call. I did not see him until after his apprehension.

Closing address by the defence.

I have placed before the court documentary evidence confirming the illness of the accused's wife and I want the court to consider the following circumstances. The accused received special leave to visit his wife. On arrival he found her ill and quite unable to look after the infant child of which he is the father. ~~Pte~~ His wifes mother who normally resides with her daughter was absent in Scotland by the Doctors evidence now gentlemen will you consider those facts and the problem confronting this lad. There is a code we know as unwritten law which condones actions ~~framed or in co~~ which conflict with statuary law. This case before you now comes under that category. Pte. Leard overstayed his pass because his obligations to his family necessitated his doing so. In the particular circumstances now made known to the court I consider that the accused acted both in the best interests of his home ~~circle~~ circle.

Bad Dairon Mayor President

1st witness for prosecution.
G 18106 cpl Crockett D.
1st. Question Do you know the accused
A. yes sir.
Q Are you an N.C.O. in A coy C & J Regt.
A. yes sir.
Q Do you know pte. Leard as a member of A coy C & J. Regt.
A. yes sir.
Q Were you duty N.C.O. A coy on or about 16 May 42.
A. yes sir on the 16th.
Q. Will you tell us what happened pertaining to the accused on that date.
A. On that date I was getting a list of late passes of which pte Leard was one to be in at 2354 hrs. and he did not report to me at or before that time.
Q. ~~When was the next time you saw pte. Leard.~~
A. ~~I dont remember exactly it was after the exercise Tiger~~
Q. How long were you duty N.C.O.
A. From 2200 hrs on 16 may. till 2400 same day.
~~Q. Do pte Le~~

Eaardman Major
President

Defending officer

I hereby appeal to the Court for an adjournment of the case against Pte Leard, for a period of 7 days, to enable the accused to produce documentary evidence in substantiation of certain matters he has disclosed to me privately. This is a medical Certificate from his wifes family Doctor stating the reason why Pte Leard overstayed the leave, mentioned in Charge I, to which he has returned a plea of not guilty.

Adjournment until 1400 hrs 7 August 1942, granted

Lieutenant Colonel
President

4th August

G 17097 Pte Leard A.D

Lt J.D. Augherton
Lt A.H. Oliphant

Nil

No

second & third

E.A. Dixon Major
President

MEDICAL OFFICER'S CERTIFICATE

22

K.R. (CAN) PARA 557.

I certify that I have this morning examined

No. G 17097 Pte LEARD A.D.

of Carleton & York Regiment and in my opinion he is fit ~~unfit~~

to undergo Trial by Court Martial.

Station In the Field

Date 4 Aug. 142

Geo Dawson Major President

A. Walters Capt. R.C.A.M.
Medical Officer of C & Y. Regt.

Charge Sheet

The accused, G17097 Pte Leard, A.D., Carleton & York Regiment, a soldier of the Canadian Army (Overseas) in the Field is charged with:

First Charge
Sec 15(1) A.A.

When on Active Service absenting himself without leave

in that he

at Storrington absented himself without leave from 2359 hrs 16 May 42 until 2100 hrs 20 May 42.

Second Charge
Sec 15(1) A.A.

When on Active Service absenting himself without leave

in that he

at Storrington at approximately 1330 hrs 31 May 42 absented himself without leave until apprehended by the Military Police in High Street, Newcastle at about 2230 hrs 2 Jul 42, cost of return to unit being two pounds eighteen shillings five pence (£2-18s-5d).

Third Charge
Sec 24(2) A.A.

Losing by neglect his equipment and regimental necessaries

in that he

in the field on 10 Jul 42 was deficient the following articles:- Boots, ankle 1 pr value £1-1s-6d; Cap comforter value 1/1½; greatcoat value £3-17s-0½; blouse denim value 12/9; trousers denim 11/9; shoes canvas value 2/3; tins mess value 3/1; covers mess tin 3d; ration bag value 1½d; belts waist value 6/8½; Bottles water 2/11; braces left value 3/3; braces right value 2/11½; carriers water bottle 3/3; frogs bayonet value 1/6; haversacks 10/5; helmets steel Mk II value 9/0; pack web value 10/6½; pouches basic value 8/8; straps shoulder left value 3/4; straps shoulder right value 3/4; straps web supporting value 2/2; capes anti-gas value 12/3; sheets ground value 10/9; blankets four value £3-5s-6d. Total - £14-15s-2d. (75% of vocabulary value = £11-1s.4d.)

In the Field

Date 10 July 42

F D Tweedie Lt Col

(F.D. Tweedie) Lt.-Col.,
Comd Carlt & York Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
18 Jul 42

G.H. Searles
.....Major General,
G.O.C. 1 Cdn Div.

Canadian Major
Resident

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G17097 Pte. Leard, A.D. (Carlt & York Regt)	First Charge Sec 15 (1) A.A.	not guilty	Guilty	
	Second Charge Sec 15 (1) A.A.	Guilty	Guilty	
	Third Charge Sec 24 (2) A.A.	Guilty	Guilty	One hundred days detention. Forfeits taxes of one day pay. To make good the amount of £2-18-6 cost of apprehension and return to his unit. To make good the amount of £11-1-4 cost of Court Martial. Confirmed. Brigadier Cdn Inf Bde. 10th August 1942

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) G.H. Pearkes Maj. General (Signed) Ed Dairon Major
Commanding 1 Cdn Div Royal 22nd Regt
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Fourth day of August 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(~~4. The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this Seventh day of August 1942

Ed Dairon Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 10th day of August 1942

Charles Foulkes Brigadier ~~Major General~~ ~~1 Cdn Div~~ Cond 3 Cdn Inf Bde
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 11 Aug 42 (Signed) [illegible] Major T/Cond C.G.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 38092/1316 70m 2/41 W. & Co., Ltd. Gp. 748/2

80 M.

5-10

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 18 day of JULY, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[~~I am unable to appoint~~ :—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely~~ :—]

PROCEEDINGS REVIEWED

[signature]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.A.A. Doiron	R 22e R

Members.

Rank.	Name.	Regiment.
Capt.	G.F. McNeil	West N.S.R.
Lieut.	R.W. Spurr	West N.S.R.
Waiting Lieut.	J.P. Thivierge	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]

Commanding 1 Cdn Inf

Convening Officer.

80 M. (2nd case)
Pte LEARD. A.D.

See 285 E for 1st case

O. H. M. S.

M. F. B. 270
725M-8-41 (710-91)
H.Q. 1772-30-67

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit N/A dated N/A, and in his regiment (or corps), the rank of N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number A.28004 Rank Gunner Unit

Name Leaman, G.W. of 2 Cdn Medium Regiment, R.C.A.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		- NIL -		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Seventh day of December 1943 A.M. Campbell - Capt.
(A.M. Campbell)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Exhibit B.

a44B.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-629
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number A.28004 Rank Gunner Name Leaman, G.W. Regiment (or unit) 2 Canadian Medium Regiment, R.C.A.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery ~~and~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	N/A	times	N/A	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times

Number of instances of gallantry or distinguished conduct Nil

~~xx~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~xx~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 74 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~xx~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~7~~ days in ~~Air Force~~ military custody, making a total of ~~7~~ days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 36 yrs 4 mos.

6. The date of his ~~attestation~~ specified in his record of service is 4 Sep 1939

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 3 mos.

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward military

~~possession of or entitled to) State any air force decoration or reward~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

Exhibit "C" AHB

M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

No. A/28004 Name Leaman, G.W. Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 4-9-39 | G.C. Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Completed 2 years service, no Regtl entries, previous sheet destroyed 4-9-41									

A Certified True Copy of the Form
in my possession.

[signature] Capt & Adjt.
(A.M. Campbell)
2 Oin Medium Regiment, R.C.A.

(P.T.O.)

AHB

THIRD WITNESS: D/14553 Gnr. Hopson, F.R. having been duly sworn states:-

On the night of 29 Nov 43 I was on sentry duty outside the main building. At approximately 1900 hrs I saw the accused talking to a young lad. What they were discussing I do not know. I saw the accused give the boy a parcel, and saw the accused enter the canteen and the boy proceed up the street carrying the parcel. I would not recognize the boy again.

F.R. Hopson
D/14553 Gnr. Hopson, F.R.

QUESTION TO THE ACCUSED
"Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and maybe given in evidence."

A. Yes Sir, I wish to give evidence upon oath.

The accused A/28004 Gnr. Leaman, G.W. having been duly sworn states:-

On 29 Nov 43 I was asked by an Italian party if I could provide accomodation for a female friend of his who was slightly ill and was waiting for her brother to come and fetch her at 1900 hrs. I did so knowing full well that I was taking more chances than I should have done, but there was a young lad with her at all times and I myself did not stay in the building after I had let her in. I did not enter the building again until I opened the canteen at approximately 1705 hrs. At 1730 hrs R.S.M. McGowan and Sgt. Tremblay came in and found the young lady on my bed. I did not know they were there as I was busy getting the canteen supplies ready for the evening. The young lady's brother appeared at 1900 hrs but as she had already gone, I explained the story to him and gave him the things she had left behind.

G.W. Leaman
A/28004 Gnr. Leaman, G.W.

Certified that Rules of Procedure 4(d) 4(e) 4(f) and 4(g) have been complied with.

G.W. Andrews
(G.W. Andrews) Lieut.
Officer directed by the Commanding Officer to take the Summary.

Summary of Evidence ~~Exhibit "D"~~ AWB

In the case of

A/28004 Gnr. Leaman, G.W.

2 Canadian Medium Regiment, R.C.A.

Taken under oath by direction of the Commanding Officer.

FIRST WITNESS: B/17527 R.S.M. McGowan, D. having been duly sworn states:-

I am the Regimental Sergeant Major of the 2 Canadian Medium Regiment, R.C.A. On 29 Nov 43 at approximately 1730 hrs I inspected the sleeping quarters of the accused whom I know and recognize. There was a mosquito net covering the bed which I removed and I found a woman in bed under the blankets. She was an Italian girl apparently about seventeen years of age. I handed her over to Sgt. Inge of the Canadian Provost Corps.

QUESTION BY ACCUSED

1. Q. Was the girl fully clothed?
   A. Yes.
2. Q. Did you see a young lad in there also?
   A. Yes.

D. McGowan
B/17527 R.S.M. McGowan, D.

SECOND WITNESS: L/6336 Sgt. Tremblay, L.T. having been duly sworn states:-

I was Regimental Orderly Sergeant 29 Nov 43. At approximately 1730 hrs R.S.M. McGowan the Regimental Sergeant Major asked me to accompany him to the accused's quarters. We entered the accused's room and R.S.M. McGowan lifted up the mosquito net which was covering the bed and there was a young Italian girl of about seventeen years of age on the bed. We brought her out of the building, put her in a truck and sent her to the Canadian Provost Station.

QUESTION BY ACCUSED

1. Q. Was the young lady fully clothed?
   A. Yes, with the exception of coat and shoes.
2. Q. Did you see a young lad in the room at the same time?
   A. I didn't notice him.
3. Q. Did you notice a young lad in any part of the building?
   A. Yes, near the side door.

L. Tremblay
L/6336 Sgt. Tremblay, L.T.

[illegible]

Trial of, A28004 Gnr. George William LEAMAN, 2 Cdn. Med. Regt. R.C.A.
Prosecutor: Lieut G. W. Andrews, 2 Cdn. Med. Regt., R.C.A.
Defending Officer. Lieut A. Malouf, 2 Cdn. Med. Regt., R.C.A.

D6. DEFENCE (Continued)

one about having a woman or any other unauthorized person in his quarters. These are valuable stores and equipment in the canteen and the accused is responsible for their safekeeping."

The Defending Officer addresses the court: "The motive of the accused was a good motive. He felt that the girl was sick and had nowhere to go. The young Italian boy was with her throughout. Her freedom from venereal disease is testimony to her good character. The accused's statement was not questioned by the Prosecution. No conduct to the prejudice of good order and military discipline has been shown."

The Prosecutor addresses the court: "The accused is charged with having a woman in his quarters, nothing else. This has been proved beyond any shadow of a doubt. There can be no question that this is a military offence".

E 3.

The Accused addresses the court in mitigation of punishment: "I enlisted in the N.P.A.M. in October 1925 and served in the N.P.A.M. until enlisting in the C.A.S.F. in September 1939. I hold the Canadian Efficiency Medal and one clasp. I was a confirmed gun sergeant with the 11th Army Field Regiment R.C.A. prior to transferring to Auxiliary Services. My record of service and conduct sheet speak for themselves."

Trial of A280014 Gnr. George William LEAMAN, 2 Cdn. Med. Regt. RCA.
Prosecutor: Lieut G.W. Andrews, 2 Cdn. Med. Regt. R.C.A.
Defending Officer: Lieut A. Malouf, 2 Cdn. Med. Regt., R.C.A.

D6. DEFENCE (continued).

a certificate from St. John's Ambulance Brigade. I have not the certificate with me, it is in Canada."

Not Re-Examined.

Questioned by the Court: "My immediate superior officer is Supervisor R.F. Guyton whom I saw within half an hour of accommodating the young woman. I spent about an hour that afternoon helping Supervisor R.F. Guyton at the theatre. I did not say a word to him about the woman in my quarters because it did not occur to me. There is valuable equipment and supplies in the canteen and when I went out and locked the entrance to the canteen at 1305 Hrs. I did not lock my quarters so that the young woman and the youth would have had access to the entire canteen in my absence. The nearest N.A.A.F.I. is about 200 yards from the canteen on the same street."

Second Witness D14553 Gnr. Hopson, F.R. having been sworn states: "I am D14553 Gnr. Hopson, F.R. 2 Cdn. Med. Regt R.C.A. to which the accused (whom I recognize) belongs. On the night of 28 Nov 43 I was on duty as a sentry. At approximately 1900 Hrs. I saw the accused across the street from my post. He was talking to an Italian. I saw the Italian leave a few moments later carrying a parcel.

Not Cross-Examined. Not Questioned by the Court.

Third Witness: Supervisor R.F. Guyton, Canadian Legion War Services attached to 2 Cdn. Med. Regt R.C.A. having been sworn states: "I am Supervisor R.F. Guyton attached to 2 Cdn. Med. Regt. to which the accused (whom I recognize) belongs. The accused has worked for me since April 1943 as a military helper. His conduct has always been satisfactory and he is a steady conscientious worker. The accused was working with me at the theatre from 1005 Hrs to 1205 Hrs and from 1330 Hrs to 1630 Hrs. on 29 Nov 43.

Not Cross Examined.

Questioned by the Court: "The accused never said a word to

Trial of A28004 Gnr. George William LEAMAN, 2 Cdn. Med. Regt., R.C.A.

Prosecutor. Lieut. G. W. Andrews, 2 Cdn. Med. Regt., R.C.A.

Defending Officer. Lieut. A. Malouf, 2 Cdn. Med. Regt., R.C.A.

D6. DEFENCE. (continued).

subject to cross-examination if he gives evidence on oath.

First Witness (the accused) A28004 Gnr. Leaman, G.W. having been sworn states: "I am A28004 Gnr. Leaman, G.W. attached to 2 Cdn. Med. Regt., R.C.A. I am employed by the Canadian Legion War Services as canteen manager (military helper) at the 2 Cdn. Med. Regt. canteen where I have my quarters. At approximately 1230 Hrs 29-Nov-43 I was on the street just outside the canteen and was asked by an Italian youth if I could provide accommodation for a girl and her brother until 1900 Hrs. when (as I understood) they were to leave for Messina. I did not think there was any harm in doing so and asked to see the parties concerned. They were brought to me and the young woman in my opinion looked feverish and very tired. I agreed to let them rest in my room until 1900 Hrs. I left the premises at about 1305 Hrs. and locked the building up with the woman and youth inside. I went to the main barracks, then to the theatre where the Cdn. Legion Supervisor, Supervisor R.F. Ainton, was working. I left the Supervisor at about 1435 Hrs. and went to a laundry, returning to the main barracks for supper. I did not return to the canteen until 1700 Hrs. when I opened it up. From the time I opened the canteen until the RSM appeared there the canteen was filled with troops. After the young woman had been removed at approximately 1900 Hrs, I met an Italian who had been with the young woman at noon. I met him on the street outside the canteen. I gave him a bundle that had been left by the girl when she was removed."

Cross-Examined: "I had never seen the young woman or any of her companions prior to 1230 Hrs. 29-Nov-43. I speak a very little bit of Italian. I considered the young woman to be feverish and I am qualified to know because I hold

Trial of A28004 Gnr. George William LEAMAN, 2 Cdn. Med. Regt., R.C.A.

Prosecutor: Lieut G. W. Andrews. 2 Cdn. Med. Regt., R.C.A.

Defending Officer: Lieut. A. Malouf. 2 Cdn. Med. Regt., R.C.A.

D3. PROSECUTION (Continued).

am qualified to act as an interpreter. I asked this girl if she was ill and she said that she was not ill. I asked her what she had been doing in a soldier's billet and she replied that she did not know. It was not until after curfew on the night of 29. Nov. 43 that we could get this young woman admitted to the local prison. Prior to admission she fought and struggled violently with the police officers who had her in custody. I was with this young woman until she was lodged in the civil jail."

Cross-Examined: "When I reported to the governor of the prison on 30. Nov. 43 he informed me that he had released the young woman in question that morning as she had been examined by the prison doctor and had been found to be free of venerial disease. The governor said that he had sent her to her home in Piedemonte. I spoke to the prison doctor & verified this.

Not Cross-Examined.

Not Re-Examined.

Not Questioned by the Court.

The court satisfies itself that the young woman concerned in the evidence of the third witness for the Prosecution, H29072 Pte. Halayko, E.W. is in fact the same woman who was stated in the evidence of the first and second witness for the Prosecution, B17527 R.S.M. (W.O.I) McGowan, D. and L6336 T/Sgt. Tremblay, L.T. as having been found in the accused's bed.

D6. DEFENCE.

The Defending Officer makes no opening address but informs the court that the accused wishes to give evidence on oath. The Court again points out to the accused that he is

Trial of: A 28004 Gnr. George Willard LEAMAN, 2 Cdn. Med. Regt., R.C.A.
Prosecutor: Lieut. G.W. Andrews, 2 Cdn. Med. Regt., R.C.A.
Defending Officer: Lieut. A. Malouf, 2 Cdn. Med. Regt., R.C.A.

D3. PROSECUTION (continued).

Second Witness L6336 L/Sgt. Tremblay, L.T. having been sworn states: "I am L6336 L/Sgt. Tremblay, L.T. of the 2nd Medium Regiment, R.C.A. to which the accused (whom I recognize) belongs. At approximately 1730 Hrs 29 Nov 43 I was ordered by B2.8004 R.S.M. (W.O. I) McGowan, D. to accompany him, as regimental orderly sergeant, to the accused's quarters. We entered the accused's room and found a young native girl in the bed. Her age would be about 14 years. The R.S.M. sent me to get the accused who was in the next room. I brought the accused into the room where the R.S.M. questioned him. We subsequently took the girl out of the building, placed her under escort and turned her over to the Canadian Provost Corps".

Examined: "~~Did you notice any belongings of the girl in~~ The girl's coat was on a chair near the bed and her shoes were lying nearby".

Cross-Examined: "The girl was fully clothed except for her shoes and coat. I did not notice any one else in the room at time of entry. I did notice that a young lad was standing near the side door entrance at the time of our arrival at the building".

Not Re-Examined.

Questioned by the Court: "The age of this young lad would in my opinion be about 15 or 16 years".

Third Witness H29072 Pte. Halayko, E.W. having been duly sworn states: "I am H29072 Pte. Halayko E.W. No3 Coy., Cdn. Provost Corps. I have never seen the accused before to my knowledge. At about 1500 Hrs. 29 Nov 43 having been out on duty I returned to my H.Q. where I found a young woman in custody. The report on the case which I saw showed that she had been delivered into custody by the 2nd Med. Regt. R.C.A. I speak the Italian language and

NOTES.

Trial of A28004 Gnr. George Willard LEAMAN, 2 Cdn. Med. Regt., R.C.A.
Prosecutor Lieut. G.W. Andrews, 2 Cdn. Med. Regt., R.C.A.
Defending Officer Lieut. A. Malouf, 2 Cdn. Med. Regt., R.C.A.

D3. PROSECUTION.

First Witness B17527 R.S.M. (W.O.I) Mc Gowan, D having been sworn states: "I am B17527 R.S.M. Mc Gowan, D of 2 Cdn. Med. Regt. R.C.A. to which the accused (whom I recognize) belongs. At 1730 Hrs 29-Nov-43 I inspected the accused's quarters. He was not present at the time but was close by. I was accompanied by L63364 Sgt. Tremblay, L.T. There was a mosquito net covering the accused's bed which I lifted aside. I found a woman in the bed. She was a native girl of 16 or 17 years of age and was underneath the blankets. I pulled the blankets back and found her to be wearing a light street dress. I ordered her out of the bed and had her put on her shoes and coat which were lying close by. I removed her forcibly from the premesis and, putting an escort in charge of her, had her turned over to the Provost Corps. At the moment that I discovered the girl I sent Sgt. Tremblay, L.T. for the accused who was nearby. I asked the accused why this woman was in his quarters. He stated that she had arrived that morning and that he had permitted her to remain and that she was leaving for Catania at seven o'clock that evening."

Examined: "The accused was in a small room close by in the same building at the time the woman was discovered."

Cross-Examined: "At the time I entered the room there was no one other than the woman in the room but there was a small boy in the next room just at the door. The quarters referred to where the woman was found are in the building in which this court is now sitting."

Not Re-Examined.

Questioned by the Court: "I knew the woman was in the accused's bed because I knew where the accused slept from a previous inspection. I knew that the accused was nearby when I discovered the woman because I saw the accused when I entered the building."

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1497 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A28004	Gnr		George Williard	Leaman	2nd Medium Regiment

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~[illegible]~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Dec 43 endorsed by me, ([illegible]), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([illegible])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.H.Birks	5 Cdn Med Regt R.C.A.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by	11 Cdn Army Fd Regt R.C.A.
Lieut	To be detailed by	2 Cdn Medium Regt R.C.A.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed by	2 Cdn Med Regt Regt R.C.A.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in SICILY (Country.)

H E Wright (Signed personally. RP 105 fn 2.) (H.E.Wright) Lt-Col (Rank.)

Date 6 Dec 43

A/Comd 1 Cdn Army Gp., R.A.
Commanding

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

AHB

Exhibit A.

AHB.

MEDICAL OFFICER'S REPORT

I certify that No. A.28004 Gnr Leaman, G.W. 2 Cdn Med Regt., RCA was this day examined by me of and is in a good state of health, and fit to undergo Trial by Court martial.

J. Pearce Capt. RCAMC
Medical Officer
(J.P. PEARCE)

Station In the Field

Date 7 Dec 43

M. F. B. 246
HSM—9-40 (7120-1)
H.Q. 1772-39 480

AHB

CHARGE SHEET

A.A. Sec 40
(First Charge)

The accused No. A-28004 Gunner George Williard Leaman, 2 Cdn Medium Regiment, R.C.A. a soldier of the Canadian Army placed on Active Service is charged with:-

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

had a woman in his bed when his quarters were inspected at 1730 hrs 29 Nov 43.

(W.C.LEGGAT) Lt-Col
C.O. 2 Canadian Medium Regiment
R.C.A.

In the Field

29 Nov 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

6 Dec 43

(H.E.Wright) Lt-Col
A/Comd 1 Cdn Army Gp., R.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A28004 Gnr George Williard LEAMAN, 2 Cdn. Med. Regt., R.C.A.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st CHARGE	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NO days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for forty five (45) Days

(Sgd) ..... Judge-Advocate, if any. 7-Dec-43 Date awarded. (Sgd) A H Birks Major RCA. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm findings and sentence of court (but remit seventeen (17) days detention.

~~I direct that the award be not committed to prison or detention barracks and further orders (1)~~

(1. AA 57A. Delete if not used.)

(Sgd) H. E. Wright (H. E. Wright) Lt-Col.

Date 8 Dec 43

A/ Commanding 1 Cdn Army Group, R.A.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A28004 Gnr Leaman G.W.	9 Dec 43	[signature] Lt-col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Large Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the..... charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I wish to give evidence as a witness. Do you intend to call witnesses on your behalf? Ans. YES. Are they witnesses as to character only? Ans. NO
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFE 2SS or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overruns RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

YY-50 20/C01/5 M-61

CFA96 (In lieu of AFA3) 40/P & S/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col. H.E. Wright A/Comd 1Cdn. A.G.R.A. dated 6-Dec-43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A28004	Gnr		George Williard	LEAMAN	2 Cdn. Medium Regiment.

Proceedings Reviewed

[signature] Capt Reviewing Officer C.V.M.H.Q.

6 Jany 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Sicily on (date(s)) 7-Dec-43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

AHB. A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0900 hours trial commences.

AHB. A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans ...~~

AHB. ~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major A.H. Birks, 5 Cdn. Med. Regt., R.C.A.
Member	Capt. G.N. Henderson, 11 Cdn. Army Fd. Regt., R.C.A.
Member	Lieut. G.A. Rumble, 2 Cdn. Med. Regt. R.C.A.
Judge-Advocate	
Prosecutor	Lieut. G.W. Andrews, 2 Cdn. Med. Regt., R.C.A.
Defending Offr	Lieut. A. Malouf, 2 Cdn. Med. Regt., R.C.A.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

AHB. A8. The accused A28004 Gnr George Williard LEAMAN before arraignment make(s) (no) ~~(a)~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

AHB. A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

YY-50

GNR LEAMAN G W

No. D61894 Name LEAKAS, P. | Sqn, Battery, or Company "A" | Corps Les Fus M.R. | Date of enlistment 28 Mar 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (9428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Sum	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No. 2 was Destroyed 28 Mar 42 in accordance with R.O. 319 C.A. (O).									

CERTIFIED TRUE COPY

W. Wilson Capt

Signature of officer having custody of original document.

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5 Sept 45 day of

Capt

C.H. Milsom

(C.H. Milsom) A/Capt

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.61864	L/Cpl	Jean Pierre LEAKAS	1 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, pronouncement being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet Nil

Date of last entry in Field Conduct Sheet Nil

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 22 days in military custody, *i.e.*, — days in open arrest, 22 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 25 years 6 months

6. The date of his attestation is 28 March 1940

7. The service which the accused is allowed to reckon is 5 years 3 months 3 days

8. The accused is in possession of: 2 Good Conduct Badges, 39-45 Star, France & Germany Star, Defence Medal, CVSM & Clasp.

Show the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously without promotion, to the present date.~~

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

~~In the acting rank of .....~~

E + B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] W.L.22/12.4/39 42,000 11/44 A. & E. W. Ltd. Gp. 9/13 Forms F. 2 & W.296

29 Aug 45

I request that the Convening Officer appoint an Officer to defend me at my forthcoming trial by Field General Court Martial.

J. P. Laskas

D/61894 L/CPL LEAKAS, P.

29 Aug 45

I hereby certify that I have received a copy of the Summary of Evidence, and Charge Sheet in the Case against me.

J. P. Leakas

D/61894 L/CPL LEAKAS, P.

LIST OF WITNESSES

FOR THE PROSECUTION:

FIRST WITNESS:- A/Capt. G.H. Milsom, Admin Officer 2 Wing "B" 1 Cdn Repat Depot.

SECOND WITNESS:- B 131648 L/Cpl. Wilson, S.H., R.P. 2 Wing "B" 1 Cdn Repat Depot.

FOR THE DEFENSE:

Nil

J.G. Finch Lieut

(J.G. Finch) Lieut.
Officer detailed to take
the Summary of Evidence

LIST OF EXHIBITS

FOR THE PROSECUTION:

EXHIBIT "A":- Certified True Copy of a Declaration of a Court of Inquiry.

FOR THE DEFENSE:

Nil

J.G. Finch Lieut

(J.G. Finch) Lieut.
Officer detailed to take
the Summary of Evidence

30 Jul 45

APPENDIX "A"

KIT DEFICIENCIES OF:-
D 61894 L/Cpl Leakas, J.P.

Item	No	Voc Price £ S D	Voc Expended Value Less 25 % £ S D
Blouses Battledress	1	1 9 1	1 1 9¾
Boots Ankle	1	1 6 0	1 0 6
Berets Khaki	1	5 5	4 0¾
Drawers Cell	2	3 10	2 10½
Shirts Flannel	2	1 1 6	16 1½
Socks worsted	3	6 1½	4 7
Trousers Battledress	1	1 9 3½	1 1 11½
Bags kit	1	4 7	3 5¾
Braces prs	1	1 5	1 0½
Brush cloth	1	2 2	1 7½
shaving	1	1 8	1 3
shoes pol	1	1 3	11½
tooth	1	9	4½
Combs hair	1	2	1½
Forks NS table	1	4	3
Holdalls	1	10	7½
Knife table GS	1	8	6
Razors Safety	1	3	2¼
Spoons NS Dessert	1	5	3¾
Vests cotton gym	2	3 10	2 10½
Towels hand	2	3 0	2 3
Braces WE Left	1	1 4	1 0
Haversack WE	1	8 0	6 0
Tins Mess sets	1	1 5	1 0¾
	Total	7 12 1	5 15 8½

Checked by:

E 21879 CQMS Smith, J.
2 Wing (B) 1 C. Repat. D.
Superior Camp

RECORD of the Declaration of a Court of Inquiry assembled at Superior Camp, Ludshott, Hants. on the 28th day of July 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.61894 L/Cpl. LEAKAS, J.P.

DECLARATION

The Court declare that No. D.61894 L/Cpl. LEAKAS, J.P.
1 Canadian Repatriation Depot
illegally absented himself without leave from 2 Wing (B) 1 Cdn Repat Depot
at 0830 hrs on the 5 day of July 45,
that he is still so absent, and that on the 28 July 45 he was deficient, and
that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
attached list			

Capt. G.H. Milsom (RCA) President
Lieut. M. Dankiw (CIC) Member
Member

Signed at Superior Camp, Ludshott, Hants
this 28th day of July 1945

Signature of Commanding Officer (M.B.E. Gordon) Col.
Commanding Officer
1 Cdn Repat Depot

Certified true copy

Signature of Officer having custody of original record

3/608 MFB 375-AFB 115
40/P&S/292 (6410)

This is Exhibit "A" as referred to by me in the case against D.61894 L/Cpl Jean Pierre LEAKAS.

J G Finch Jr

(J.G. Finch) Lieut.
Officer Detailed to Take the
Summary of Evidence.

SUMMARY OF EVIDENCE

In the case of B.61894 L/Cpl. LEAKAS, J.P. on the transient strength of No. 1 Canadian Repatriation Depot 2 Wing (B), a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary is taken upon oath.

FIRST WITNESS FOR THE PROSECUTION

A/Capt. G.N. Milsom, Admin Officer of No. 1 Cdn Repat Depot 2 Wing (B) having been duly sworn states:-

"I am A/Capt. G.N. Milsom, Admin Officer at No. 1 Cdn Repat Depot 2 Wing (B). The accused was taken on transient strength of this Depot from 1 C.R.D., w.e.f. 20 June 1945. I submit in accordance with A.A. ss 162 the following documents:-

(1) Certified True Copy of the Court of Inquiry showing the accused as being illegaly absent without leave from 0830 hours 5 July 45 and being still absent at 0830 hours 28 July 45 which is marked Exhibit "A".

G.N. Milsom A/Capt.
(G.N. Milsom)

The accused declines to cross-examine this witness.

SECOND WITNESS FOR THE PROSECUTION

B.131648 L/Cpl. Wilson, S.W. having been duly sworn states:-

"I am B.131648 L/Cpl. Wilson, S.W. of the Regimental Police Staff of No. 1 Cdn Repat Depot 2 Wing (B). I was N.C.O. in charge of the Wing guard room between the hours of 0800 hrs and 1600 hrs on 14 Aug. 45. At approximately 0845 hours the accused who I now recognize as B.61894 L/Cpl. Leakas, J.P. reported into the guard room and told me that he was reporting back from A.W.L. I checked the record and found this to be so. I placed him under close arrest and made out a statement of evidence."

S.W. Wilson
(B.131648 L/Cpl. Wilson, S.W.)

The accused declines to cross-examine this witness.

The accused was warned in accordance with R.P.4(e) as follows:-

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused reserves his defense.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

J.G. Finch Lieut
(J.G. Finch) Lieut.
Officer detailed to Take The Summary of Evidence.

SUPERIOR CAMP, LEICESTT, HANTS.
15 Aug. 45.

Exh "A"

Then three whks. leave and then to
*. Repat Depot.

In that camp he soon developed a feeling of opression and thought that he was being "buggered" about — So he thought he would go and have a good time for a change.

Well gentlemen he did — but I am asking you to overlook it — on the grounds that he has already done 2 y's 8 1/2 months of severe imprisonment in the hand of our enemies — plus twenty-two days in the Guard Room awaiting this trial. This is his first crime; and, for a man in his condition, not a bad one. As he only wants his discharge, to lock him up for such an offence, after what he has been through, would be an injustice. Gentlemen I am asking you to forgive him on these grounds, and also, that he has already suffered too much.

H. Kos Sgt.

PLEA IN MITIGATION

L/Cpl. KREKAS, J. P.

He is a volunteer - he joined March 1940. In July '40 he was in ICELAND in October '40 in ENGLAND.

He took part in the DIEPPE Raid - was wounded on the beach and taken prisoner. For ~~2½~~ two years ~~and~~ eight and a half months he was a P.O.W. - with all that entails - scanty food opressive treatment - etc.

He was one of the Canadians chained. For 13 months - the first three with ropes binding his wrists - the next ten in French handcuffs.

Then from Stalag 8B he was moved to Stalag 2D in POMERANIA. When the Russians advanced and endangered the camp they were forced to march WEST for three months 18 - 20 miles a day on a diet of potato soup and a chunk of black bread. As they neared HANOVER they again turned EAST to escape the Americans. One night shortly before his liberation they were compelled to do a force march of 50 Kilos.

However he was soon liberated and flown to a Hospital in ENGLAND. Here he stayed two weeks and was given an "S" Category.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have carefully examined the u/n soldier and find him

fit/unfit to ~~XXXXXXXXXXXXX~~ undergo trial by FGCM

D 61894 L/Cpl. LEAKAS, J.P.
No. Rank Name

Remarks

Date 5 Sep 45

(Signature W W Lucas Capt
Medical Officer
1 Cdn Remt Depot (2 Inor)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 22 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 61894	Tpr	L cpl	Jean Pierre	LEAYAS	1 Regmt Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (*date*) 3 Sep 45 endorsed by me, ~~or by an officer of my command~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior appointed offcr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint any other Offr to form the Court than the Offr as President, for the reasons there stated hereon~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I do appoint a judge-advocate for the trial as appointed hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	D L Redman, VD (Must be named. RP 106.)	HQ CEU (Unit.)

MEMBERS.

Capt	To be detailed by CO 1 CCRU	1 CCRU
Lieut (Rank.)	To be detailed by CO 1 CCRU (Named or detailed. RP 106.)	1 CCRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 3 Sep 45

(signed permanent RP 105 fn 2.)

(T J RUTHERFORD) Brig

Commanding HQ 2cy CEU

Brig (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

CHARGE SHEET

The accused D.61894 L/Cpl. Jean Pierre LEAKAS on the Transient Strength of No. 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

First Charge
A.A.Sec 15(1)

at SUPERIOR CAMP, LUDSHOTT, HANTS., absented himself without leave from 0830 hours 5 July 1945 until surrendering himself to the Regimental Police at SUPERIOR CAMP, LUDSHOTT, HANTS., at 0845 hours 14 August 1945.

TIME ABSENT:- 40 days 15 mins.

(M.B.K. Gordon) Colonel
Commanding Officer
1 Cdn Repat Depot
(Lorne Scots)

SUPERIOR CAMP,
LUDSHOTT, HANTS.,
ENGLAND
15 Aug. 45.

"To be tried by Field General Court Martial".

(D.G. RUTHERFORD) Brig
Comd
"E" Gp CRU

FD
3 Sep 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D 61894 L cpl Leakas J P, 1 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st ~~AA~~ Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning~~ on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To forfeit all Ordinary Pay for a period of Forty-Four (44) days.

(Sgd) ..... 5 Sep/45 (Sgd) .....

Judge-Advocate, if any. Date Awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and Sentence confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) DAR

(1. AA 57A. Delete if not used.)

Date Sept 7/45 (Sgd) F J Rutherford Brig

Commanding E Sp C RV

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 61894 Cpl LEAKAS JP 1 Cdn Repat Dep	DO 148 d 10 Sept 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. NO SIR .....(5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 1, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6 respectively.(3)
(*1. MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Plea in mitigation NOT E-AT.....(2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*a*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1*B*), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 P 5T-22

RECEIVED 24 SEP 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brig T J Rutherford, CBE, ED Comd "E" Gp CRU dated 3 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 61894	Tpr	L cpl	Jean Pierre	LEAKAS	1 Repat Dep

PROCEEDINGS REVIEWED 25 Sept 45 J M Robinson Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 5 Sep 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ~~as interpreter ? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to P26126 S STAHS INCLAIR as shorthand writer ? Ans NO The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO, SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	IGGRU
Member	CAPT	J.F. HODGINS	IGGRU
Member	LT	G.F VIAU	IGGRU
~~Judge Advocate~~			
Prosecutor	CAPT	G.D. AITKEN	1 REPAT DEPOT
Defending Offr	LT	H.V. ROSS	1 REPAT DEPOT

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5 T - 22

Spr. (2/cpl) Leaks, J.P.

I desire the convening Officer to assign an Officer to represent me at my trial.

G. A. Lesley

Answer: About 60 feet.

Question: It was dark, was it?

Answer: Yes.

Question: Who identified us at Provost H.Q.?

Answer: The manager of the cafe. I'm not sure about any others.

Question: Approximately what time did the manager identify us?

Answer: About 2245 hrs or later.

Question: Would you say Pte. Switzer and I were intoxicated?

Answer: You were both under the influence of liquor.

(L.B. Olson)

The accused was cautioned as follows:

Question: Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I wish to make a statement.

Question: On oath or not on oath?

Answer: On oath.

The accused having been duly sworn states:

I was drunk on the night of 24 Feb 45 and I don't remember anything that happened. I remember being in the Provost station but I don't remember what happened there.

(G.A. Leakey)

The accused does not call any witness.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

(T.L. MILLER) Capt.
CIC, 13 C.B.R.Bn.
Officer detailed to take
Summary of Evidence

In the Field
10 Mar 45

Answer: About 60 feet.

Question: It was dark, was it?

Answer: Yes.

Question: Who identified us at Provost H.Q.?

Answer: The manager of the cafe. I'm not sure about any others.

Question: Approximately what time did the manager identify us?

Answer: About 2245 hrs or later.

Question: Would you say Pte. Switzer and I were intoxicated?

Answer: You were both under the influence of liquor.

(L.B. Olson)

The accused was cautioned as follows:

Question: Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I wish to make a statement.

Question: On oath or not on oath?

Answer: On oath.

The accused having been duly sworn states:

I was drunk on the night of 24 Feb 45 and I don't remember anything that happened. I remember being in the Provost station but I don't remember what happened there.

(G.A. Leamy)

The accused does not call any witness.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

(T.L. MILLER) Capt.
CIC, 13 C.B.R.Bn.
Officer detailed to take
Summary of Evidence

In the Field
10 Mar 45

They were standing just outside the door of the cafe. We apprehended them and escorted them to Det. H.Q. where they were identified by the manager of the cafe and two other witnesses of the earlier disturbance, whom I subsequently learned to be Tpr Bell and Pte. Grimschied.

(R.B. Sibley)

The accused declines to cross-examine this witness.

Third Witness: L-87216 Pte. Girmschied, P. 11 C.B.R.Bn., 2 C.B.R.C. having been duly sworn states:

On the evening of 24 Feb 45 at about 2000 hrs I was in Maxie's Cafe Ghent. I noticed three Canadian soldiers arguing with the manager trying to get him to accompany them outside. I recognize Pte. Switzer and Pte. Leakey as being two of the three soldiers. Pte. Switzer had an R.P. armband on his left arm. When the manager refused to go outside, Pte. Switzer took him by the arm and Pte. Leakey pushed from behind and they forced him outside. He was out there about 20 minutes. About 2200 hrs two of the soldiers came back. They were Pte. Switzer and Pte. Leakey. Pte. Switzer approached the manager and asked him to come outside again. He refused to go. The two soldiers then went outside. I later identified these two soldiers at Provost H.Q. as the same ones who had accosted the proprietor. The first time I saw these two soldiers in the Cafe they were drunk.

The accused declines to cross examine this witness.

Fourth Witness: L-2319 L/Cpl. Olson, L.B. 2 Cdn L. of C. Provost Coy., Ghent Det, having been duly sworn states:

At about 2030 hrs 24 Feb 45 on information received and accompanied by L/Cpl Sibley I proceeded to Maxie's Cafe, Klein Station Steet, Ghent. I was informed there that two Canadian soldiers had caused a disturbance and taken some money from the manager. The soldiers had left before our arrival. At about 2150 hrs. the same night we were notified that they had returned and accompanied by L/Cpl. Sibley I returned to the cafe. Two soldiers were pointed out to me by a lady from the cafe as the two soldiers who had previously caused the disturbance. These soldiers were taken to Det. H.Q. where they were identified by the manager of the cafe. I recognize Pte. Leakey and Pte. Switzer as the two soldiers I arrested outside the cafe. I saw them searched at H.Q. and saw 445 Belgium francs found on Pte. Leakey and 140 on Pte. Switzer.

Cross examination by the accused.

Question: Approximately how far were we from the cafe when the arrest took place?

Answer: About 120 feet.

Question: Who pointed us out as the ones who previously caused a disturbance?

Answer: A lady from the cafe.

Question: Was the manager present?

Answer: I don't think so. He could have been. It was dar at the time.

Question: How close was the lady to us when she pointed us out?

Summary of Evidence in the case of C 44659 Pte. Gerald Arthur LEAKEY (SD & G High'rs) 46 Rft Coy 13 C.B.R.Bn. 2 C.B.R.G., a soldier of the Canadian Army Overseas

Charge: (i) Creating a disturbance
(ii) Committing a civil offence

By direction of the C.O. the evidence is taken on oath.

First Witness: Montho Janopullo, Ykstr 10, Ghent having been duly sworn states:

I am Montho Janopullo, Ykstr 10, Ghent, manager of Maxie's Cafe. On 24 Feb 45 at approximately 2030 hrs I came out of my kitchen into the bar and noticed three Canadian soldier arguing with the waitress about the amount of their bill. One of them whom I recognize as Pte. Switzer, P.L. took an R.P. armband out of his tunic and claimed to be a policeman. He then ordered me to follow him outside. The three soldiers Pte. Switzer, P.L., Pte. Leaky, G.A. whom I recognize, and the third soldier, forced me to leave the cafe, one pulling me by the arm, the other two pushing me. When we got outside Pte. Switzer and Pte. Leakey stayed with me, the third soldier returning into the cafe. Pte. Switzer and Pte Leakey demanded 4000 francs as far as I could understand, and threatened to hit me if I did not give it to them. To avoid being beaten up I gave them 250 francs. The third soldier came out and I escaped while the three were arguing. When the Canadian Provost arrived the soldiers had gone. Two came back later, Pte. Switzer and Pte. Leakey, about 2150 hrs. Pte. Switzer grabbed me by the wrist but immediately let go and the two soldiers went outside where they were arrested by the Provost. The soldiers were later identified by me at H.Q. of the Canadian Military Police. From the start both Pte. Leakey and Pte Switzer were drunk.

(Montho Janopullo)

Cross examination by the accused.

Question: Were we identified by you at Provost H.Q.?

Answer: Yes

Question: About what time?

Answer: About 2230 hours.

Second Witness: B-67378 L/Cpl. Sibley, R., 2 Cdn L. of C. Provost Coy. Ghent Det., having been duly sworn states:

At approximately 2030 hours we received a call to the Maxie's Cafe. On arrival there we were informed that two Canadians had created a disturbance and taken money from the manager. I was accompanied by L/Cpl Olson, L.B. The soldiers had gone when we arrived. At approximately 2150 hrs. the manager sent down for us stating that the two men concerned had returned. L/CPl Olson and I proceeded there again and on arrival two Canadian soldiers were pointed out to us as being the two concerned in the earlier disturbance. I recognize Pte. Switzer and Pte. Leakey as being these two soldiers.

of 140 Belgian francs. Since that time no one had identified me and I would like them to do so in court if a court martial is necessary.

(P.L. Switzer)

The accused does not call any witnesses.

I certify that the foregoing summary of evidence, consisting of 4 pages, was taken down by me in the presence of the accused and that RP 4 (c)(d)(e) (f) and (g) have been complied with.

(C. Hutchins) Capt.
46 Coy 13 Bn 2 C.B.R.C.
Officer detailed to take
Summary of Evidence

In the Field
10 Mar 45

Cross examined by the Accused.

Question: Approximately how far were we from the cafe when the arrest took place?

Answer: About 120 feet.

Question: Who pointed us out as the ones who had previously caused the disturbance?

Answer: A lady from the cafe.

Question: Was the manager present?

Answer: I don't think so. He could have been. It was dark at the time.

Question: How close was the lady to us when she pointed us out?

Answer: About 60 feet.

Question: It was dark, was it?

Answer: Yes.

Question: Who identified us at Provost H.Q.?

Answer: The manager of the cafe, I'm not sure about any others.

Question: Approximately what time did the manager identify us?

Answer: About 2245 hrs or 2300 hrs.

Question: Would you say Pte. Leakey and I were intoxicated when you arrested us?

Answer: You were both under the influence of liquor.

Question: Were you accompanied by L/Cpl Stibley at the time of our arrest?

Answer: Yes.

(L.B. Olson)

The accused was cautioned as follows:
Question: Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I wish to make a statement.

Question: On oath or not on oath?

Answer: On oath.

The accused, having been duly sworn states:
I was intoxicated on the evening of 24 Feb 45 and do not remember having been at Mazie's Cafe. The first thing I remember was the Provost L/Cpl shaking me at Provost H.Q. and asking me where I obtained the sum

Answer: By the manager and one of the girls.

Question: Approximately how close were they to us when we were pointed out?

Answer: About 5 or 10 feet.

(R.B. Sibley)

Third Witness: L-27216 Pte. Grimschied, P. 11 Bn, 2 C.B.R.G., having been duly sworn, states:
On the evening of the 24 Feb 45 at about 2000 hrs I was in Maxie's Cafe, 13 Petite Rue de la Station Straat, Ghent. I noticed three Canadian soldiers arguing with the manager trying to get him to accompany them outside. I recognize Pte. Switzer and Pte. Leakey as being two of the three soldiers. Pte. Switzer had an R.P. armband on his left arm. When the manager refused to go outside, Pte. Switzer took him be the arm and Pte Leakey pushed him from behind and they forced him outside. He was out about 20 minutes. About 2200 hours two of the soldiers came back. They were Pte. Leakey and Pte. Switzer. Pte. Switzer approached the manager and asked him to go outside again with them. He refused to go. The two soldiers then went outside. I later identified these two soldiers at Provost H.Q. as the same ones who had accosted the proprietor. The first time I saw Pte. Leakey and Pte Switzer in the cafe they were drunk.

Cross examined by the accused.

Question: Did you notify the provost of the disturbance?

Answer: No.

Question: Were you there when the provost arrested us?

Answer: No.

Question: At approximately what time did you identify us at Provost H.Q.?

Answer: About 2200 hours.

(P. Grimschied)

Fourth Witness: L-2319 L/Cpl. Olson, L.B., 2 Cdn L. of C. Provost Coy., Ghent Det., having been duly sworn states:
At about 2030 hrs 24 Feb 45 on infromation received and accompanied by L/Cpl. Sibley I proceeded to Maxie's Cafe, Klein Station Straat, Ghent. I was informed that two Canadian soldiers had caused a disturbance and taken some money from the manager. The soldiers had left before I arrived. At about 2150 hrs same night we were notified that they had returned and accompanied by L/Cpl. Sibley I returned to the cafe. Two soldiers were pointed out to me by a lady from the cafe as the two soldiers who had previously caused the disturbance. These two soldiers were standing on the street outside the cafe. The soldiers were taken to Det H.Q. where they were identified by the manager of the cafe. I recognize Pte. Switzer and Pte. Leakey as the two soldiers I arrested. Both soldiers were searched by the orderly Cpl in my presence at Det H.Q. On Pte. Leakey's person was 445 francs, on Pte Switzer's person 140 francs.

Summary of Evidence in the case of C-1361 Pte Philip Leslie SWITZER K-4 List, 58 Coy, 13 Bn, 2 C.B.R.C. a soldier of the Canadian Army Overseas charged with:

Charge: (i) Creating a disturbance A.A. 41(5)
(ii) Committing a civil offence - attempted robbery A.A. 41(5)

The Commanding Officer directs that the evidence to be taken under oath.

First Witness: Montho Janopullo, Ykstr 10, Ghent been duly sworn states I am Montho Janopullo, Ykstr 10, Ghent, manager of Maxie's Cafe, 13 Petite Rue de Lastation. On 24 Feb 45 at approximately 2030 hours I came out of my kitchen into the bar and noticed three Canadian soldiers arguing with the waitress about their bill. One of them whom I recognize as Pte. Switzer, took an armband out of his tunic bearing the letters R.P. and claimed to be a policeman. He then ordered me to follow him outside. The three soldiers, Pte. Switzer and Pte. Leakey, whom I recognize and the other forced me to leave the cafe, one pulling me by the arm, the other two pushing me. When we got outside, Pte. Switzer and Pte. Leakey, stayed with me, the other returned into the cafe. Pte. Switzer and Pte. Leakey demanded 4000 francs as far as I could understand and threatened to hit me if I didn't give it to them. To avoid being beaten up, I gave them 200 francs. The third soldier came out and I escaped while the three were arguing. When the Canadian Provost arrived the soldiers had gone. Pte. Switzer and Pte. Leakey came back later at about 2150 hours. Pte Switzer grabbed me by the wrist but immediately let go and he and Pte. Leakey went outside where they were arrested by the Canadian Provost. Pte. Switzer and Pte. Leakey were identified by me at H.Q. of the Canadian Military Police later. From the start both Pte. Leakey and Pte. Switzer were drunk.

(Montho Janopullo)

The accused declines to cross examine the witness.

Second Witness: B-67878 L/Cpl. Sibley, R.B. 2 Can L. of C. Provost Coy., Ghent Det. having been duly sworn, states: At approximately 2050 hours, 24 Feb 45 we received a call to Maxie's Cafe. On arrival there we were informed that two Canadians had created a disturbance and taken some money from the manager. I was accompanied by L/Cpl. Olson. The soldiers had gone. At approximately 2150 hours 24 Feb 45 the proprietor sent for us as the two men concerned had returned. L/Cpl. Olson and I proceeded to the cafe and on arrival the two soldiers were pointed out to me as being the two concerned in the earlier disturbance. I recognize Pte. Switzer and Pte. Leakey as being the two soldiers pointed out to me just outside the door of the cafe. We apprehended them then and escorted them to Det. H.Q. where they were identified by the manager of the cafe and two other witnesses of the earlier disturbance, whom I later learned to be Tpr Bell and Pte. Girmschied.

Cross examined by the accused.

Question: Approximately how far from the cafe were we when we were pointed out to you?

Answer: You were standing in front of the door.

Question: By whom were we pointed out?

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Jun 43	Gnr		WOAS AWL from 2300 hrs 23 Jun 43 until 2200 hrs 25 Jun 43 (Absent 1 day 23 hrs) In close arrest 2 days 2 hrs A.A. Sec 15(1) L)	Documentary Sjt.West Sjt Serres	4 days F.P. 4 days pay	28 Jun 43	G.T. Inch Lieut.Col	Total Fftre 9 days pay
Field	19 Sep 43	Gnr		WOAS AWL from 1700 hrs 19 Sep 43 until 0810 hrs 22 Sep 43 (absent 2 days 15 hrs 10 mins)	L/Bdr MacIvor Sjt Cornish Documentary	9 days F.P. 9 days pay	22 Sep 43	G.T. Inch Lieut.Col.	Total Fftre 12 days pay
Field	14 Apr 44	Gnr		A.A. Sec 24(2) Through negligence lost his pay book Pt.1 and P t.11 and identity card.	BSM Graham Bdr Clark	7 days C.B. 7 days forf of pay	15 May 44	Lt.Col. H.W.Conistine	Forf 7 days pay FR&I 149 (5)
Field	8 Nov 44	Gnr		A.A. 15(1) AWL from 2150 hrs to 2330 8 Absent 2 hrs.	Nov 44 Capt.Spencer Gnr Samuels	1 days C.B.	15 Nov 44	M.M. Clement	
Field	23-1-45	Pte.		A.A. Sec 15 (1) AWL from 0800 hrs 23 Jan 45 until 2000 28 Jan 45 Absent 5 days 12 hrs	Sgt. Fox Documentary	Forf 14 days pay	30 Jan 45	Lt.Col. Buncie	Autm.Forft. 6 days pay. Total Forft. 20 days pay.

CERTIFIED TRUE COPY 12 Mar 45 H.L.Harrison Capt & Adj for (V.W.Hugman)Lt.col commanding 13 CFRRn 2 CBRD

CERTIFIED TRUE COPY 6 Mar 45

No C.1381 Name SWITZER P.L. Sqn. Battery or Company Corps R.C.A. Date of enlistment 13 Mar 41 GC Badges Service or Proficiency Pay

MFM 6 (AFH 122) 40/PAS/136 (3438) Ex B

Company Conduct Sheet Date of last entry in N.A. No and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Old sheet destroyed 20 May 43. Date of last entry 2-6-41.		Cases of drunkenness Nil.			
Sussex N.B.	2 Oct 41	Gnr		W.O.A.S. AWL from 0100 hrs to 0915 hrs 2 Oct 41. A.A. Sec 15 (1)		3 days C.B. 3 Oct 41.		Capt. Gillespie	Ftfs 1 days Pay
Sussex N.B.	7 Nov 41	Gnr		W.O.A.S. AWL from 0100 hrs to 0330 hrs 7 Nov 41 A.A. Sec 15 (1)		7 days C.B.	8 Nov 41	Capt. Davis.	
Field	4 Aug 43	Gnr		Conduct to the prejudice etc. Neglected his duties as Hut Orderly A.A. Sec 40.	Sjt. Stanley	4 days C.B.	5 Aug 42	Major Gillespie	
Field	23 Jan 43	Gnr		Conduct to the prejudice etc in that he continued to talk when ordered to stop by Sjt. Clarke	Sjt. Clarke Bdr. McGuire	14 days C.B.	25 Jan 43	Lt.Col. Wyatt.	
Field	17 May 43	Gnr		A.A. Sec 15 (1) WOAS AWL from 2200 hrs 17 May 43 to 2355 hrs 18 May 43 (Absent 1 day 1 hr 55 mins)	Bdr Brown Documentary	4 days FP	19 May	H.C. Edworthy Major	Ftfs 2 days Pay PRO 149 (a)Ftfs 4 days pay

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C1381 Rank PTE Name SWITZER P.L. of 13 Bn 2 CBRG ~~Regiment (or as the case may be)~~ CMG

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

(V W HUCMAN) LT COL
COMMANDING 13 CBRBN 2 CBRG

15. ~~The accused has served as a non-commissioned officer continuously without reduction to the present date~~ CMG

~~Date of Promotion~~ CMG

~~In the rank of~~ CMG ~~Date~~ CMG

~~In the rank of~~ CMG ~~Date~~ CMG

~~In the rank of~~ CMG ~~Date~~ CMG

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

E & D

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
C 1381	Pte	SWITZER P.L.	14/1ST CIC 13 BN 2 CBRG.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA 15(1) A.W.L.	Two. times	Seven. times
For AA 24(1) Loss of Pay book.	One times	— times
For AA 40 Conduct	Nil. times	Two times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct.~~ CMG

or

~~There are no entries in the conduct sheets of the accused.~~ CMG

CMG

2. The ~~accused has not~~ been previously convicted, *or*

Previous convictions† of the accused by a court ~~martial or a civil court~~, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule ~~annexed to this statement.~~ CMG

CMG

3. ~~The accused is not under sentence at the present time,~~ *or* The accused at the present time is under sentence for ~~beginning on the day of~~ CMG

4. The accused has been in confinement, awaiting trial on the present charges, for ~~28~~ days in civil custody, and 28 days in military custody, making a total of 28 days, of which ~~Nil~~ days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 23 yrs. CMG.

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 12 Mar 41 CMG

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 11 mos 22 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 11 mos 22 days service.

9. The accused is entitled to reckon 3 yrs 11 mos 22 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)~~ CMG CVSM + Clasp.

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ CMG

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated~~ CMG

~~and in his regiment (or corps or department) the rank of dated~~ CMG

W1/5857/4219 20M. 5/40. P. Ltd. 770-4.

3/17 MFM 6 ExA
(AFB 122)
40/P&S/136 (5419)

No C44659 Name LEAKEY, G.A. Sqn, Battery, or Company Corps SD&G Date of enlistment 1 MAR 44 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Feb 45	Pte		A.A.Sec 15(1) AWL from 0800 hrs 15 Feb 45 until 2230 hrs 15 Feb 45 (absent 14 hrs 30 mins)	CSM Fox J.V.	1 days pay 10 days pay	17 Feb 45	Lt-col J. Runcie	Total forf 11 days pay

CERTIFIED TRUE COPY [signature]
Rec off 46 Bay/136 [illegible]

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating base convictions and dispensations with trial, must be inserted.)

C

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of MARCH 45.

(W. HUGMAN) LT. COL.
COMMANDING BLARB 2 CGRS.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years _____

In the rank of _____ years _____

In the rank of _____ years _____

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

Enc C

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
C44659	Pte	LEAKEY SA	13 Bde 2 CBRA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AWL. 15 (1)	ONE times	NOT AVAILABLE times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not~~ under sentence at the present time, *or* ~~The accused at the present time is~~ under sentence for _____ beginning on the day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for _____ days in civil custody, and 28 days in military custody, making a total of 28 days, of which ~~nil~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is _____

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 1 Mar 44.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon 1 year service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)~~. Nil.

11. ~~(If the accused is a warrant officer.)~~ The ~~accused~~ before he was made a warrant officer last held the regimental rank ~~of~~ _____

12. ~~(In the case of an officer.) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated~~ _____.

W.3765/4289 20M. 5/44. P. Ltd. T51-5.

I submit that both by reason of their previous good service in the Canadian Army, and the fact that at the time of the commission of the offence they were both stated by all witnesses to have been ~~drunk~~, considerably under the influence of liquor, the court should be as lenient as possible.

S. H. Fettner Lt.
Defending Officer.

I submit that both by reason of their previous good service in the Canadian Army, and the fact that at the time of the commission of the offence they were both stated by all witnesses to have been ~~drunk~~, considerably under the influence of liquor, the court should be as lenient as possible.

S. H. Hettner Lt.
Defending Officer

E3/ Plea in mitigation by the defending officer
Gentlemen

15.

These two lads, C44659 Pte Leakey G.A. and C1381 Pte Switzer P.L., have both served with the Canadian army in the field and in actual contact with enemy forces. Pte Switzer was 5 months and 27 days in the field with 15th fld regt. RCA. and fought through France, Belgium, and into Holland. Of his own will, he then applied for transfer into the infantry because he felt he could do more. The request was granted, and he was awaiting draft at the time he was arrested. In all his four years of service, he has had his bits of trouble as any spirited youth will have and as his conduct sheet shows — but not once does it show any signs of badness in the lad's character. Pte Leakey has had a shorter army career, but has also been to the front in Holland where he took sick and had recuperated and was awaiting draft back to his unit at the time he was arrested. In his year and nearly one month of service, he has had but one minor offence of a few hours absence without leave. The two had met and been buddies in the army. They met again on the 24th of February 1945, both expecting to go to their respective units at the front any minute. They decided, as you or I would have done, to toast the occasion which they did, and from the evidence, too well. This is not uncommon in this part of the world, nor is the state of drunkenness to which they succumbed, ~~they were drunk during & after the episode with which they are accused took place and were not responsible for their actions~~

(4)

but this is not such a case. In others it is required by practice almost amounting to a rule in law. In some instances it is desirable that that corroboration be looked for though not actually required by law or practice.

The court in the first charge may

1) Find the accused guilty of Robbery.
2) Guilty of attempted Robbery.
3) Guilty of assault with intent to rob.
4) Not Guilty.

If the court finds the accused not guilty on the first charge, they may consider the second charge. To prove the second charge the prosecution must prove that the acts alleged or some of them are proved and that they constitute conduct to the prejudice of good order and Military Discipline.

That is all I wish to say unless the Court or the Prosecutor or Defending Officer require some explanation or some question I may have overlooked.

Mr President have you any questions "No"
Mr Prosecutor have you any questions "No"
Mr Defending Officer have you any questions "No"

A. M. Eastwood Jr
J. A.

(3)

Extracts from Archbold Read. p. 597. 598.
"Taking"
"From the Person"
"Against the Will"
"in Bodily Fear."

The defence of Drunkenness has been raised, the defence is defined in M. M. L. p 106. Sec 9. [Read]

To find the accused guilty, if all ingredients of Robbery are present, the court may convict both, even though the court should find that one actually did the robbing provided they acted with common intent and the other assisted the principal [M. M. L. p 107 Secs 16 & 17. read]

At the outset of their deliberations the court must remember that it is a principle of English law that the accused is presumed to be innocent until he is proved guilty and that the burden of proof rests upon the prosecution. Unless therefore the guilt of the accused has been established beyond a reasonable doubt the accused must be acquitted. I say a reasonable doubt that is some doubt based on the facts of the case and not some doubt which is purely imaginary.

Generally speaking, it is legally open to a court to convict an accused person upon the evidence of one credible witness. In some cases corroboration is required by law

(4)

The manager also stated they were drunk and in his opinion did not know what they were doing but he could not be sure. The accused did apparently obtain 250 francs from him and he stated he gave it in fear.

The second witness T/ cpl Kirby recognised the accused. He stated the accused were under the influence of liquor and smelt strongly of it and were both sick at Hgs. but thought they knew what they were doing, they could walk in a normal manner and carry on a rational conversation.

The third witness is Pte Grimschild. He saw the accused in the cafe on the evening of 24 Feb 45. It was crowded. He saw the accused, and stated Pte Switzer grabbed the manager by the arm and Pte Feeley pushed him.

He saw the accused when they came back the second time. He stated the second time they were in worse condition. His evidence corroborates the evidence of the first witness as to what occurred in the cafe. He stated they were drunk, but must have known what they were doing.

The first charge is Robbery and is defined Archbold - p. 597. Read.

Judge advocate addresses the Court Summing up.

I wish to point out that it is part of my duty as Judge Advocate to sum up the evidence and advise the court as to the law.

The court is however the sole judge of the facts and anything I say now, or will say or may previously have said indicating my personal views as to the facts should be entirely disregarded.

The court and the court alone is the sole judge of the facts

The evidence seems quite clear and is direct. The cafe manager identifies the accused and states on the evening of the 24th of Sebway they found him outside of his cafe where they threatened him, and asked for 4000 francs. He gave them 250 francs. The manager states he does not understand English understanding only he wards "4000 francs." There was another soldier present who is not identified and does not seem to have a great deal to do in the case

The manager stated he was afraid and for that reason he gave the 250 francs. He did however state at one point he gave them the money to get rid of them because they were drunk, and he was more afraid because they were drunk

as a friendly one and went off with the money. There was no intent to do bodily harm or frighten money out of him. He could very easily had help in case the two did start to do him bodily harm.

On the alternative charge of creating a disturbance. Witnesses brought out very little if any disturbance in the cafe. Quite a number of people in the cafe and manager could very easily have called for help. He did not need to go out in the first place - need not to have been forced. I contend these two men are not guilty of either charge.

Summing up by Judge Advocate
(attached hereto.)

Summing up by the defending Officer

First of all we will set aside for the moment the idea these two chaps were drunk. I don't think it matters a great deal because the first witness, in that, by his own admissions and from what we have seen ourselves is not capable of defining or knowing these men were threatening him for the purpose of getting 4000 francs or borrowing that amount. He could not understand them. If they were under the influence when putting their plan over to the manager, he may have thought they were threatening because they are foreigners to him. I don't think the court should consider this man capable of forming an opinion as to what threat was - there was no actual harm - he jumped to a conclusion gave them 250 francs and told them to "scram". We can't tell if intended to pay back or not they were arrested right afterwards. You have evidence the accused were at 13 Bn and ready to go up and they went on a spree. All witnesses claimed they were under the influence and may have taken the managers gesture

21/3/45

that the accused were sober enough to know what they were doing.

Drunkenness caused by a person's own voluntary act does not of itself excuse him from criminal liability.

Unless drunkenness renders the accused incapable of forming the specific intent essential to constitute the crime charged, if the evidence of drunkenness falls short of this, it merely establishes that the mind of the accused affected by drink more readily gives way to some violent passion and doesn't rebut the presumption that a man intends the natural consequences of his actions.

As for the 2nd charge, two witnesses told the court that the accused both of them, forced the manager of Maxie's Cafe outside on the 24 Feb 45 one by the arm, one pushing him. This in itself is quite enough to be concerned in a disturbance in Maxie's Cafe on 24 Feb 45. One witness testified that the manager was threatened & had to give the accused 250 Belg. francs.

Those facts are the very particulars of the same charge — 21/3/45

Andre Lalonde lieut
prosec. officer

11.

Closing Address

21/3/45

Re: Pte Leakey G.A. & Pte Switzer P.L.

In this case, the first charge consists of robbery

Sec. 23 (1)(a) Larceny Act 1916 (6+7 Geo 5, c. 50)

" Every person who (par. b) robs any person and, at the time of or immediately before or after such robbery, uses any personal violence to any person, shall be guilty of felony....."

" Robbery consists in the felonious & forcible taking from the person of another, or in his presence or against his will of any money or goods to any value, by violence or putting him into fear. Robbery is an aggravated form of stealing from the person accompanied by violence or threats of injury to the person robbed or to his property." The intent of stealing should also be proved

According to the testimony of Mr Janopullo the accused on the 24 Feb 45 appr. at 2030 hrs together forced him to leave the cafe, one pulling him by the arm, the other two pushing him. As far as he could understand, by their gestures and threats, they threatened to hit him if he did not give them 4000 francs. To avoid being beaten up he gave them 250 Belg frs, against his will. They had put him into fear so he had to give the money.

Giving money to anyone against its own will to avoid being beaten up is the same thing as stealing from the person accompanied by violence which is robbery.

The intent of stealing here is obvious. Two men come into a cafe, force the cafe's manager out, threaten to hit him if he does not give them money, take the money 250 frs he has to give them; they keep the money go away with the money and never returned it. All these facts prove 1) the felonious & forcible taking 2) from the person 3) against his will 4) by putting him into fear 5) intent of stealing 6) the carrying away of the object stolen.

The testimony of Mr Janopullo is corroborated partly by Pte Germochied and by circumstances (accused were under the influence of liquor & the fact that they forced the manager out of the cafe and stayed out with him for a while, also they were belligerent.

L/Cpl Sibley told the Court that at the time of the arrest the accused both of them, in his opinion knew what they were doing. They were under the influence of liquor but to his mind they were sober enough to know what they were doing around 2215 hrs.

Pte Germochied ~~testi~~ fied that at around 2030 hrs to his opinion the accused knew what they were doing. According to the same witness the condition of the accused was worse the second time they came in at app. 2200 hrs L/Cpl said that at app. 2230 hrs the accused knew what they were doing

Summing up of Judge Advocate

On Submission of Defending Officer.

I advise the court that the alternative charge is a proper alternative.

In considering a submission by a defending officer at the close of the case for the prosecution that a prima facie case for the prosecution has not been established against the accused the court should disallow the submission if there is evidence which uncontradicted would justify a finding of guilty, that is more than a scintilla of evidence which supports the charge and which the court at this stage are not prepared to distribute.

The court in considering the application by the Defending Officer is acting as judge not jury and need not consider or decide credibility of witnesses or whether the prosecution has established its case beyond a reasonable doubt.

A M Eccles Tone Lt
J.A

The robbery of such, and the disturbance of such took place in different spots and different times.

Reply by prosecutor

The Court has heard the facts and the evidence and I will leave it to the Court to decide whether or not a prima facie case has been established.

J. A.
(attached hereto)

Summing up by the prosecutor
(attached hereto) pages 11 + 12.

Pte Switzer had manager by the arm and accused Pte Bailey was pushing him. When I first saw accused persons in cafe they were swaying when they walked. When two accused were talking to the manager on the first occasion I was about 8 yds from them. There were many people in the cafe at the time. Martin's is an average sized cafe.

R.P. 83(B) complied with

DB. L 2319 L/Cpl Olson L-B. who was a witness at the summary of evidence is not now available and the defence does not require the witness for cross-examination.

D4 Motion by the defending Officer

At this time I would like to submit that the prosecution has failed to establish a prima facie case in that the offence of robbery has not been proved as laid down in the definition in MML p122 and I'd further like to submit that the alternative chge as set forth is irrelevant and should be struck out in that it does not follow through from the primary charge as laid down in R.P. MML 1 pag 699

drunks. Some act different. In my opinion I would say two accused were drunk when I saw them. They were not creating much of a disturbance. I did not hear accused threaten the proprietor in any way. I would not say they were threatening him they just demanded him to go outside with them with a gesture. The accused appeared to be, I would say, on a belligerent frame of mind. I wouldn't say they were belligerent towards one another, not towards a waitress. I did not see them "buzzy" a drink. I saw nothing of what happened outside.

Re-examination

It looked as though the manager refused to go outside. It seemed he was dubious as to whether to go or not. When one soldier pushing manager and the another had him by the arm ~~the~~ he did not appear to be resisting but was a little slow. I would say the accused persons forced the manager outside of the cafe.

By the Court

When the accused persons returned to cafe the second time I think their condition was worse than on the first occasion it was the first time. The accused

The proprietor seemed reluctant to go One of soldiers had him by the arm and other persuaded him from behind. (Witness identified 2 accused as the two soldiers) He went outside with them and returned alone in about 20 minutes. Later about 2200 hrs the same two soldiers returned to cafe and again demanded the proprietor to go out, and when he refused to go this time the two soldiers went away. I was taken up to Provost HQ where I identified the two soldiers as the accused. When I first saw accused persons they appeared to be drunk to me. They seemed the same as most act when drunk. I cannot give you any reasons to prove they were drunk. They were not steady on their feet for one thing I did not hear them speak from where I was. They must have known what they were doing but they appeared to be drunk to me.

Cross-examination

As far as being in a drunken sense I mean they must have known what they were doing. I have been drunk. I have experienced a period during which I did not know what was happening. I am not an authority but I have seen many

Cross-examination

At time I arrived on scene no disturbance was taking place. They ~~were~~ two accused were just standing outside of the place. They were not arguing. I did not hear them speak. I did not in any way test their degree of intoxication. They came with me willingly. They did not have to be helped. About the had elapsed from time of alleged offence until we picked them up. In my opinion they could have been drunk one hour previously.

By the Court

The accused were able to walk in normal manner. They were able to carry on a rational conversation. Pte Bell and another soldier were the other two who identified the accused persons. Cpl Olson was the other Provost with me that night.

R.P. 83(6) complied with.

3rd witness for the prosecution

L 27216 Pte Grimaches F. 11 Bn 2 CBRG being duly sworn is examined by the prosecutor.

I recognize the two accused persons. They were in Matias Cafe on 24 Feb 45 at approx 2000 hrs. That was the first time they came in. I first saw them they were demanding the proprietor to go out with them. I had not heard what they had said

2nd witness for the prosecution

B 67878 L/Cpl Sibley R.B. 2 Cdn L of C Pro Coy Ghent detach being duly sworn is examined by the prosecutor.

I recognize the two accused persons. On 24 Feb 45 we arrived at Maxie's cafe about 2030 hrs and saw the cafe manager and as result of conversation learned that two soldiers had left. At approx 2200 hrs as result of information received we returned to the cafe and two soldiers were pointed out to us as being concerned in the earlier disturbance. The cafe manager pointed out the soldiers. We apprehended them and escorted them to Detach Hch. where they were identified by the manager of the cafe and two other witnesses. I would say both accused persons were under the influence of liquor. They smelled ~~both~~ strongly of liquor and were both sick after we took them in. It appeared to me that they knew what they were doing. They were sober enough to know what they were doing when we saw them. I saw both accused searched at Hch that night. I believe Pte Switzer had approx 540 francs and Pte Leakey had approx ~~520~~ "120" francs. ~~Pte Leakey~~".

they did not take it away from me
I gave it to them

By the Court

Before I gave them the money.
They were making gestures by
showing their fists and making
gestures to touch me but they never
did. I was afraid that if I did
not give them the money they
AB. would hit me. I was very afraid because
they were drunk. If they had not
been drunk I would not have been
so afraid. I was not there when
accused were drinking in my cafe.
I gave 250 francs to one who had
AB the R-P band (witness indicates accused Switzer)
I was the manager of Maxie's cafe
at that time, but I am no longer
there. The reason I was afraid
because they were drunk, a man
who is drunk is more apt to hit
and if I started to fight with them
they might pull out a knife or a
gun. There was no evidence of
weapons on these men. If I had
been sure they were not armed
but I was not, it might have
been easier to evade a fight with
a drunk man than a sober one.
I gave these men 250 francs just
to get rid of them

RP 83(B) complied with.

one of them was being sick. When forced out of the cafe I stayed there 2 or 3 minutes. They were holding me by the arms. I didn't try to go away but when they started their discussion they released their grip and so then I got away. The money was not returned to me and I never saw it after.

Cross-examination

I cannot speak English at all. I don't understand English I can catch a word here and there but not enough for conversation. I did not phone for the P. Two women notified them a few minutes before I went to Police Station. They were drunk but to what degree I couldn't say. I think that they were too drunk to know what they were doing, but I couldn't say for sure. I understand the word 4000 thousand in English. I could not say if they wanted to borrow 4000 francs all I could say is that they wanted 4000 francs. They were not the gestures of a drunk trying to explain things to me. They were menacing gestures. I can tell difference between gestures of a drunk and menacing gestures. When he shows ~~fi~~ his fist I said I gave accused 250 francs. That was just to get rid of them.

understand them. I could understand that they were asking for 4000 francs. Then to get rid of them I gave them 250 francs. At that moment the 3rd soldier came back to us. Then they started discussion together and I took advantage of that moment to leave. I went to Cdn Mil Police and Police had already been notified by two women who had left the cafe. 203 members of the Police came with me to the cafe, but the soldiers were gone. About 3/4 hr later the two accused persons came back to the cafe. They wanted to take me again but they left me right away. I think it was because there was a security police there. The two soldiers went out of cafe and that security policeman went after them, and a few minutes later the same security policeman came back in the cafe. I then went to Provost Mth. and identified the two accused. The two accused had been drinking I don't think they knew what they were doing as I couldn't say how drunk they were. I think they did not know what they were doing because I could see they had been drinking because they were swaying from one side to the other and when I was at the Police station

1. C 44659 Pte Leakey Gerald Arthur
C 1381 Pte Switzer Philip Leslie
13 Bn 2 CBRG.

1st witness for the prosecution

Montho Janopullo, 10 yksts Ghent, being duly sworn is examined by the prosecutor,

I recognize the two accused persons (Witness points them out) They are the same two soldiers who were in Maxie's cafe 24 Feb 45. On that date about 2030 hrs I was coming back from kitchen into the cafe. In front of bar there were 3 soldiers in discussion with the servants. Of those 3 soldiers the two accused were present. I could not understand what they were saying, but I figured out it was the prices of the drinks. When they saw me one of soldiers asked me if I was the boss of the place. When I replied "yes" he took a military police band and put it on his arm. That was the accused Pte Switzer. On band were letters "R.P.". He took me by the arm and others were pushing me in the back and they brought me out of cafe. When we were in the street the two accused present here stayed with me and the other soldier went inside the cafe They threatened me with words and gestures but I could not

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me out of cafe. When we were in
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here stayed with me and the
other soldier went inside the cafe
They threatened me with words
and gestures but I could not

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C44658
(No.)

Pte LEAKY. G.A. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
~~unfit~~

Station FIELD

Date 21-3-45

M. M. Wasserman (Sgd), Capt
Medical Officer

(Unit) 13 Bn. 2. C.B.R.G.

MEDICAL OFFICERS CERTIFICATE

(AR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C 1381
(No.)

Pte. SWITZER P and in my opinion he is
(Rank) (Name)

~~unfit~~ fit to undergo trial by Court-Martial.

Station FIELD

Date 21-3-45

W. M. Wanless (Sgd), Capt.
Medical Officer

(Unit) 13 Bn. 2 C.B.R.G.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-44659	Pte		Gerald Arthur	LEAKEY	SD&G Highrs 13 CBR Bn
C-1381	Pte		Philip Leslie	SWITZER	13 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) D MacKENZIE (Must be named. RP 106.) Essex Scots X-9 List 3 Cdn NETD (Unit.)

MEMBERS.

Capt F A BAILLERGEON Gen List att 1 Cdn Disciplinary Centre

Capt (Rank.) E B VAN DIME (Named or detailed. RP 106.) RCASC att 1 Cdn Disciplinary Centre (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

Lt (Rank.) A M ECCLESTONE (Must be named, if any. RP 106.) Legal Offr at HQ 2 CBRG (ADJA) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 20 Mar 45

(G S N Goetling)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 86 (In lieu of AFA 2) (See overleaf for oaths and notes for use on trial.)

On behalf of the JAG, Cdn Army Overseas, I approve the appointment of Lt A M ECCLESTONE as Judge Advocate, the said Lt ECCLESTONE having legal qualifications.

(H H Griffin) Capt
ADJR HQ 2 CBRG

CHARGE SHEET

The accused, C-44659 Pte Gerald Arthur LEAKEY, SD&G Highrs, 13 Bn, 2 CBRG and C-1381 Pte Philip Leslie SWITZER, 13 Bn, 2 CBRG soldiers of the Canadian Army Overseas, are charged with:

FIRST CHARGE
AA Sec 41(5)

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY, CONTRARY TO SEC 23(1)(a) OF THE LARCENY ACT 1916

in that they

in the Field, on 24 Feb 45 at approximately 2030 hrs together robbed Montho Janopullo of 250 francs (Belg).

SECOND CHARGE
ALTERNATIVE
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that they

in the Field, on 24 Feb 45 were concerned in a disturbance in Maxie's Cafe by forcing the manager, Montho Janopullo outside, threatening him and obtaining 250 francs (Belg).

(V W Hugman) Lt-Col
Commanding
13 CBR Bn

In the Field
Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G S N Gostling) Brigadier
Commander
2 Canadian Base Reinforcement Group

In the Field
20 Mar 45

Approved on behalf of the JUDGE ADVOCATE GENERAL pursuant to KR (Can) 540.

(H H Griffin) Capt
ADJA
HQ 2 Cdn Base Rft Gp

In the Field
20 Mar 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C-44659 Pte Gerald Arthur LEAKEY SD&G Highrs 13 CBR Bn
C-1381 Pte Philip Leslie SWITZER 13 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. SEC 41(5)	NOT GUILTY	NOT GUILTY	PTE LEAKEY PTE SWITZER
2nd A.A. SEC 40	NOT GUILTY	GUILTY	PTE LEAKEY PTE SWITZER
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of LEAKY / SWITZER 28 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
C44659 PTE LEAKEY. G.A. To undergo detention for six (6) months
C1381 PTE SWITZER. P.L. To undergo detention for six (6) months.

(Sgd) O M Ecclestone Jr. 21 MAR. 45 (Sgd) Donald Mackenzie
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) Major
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :
I confirm the findings & the sentence.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) [signature]
(G S N Gostling) Brig
Date 24 MAR 45 Commanding 2 CDN BASE RFT GP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C44659 Pte Leakey, G.A. C1381 Pte Switzer, P.L.	27 Mar 45	[signature] Lt-Col. Comdg, I Cdn Disciplinary Centre

CR 478
7 and [illegible]
[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - LEAKEY(1) NO - SNITZER

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(his)~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST AND SECOND charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the FIRST AND SECOND charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans LEAKEY - NO SNITZER - NO . Do you intend to call witnesses on your behalf ? Ans LEAKEY - NO SNITZER - NO . Are they witnesses as to character only ? Ans N/A .

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the SECOND charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP ... 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans PTE LEAKEY - NO PTE SNITZER - NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A. B. and Ex C. D. respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans LEAKEY / SNITZER } YES. THROUGH MY DEFENDING OFFICER(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 168, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*C*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AD 104 5 FC 104. 105.

RECEIVED 4 MAY 1945 JAG Branch C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA56 (In lieu of AFA8) 40/P & S/1698 (4976) 4/30B

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 20 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-44659	Pte		Gerald Arthur	LEAKEY	SD&G Highrs 13 CBR Bn
C-1381	Pte		Philip Leslie	SWITZER	13 CBR Bn

PROCEEDINGS REVIEWED 4-5-45 REVIEWING OFFICER, JA BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the [illegible] (Country) BELGIUM on (date(s)) 21 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this fform arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is~~ (are) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused ~~is~~ (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 562(c). Delete, if not applicable.

A5. President to accused: Do you object to D/6024 SGT. CORRIEF, R. as interpreter? Ans NO - LEAKEY

The Interpreter is sworn.(1) Do you object to 10/A as shorthand writer? Ans 10/A. The shorthand writer is sworn.(1) NO - SWITZER

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO - LEAKEY NO - (2) SWITZER

(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D MacKENZIE	Essex Scots X-9 List 3 Cdn NRTD
Member	Capt	F A BAILLERGEON	Gen List att 1 Cdn Disciplinary Centre
Member	Capt	E B VAN DINE	RCASC att 1 Cdn Disciplinary Centre
Judge-Advocate	Lt	A M ECCLESTONE	Legal Offr att HQ 2 CBRG(ADJA)
Prosecutor	LT	J.A. LALONDE	10 C.B.P. BN.
Defending Offr	LT	S.A. LETTNER	CAN SCOT. 13 CBRBN.

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused C-44659 Pte Gerald Arthur LEAKEY C-1381 Pte Philip Leslie SWITZER before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused ~~is~~ (are) arraigned (separately) on all charges in the charge sheet.(1) The accused ~~does~~ (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 49a to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol II p8

5F-10R
5F-10S
Ole. Leakey, L. H.
Ole Swartzer P. L.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

529/LEAHY SL/1(DJA Rev)

Cdn Sec 1 Ech HQ 21 Army Gp
14 Jun 45

DAAG (D1s)

FGCM - 23 May 45 (32/112)
159012 Pte Leahy, SL
C att 1 Cdn D1s Centre

1. Enclosed herewith is certified true copy of proceedings of the m/n FGCM, together with AF A3104, for review of sentence and custody.

PFL

(W.H. Waugh) Major
DJA Rev
Cdn Sec 1 Ech
HQ 21 Army Gp

Encl.



510/Pers Files/1 (A.G.12)

CDN SEC 1 ECH HQ 21 A GP

19 Jun 45

OIC
Cdn Sec 2 Ech Hq 21 A Gp

Att'n: Card Index
Att'n: A.5

Location of Personnel

1. May present disposition of the u/m personnel be received at this Hq earliest, please:

F.88982	Pte.	Brown, W.
B.134050	Pte.	Tompkins, G. W.
A.86921	Pte.	White, E. A.
K.49958	Pte.	Adle, B. H.
B.9604	Pte.	Bouchard, P. L.
A.118169	Gnr.	Bryan, J. L.
B.143502	Pte.	Conlon, M. C.
B.115056	Pte.	Damino, J.
B.139061	Pte.	Dewey, A. D.
F.55585	Gnr.	Goodwin, T. O.
G.63376	Pte.	Hebert, R.
H.8934	Pte.	Henson, C. S.
B.159012	Pte.	Leroy, S. L.
B.133344	Pte.	Leroux, E. J.
K.76654	Pte.	McFadden, H. J.
B.52307	Pte.	Stanfield, D. E.
C.58365	Gdsm.	Warnock, C. V.

2. Sufficient copies of this letter are enclosed to enable you to give a reply on the soldier on an individual letter, so that when returned to this Hq there will be a letter for each personal file.

for D.S. Clapperton Capt
(E. C. Brown) Lt.-Col
A.G
Cdn Sec 1 Ech Hq 21 Army Gp

SDS/APO/HAND

510/[illegible]/1
510/[illegible]rrier E/1
510/Leahy S/1 — B-159012 ✓
510/[illegible] H/1
510/Schumacker L/1

TO: File

1. This SUS committed to 5 FP/DB (Brit).
See 520/FP/DB Brit/1 d/5 Jun 45.

PFR
5 FPC & PB

510/Pers Files/1 (A.G.12)

CDN SEC 1 ECH HQ 21 A GP

19 Jun 45

OIC
Cdn Sec 2 Ech HQ 21 A Gp

Att'n: Card Index
Att'n: A.5

Location of Personnel

1. May present disposition of the u/m personnel be received at this HQ earliest, please:

F.88932	Pte.	Brown, W.
B.134050	Pte.	Tompkins, C. W.
A.86921	Pte.	White, [illegible]
K.49958	Pte.	Adle, B. [illegible]
B.9604	Pte.	Bouchard, [illegible] L.
A.118169	Gnr.	Bryan, [illegible]
B.143502	Pte.	Conlon, [illegible] C.
B.116056	Pte.	Damico, J.
B.139061	Pte.	Dewar, [illegible] D.
F.65585	Gnr.	Goodwin, [illegible] O.
G.63376	Pte.	Hebert, [illegible]
H.8934	Pte.	Henson, [illegible] S.
B.159012	Pte.	Leahy, [illegible] L. - X-2 RHC on comm to 5 F.P.& Detn Bks (Br) 4 Jun 45.
B.133344	Pte.	Leroux, [illegible] J.
K.76654	Pte.	McFadden, H. J.
B.52307	Pte.	Stanfield, D. E.
C.58368	Gdsm.	Warnock, C. V.

2. Sufficient copies of this letter are enclosed to enable you to give a reply on the soldier on an individual letter, so that when returned to this HQ there will be a letter for each personal file.

D.C. Clapperton Capt
for (E. C. Brown) Lt.-Col
A.A.G
Cdn Sec 1 Ech HQ 21 Army Gp

SDS/APO/HJD

C.R.
25 JUN 1945
CDN SEC GHQ 1 ECH
21 ARMY GROUP

[illegible] Capt
Casualties Section
Cdn. Sec. G.H.Q. 2 Ech. 21 Army Gp

510/ Leahy SL /1 (AG 12)

CDN SEC 1 ECH HQ 21 ARMY GP

26 Jun 45.

Comd
~~[illegible]~~
5 FPC & DB (Brit)

Sentence Under Review
B.157012 Pte Leahy, S.L.

1 The m/n soldier was sentenced by FGCM on 23 May 45 to undergo nine months detention.

2 May a report be forwarded to this HQ on his conduct and behaviour since date of commitment to assist in reviewing sentence.

A/C Capt
fa (E C Brown) Lt Col
AAG
Cdn Sec 1 Ech HQ 21 Army Gp

SDS/APO/HAND

SUBJECT : Review of Sentence.

Work Sheet

Ref. No. R/ 473 Z/A.J.
Tel : Turnhout
[redacted] Local Ex [redacted] 32

Headquarters,

Cdn Sec 1 Ech 21 Army Gp.

British Liberation Army

No. B.159012 Pte Leahy S.L. (R.H.C.)

In accordance with instructions received from D.A.G., G.H.Q., 2nd. Echelon, 21 Army Group, Oxford, I forward the following report on conduct and training in respect of the above named soldier at present serving sentence in this Field Punishment Camp and Detention Barrack.

SENTENCE	9 months Detention
REMISSION WHICH CAN BE EARNED	92 days
REMISSION EARNED TO DATE	20 days
REMISSION FORFEITED TO DATE	Nil
EARLIEST DATE OF RELEASE (WITH REMISSION)	22 Nov '45

This conduct and training whilst undergoing sentence has been :-

V. Good. Age 22. Cat. IIIIIII. The a/m has earned full remission to date & has given no trouble whatever. He has worked well & I suggest he deserves leniency.

I recommend suspension of sentence

G. B. Brownigg. Major.
Commandant,
No. 1 Field Punishment Camp and Detention Barrack.

B.L.A.,

DATE 2 July '45

S.

510/Pers Files/1 (A.G.10a)

WDN SEC 1 ECH H.Q. 21 A GP

9 Jul 45

Comd
1 Cdn Detn & F P Bks.

Review of Sentences

1. The sentences awarded by FGCM to the u/m personnel were reviewed by the GO i/c this H.Q. on 6 Jul 45 and in each case it was directed that there be no remission of sentence and that they be B.F.'d on dates shown opposite the soldier's name:

K.72680	Pte.	Dobbie, A. J.	15 Sep 45
B.137246	Pte.	Dean, C. E.	1 Sep 45
B.159012	Pte.	Leahy, S. L.	15 Sep 45
C.12215	Pte.	Parks, H. J.	5 Sep 45
A.86921	Pte.	White, E. A.	5 Oct 45

for (E. G. Brown) Lt.-Col
AAG
Cdn Sec 1 Ech H.Q. 21 Army Gp

SDS/APO/H.ND

WORK SHEET

REVIEW OF SENTENCES AWARDED BY COURT-MARTIAL

1. PA to CO i/c Date

II. No B.159012 Rank Pte. Name Leahy, S. L.

Unit RHD Age 22

Date of Enlistment 11 Feb 44

Offence: AA Sec 15 (1) - absent 45 days 15 hrs 20 mins.

Sentence: nine mos detn

TEF 23 May 45 Last Reviewed FIRST REVIEW

III. Extenuating Circumstances: See evidence of accused and Plea In Mitigation(flagged)

Rec by Court: None

Character (previous convictions):

No offences overseas. Service in Inf in action.

IV. Rec By CO:

Normal review

V. Rec by next senior officer:

Normal review

VI. Rec re review by AC. 10:

By Comd, No 5 FPC & Detn Brs:

A. Not answered
B. Satisfactory
C. Yes

1945 APR MAY JUN JUL AUG SEP OCT NOV DEC

1946 JAN FEB

PENR

(J. T. Weir) Capt.
AC.10s
Cdn Sec 1 Reh Hq 21 A Gp

No 1 Cdn Detn/ 2019
No 1 Cdn Detn & FP Bks Cdn Pro C
1 Sep 45.

Cdn Sec GHQ
1 Ech 21 A GP

2nd Review

SENTENCE UNDER REVIEW

B159012 Pte Leahy A

1. Reference 510/ Pers Files /1 (AG 10a) of 9 Jul 45 relative to sentence under review for the m/n soldier.

2. The u/m infm is appended:

(a)	Date sentenced by FGCM	- 23 May 45
(b)	Date admitted to detn bks	- 4 Jun 45
(c)	Number of days remission already lost	- Nil
(d)	Number of marks already earned	- 928 out of 1540
(e)	Date of release with full remaining remission	- 20 Nov 45

3.	Attentiveness to drill and parade square work	- Attentive
	Reaction to strict military discipline	- Favourable
	Appearance and bearing	- Average
	Cleanliness in person and clothing	- Clean in person and kit
4.	Application to work and ingenuity	- Electrical
5.	Military employment upon release from detn	- Volunteer for CAPF

6. (a) Anxious to redeem himself and originally volunteered for CAPF services.

(b) Conduct and deportment has been satisfactory.

(c) It is considered that he will render useful service should sentence be suspended.

WDC/jjl

[signature] Major
Commandant
1 Cdn Detn and FP Bks
Cdn Pro Corps

K 230 22.3.45

MESSAGE FORM

FROM: CAMFOR (EXFOR REAR) 28/1100 A Sep 45

TO: 1 Cdn Detn & F P Bks

A.2922 (.) Unclassified (.)

Following sentences suspended wef dates shown opposite each name

B.45983	Pte	Archibald J	27 Sep 45
K.110036	Pte	Boudreault W	27 Sep 45
B.157734	Pte	Bruce D A	27 Sep 45
B.38018	Pte	Challis A W	27 Sep 45
H.45930	Pte	Connors E M	27 Sep 45
K.72680	Pte	Dobbie A J	27 Sep 45
C.79217	Pte	Dupuis H R	1 Oct 45
E.49733	Pte	Frigon L	1 Oct 45
G.1879	Pte	Gibeault T	27 Sep 45
B.116646	Rfn.	Grant R R	30 Sep 45
B.126217	Pte	Hiscott G A	27 Sep 45
G.1972	Pte	Holmes H D	30 Sep 45
M.103103	Pte	Kolochynski M	27 Sep 45
F.51630	Pte	Landry R H	27 Sep 45
C.52958	Pte	Langlais J C	27 Sep 45
B.159012	Pte	Leahy S L	27 Sep 45
B.136414	Pte	Marcella J P	27 Sep 45
D.91900	Pte	McKay I W	27 Sep 45
F.82239	Pte	Myers E G	27 Sep 45
F.32405	Pte	Ransom J H	27 Sep 45
G.57541	Pte	Robichaud O	27 Sep 45
D.139607	Pte	Rochette J W A	27 Sep 45
D.15594	Spr	Shaink L	27 Sep 45
F.55977	Gnr	Turner C H	27 Sep 45
F.97786	Pte	Yhard T C	27 Sep 45

Arrange release (.) AF A3204 follows

Capt.

CDN SEC I ECH HQ BRIT ARMY OF THE RHINE

28 Sep 45

Comd
1 Cdn Detn & F P Bks

Sentences Placed In Suspension

1. The u/m soldiers were sentenced by FGCM the full particulars being shown opposite each soldier's name. These sentences were reviewed by C of F/DAAGMO Cdn Forces in the Netherlands on 27 Sep 45 and in each case it was directed that they be suspended wef date shown.

E.110036 Pte. Boudreault, W.
Sentenced to 1 yr detn on 10 Mar 45 for an offence under AA Sec 12 (1) (a).
Suspended wef 27 Sep 45.

B.38018 Pte. Challis, A. W.
Sentenced to 1 yr detn on 17 Mar 45 for an offence under AA Sec 15 (1).
Suspended wef 27 Sep 45.

H.45930 Pte. Connors, E. N.
Sentenced to 9 mos detn on 10 Apr 45 for an offence under AA Sec 15 (1).
Suspended wef 27 Sep 45.

K.72680 Pte. Dobbie, A. J.
Sentenced to 1 yr detn on 27 Mar 45 for an offence under AA Sec 15 (1).
Suspended wef 27 Sep 45.

B.45983 Pte. Archibald, J.
Sentenced to 1 yr detn on 23 Feb 45 for an offence under AA Sec 15 (1).
Suspended wef 27 Sep 45.

B.157734 Pte. Bruce, D. A.
Sentenced to 1 yr detn on 27 Feb 45 for two offences under AA Sec 15 (1).
Suspended wef 27 Sep 45.

C.79217 Pte. Dupuis, N. R.
Sentenced to 1 yr detn on 24 Feb 45 for an offence under AA Sec 15 (1).
Suspended wef 1 Oct 45.

E.49733 Pte. Frigon, L.
Sentenced to 1 yr detn on 23 Feb 45 for two offences under AA Sec 15 (1).
Suspended wef 1 Oct 45.

G.1879 Pte. B Gibault, F.
Sentenced to 1 yr detn on 10 Mar 45 for an offence under AA Sec 12 (1) (a).
Suspended wef 27 Sep 45.

.....2

1 CD/FP/BKS/ 2019

1 CDN DETN & FP BKS
CDN PRO CORPS

2 Oct-45

Cdn Sec 1 Ech
HQ ~~XXXXXX~~ BAOR

ATT AG 11

3/SD & E H (LAOF)

SUSPENSION OF SENTENCE

B-159012 Pte LEAHY S

1. Under Auth:- Cdn Sec 1 Ech HQ 21 A Gp 510/LEAHY S/1 (AG 12)d/28 Sep-45 the m/n soldier's sentence has been placed in suspension wef 27 Sep-45 and he was despatched to 13 CBR Bn Attached please find AF A3104 with Pt VI Completed.

2. For your information, please

WDC/el

Major
COMMANDANT
1 CDN DETN & FP BKS
CDN PRO CORPS

Loan?
OFF

AG10
10/4

99/37/ Leahy S L /1 (A5)

CDN SEC 2 ECP HQ BRIT ARMY OF THE RHINE

Date 6 Dec 45

HQ
3 Cdn Inf Div CAOF

REVIEW OF SUSPENDED SENTENCE
B.159012 Pte. Leahy, S. L.
3/SD&G Highrs CAOF

1 AF #3104 is enclosed herewith for action in accordance with Overseas RC 4732, para 4(b).

2 On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ.

C

CHARTER (J A V Cade) Major
for Officer i/c
SECL(1) Cdn Sec 2 Ecp HQ Brit Army of the Rhine

VI. Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	No remission BF 15 Sep 45	ElM Burns Maj Gen GO i/c Cdn Sec 1 Ech HQ 21 Army Gp 9 Jul 45	
	Suspend wef 27 Sep 45	JFA Lister Brig C of S/DA&QMG Cdn Forces in the Netherlands	Sent susp wef 27 Sep 45 Marks earned 1024 Days in susp 142 WD Cain Major Commandnat 1 Cdn Detn & FP Bks
	remit remainder of sentence	C Vokes, Maj-Gen GOC 3 CID CAOF 27 Dec 45	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
AA Sec 15 (1) AWL from 0700 hrs 2 Mar 45 to 2220 hrs 24 Apr 45. Absent 45 days 15 hrs 20 mins.	2 Mar 45	23 May 45
MA Cooke Lt Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
1 Jun 45	Normal review. Accused committed to 5 FPC & Detn Bks (Brit)	J Medhurst Ltcol Comdg, 1 Cdn Dis Centre

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
Jun 45	Normal review	JG Spragge Brig Comd 2 CBR Gp

Certified true copy
D'Clappison Capt.
Cdn Sec 1 Ech HQ Brit Army of the Rhine

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B.159012 Pte. Leahy S L Unit RHC

Sentenced to 9 mos detn on 23 May 45

Age on, and date of, enlistment 21 yrs 11 Feb 44 Term of service duration

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....
Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....
Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....
Superior Military Authority (4).

(For action on review, see paragraph VII.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....
Superior Military Authority.

This man was again convicted on ..... and sentenced to .....
and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....
Superior Military Authority (4).

(1) Erase words not required, and initial erasure.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed if not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused and initialled if not required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(72501) W1.36510/3922 90,000 10/44 A.& E.W.Ltd. Gp.698 Forms A.3104-21.

99/37/LEAHY SL /1 (A8)

2ND ECHELON HEADQUARTERS CAOF

DATE 2 Jan 46

Canadian Military Headquarters
2 Cockspur Street
London, S.W. 1

(Attn: AAG Dis)

R159012 Pte Leahy S.L.
3/SDAG Highrs (CAOF)

1 Herewith AF A3104 in respect of the sentence set forth below for custody:

Sentence	Date	Suspended	Remitted by
9 mos detn	23 May 45	27 Sep 45	GOC 5 Cdn Inf Div CAOF on 27 Dec 45.

2 A certified copy of the proceedings is also enclosed.

(W H Pope) Lt~~XXXXXX~~ Capt
for Officer i/c
2nd Echelon Headquarters CAOF

A.5

Please ensure that correct casualty return has been rendered and documentation of remission is completed.

99/57
~~320~~/LEAHY SL/1 XIIIK 282

B 159012 Pte Leahy SL

CENTRAL REGISTRY	DATE	P.A. or B.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
JUN 19 1945				AG 12	Papers	CR	17-6-45
JUL 7 1945				AG12	WITH PAPERS C.R.		JUN 25 1945
JUL 7 - 1945							
JUL 8 1945							
JUL 9 1945							
JUL 20 1945				AG10	WITH PAPERS C.R.		JUL 13 1945
1 SEP 1945					PER D.	C.R.	1 SEP 1945
6 SEP 1945							
						CR	10/9
18 OCT 1945					Papers	CR	12/10/45
21 NOV 1945						CR	14/11
8 DEC 1945						CR	6 Dec

Leaky, S.L.

B. 15 Jan 12

O. H. M. S.

M. F. B. 270

H. Q. 1772-38-47

No. B159012 Name LEAHY SL Sqn, Battery, or Company Corps CIC Date of enlistment 11Feb44 OC Badges Service or Proficiency Pay 3/17 MFM 6 (APB 122) 40/PAS/136 (5412)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				ENTRIES NIL					

Duplicate created from MFM 4 27 Apr 45 Record of Conduct in Canada prior to T^OS^Cdn Army Overseas 15 Oct 44 not available .

"RBC WILLIAMS" Lieut
Officer ic Records X
Cdn Sec 2 Ech HQ 21 A Gp

CERTIFIED TRUE COPY OF MFM6 IN MY POSSESSION

M Moore Admin. Offr
1 Cdn Disciplinary Centre

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL ENTRIES ON MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of May 44

M A Corbett

ARMY FORM B.296 (WAR). Ex B

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-159012	Pte	LEAHY SL	BLACK WATCH

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NIL entries on MFR 6 ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet NIL

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NO Dr days in civil custody; and for X 29 Dr days in military custody, *i.e.*, NO Dr days in open arrest, X 29 Dr days in close arrest; of which NO Dr days were spent in hospital.

5. The present age of the accused is 22 years 5 months old

6. The date of his attestation ~~calling up for military service~~ is 11 Feb 44

7. The service which the accused is allowed to reckon is .....

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	////////	
In the war substantive rank of	////////	
In the acting rank of	////////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27823) Wt.24939/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2

LIST OF WITNESSES

CJM

N/A

LIST OF EXHIBITS

Certified true copy of extract from Part II Order No. 21 dated 21 Mar 45.	"A"
Certificate of surrender dated 24 Apr 45	"B"

I, B-159012 Pte Leahy SL, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet free of charge on 28 Apr 45.

W.R.

B-159012 Pte Leahy SL

Exhibit B
M. Rousseau Capt

CERTIFICATE UNDER ARMY ACT. SECTION 53 (1) (j)

Certified that No. B-159012 ..... Rank... Pte... Name.. Leahy S.L. .....

of the R.H.R. BLACK WATCH REGT. 2 Div. Regt., surrendered to No. C-53094 .....

Rank Cpl ..... Name Levallee A.L. ..... of the 2 Cdn L of C Prov Coy ...

Ghent Detach ..... at Ghent Belgium ..... at 2220 ..... hrs, on the 24 .....

day of April 45 ..... as an absentee without leave.

He was wearing Military Uniform at the time of his Surrender

~~Civilian Clothes.~~ ~~xxxxx~~

Place Ghent Belgium
Date 24 April 45

2 CDN L of C PROVOST COY

Canadian Provost Corps.
J. Moon Leiut

Leiut i/c Ghent Detach
2 Cdn L of C Prov Coy
21 Army Grp.

Exhibit "A"

PART II ORDER EXTRACT FORM

TO: Discp & Pay Sec
2nd Ech

99/20/ BW/1a5c
27 APR 45
19

EXTRACTS FROM: Unit 1st Bn The Black Watch RHR of Canada

Part II Order No. 21 dated 21 MAR 45

ABSENT WITHOUT LEAVE

AWL from 0700 hrs 2 MAR 45 Still absent 0700 hrs 10 MAR 45
8th day

B159012 Pte LEAHY S L

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer i/c Records
Cdn. Sec. 2 Ech, HQ 21 A Gp.

Originating Clerk's Initials JR

FOR (F.F. WRIGHT) LIEUT
for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

Ex A

Summary of Evidence in the case of B-159012 Pte LEAHY SL 1st Bn Black Watch RHR of C, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - DESERTING HIS MAJESTY'S SERVICE

By direction of the CO the Evidence is taken on oath.

The following documents are read over to the accused marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of extract from Pt II Order No. 21 dated 21 Mar 45

Exhibit "B" - Certificate of surrender dated 24 Apr 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence.

Dated in the Field
28 Apr 45

Plea in Mitigation.

I would ask the Court to take into very serious consideration the fact that this is the first offence of any kind that the accused has committed. He is a first offender.

The accused joined the Blackwatch the later part of Oct. 44 and served continuously with it until he went A.W.L. A man can not be blamed if he gets kyd jumpy after such a period. He has asked for a leave in Jan. but had not met with any success in getting it. He did not go A.W.L. from the line but from rest. He surrendered himself when his money was gone and when his so-called friends were no longer around him. He did not endeavour to support himself by illegal activities.

The accused is not an incorrigible sinner but a man who is honestly sorry for his mistake.

I ask the Court to extend all leniency to the accused. He is not married and has his life to make. He is only 22½ yrs old. I ask the Court to give him a good second chance. I am sure he will prove worthy of it.

Thank you Capt.

Pros.

"no Examination"

Cross Examination by Court

I was a Rfn. I am 22 years old and not married.

R.P. 83(b) Confined ~~Confirmed~~ Cor R.H. Miller capt were DM

E 1
WITNESS ON OATH

B. 159012 Pte LEAHY S.L. 1 BN BLACK WATCH
Witness is sworn.

I have not had any other crimes in the army.
I have never been up for any offence.
This is my first offence.
I joined the B W in the latter part of OCT 1944.
I was continuously with the B.W until I went A.W.L.
I had not had any leave.
I had asked for it but it was not granted.
I was feeling rather jumpy at the time I went A.W.L. I did not go to the M.O because I figured it would not do me any good.
My unit was in a rest area when I went A.W.L.
I only figured on being away a few days I was not sure whether my unit would be there when I got back.
I was not very keen at the time to get back. I did not try to find my unit again.
I stayed away because I figured that I needed a rest and was going to eventually in when I met some of my chasers & came to Ghent.
I returned because I figured that I was gone long enough and wanted to get back.
I did not have any thing to do with the Black-market. I did not have very much money when I went back.

WM

MEDICAL OFFICER'S REPORT

I certify that No. B.159012 Pte Leahy - S.L.

of 1 Cdn Disc Centre is in a good state of health,

and fit to undergo Trial by Court martial.

A M Homs Capt
Medical Officer

Station 1 Cdn Disciplinary Centre

Date 23 May 1945

M. F. B. 246
2SM-6-41 (792)
M.Q. 1173-39 480

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-159012	Pte		Stephen Leonard	LEAHY	RHC att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 18 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKENZIE	Essex Scot X-9 List 3 Cdn NETU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G T CLARK	Cdn CM Centre
Capt	P E DOWLER	Cdn CM Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) (J G Spragge)

Brigadier (Rank.)

Date 18 May 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA5) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused B-159012 Pte Stephen Leonard LEAHY, 1st Bn the Black Watch RHR of Canada, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 0700 hrs 2 Mar 45 until surrendering himself at GHENT, Belgium at 2220 hrs 24 Apr 45.

(Total absence: 45 days 15 hrs 20 minutes)

Remanded for FIELD GENERAL COURT MARTIAL.

(J [illegible]) Lt-Col
Commanding
1 Cdn Disciplinary Centre

In the Field
18 May 45

To be tried by FIELD GENERAL COURT MARTIAL

(J G [illegible]) Brigadier,
Commander
2 Cdn Base Rft Gp

In the Field
18 May 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-159012 Pte Stephen Leonard LEAHY RHC att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA SEC 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for nine (9) months.

(Sgd) N/A Judge-Advocate, if any. 23 MAY 45 Date awarded. (Sgd) Donald Mackenzie President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention hereby until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 27 MAY 45

Commanding 2 CDN DISC EST GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B159012 PTE STEPHEN LEONARD LEAHY 31 MAY 45 [signature] Lt-Col. Comdg 1 Cdn Disciplinary Centre

6 Q#403 d/31 May 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is (are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paragraphs D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*C*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*). *Plot, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB: If over prisoners, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, *MML*.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf RP*. *Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP* 46(*A*) *fn* 1, 60(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 103(*a*). *See Notes in Part I of Schedule.* 2. *RP* 44(*a*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 34(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 34(2), *RP* 45, 117. *The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans YES MYSELF AS WITNESS ON OATH
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) of ~~Service~~ as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (ii), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFR* 365 *or* 449, 294. 2. *MFM* 4. 3. *RP* 46, *KR Con* 228. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES THRO MY DEFENDING OFFICER (2)
(1. *RP* 27(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything them or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 34(2), *RP* (2)(*b*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also JA, if any~~.(2)
(1. *Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 47, 48 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 352-356, *Queen's* 80 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 44(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see inserts on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 169 5M-107

CPA96 (In lieu of APA3) 40/P & S/1098 (40/30) 4/38B

FIELD GENERAL COURT-MARTIAL

18 JUN 1945 C.M.H.Q.

Convening Officer Brig J G Sprague DSO OBE ED Comd 2 CBRG dated 18 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-159012	Pte	Stephen Leonard	LEAHY	RHC att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
Reviewed Capt
3 & June 45
REVIEWING OFFICER, J.A.G. BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date*) 23 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(if any)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(if not)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(if not)~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(if not)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter ? Ans N/A

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer ? Ans N/A
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D MacKENZIE	Asst Supt X-9 List 3 Cdn DETD
Member	CAPT	G.T. CLARK	CDN CM ~~SQUAD~~ CENTRE
Member	CAPT	P.E. DOWLER	CDN CM CENTRE
Judge-Advocate	N/A		
Prosecutor	LT	G.K. BISSETT	CDN CM CENTRE
Defending Offr	CAPT	G.T. CALE	CAS HQ 2 CBRG.

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 86 (3) and fn 2 were not followed. See DF p 3.)

A8. The accused B-159012 Pte Stephen Leonard LEAHY before arraignment make(s) (no) ~~(if so)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(if not)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(if so)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG WD J P63.

52-107

Pte. Leahy, S.L.

COUNTER NUMBER 77556

HOUR 14.00

OPERATOR'S INITIALS MW

RELIEVING OPERATOR [illegible]

Exhibit "D" Atk

3/17 MFM 6
(AFB 122)
40/P&S/156 (5415)

No. B159012 Name LEAHY SL | Sqn, Battery, or Company | Corps CIC | Date of enlistment 11Feb44 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				ENTRIES NIL					

Duplicate created from MFM 4 27 Apr 45 Record of Conduct in Canada prior to T-S Cdn Army Overseas 15 Oct 44 not available .

"RSC WILLIAMS" Lieut
Officer ic Records X
Cdn Sec 2 Ech HQ 21 A Gp

CERTIFIED TRUE COPY OF MFM6 IN MY POSSESSION

[signature] Admin. Off.
1 Cdn Disciplinary Centre

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL ENTRIES ON MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 3rd day of May 45.

[signature]

Exhibit "C" [illegible]

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-159012	Pte	LEAHY SL	BLACK WATCH

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NIL entries on MFM 6 ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet NIL

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 8 ~~all~~ days in military custody, *i.e.*, No ~~all~~ days in open arrest, 8 ~~all~~ days in close arrest; of which No ~~all~~ days were spent in hospital.

5. The present age of the accused is 22 years 5 months old

6. The date of his attestation ~~calling up for military service~~ is 11 Feb 44

7. The service which the accused is allowed to reckon is .....

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	////////	
In the war substantive rank of	////////	
In the acting rank of	////////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(27833) Wt.24939-3404 24,000 7/44 A. & E. W. Ltd. Gp.698 Forms/B.296(War)/3

Plea for Mitigation of Sentence.

B-15902 - Pte Leahy, L. F. (R.S.R.).

It is the duty of the Court so justly try the accused and when found guilty to impose a sentence. A glance at his conduct sheet will show his enlistment on Feb 14. He was in battle 6 months later ~~in France~~ Europe. More than a year has gone before this soldier commits his first crime. Should a sentence be given as to disgust him with Army justice. While the object of the punishment is to make right his crime and to correct any further ~~tendencies~~ tendency to stray from the correct line of behaviour, it must be taken ~~into~~ into account the time he has been in the Army, his service on the fighting line and what is necessary to justly punish him for his offence.

A clean sheet in the record of the accused, should a first entry, by be one of a hardened criminal. I do not think so. One look at the accused is sufficient to satisfy the Court that he has had enough punishment just by going through this trial.

I am sure the Court will take all these points into consideration and be exceptionally lenient in the sentence.

In the Field
Belgium 3 May 15.

Lt. Racicot K.
For the Defence.

Summing Up – Defence.

B-159012 – Pte Leahy, S.L. (R.H.R.).

The evidence given by the accused leaves no doubt whatsoever of his intentions of returning to his unit. He absented himself from his unit for a few days rest. The very normal & human conduct followed of anyone enjoying himself in that he stayed away longer ~~that~~ than he originally intended. He frequently wanted to report back and finally did so. The evidence given leaves no doubt that the accused is not guilty of desertion.

Mr. Racicot Lt.

For the Defence –

In the Field
Belgium 3 May 18.

Summing up by Prosecution 3 May 1945

B-159012 - Pte. Leahy, S.L. (R.H.R. or C.)

Gentlemen:-

In reply to a question asked to the accussed, regarding if he knew that the Unit would be leaving for the front line before 6 days, and he definately answered in the affirmative, but knowing this, he persisted on keeping away from his Unit. Definately gentlemen, as yet the soldier had not seen very much action during these four months, if you remember, the Can. Army was then in a static position.

Furthermore gentlemen, I am still in the opinion that if the accussed had, had enough money to see him through instead of asking his friends he would not have surrendered himself.

Therefore gentlemen, I would ask you to consider these facts in your findings.

W. J. Leavitt Lieut
Prosecution
#1 Cdn. Disc. Centre

3 May 1945

Reply to Submission

B-159012 - Pte Leahy S.L. (R.H.R. of C.)

Gentlemen,

In view of the fact that the defense did not bring out any points to prove the intentions of the accused, leaving the court still in doubt of whether he had some definatily reasons to return or not, I would ask the court to leave the charge of Desertion, stand as is.

[illegible]
Prosecution,
1 Cdn. Disc. Centre

Request for Submission.

B-159012- Pte Leahy, S. L. (RHR)

It is felt that the Prosecution has failed to prove a prima facie case in that no intentions of deserting by the accused has been brought forward by the Prosecution. This with the fact that the accused surrendered should erase any doubt in the mind of the Court as to the accused intention of Deserting. Thus I request that the charges of Desertion be dismissed.

M. Racicot Lt.

For the Prosecution.

In the Field

Belgium 3 May 45.

the rest of the time I was in Kent. I have no lady-friend in Kent. When I was going to turn myself in, my friends persuaded me to stay another few days. I was employed in the unit as a rifleman.

S.P. 52 (b) complied with.
Lieut.

The Prosecutor sums up.
The defence sums up.

I was in Holland, in Nijmegen, - where I met a couple of my chums. I came to Belgium with them. I was going to turn myself in every day but something happened & I didn't. I wanted to go back to my regiment & finally I turned myself in. I surrendered in Ghent.

Cross examination by Prosecuting Officer: -

I was in action from the last of October until the begining of March. My nerves were shot but I did not go to see the M.O. because I didn't think it would do any good. I went AWL because my nerves were bad & I thought six days rest would help. My unit was in a rest area when I went A.W.L. We had been in rest area about 1 day when I went A.W.L. I did not know how long the unit would be in rest, but I had a good idea it would not be there after six days. I went to Nijmegen first & then to Ghent. I had two hundred guilders, which lasted me about a month. I ~~earned~~ obtained money from friends in Ghent the rest of the time. I lived in billets & private homes, & did not have a girl. I turned myself in because I figured I had been gone long enough & I wanted to go back to my unit. If I had lots of money I would not have remained longer - I would have turned myself in anyway.

Cross examined by court:

I was in Nijmegen only a few days - &

Trial by Court Martial of B 154012 Pte Leahy, S. L. (R.H.R.) ①

The prosecuting officer opens the case against the accused.

The prosecuting officer submits as exhibits the following documents which are accepted & marked as such by the court:—

Exhibit A. – Certified true copy of Extract from Part II Orders, 1st Bn The Black Watch R.H.R. of Canada, Part II Order No. 21 dated 21 Mar. 45 relating to the accused B 154012 Pte Leahy S.L.

Exhibit B – Certificate under A.H. Sec 53 (3)(j) of the surrender of B 154012 Pte Leahy S.L.

The prosecution closes.

The defending officer applies for a dismissal on the grounds that the prosecution has failed to make out a prima facie case.

The court closes to consider the submission. The court reopens & the President announces the submission has been disallowed.

The accused elects to give evidence on oath.

The accused B 154012 Pte Leahy S.L. having been duly sworn states:—

Since I came to the continent in October I have been in action at the front all the time. I asked for a leave and I had not received one. My nerves were getting pretty bad so I thought I would take a holiday. When I came out I only thought of staying a few days, five or six days.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined R/59612 (No.)

RE (Rank) LEAHY - S.L. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

(Sgd) (Medical Officer)

Date [illegible]

Unit 1 Cdn Disciplinary Centre

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:
First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*or*, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:
(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 563(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.
2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 557.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 966. As to certified copies of regimental books see AA 163 (1) (g) (k).*)
(vi) Summary of Evidence, if not already an exhibit.
3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 739.*)
4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
R-159012	Pte	Stephen Leonard	LEAHY	RHC, att to 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	~~A.E. LEFROY. D.S.O. C.D.~~ Seaforth of C ~~Hqs~~	att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
~~Capt.~~ Lieut	~~A. LEFROY~~ K.A. McKenzie	C.I.C. 10 Bn. 2 CBR.G ~~Canadian Infantry~~ Calg Highrs att 1 Cdn Disciplinary Centre att 2 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 1 May 45

(Signed personally. RP 106 (2).) (A.E. LEFROY)

Brigadier (Rank.)

Commanding 2 CDN BASE RPT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for seals and notes for use on trial.)

4/38A CFA95 (To take the place of AFA5) 40-9 & 5-1691 (4601)

CHARGE SHEET

The accused, B-159012 Pte Stephen Leonard LEAHY, 1st Bn The Black Watch RHR of Canada, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at 0700 hrs 2 Mar 45 absented himself from his unit until surrendering himself at GHENT, Belgium at 2220 hrs 24 Apr 45.

(Total absence: 45 days 15 hrs 20 minutes)

Remanded for Summary of Evidence

In the Field
28 Apr 45

(J S Redhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
28 Apr 45

(J S Redhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
1 May 45

(G S M Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex.....,initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No. (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1) ~~Nil~~ No. Ltr.
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(E).*)

D3. The evidence for the Prosecution is taken.(1) attached as Exhibit "B".
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge. charge(~~s~~).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(~~s~~), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Evidence on oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. No.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(~~s~~), if any, of Not Guilty, and states to the accused that the finding(~~s~~) of the Court on the 1st charge(~~s~~), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment?(1) Ans. Also in mitigation of punishment.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the~~m~~ if any.(2)
(*1. When several accused tried separately see RP 77(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded or given all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-159012 Pte Stephen Leonard LEAHY, RHC, att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA See 120(a)	Not Guilty		That court finds the accused not guilty of desertion but guilty of AWL. from 0700 hrs 12 May 45 until surrendering himself at 2220 hrs 2nd April 45.
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial : a total of~~ ..... ~~days, of which~~ ..... ~~days were spent in hospital~~ (2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of 9 months.

(Sgd) ..... Judge-Advocate, if any. Date awarded. 3 May 45 (Sgd) A E Lefroy Major President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

NOT CONFIRMED, AND I DIRECT A NEW TRIAL

~~I direct that the accused be sent committed to prison or detention barracks from further orders~~ (1)

(1. AA 57A. Delete if not used.)

Date 5 MAY 45 (Sgd) (J G Sprague) Brigadier

Commanding 2 CDN ARMD BDE Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
B159012 PTE STEPHEN LEONARD LEAHY	17 MAY 45	Mudhurst Lt-Col. Comdg. 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECD 18 JUN 1945 A.G.'s Branch C.M.H.Q.

RECORDED AT CMHQ IN AB 169 as 5M-106

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Brigadier J G SPRAGUE, DSO Comd 2 CBRG dated 3 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) appointment or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-159012	Pte	Stephen Leonard	LEAHY, S.	RHC att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED Capt. 28 June 45 REVIEWING OFFICER, J.A.G. BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in and/or in (country) BELGIUM on (date(s)) 3 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 32/113

A1. The President, Members, ~~waiting Member, JA~~ if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1040 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(i). Delete, if not applicable.)

A5. ~~President to accused : Do you object to an interpreter ? Ans .....~~ ~~The interpreter is sworn.~~(1) ~~Do you object to a shorthand writer ? Ans .....~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, (E), MML p 742.)

A7. The President, Members, ~~JA~~ if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A E LEFROY. Supply & C	1 Cdn Disciplinary Centre
Member	Capt.	A. Fortier ~~Adjutant~~	C.I.C. 10 Bn 2 CBRG
Member	Lieut	K.R. McKenzie ~~Duty Major~~	~~1 CBRG~~ 2 CBRG
Judge-Advocate			
Prosecutor	Lieut.	W.L. Neville	F.M.R. att 1 Cdn Disc Centre
Defending Offr	Lieut.	M. Racicot	R de Chaud - 1 Cdn Disc Centre

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-159012 Pte LEAHY, S. before arraignment make(s) (no) ~~no~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), (B)), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB num and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is absent from~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG W 7 Pl.

5 m - 106

Pte. Leahy, S.L.

HURON CAMP
No. 3 C.A.R.U. 18 Jan 43.

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M. - P-9444 Gnr. Leahy, A.R.J.

1. Reference my forthcoming trial by Field General Court Martial. It is respectfully submitted that Lieut. J. Lash, R.C.A., be appointed as my Defending Officer.

P-9444 A.R. Leahy

P-9444 Gnr. Leahy, A.R.J.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date—

In the rank of ..... years. ..... date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number P 9444 Rank Gnr. Name LEAHY, A.R.J. of No. 3 Cdn.Arty.Rein.Unit. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 29 Dec 41	A.A.Sec.15(1) A.A.Sec.6(2)	90 Days Detention	30 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 th day of January 1943

(A.M. Parker) Capt.
Records Officer, 3CARU.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
P-9444	Gunner	LEAHY, Albert Richard Joseph	No. 3 C.A.R.U.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since completion of six months service	
For A.A.Sec.15(1)	Two (2)	times	Eight (8)	times
For A.A.Sec.6(2)	Nil	times	One (1)	times
For Civil Offence	One (1)	times	One (1)	times
For		times		times

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 88 days in military custody, making a total of 147 days in custody, of which 68 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 years 276 days

6. The date of his attestation specified in his attestation paper 28 Sept 39

7. The service which the accused is allowed to reckon towards discharge is 2 years 273 days

8. The accused is entitled to reckon 2 years 273 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	17-7-42	Gnr.		Civil Offence		Bound over in the sum of £5-0-0 for 2 yrs to be of good behaviour &to come up for judgement if called upon by Civil Court at Chelmsford, Essex.			Fts.48 D.P. FRI 149(1)(c)(i) (Held in Civil Custody for 48Days)
In the Field	14-9-42	Gnr.		A.A.Sec.15(1)AWL from 1200 hrs 14-9-42 to 0820 hrs 15-9-42. Abs.20 hrs, 20 min.					Fts. 1 D.P. FRI 149(1)(a)

CERTIFIED TRUE COPY OF ORIGINAL CONDUCT SHEET - 18 Jan 43, as taken from his MFM 2 and 4.

(H.N. McKenzie) Major,
O.C. 'P' Training Wing, No.3 Cdn.Arty.Rein.Unit.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Connaught	6-12-40	Gnr.		A.A.Sec.15(1)AWL 3 days		14 days Det.			Fts.14 Days Pay FRI 149(1)(b) Fts.3 Days Pay FRI 149(1)(a) Total Ft're 17D.P.
In the Field	15-11-41	Gnr.		(1)A.A.Sec.15(1)AWL from 1900 hrs 15-11-41 to 2230 15-11-41(Abs. 3 hrs 30 min. (2)A.A.Sec.6(2)		90 days Det.	23-12-41	F.G.C.M.	Fts.90 D.P. FRI 149(1)(b) Fts.43 D.P. FRI 149(1)(c)(i) Fts.1 D.P. FRI 149(1)(a) Total Ft're 134 Days Pay.

M.F.M. 6
(A.F.B. 122)

No. P 9444 Name LEAHY, A.R.J. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 28-9-39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 3-11-39 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	19-1-42	Gnr.		A.A.Sec.15(1) AWL from 1500 hrs 19-1-42 to 1940 8-2-42(Abs. 20 days, 4 hrs 40 min.		28 days Det. To pay £3-4-0 FRI 172(8)			Fts. 28 D.P. FRI 149(1)(b) to run concurr. with award of 29-12-41 by F.G.C.M. Fts.21 D.P. FRI 149(1)(a) Total Ft're 21 days Pay plus £3-4-0.
In the Field	17-3-42	Gnr.		A.A.Sec.15(1)AWL 10 days		14 days C.B.			Fts.10 D.P. FRI 149(1)(a)

Sheet destroyed after completion of 6 months service. Last entry 3-11-39.

No. P 9444 Name LEAHY, A.R.J. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 28-9-39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 3-11-39 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax	18-7-40	Gnr.		A.A.Sec.15(1)AWL.					
Connaught	15-10-40	Gnr.		A.A.Sec.15(1)AWL 11 days,10 hrs, 30 min.		14 days C.B. Fined 22 days Pay FRI 149(2)			Fts.12 days P. FRI 149(1)(a) Total Ft're 34 days Pay.
Halifax	8-8-40	Gnr.		A.A.Sec.15(1)AWL 20 days, 12 hrs, 45 min.		28 days Det.			Fts.21 D.P. FRI 149(1)(a) Fts.28 D.P. FRI 149(1)(b) Total Ft're 49 days Pay.

(P.T.O.)

"C"

No.3.Canadian Artillery Reinforcement Unit.
Canadian Army (Overseas). 18 Jan.1943.

P-9444 Gnr. Leahy A.R.J.

LIST OF DEFICIENCIES

		100% £ s. d.	75% £ s. d.
Badges,cap	1	- 5½	- 4
Bags,kit universal	1	5 - 3	3 -11¾
Battle-dress Blouse	1	1 - 7 - 8	1 - 0 - 9
" " Trousers	1 pr.	1 - 7 -11	1 - 0 -11¼
Braces, prs.	1	1 - 3½	-11½
Brasses,button	1	- 2	- 1½
Brushes,boot-blacking	1	- 8	- 6
" button	1	- 8	- 6
" hair	1	1 - 1	- 9¾
Cap-comforter	1	1 - 1½	-10
Cap,field-service	1	3 - 8	2 - 9
Jacket,sweater	1	6 - 9	5 - 0¼
Shirts,Flannel	2 @ 9/2d. ea.	18 - 4	13 - 9
Knife,clasp	1	5 - 2½	3 -11¼
Towels hand	2 @ 11½d. ea.	1 -11	1 - 5¼
Vests,gym.	2 @1/6d. ea.	3 - 0	2 - 3
Shorts,gym.	2 @ 1/11d. Pr.	3 -10	2 -10½
Drawers,cellular	2 @ 2/0½d. Pr.	4 - 1	3 - 0¾
Attachments,brace	2 @ 1/9d. ea.	3 - 6	2 - 7½
Belts,waist web small	1	6 - 7	5 -10½
Braces,L & R	2 @ L.3/3d. R.2/11d.	6 - 2	5 - 7½
Straps,web supprting	2 @ 1/1d. ea.	2 - 2	1 - 7½
Cape,A/G.	1	1 - 3 - 6½	17 - 8¼
Ointment A/G.	1	- 9½	- 7
TOTAL		£ 7 -15 -10	£ 5 -18 - 10

I hereby certify that I have examined the kit of P/9444 Gnr. Leahy A.R.J. and find the above mentioned list of deficiencies.
Dated this 18th.day of January 1943.

Signed S. Stirling Sgt A-57036
N.C.O.i/c.Kit-stores No.3.C.A.R.U.

I hereby certify that the kit of P-9444 Gnr. Leahy A.R.J. was examined on the 9th.day of November 1942. He was completely equipped with all equipment clothing and necessaries.

Signed S. Stirling Sgt. A-57036
N.C.O.i/c.Kit-stores No.3.C.A.R.U.

"C"

Expense Voucher Re—: Ref: K.R[illegible] (Can) 539 "B"

Reg. No. P 9444 Rank Sur Name Leary, H.R.J. Unit # 3 C.A.R.U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount		
16 Jan 43	Escorts return fare from LONDON To Manchester 1/2 Portion		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bus~~ Meals, Bus fares 1/2 Portion		4	8
	Total £	1	12	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant ~~and~~ Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

"B"

"A"

CERTIFICATE OF SURRENDER UNDER SECTION 163 (1) (j) A.A.

I, Major J. Rowley certify that Number P9444 (rank)...Gnr.....

(name) ...Leahy A.R.J..... of .....Coy. .....Bn. The ..No.3 C.A.E.U.

Canadian Forces.....Regiment, surrendered himself to Number 3861438 (rank)...L/Cpl.

(name) ...Crook J.....Corps of Military Police, at ...10.00....hours on

the ...6th..... day of ...January..... 1943 as a deserter (or absentee without

leave.).

J. Rowley Major.

Headquarters,
East Lancs. District Provost Coy.,
Drill Hall, Ardwick Green,
Manchester.

D.A.P.M. East Lancashire District.

Date, ...6th January 1943.....

"A"

I now produce and read to you an "Expense Voucher" Ref. K.R.& O.(Can)539, purporting to be signed by the said Lieut. T.F. Gerine, showing the expenses incurred in apprehending you and returning you to this Unit to be One Pound, Twelve shillings and Ten Pence (£1:12:10). This Voucher is marked "B" and annexed hereto.

The accused does not require the presence of this witness for the purpose of cross-examination.

4th Witness for Prosecution

B-6501 L/Bdr. Price, J., Regt'l Police, No. 3 C.A.R.U., having been duly sworn, states:-

" I was on duty in the Guard Room, Huron Camp, No. 3 C.A.R.U. at 1600 hours 16 Jan 43, when Gnr. Leahy, A.R.J., was escorted in by the C.P.C. He was sober, shaved but improperly dressed being minus Field Service Cap and Pay Book."

J Price L/Bdr. B6501.

The accused declines to cross-examine this witness.

5th Witness for Prosecution

A-57034 A/Sgt. Stirling, S., N.C.O. i/c Kit Stores, No. 3 C.A.R.U., having been duly sworn states:-

"On the 18th day of January 1943, I re-examined the Kit of P-9444 Gnr. Leahy, A.R.J., and found him to be deficient of articles to the value of Five pounds, Eighteen shillings and Six Pence (£5:18:6), which is 75% of the vocabulary price of Seven Pounds, Fifteen Shillings and Ten Pence (£7:15:10), in accordance with C.A.(O)R.O. 1398, as per list I am now presenting."

S Stirling Sgt. A-57034

This list is marked "C" and annexed hereto.

The accused declines to cross-examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Taken down before me in the presence and hearing of the accused this 18th day of January 1943, at "P" Training Wing, No. 3 Cdn. Arty. Rein. Unit.

J.A. Biggar Capt.

(J.A. Biggar) Capt., R.C.A.,
No. 3 Cdn. Arty. Rein. Unit.

SUMMARY OF EVIDENCE IN THE CASE OF
P-9444 Gunner LEAHY, A.R.J.
"A" Battery, "P" Training Wing,
No. 3 Cdn. Arty. Rein. Unit.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution

M 45222 Bdr. Reid, E.A., "C" Battery, "P" Training Wing, No. 3 C.A.R.U., having been duly sworn states:-

"On the morning of 23rd of November 1942, I was N.C.O. i/c "B" Troop, "A" Battery, "P" Training Wing, No. 3 C.A.R.U. At 0630 hrs I called the Reveille Roll Call, Gnr. Leahy, A.R.J., failed to answer his name, he was not present in the Hut. When the Orderly N.C.O. collected the Reveille Roll Call, I turned Gnr. Leahy's name in as an absentee. I have not seen Gnr. Leahy, A.R.J. from that time until 0900 hours the 18th of January 1943."

M- 45222. Reid E.A. Bdr.

The accused declines to cross-examine this witness.

2nd Witness for Prosecution

Major Rowley, D.A.P.M., Headquarters, East Lancashire District Provost Coy., Drill Hall, Ardwick Green, Manchester.

I, Capt. J.A. Biggar, R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

J A Biggar Capt

I now produce and read to you a "Certificate of Surrender under Section 163 (1) (j) A.A. dated at Headquarters, East Lancashire District Provost Coy., Drill Hall, Ardwick Green, Manchester, on the 6th day of January 1943, purporting to be signed by the said Major Rowley, stating that at 1000 hrs on the 6th day of January 1943, you surrendered yourself to No.3861436 L.C. Crook, E.J., at Stockport Road Ardwick, Manchester. This Certificate is marked "A" and annexed hereto.

The accused does not require the presence of this witness for the purpose of cross-examination.

3rd Witness for Prosecution

Lieut. T.F. Gerine, Officer Issuing Railway Warrant and Expense Monies, No. 6 Coy., C.P.C., London.

I, Capt. J.A. Biggar, R.C.A., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of this witness cannot, in my opinion, be readily procured.

J A Biggar Capt

(To page 2)

I went back to the guard room and asked Sgt Welsh if he knew a good defending officer he recommended Capt Bethersy Paymaster who was a lawyer in civil life in the town where Sgt Welsh came from. I got in touch with him and he was willing to accept my case I then informed Major Rodsen.

The same afternoon Sgt Welsh was paraded before Major Rodsen for being a barrack room lawyer.

I was kept under close arrest from Nov 15 until Dec 29. a total of 44 days, and during that time I was doing full duty as kitchen fatigue man, while I was awaiting trial, two other men commit the same offence but were only charged with (Neglect of duty)

On Dec 15 I was told my court would sit Dec 22 I informed my defending officer.

On the 21st of Dec I was told that the date had been changed until Dec 29. So the B.S.M. phoned my officer for me to inform him of the change in dates, the officer informed him that he could not appear as he is paymaster and had to pay out on that day, but to have to court cancelled, any where from Jan 2 to the 12th.

I asked Major Rodsen if the date could be changed he told me no, but that he would get a defending officer for me.

When the court sat on Dec 29 the defending officer done nothing on my defence

I went back to the guard room and asked Sgt Welsh if he knew a good defending officer he recommended Capt Nethercy Paymaster who was a lawyer in civil life in the town where Sgt Welsh came from. I got in touch with him and he was willing to accept my case. The same afternoon Sgt Welsh was paraded before Major Rodeen for being a barrack room lawyer.

I was kept under close arrest from Nov 15 until Dec 29, a total of 44 days, and during that time I was doing full duty as ketchen fatigue man, while I was awaiting trial two other men commit the same offence but were only charged with Neglect of Duty.

On Dec 15 I was take my court martial Dec 22 I informed my defending officer.

On the 21st of Dec I was informed that the date had been changed until Dec 29, so the B.S.M. phoned my officer for me to inform him of the changeing dates, the officer informed him that he could not appear as he is paymaster and had to pay out on that day, but to have to court cancelled, any time from Dec 2 to the 12th.

own, most of the time there was never any one there to relieve, and no one used to bother.

I was detailed for duty Nov 13 with two other men, the usal procedure was that after disincounting the following morning, you were giving a pass for that night, we all put in our passes, the other two men received theirs but mine was refused, I did not mind as I really wanted a pass for the 15th a day I had arrangments made for.

The following day the 15th, I again put in a pass expecting to get it for sure.

At about 1700 hrs. I was told by Lt Bodr Bantam that I was again on picquet.

The point is why should I be put on duty, while the other two men who were on duty with me on Nov 13 and who received their passes on the 14th were not put on in my place.

I went to my post at 1700 hrs and at about 1845 hrs I left my post to go and keep the arrangments that I had made for that night.

I reported back to camp 3½ hrs later. On Nov 17 I was paraded before Major Dodson charged with.

(1) While a soldier on active service acting as sentinal leaving his post without a proper releif.

(2) Absent 3½ hrs.

He asked me if I had any thing to say, I told him about my passes, and asked to see the Colonel, he refused my request and [illegible] F.G.C.M.

Statement by P 94444 Van Leahy A.R.J.
Jan 20-1943.

Sir.

The following is the reason for all the crimes that I have been involved in, in the past year.

In April of 1941 the battery went into the field under the command of Major E. M. Dodson, an officer who has hated me for the 4 years ever since he was a lieutenant in the P.F in peace time, and I was under his command.

When I arrived overseas in December of 1940, I intended to keep a clean crime sheet and to try for advancement, I kept my crime sheet clean from Dec 1940 until Nov 1941, but I was given no chance for courses or chances to go on the guns, all I was doing was general fatigues with B.H.Q.

The battery moved up to Rayleigh Essex of October of 1941, I was with B.H.Q as house orderly, and we had duties on M.T. picquet every third night.

There was an N.C.O and three men detailed every night by the B.S.M. at 17 00 hrs the N.C.O would give the man a rifle and tell him to go on the beat, and each fathom relief would relieve the other man on the beat for his

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT SUPERIOR CAMP. LUDSHOTT HANTS
ON THE 20th DAY OF JANUARY 1943

The accused. P 9444 SNR. LEAHY A.R.J. ....Unit..3 CARU.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. LT. COL. D.L. REDMAN....Unit..H.Q. C.R.U.....

Members..MAJOR. J.H.R. THOMPSON.Unit...3 CARU.....

..CAPT. J.G. MOONEY.....Unit...3 CARU.....

The officers under instruction are duly sworn:-

LIEUT. McHARG. 2 CARU. MAJOR. W.J. ANDREWS 2 CARU
LIEUT. R.J. MACEWAN....Unit...".....
" G.C. EVANS "
..." L.V. McCULLINAN....Unit...".....
" J.T. McEVOY "

Prosecutor...LIEUT. G.D. JACK.....Unit.3 CARU.....

Defending Officer..LIEUT. G. LASH....Unit..3 CARU.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFB 355 AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) ~~addresses the Court by his Defending Officer~~

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by the accused attached hereto.

[signature]

(OVER)

20 Jan 43

This is to certify that I have examined on this date, 20 Jan 43, P 9444 Gunner LEAHY, A.R.J., and found him fit to undergo trial by Field General Court Martial.

T R Dalrymple Capt

Medical Officer No. 3 C.A.R.U.

CHARGE SHEET

The accused, P 9444, Gunner Albert, Richard, Joseph, LEAHY, "P" Training Wing, No. 3 Cdn. Arty. Rein. Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he

at Huron Camp, Bramshott, Hants., illegally absented himself without leave from 0630 hours 23 Nov 1942 until surrendering himself to No. 3861438 L.C. Crook E.J., at Stockport Road Ardwick, Manchester, at 1000 hrs 6 Jan 1943, incurring costs of apprehension and return in amount of One Pound, Twelve Shillings, Ten Pence (£1:12:10). Total absence 44 days, 3 hours and 30 minutes.

2nd Charge
Section 24(2)
Army Act

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES.

In that he

at Huron Camp, Bramshott, Hants., on 18 January 1943 was deficient of equipment, clothing and regimental necessaries to the value of Five Pounds, Eighteen Shillings and Six Pence (£5:18:6), which sum is 75% value of the vocabulary price of such articles which amounted to Seven Pounds, Fifteen Shillings, and Ten Pence (£7:15:10), in accordance with C.A.(O)R.O. 1398.

Huron Camp,
Bramshott, Hants.,
18 Jan 1943

(R.M. Bishop) Lieut.Col.,
A/Commanding Officer,
No. 3 Cdn. Arty. Rein. Unit.

To be tried by Field General Court Martial.

Brigadier.
Commanding "C" Group, Cdn. Reinf. Units.
(Convening Officer).

BORDON, Hants.
19 Jan 43.

20 Jan 43

Commanding Officer,
Headquarters "6" Group,
Canadian Reinforcement Unit.

Re F.C.C.M. P 94444 Gnr. Cooley A.R.T.

1. I direct your attention to the comments in the soldier's plea in Mitigation respecting his treatment heretofore.

2. Consideration might be given to the advisability of arranging for the transfer of this soldier from the Ack Ack to some other branch of the corps.

(W.L. REDMAN V.D.) LT-COL.
PRESIDENT.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
P.9444 Gnr. LEAHY, A.R.J. (R.C.A.) 3 C.A.R.U.	FIRST CHARGE A.A. Sec. 15(1).	Guilty	Guilty	
	SECOND CHARGE A.A. Sec. 24(2).	Guilty	Guilty Sentenced to undergo detention for a period of One Hundred and Thirty (130) days and to be put under stoppages of pay until he has made good (a) £1-12-10 Expenses of his apprehension and return (b) £5-18-10 the value of his "Hat" lost by neglect 20 Jan 1943	Confirmed [illegible]

See Charge Sheet Attached.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Brigadier. (Signed) [illegible]
Commanding "C" Gp. Cdn Reinf Units. President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 20th day of January 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 20th day of January 1943.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.O.L. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 2nd day of ~~January~~ 1943.

[illegible]
Confirming Officer.

Promulgated and extracts taken in the case of P9444 Gnr Leahy A.R.J.

(*a*) (Dated) 25 Jan 43: 40 19 (Signed) [illegible] Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

P.9444, Gnr. LEAHY, A.R.J.
3 C.A.R.U.

151 V

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Nineteenth day of January, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" Group, Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*I am unable to appoint~~

~~*(1) Three Officers to form the Court.~~

~~*(2) A Field Officer as President.~~

~~for the following reasons, namely~~

Proceedings Reviewed
L Morin Capt
Reviewing Officer (J.A.G. C.M.H.Q.)
1/2/43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT.-COL.	D.L. REDMAN,	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
MAJOR	J.H.R. THOMSON, RCA.	3 C.A.R.U.
CAPTAIN	J.G. MOONEY, RCA.	2 C.A.R.U.
LIEUT.	J.T. MCEVOY, RCA (Waiting Member).	2 C.A.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier.

[signature] Commanding "C" Group, C.R.U.

Convening Officer.

151 V. (case #2)

Gen. LEAHY, A.R.J.

See 157E for 1st case

CHARGE SHEET

The accused number P9444, Gunner LEAHY, Albert Richard Joseph, 4 Light Anti-Aircraft Battery, 2 Light Anti-Aircraft Regiment, Royal Canadian Artillery, a soldier of the Canadian Army (Active Force) is charged with, when on active service:

1st Charge
Sec 6 (1)(h)
Army Act

WHEN A SOLDIER ACTING AS A SENTINEL, LEAVING HIS POST BEFORE HE WAS REGULARLY RELIEVED:

in that he

at Rayleigh, Essex, on 15 Nov, 41, after being posted as a sentry on post No. B.H.Q Post, M.T. Picquet left his post without being regularly relieved.

2nd Charge
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Rayleigh, Essex, absented himself without leave from 1845 hours till 2230 hours on the 15 Nov 41.

(K.E. Lockett) Lt.-Col.,
Commanding,
2 Lt. A.A. Reg't., R.C.A.

Rayleigh.
21 Nov 41.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.J. Montague) Major-General
Commanding
Canadian Military Headquarters.

London
Dec 41.

*N.B.—As this form is applicable to any Board of Officers or Committee or Court of Inquiry, the blank is to be filled in accordingly.

This signature of each Officer composing the Board, etc., should be attached to the end of the proceedings.

PROCEEDINGS of a* SUMMARY OF EVIDENCE

~~assembled at~~ taken at Rayleigh, Essex,

on the 17th. November 1941.

by order of Major E. M. Hodson R.C.A.

~~for the purpose of~~ in connection with a charge against

P/9444 Gnr. Leahy A. R. J.

4 Lt. A. A. Battery R.C.A.

PRESIDENT

MEMBERS

The having assembled pursuant to order, proceed to

P/4479 B. S. M. Catt A., having been duly sworn, states:-

On 15 November 1941, at about 2030 hours, A/L/Bdr. Bantam F. L. reported to me that the accused was absent from his post. I told him to note the time the accused returned, and place a charge against him. At about 2120 hours, the same date, I went down to the Weir Hotel, Rayleigh, where I found the accused. At 2130 hours I ordered the accused to return to camp. On waiting a few moments I looked for the accused, and could not find him. ~~On returning to camp at 2200 hours, A/L/Bdr. Bantam informed me that the accused had not returned. I was notified the next morning by A/L/Bdr. Bantam that the accused had returned at 2230 hours 15-11-41.~~

C Catt

P/4479 A. Catt B. S. M.

The accused declined to cross examine the witness

P/9463 A/L/Bdr. Bantam F. L. having been duly sworn, states:-

On 15 November 1941, I was placed in charge of the picquet. I posted my sentry, who was Gnr. Leahy, at 1700 hours. I was checking my picquet at about 1845 hours, and I found Gnr. Leahy absent. I then placed my next sentry, Gnr. Wheaton on duty in Gnr. Leahy's place at 1900 hours. With Gnr. Wheaton I discovered Gnr. Leahy's rifle in the leading vehicle. I reported Gnr. Leahy's absence to the B. S. M., who instructed me to place him under arrest, and to note the time he returned, which was 2230 hours, 15th. November 1941.

F L Bantam
.....
P/9463 A/L/Bdr. Bantam F. L.

The accused declined to cross examine the witness

C/14394 Gnr. Wheaton E. J. having been duly sworn, states:-

On 15th. November 1941, I was placed on picquet by A/L/Bdr. Bantam at about 1845 hours.

QUESTION "Why were you placed on picquet at this time"?

ANSWER "To replace Gnr. Leahy, ~~who A/L/Bdr. Bantam could not find~~".

E. J. Wheaton
.....
C/14394 Gnr. Wheaton E. J.

The accused declined to cross examine the witness

The accused declined to make any statement.

E M Hodson
.....
(E. M. Hodson) Major RCA.
O.C. 4 Lt. A. A. Battery R.C.A.

I certify that R. P. 4 (c)(d)(e) were complied with.

E M Hodson
.....
(E. M. Hodson) Major RCA.,
O.C. 4 Lt. A. A. Battery R.C.A.

LIST OF WITNESSES FOR THE PROSECUTION

over trial of:-

P/9444 GNR. LEAHY A. R. J.
4 Lt. A. A. Battery R.C.A.

P/4479 B. S. M. Catt A.

4 Lt. A. A. Battery R.C.A.

Rayleigh, Essex

P/9463 A/L/Bdr. Bantam F. L.

4 Lt. A. A. Battery R.C.A

Rayleigh, Essex

C/14394 Gnr. Wheaton E. J.

4 Lt. A. A. Battery R.C.A.

Rayleigh, Essex.

E. M. Hodson

(E. M. Hodson) Major RCA.,
O.C. 4 Lt. A. A. Battery,
R.C.A. C.A.(O)

I, NO: P/9444 GNR. LEAHY A. R. J. desire to have an officer represent me at my trial by Court Martial.

Gnr. Leahy A.R.J.
P/9444 Gnr. Leahy A. R. J.

17 November 1941.
Rayleigh, Essex

Army Form B 256.

Unit 2 Lt. A. A. Regiment R.C.A.
4 Lt. A. A. Battery R.C.A.
Squadron, battery or company

MORNING SICK REPORT
MEDICAL INSPECTION REPORT*

Station and Date 29 December 1941

Army No.	Rank and Name (Christian name in full Surname first; M under name if married)	Completed Years of Age	Completed Years of Service	Religion	If for duty†	Whether a Defaulter	Lines or Barracks	Room or Mess	Disease	Disposal Medical Officer's Remarks and Signature
P/9444	Gnr. LEAHY A. R. J.	22		RC	Prisoner					

December 28th. 1941.
I have examined Gnr. Leahy A. R. J. and have found him...fit...to undergo Court Martial

F. S. Evans Capt.
Medical Officer

G. Curtis Bdr Orderly N.C.O.

*Strike out whichever is not applicable.
†State nature of duty for which warned. In the case of men for medical inspection, the reason, such as "for trial by Court Martial," or "joining the station," &c., should be stated against their names.

R1859. Wt.W45443/1739. 1,500,000. 3/41. K. & H., Ltd. G657/49.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
York	3/12/40	Gnr		Absent from 1630 hrs 3/12/40 until reporting to N.C.O. i/c picquet 0830 hrs. 6/12/40 (Absent 2 days, 16 hrs.	Bdr. Jackson Bdr. McFarlane	14 days Detention	6/12/40	J.N. Lane	Major R.C.A.

CERTIFIED TRUE COPY

E. M. Hodson
Major

~~(J.C. Archibald) Capt.~~
~~A/~~O.C. 4 Lt. A.A. Battery
R.C.A. C.A. (O)

P2 C.R.M.C.

No. P/9444 Name Leahy A.R.J. Sqn., Battery, or Company 4 th. A.A. Corps Battery R.C.A. Date of enlistment 1-9-39 G.C. Badges Service or Proficiency Bar

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. E.M. Hodson major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax	8/8/40	Gnr		1. Absent from 0700 hrs, 18/7/40 until reporting to N.C.O. i/c picquet at 1945 hrs. 7/8/41. (Absent 20 days, 12 hrs. 45 mins.	Sgt. Carpenter L/Sgt. Desrosiers Gnr. Haase	Forfeits 21 days pay and 28 days detention	8/8/40	C.S. Craig	Col. R.C.A.
Connaught N.S.	4/10/40			Absent from 0700 hrs. 3/10/40 until reporting to N.C.O. i/c picquet at 1730 hrs. 14/10/40 (Absent 11 days, 10 hrs 30 mins.)	Sgt. Douglas Sgt. Swain L/BdrLeClair	14 days C.B. Forfeits 22 days pay under AA46 Forfeits 12 days pay under FR&I	15/10/40	J.N. Lane	Major R.C.A.

(P.T.O.)

PI CRhC

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. P/9444 Rank Gunner Name LEAHY A. R. J. of 2 L. A. A. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Col. Craig R.C.A.	8-8-40 Halifax N. S.	(1) Absent from 0700 hrs 18-7-40 until reporting to N.C.O. i/c picquet at ~~1945 hrs 7-8-41.~~ (Absent 20 days 12 hrs 45 mins)	28 days detention (Forfeits 28 days pay)	
Major J. N. Lane	4-10-40	(1) Absent from 0700 hrs 3-10-40 until reporting to N.C.O. i/c picquet at 1730 hours 14-10-40. (Absent 11 days 10 hrs 30 mins)	14 days C. B. Forfeits 22 days pay under AA 46. Forfeits 12 days pay under F.R & I.	
Major J. N. Lane	3-12-40	(1) Absent from 1630 hrs 3-12-40, until until reporting to N.C.O. i/c picquet at 0830 hours 6-12-40 (Absent 2 days 16 hours)	14 days detention Forfeits 14 days pay	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd. day of December 1941

E. M. Hodson Major R.C.A., C.A.S.F.

O. C. 4th LT. A. A. BTY., R.C.A., C.A.S.F.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Date of Promotion.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
P/9444	GUNNER	LEAHY A. R. J.	2 Lt. A, A. Regiment R.C.A. 4 Lt. A. A. Battery R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* ~~Within last 12 months~~.	*Since Enlistment.
For	Absent with out leave times	three times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted,~~ *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ - beginning on the - day of -

4. The accused has been in confinement, awaiting trial on the present charges, for N I L days in civil custody, and thirty seven days in military custody, making a total of thirty seven days, of which N I L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years 8 months

6. The date of his ~~[illegible]~~ attestation specified in his ~~record of service~~ attestation paper is 24 February 1937

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 years 10 mo

8. The accused is entitled to deferred pay or gratuity in respect of Overseas service.

9. The accused is entitled to reckon as above service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)~~).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N. A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N. A. dated ____, and in his regiment (*or* corps *or* department) the rank of ____ dated ____

(*16545) Wt.30246/902 75,000 12/40 A.&E.W.Ltd. Gp.698

I was told that he received instructions from the Colonel of the 2nd. Regiment to look after the case himself, he then asked me if I would except his punishment. I told him "No"
I told him that I wanted to see the Colonel.
I was then remanded for 24hours.
I came up before the Battery Commander again on Thursday and again refused to except his punishment and asked to see the Colonel. I was again remanded for Field General Court-Martial. He then told me that I was no good as a Gunner or as a man. The Battery Commander seems to hold a grudge against me for some reason or other. I have been with this Battery since it was first formed in October 1937, and have had quite a few charges for A.W.O.L. This is the first charge since I have been in England, a year ago. I have always wanted to get along and ahead in this Battery, but have never been given the chance. I have been doing general fatuges and never been given a chance on any of the gun sites, or a course. I am charged with a serious crime but it is not very serious, for I was given a rifle in the guard room and told to go on the beat. We were given no orders as to where the beat extended or what we were to do.

Q. Had you been on the beat at all ?
A. Yes
Q. Had you taken the duty of a Sentry?
A. I would not say that I had ta ken the duty of a sentry, there was no beat and it was taken for granted that it was the trucks.
Q. Had you at any time guarded the trucks ?
A. Yes.
Q. Could you assume that the beat extended through Rayleigh?
A. No.

Capt. J.G. Archibald being duly sworn states:that the M.F.M. 6 and A.F.B. 296are true extracts from the regimental books, and is the statement of entriesin the conduct sheets a fair and true summary of those entri es,

The Court is closed for the consideration of the sentence.

Statement of B.S.M. Catt, A. read from M.F.B. 303
Statement of L/Bdr. Bantam F.L. read from M.F.B, 303
Statement of Gunner Wheaton E. read from M.F.B. 303

Rule of Procedure 37(b) has been complied with.

The Court ask for a further statement from L/Bdr. Bantam F.L.

P/9463 L/Bdr. Bantam F.L.

The Post which the accused was to guard was a line of trucks half way between here (Rosehill) and the Battery Office.

Judge-Advocate

Q. Did you give any orders to the accused ?
A. I do not remember what I told him, he drew his picquet at 1700hrs. and took a rifle.
Q. Were you present ?
A. Yes
Q. Did you order him to go to his post and tell him his duties ?
A. I do not remember.
Q. As far as you know he just went out of the door ?
A. -
Q. Do you rember anything else ?
A. No.

President

Q. Did you state that he went to the beat ?
A. No.
Q. Would you call it a B.H.Q. Post ?
A. No. We have always called it an M.T. Picquet.
Q. What do you mean that he drew his picquet ?
A. It is an order of finding out what hours one will have on the beat.

Judge-Advocate

Q. Does the accused wish to give evidence or to call any witnesses as to character ?

Defence officer

A. The accused is willing to go under oath and make a statement himself
Q. Is it understood that he would be making the statement on his own behalf.?
A. He understands fully what he would be doing.

P/9444 Gnr. Leahy A.E.J., having been duly sworn states:-

I would like to say that I was on duty Thursday night, November 13th. and put in a pass from after duty, Friday, which I did not get. On Saturday of the same week I was again called for duty. The men who were on duty with me Thursday received their passes for Friday, and were not placed on duty again until Saturday night.

On Monday morning I was brought before the Battery Commander, who heard the evidence. He asked me if I had anything to say. I told him about the passes. He said that it was no excuse. I asked him if I could see the Colonel and he said ,
"God damn you Leahy, you are not going to see the Colonel. You are recommended for a Field General Court-Martial."
On Wednesday Morning I was again brought before the Battery Commander

PROCEEDINGS OF A FIELD
GENERAL COURT-MARTIAL.

G.R. McCullagh Major

Held at, Rayleigh, Essex, on the 29th. day of December 1941.

President

Major G.R. McCullagh — 2 Lt. A.A. Battery R.C.A.

Members

Captain J.C. Whitwell — 54 Lt. A.A. Battery R.C.A.
Lieut. G.H. MacDougall — 5 Lt. A.A. Battery R.C.A.
Lieut. S.G. Parent — Judge-Advocate

Trial of

P/9444 Gnr. LEAHY, Albert Richard Joseph
4 Lt. A.A. Battery R.C.A.
2 Lt. A.A. Regiment R.C.A.

The accused is brought before the Court.

Prosecutor: Capt. J.G. Archibald
Defending Officer Lieut. J.A. Dick.
At 11.15 hours the trial commences.

Question by the President

Q. Do you object to be tried by me as president, or by any of the officers whose names y ou have heard read over.?

A. No
Q. Do you object to Gnr. Marsden E. as recorder ?
A. No

The President, Members, and Judge-Advocate are duly sworn.
The recorder is duly sworn.

Question by the President

Q. Are you guilty or not guilty of the first charge against you, which you have read ?
A. Guilty
Q. Are you guilty or not guilty of the second charge, which you have read?
A. Guilty

Rule of Procedure 35(b) has been complied with.
The accused having been associated with his plea of GUILTY by the Judge-Advocate.

PROCEEDINGS ON PLEA OF GUILTY

The accused is again brought before the Court.

Q. Do you wish to make any statement in mitigation of punishment.
A. No.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
P.9444 Gnr. LEAHY, Albert Richard Joseph 1 Lt A.A. Bty, 2 Lt A.A.Regt R.C.A.	First Charge Sec 6(2)(h) Army Act	Guilty	Guilty Sentence 90 days detention	Confirmed P J Montague (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters 12 JAN 1942
	Second Charge Sec 15(1) Army Act	Guilty	Guilty Forfeits 1 days pay under F.R.R.	

(See Charge Sheet attached)

C.R.Mc Cullagh Major
2nd (Yorkton) Lt. A.A. Bty R.C.A.
President.

---

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) P J Montague (P. J. Montague) Major-General
Commanding Canadian Military Headquarters
Convening Officer (*a*)

(Signed) C.R.Mc Cullagh Major
O.C. 2nd (Yorkton) Lt. A.A. Bty R.C.A.
President.

J. A. Farrell Lt. J. A.

(*a*) Appointment acting rank or acting appointment, if any, to be shown in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of December 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) the Court reporter
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 29th day of December 1941.

C.R.Mc Cullagh Major
President of the Court

J. A. Farrell Lt. J. A.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.I. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this n/a day of 19

President of the Court Martial

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that~~ the soldier named in ~~the margin be not committed~~ to prison ~~until further orders~~.)

9/a

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 12th day of Jan 1942

P J Montague
Confirming Officer
(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
13 JAN 1942

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of Pgnr. Gnr Leahy, A.R.J.

(Dated) 7 Jan 42 (Signed) R.B. Mc Cubbett Lt.-Col.
Comd. 2 Lt. A.A. Regt R.C.A.

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33729) Wt. 46013—961 100 M. 1/42 P. St. G. 640

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 15th day of December, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the person named in the annexed Schedule, being subject to Military Law, has committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said person and to consist of the Officers hereunder appointed or detailed.

* Omit if not applicable.

[redacted]

No illegalities or irregularities such as would warrant withholding confirmation.

(W. A. I. Austin) Lt. Col.
A.J.A.G.-C.M.H.Q.

FROCEEDINGS REVIEWED

Judge Advocate

Lieut.	S.G.Parent	J.A.G.Branch,C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major	C.R.McCullagh	2 Lt A.A.Bty

Members.

Rank.	Name.	Regiment.
Captain	J.C. Whitwell	54 Lt A.A.Bty
Lieut.	G.H.MacDougall	5 Lt A.A.Bty

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

(P. J. Montague) Major-General Senior Officer Canadian Military Headquarters 15/12/1941

P Montague

*Signed (P.J.Montague) Major-General
Commanding Canadian Military Headquarters
Convening Officer.

157- Gnr Leahy. A.R.J.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8668-69-70)
H.Q. 1772-39-67

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of May, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~XXXXXXXXXXXX~~ The shorthand writer.
4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 13th day of May 1943.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~XXXXXXXXXXX

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of May, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~XXXIXXXXXXX~~ The shorthand writer.
4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 13th day of May 1943.

President of the Court Martial.

C.

Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

~~XXXXXXX

Persuant to R.P.76

Take notice hereby that the Prosecution in the case of A.35327 Sgt.Leader,V.C.intend to call the following further witnesses to give evidence to the effect as stated below:-

1st WITNESS for the prosecution — D.118891 Gnr. Bain, A., No.1 C.A.R.U., on returning to St. Lucia Main Gate Guard House from sentry duty at about 0100 hours found Sgt. Leader, Bdr. Allardice and the prisoner (from the small cell), all in the main guard room, but that shortly after 0200 hours both the Sgt and the Bdr had left the main guard room and did not return, only leaving the a/m prisoner at the Guard Commander's table on which lay the bunch of keys for the main cell door. Between 0200 and 0345 hours, Gnr. Bain saw the a/m prisoner take a jug of cocoa to the main cell door. At about 0345 hours Gnr. Bain went to sleep but got up again to go to the toilet at 0430 hours and at that time saw neither the Sgt nor the Bdr nor the a/m prisoner in the Main Guard room (nor elsewhere). Gnr. Bain returned to bed and was later awakened at approximately 0500 hours by a member of the guard to go on sentry duty. Also at this time Gnr. Bain saw no signs of the Sgt or Bdr of the guard.

2nd WITNESS for the prosecution — B.131467 Gnr. Crone, D.H., No.1 C.A.R.U., also on sentry duty between 2300 and 0100 hours confirms the evidence of Gnr. Bain.

3rd WITNESS for the prosecution — M.35184 Gnr. Cave, C., a member of the same guard, was on sentry duty from 0300 to 0500 hours and saw neither Sgt. Leader nor Bdr. Allardice in the main guard room before he went out on duty at 0300 hours, nor when he returned shortly after 0500hours. The prisoner, (from the small cell), at 0300 hours was sitting at the guard commander's table, but was not in the Main Guard Room at 0500 hours. This prisoner was the person who waked Gnr. Cave at 0300 hours to tell him to go on sentry duty.

4th WITNESS for the prosecution — M.56586 Gnr. Gunther, A.W., also a member of the same guard, returned to the Main Guard room from sentry duty shortly after 0300 hours and found the prisoner from the small cell at the Guard Commander's table on which lay the keys to the main cell door. Neither the Sgt nor the Bdr were in the main guard room. At about 0900 hours on the 7 May 43, Gnr. Gunther noticed the main cell door was open and the prisoners wandering in and out of the cell.

.....
(C.R. Baker) Lieut. R.C.A.
Prosecutor

LIST OF EXHIBITS.

1. A copy of "Instructions for the Custody and Detention of Prisoners and Personnel Awaiting Trial," d/3 Mar 43.
2. A copy of Standing Order No. 9 (a) d/16 Nov 42.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(b)

I, A- 35327 Sjt LEADER, V.C., No. 1 C.A.R.U., Cdn. Army (Overseas) desire to have Lieut. P.A. Itter, of No. 1 C.A.R.U. appointed to represent me at my trial by Court Martial if available, otherwise desire to have an officer assigned by the convening Officer to represent me.

A-35327 Sjt Leader V.C.

A-35327 Sjt. Leader, V.C.

No. A-35327 Name Leader, V.O. Sqn., Battery, or Company } Corps R.C.A. Date of enlistment } 11-6-40. G.C. Badges } Service or Proficiency Pay } N/A

M.F.M. 6 (A.F.B. 177) 175M-[illegible] (1319-29) H.Q. 1772 39-1652

Date of last entry in Company Conduct Sheet } N/A No. and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No. 1. Signature O.C. Company, etc. } Character J.A.A. George, Lt. R.C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				OLD SHEET NOT AVAILABLE - NO ENTRIES ON M.F.M. 4 11-12-42. J.A.A. George, Lt. R.C.A.					
				Certified True Copy. 11 May 43.	G.W. Pritchard (G.W. Pritchard) Capt & Adj., "P" Training Wing, No 1 C.A.R.U.				

(P.T.O.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No A-35327 Rank Sergeant Name LEADER, V.O. of No 1 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of May 43

(J.B. Killick) Capt & Records Officer,
No. 1 C.A.R.U.

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of A/L/Bdr.	15 days.	1 Oct 40.
A/Bdr.	6 months.	16 Oct 40.
In the rank of A/Sjt.	3 months.	5 Apr 41.
In the rank of Sjt.	22 months.	1 Jul 41.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the designation may be collected from such courses as are available and the paragraphs concerned amended accordingly.)

B Killick Capt

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A-35327	Sergeant	LEADER, V.O.	No. 1 Cdn Arty Reinf Unit.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	NIL.	times	NIL.	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

~~[illegible]~~ [illegible]

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~[illegible]~~ [illegible]

3. The accused is not under sentence at the present time, ~~[illegible]~~ [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 27 9/12 yrs.

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 11th June 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 11/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 11/12 yrs. service.

9. The accused is entitled to reckon 2 11/12 yrs. service for the purpose of determining his pension, etc.

~~[illegible]~~ [illegible]

[illegible]

B-16602 L/Bdr Hill, J.A., of No. 1 C.A.R.U., having been duly sworn states:

First Witness.

I am B-16602 L/Bdr Hill, J.A., of No. 1 C.A.R.U. I am Orderly room Clerk, "P" Wing H.Q., and as such, I produce from Wing Orderly Room, a copy of Instructions for the Custody and Detention of Prisoners and Personnel Awaiting Trial, d/3 Mar 43. A copy of these instructions are posted in the St. Lucia Guard Room. The copy is attached hereto and marked Appendix "A". The second document is a copy of Standing Order No. 9 (a) d/16 Nov 42, and is attached hereto marked Appendix "B". A copy of this is also posted in St. Lucia Guard Room.

The Accused declined to cross examine this witness.

J. A. Hill

B-16602 L/Bdr Hill, J.A.

The accused, having been duly cautioned in accordance with R.P. 4 (e), declined to make a statement.

Certified that R.P. 4(c), (d), (f) and (g) have been complied with.

Certified that this SUMMARY OF EVIDENCE, consisting to two pages and two appendices marked "A" and "B", was taken down before me in the presence and hearing of the Accused.

Dated at Bordon, Hants.,
10 May 1943.

F.H. Kelley

(F.H. Kelley) Capt. R.C.A.
No. 1 C.A.R.U.

Third Witness.

Capt. G.W. Pritchard, of No. 1 C.A.R.U. having been duly sworn states:

I am Capt. G.W. Pritchard, Adjutant of "p" Training Wing, No. 1 C.A.R.U. I produce a copy of Instructions for the Custody and Detention of Prisoners and Personnel awaiting trial, d/3 Mar 43. A copy of these instructions are posted in the St. Lucia Guard Room. The Copy is attached hereto and marked Appendix "A". I also produce a copy of Standing Order No. 9 (a), d/16 Nov 42, Standing Orders for Main Gate Guard and Duties of Guard Commander, and is attached hereto marked Appendix "B". A copy of this is also posted in St. Lucia Guard Room.

The Accused declined to cross-examine this witness.

G.W. Pritchard. Capt.

Capt. G.W. Pritchard.

SUMMARY OF EVIDENCE in the case of A-35327 Sjt LEADER, V.O., on the strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness. K-7009 Bdr. Allardice, W.J.T., of No. 1 C.A.R.U., having been duly sworn states:

I am K-7009 Bdr. Allardice, W.J.T., of No. 1 C.A.R.U., I was Bdr. of the Main Gate Guard on the night of 7 May 43. A-35327 Sjt. Leader, V.O. was in charge of the guard. During the night, three prisoners, B-12191 Gnr, Henning, D.W., D-95776 Gnr. Sharpe, J.C., and B-10122 Gnr. Barritt, J.C., who were in custody in the Guard Room escaped. I have nothing further to say at this time.

The Accused declined to cross-examine this witness.

W.J.T. Allardice
K-7009 Bdr. Allardice, W.J.T.

Second Witness. L-10409 L/Bdr Vallier, J.R., of No. 1 C.A.R.U., having been duly sworn states:

I am L-10409 L/Bdr Vallier, J.R., of the Regimental Police, No. 1 C.A.R.U. I was in charge of the Regimental Police from 1330 hrs until 1900 hrs 7 May 43. I turned over the Guardroom and a number of prisoners to A-35327 Sjt Leader, V.O. at 1900 hrs 7 May 43. At this time everything was in order. I told Sjt. Leader that B-12191 Gnr. Henning, D.W. had 90 days detention to do and was to be treated asany other prisoner. At 2100 hrs, I came into the guardroom and asked to be called at 0445 hrs the following morning. At that time, 2100 hrs, the cell doors were open, both the main and back cells. Both Sjt Leader and K-7009 Bdr. Allardice, W.J.T. were present in the guard room then. I I took Bdr. Allardice to the room where I sleep and I did not see him again until 0615 hrs 8 May 43, when he called me. He did not mention any prisoners being missing at that time. I awakenéd the Field Punishment men in the Educational Building, had my breakfast, and was in the guard room at about 0700 hrs. I was then told that three prisoners had escaped during the night. I took over the Guardroom at 0715 hrs. When I had occasion to go to the room where prisoners kits are kept, the key for which I had in my pocket, I found the lock pried off and hanging in the hasp of the door. I found one kit bag missing and also the uniforms of the three escaped prisoners. One small pack and some toilet articles which had been in a cupboard of the Guardroom were also missing. The key for their cupboard was in possession of the Guard Commander

The Accused declined to cross-examine this witness.

J.R. Vallier
L-10409 L/Bdr Vallier, J.R.

Army Form B 160

Report of Soldiers confined in the St. Lucia Guard Room Guard mounted by the above Corps at Main Gate on the 7th day of May 7-43

Corps	Company	Army Number	Rank	NAMES*	Place of Offence	Date of Offence	When Confined	Cases of Detachment	No. of C.O. Parades	Offences, and by whom confined, giving Rank and Corps	Witnesses	Whether elected to be dealt with summarily **	Punishment †	REMARKS ‡
1	D	H12191	Gnr	Henning, D.W.		1430	25-3-43			S.I.W.			90 days	Broke Custody 0430 hrs 7-5-43
2	D	D95776	Gnr	Sharp, J.G.		1230	1-4-43			A.W.L.			180 days	Broke custody 0430 hrs 7-5-43
3	A/W	D11601	Gnr	Smith, E.E.		1900	8-4-43			Forgery			90 days	
4	D	B58569	Gnr	Lorman, C.S.		1500	23-4-43			A.W.L.			60 days	
5	A	A10122	Gnr	Barritt, J.C.		1500	23-4-43			A.W.L.			awaiting sentence	Broke custody 0430 hrs 7-5-43
6	D	M297	Gnr	Brick, W.I.		1420	25-4-43			A.W.L.			awaiting sentence	
7	D	A33121	Gnr	Cunningham, C.J.		1545	4-5-43			A.W.L.			P.C.	initial: V.O.L.
8	D	L15104	Gnr	Stewart, D.M.		1500	7-5-43			Breaking Custody			P.C.	

Signature

Commanding

Date

* The names of all Soldiers who have been confined in the Guard-room during any portion of the time the Guard has mounted, to be inserted.

** This column will be completed in all cases where a C.O. is required by S.46 (8), Army Act, to ask the Soldier whether he desires to be dealt with summarily or to be tried by Court Martial.

† The punishment awarded or decision come to, to be written in words in the handwriting of the Officer disposing of the case.

‡ Among other remarks, opposite his name, the fact of any Soldier having been admitted to Hospital from the Guard-room, or the fact of any Soldier having been discharged from Hospital to the Guard-room, and in the case of Garrison Guards the Guard-room to which Soldiers have been passed, should be stated.

Ex. B

Ex 3

M

GUARD REPORT.

Army Form B 160
(LARGE)
(See King's Regulations)

Certificate.

Before the old Guard marched off, I took over the soldiers in arrest or under sentence. They were washed and shaved.* The articles in charge of the Guard corresponded with the inventory, and were in good order except those noted on page 4; I received over the Guard-room and everything was in good order; walls, &c., not defaced, except -------- I received a duplicate copy of the previous day's Guard Report. I explained the orders of the Guard to the men before I dismissed them, and to the first relief on its return to the Guard-room. I visited my sentries at intervals by day, and at intervals by night, and found them alert, and acquainted with their orders. I inspected every relief going out and coming in, and found them correct. The Guard was under arms at reveille, retreat and tattoo. On each occasion I inspected the men, and found all present and correct. I sent out patrols at ..... o'clock during the night, which found everything correct. The men's meals were properly served. Each man of the Guard received a cup of hot ..... during the night. The soldiers in arrest or under sentence were visited every two hours, the boots of all charged with drunkenness were removed, and their clothes loosened, before they were placed in confinement.

The Guard was visited by the Field Officer of the day at ..... by day, and at ..... by night.

Dtto	ditto	Captain	ditto	2019 hrs *	ditto	0005 hrs *	ditto	* initials of orderly officer
Dtto	ditto	Subaltern	ditto		ditto		ditto	
Dtto	ditto	Medical Officer	ditto		ditto		ditto	

N.B.—Here add any special Certificate that may be required by the orders of the Guard or Garrison. †

(The Commander of the Guard will report any unusual occurrence.)

This report is correct so far as it relates to the Guard-room and articles on charge.

Note.—When any portion of the duties indicated in the above Certificate has been omitted, the pen is to be drawn through that portion, and the erasure is to be initialled.

(Signed) Sgt. Leader V.O. (Commanding Guard.)

(Signed) L/Bdr. J.R. Vallier (Commanding Relieving Guard.)

Time and Post Roll.

No.	Army No.	Rank and Name	Corps	Cyclists	Post	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Remarks
	M56586	Gunther, A.W.				1900	2100	0100	0300							
	L51359	Shultz, E.G.				1900	2100	0100	0300							
	L319	Brant, G.C.				1900	2100	0100	0300							
	L26433	Currie, W.A.				1900	2100	0100	0300							
	B44003	Dawson, D.J.				1900	2100	0100	0300							
	B21457	Banham, W.H.	"F" B T Y.			1900	2100	0100	0300							
	M35184	Cave, C.				2100	2300	0300	0500							CERTIFIED TRUE COPY
	M56222	Boyd, D.J.				2100	2300	0300	0500							
	H67173	Nichols, R.A.				2100	2300	0300	0500							(L.B. SKINNER) Capt. R.C.A.
	B110092	Wilton, G.R.				2100	2300	0300	0500							Adjutant "B" Trng Wing
	G28883	Logan, H.G.				2100	2300	0300	0500							No. 1 C.A.R.U.
	H195372	Crowe, J.W.				2100	2300	0300	0500							
	H102158	Hill, A.W.				2300	0100	0500	0630							
	M56678	Cornish, P.				2300	0100	0500	0630							
	M56679	Cornish, F.J.				2300	0100	0500	0630							
	L101172	Boast, G.H.				2300	0100	0500	0630							
	D118891	Bain, A.				2300	0100	0500	0630							
	B131467	Crone, D.H.				2300	0100	0500	0630							

Sgd. Bdr. Allardice, W.G. 2 i/c

* This rule does not apply to soldiers charged with drunkenness, who should not be allowed to shave till perfectly sober.
(In case more room is required than is here given for any Special Certificate, &c., the latter may be appended in manuscript.)

Detail | Date | Articles in charge of the Guard

| Detail | Date | Articles in charge of the Guard | | | | | | | |

General

8. Under no circumstances will prisoners be allowed in the Guard Room except when working there or being taken into or out of their quarters.

9. Members of the Guard or Regimental Police will NOT allow any prisoner to have visitors without permission from Headquarters nor will they allow prisoners to talk with other members of this unit. They will not allow any undue leniency or fraternization between guards and prisoners. They will not permit any gambling, drinking or smoking on the part of any prisoners. Prisoners will not be allowed to have playing cards or books other than religious pamphlets issued by the Chaplain.

10. No mail or parcels are to be given to prisoners without first being checked by the Provost Sargeant.

11. Prisoners will not be allowed to have any money except when required to buy shaving equipment etc.

12. When money is paid to prisoners by the Paymaster it will be taken over by the Provost Sargeant who will give prisoners money only for legitimate and necessary expenditures. The Provost Sargeant will keep a book in which he will properly account for all money belonging to prisoners.

13. The N.C.O of a New Guard will NOT taken over from the Old Guard until he has seen each person held in detention or custody or a receipt for same.

14. Whenever prisoners move outside the Detention or Guard Room they will be paraded whether it be to meals, fatigues, or drill.

15. Prisoners meals will be carried up to the Guard Room without exception.

16. (a) Responsibility of Guard Commander is to see that prisoners in the Guard Room are awakened, washed and shaved and Guard Room is clean and tidy, and prisoner's blankets in proper place by 0630 hours.daily.

(b) Provost Sargeant will detail one R.P. to inspect Guard Room and see that the above has been carried out.

17. Guards and Regimental Police will at all times exercise every caution to ensure that prisoners do not escape. If unusual situations develop they will taken whatever action the consider necessary to ensure custody, and will report it to the Adjutant at once.

D Clarke

(F.H. CLARKE) Major,
Administrative Major,
No. 1 Cdn Artillery Reinforcement Unit,
R.C.A. Cdn Army Overseas.

Certified True Copy.
10 May 1943.

F H Kelley

(F.H. Kelley) Capt. R.C.A.,
No. 1 C.A.R.U.

INSTRUCTIONS FOR THE CUSTODY AND DETENTION OF PRISONERS AND PERSONNEL AWAITING TRIAL

APPENDIX "A".

Ex 2 3 March 43.

M 5-4-0-PROC

Responsibility

1. The Guard Commander is responsible for the safe custody of all personnel held in detention rooms of this barracks at all times.

2. The Guard Commander is responsible that the correct procedure handling of personnel held in detention rooms is carried out.

3. The Guard Commander will visit all personnel held in the Guard Room every half hour during the night and day. During this inspection he will ensure that all doors, windows, and walls are secure and have not been tampered with.

4. He will not allow prisioners to be out in the closed compound at the back of the detention rooms at any time without a guard and will not permit them to be out in the compound at all after dark.

5. (a) He will at all times hold the keys to all detention rooms.
(b) The Guard Commander will not permit the release of ANY personnel from the Guard Room without a written order or receipt from the Commanding Officer, Adjutant or Provost Sargeant.
(c) Personnel will not be dlivered to Regimental Police until police have signed the book kept in the Guard Room for this purpose. Signatures must be given for each person taken out by the Regimental Police. Such signature shall conetitute a receipt and places the responsibility for Safe Custody on the person making the signature.
(d) When the Regimental Police return persons to the Guard Commander's custody the latter will give his receipt bb wiriting his name opposite those previously given by the police.

On Arrival

6. (a) Immediately a man is taken into detention or custody the Regimental Police will be notified and they will takex from him:-

1. Pay Book and money.
2. All military papers and documents.
3. Cap, belt, anklets and web equipment.
4. All weapons and knives, razors or articles which could be used as weapons.

(b) The Regtl. Police will turn over the Pay Book, money, and all documents to the Provost Sargeant immediately. If a man is admitted to the Guard Room between 2359 hrs. and 0600 hrs., he will be confined in a single cell until the procedure outlined in para 5(a) has been carried out. The Provost Sargeant will record receipt of Pay Book and account for money taken from the prisoner and will turn all other documents to the Adjutant immediately. Boots, shaving equipment, anklets, cap, web, knives etc., will be kept in cupboard provided, each man's equipment in a separate compartment with the compartment properly labelled.

(c) Web equipment, haversacks and boots will only be given to prisoners for cleaning when required for pack drill, or when required for fatigues (boots only). The Provost Sargeat will see that all equipment is kept clean and polished whether in use or not.

(d) Under no circumstances will any prisoner be given their capts or anklets except when being taken on parade for the reading of Martial sentences or when they are released from custody.

Release of Personnel

7. On release from detention or custody the Provost Sargeant will see that the man receives all his equipment, his Pay Book, and money belong to him.

MM

(Cont'd page 2)

9. He will complete two copies of Guard Report also one copy of Tattoo report and two copies of reveille report for each Wing ("A" "F" & "Q" Wings). One copy of Guard Report will be turned into Orderly Officer and one copy left with the new Guard Commander. One copy of Tattoo & Reveille Reports and all absentee reports will be turned into the Orderly Officer. In the Guard Report he will mention all unusual occurences, broken or damaged or missing articles orders, etc. This includes the firing of any rounds by members of the Guard or firing by any persons in the vicinity stating the number of rounds fired, by whom, time and for what reason.

10. He will receive prisoners sent in by the Military Police, if they are from this Unit, but will refer them to the Adjutant or Orderly Officer first, if possible. He will always take all papers and documents from men received into detention. He will NOT accept prisoners directly from another unit without first getting authority from the Adjutant. He will NOT release prisoners to other units without consulting the Adjutant and under any circumstances without written authority. He will always get a receipt for any prisoners thus disposed of.

11. He will read carefully and follow up rigidly the instructions for the handling of prisoners in Guard Detention Room. These orders for the handling of prisoners are to be found on a board in the Guard Room.

12. He will ensure that Orders are read to Sentries when they are mounted, that they know their duties, and that they do not permit any loitering at or near their post.

13. He will not place in close arrest personnel who report in as A.W.L. under two days, unless he considers it necessary for their safe custody.

14. In case of any doubt as to whether a soldier should be placed in close arrest he will ask for and follow advice from the Provost Sergeant.

15. He will at all times ensure that all equipment and ammunition on charge to the Guard Room is there and in good condition. If such is not the case he will IMMEDIATELY report any missing article orders ammunition etc., to the Orderly Officer.

16. He will inspect the ammunition stores in the Small Arms Ammunition Room once every two hours and immediately report any irregularity to the Adjutant, or to the Subaltern of the Day if the Adjutant is not available.

17. He will ensure that the Guard Room is kept clean at all times.

18. Under no circumstances are personnel of Guards to fire rifles revolvers, etc., at prisoners who attempt to escape or who have actually escaped, from their custody or from the custody of any personnel whatsoever.

19. He will immediately report all unusual incidents to the Orderly Officer, Duty Officer or Adjutant.

20. The Guard Commander will be responsible for ensuring that Red Lanterns are drawn from the R.M.Stores and placed at entrances to Barracks before Blackout. Red Lanterns will be placed at entrances to St.Lucia Main Gate, Quebec Main Gate and Quebec Officers' Lines.

/NT.

(F.H.Clarke) Major,
Administration Major,
No.1 Cdn. Artillery Reinforcement Unit,
R.C.A. Cdn.Army Overseas.

Certified True Copy.
10 May 1943.

(F.H. Kelley) Capt R.C.A.
No. 1 C.A.R.U.

APPENDIX "B".

EX 1

STANDING ORDERS
BY
COLONEL T.H.MUSGRAVE,
COMMANDING OFFICER
NO.1 CANADIAN ARTILLERY REINFORCEMENT UNIT
R.C.A.

STANDING ORDER — CANADIAN ARMY (OVERSEAS) — NO. 9A

16 NOV 1942.

MAIN GATE GUARD

1. Guard will fall in, on the Parade Ground, at 1630 hours and will be inspected by the Adjutant or Orderly Officer, after which, they will be marched to Barrack Blocks to collect blankets and will then be marched to their respective posts. Guards will be mounted at 1700 hours.

2. On dismounting, the Old Guard will march to the Parade Ground for inspection and dismissal.

3. This Guard is responsible for the protection and security of the Command Post, Quebec Barracks, Command Post, St.Lucia Barracks and all prisoners confined in the Guardroom, St.Lucia. This guard is also responsible for the protection of St.Lucia Barracks M.T. Garages and vehicles parked there.

4. Sentries will be placed as follows:-

By Day - 1 Sentry at Main Gate - St.Lucia Barracks.
1 Sentry at Main Gate - Quebec Barracks.
1 Sentry at Road entrance by Regimental Stores.

By Night - 2 Sentries at Main Gate - St.Lucia Barracks.
2 Sentries at Main Gate - Quebec Barracks.
1 Sentry at M.T.Garage - St.Lucia Barracks.
1 Sentry at Officers' Mess Lines - Quebec Bks.

5. At M.T.Garage one sentry will remain in front of the garage and one will patrol around the garages and park. One of the sentries will check all vehicles leaving the garage and permit them to leave only if driver has a work ticket properly made out and stamped with the orderly room stamp.

6. At entrance to Officers' Mess Lines, Quebec Barracks, the sentry will be posted by night. This sentry will ensure that other ranks do not pass in or out of this gate except on duty. He will not allow unauthorized persons to enter the Barrack Area.

7. (a) Guards will keep all weapons unloaded until instructed otherwise by the Guard Commander or a responsible Officer.
(b) Live rounds will be carried in the ammunition pouches or in the pocket. Under no circumstances will live rounds be placed in the chamber or magazine of the weapon until Orders are received as in para. 7(a).

DUTIES OF THE GUARD COMMANDER.

1. Guard Commander, and members of the Guard will not leave the Guard Room except on Duty.

2. He will acquaint himself with all orders and instructions of the Guard, and will see that all sentries understand their orders and that Orders are posted in each Sentry post.

3. He will take over all equipment from the previous Guard Commander ensuring that all is accounted for, and hand it over at the end of his tour of duty. NOTE: This includes Order Boards.

4. He will receive and report to the Records Office all arrivals whether from hospital, detention, casual, returning from leave, etc, and will direct all personnel returning from leave to report to the Medical Officer.

5. He will see that Red Lanterns are placed at the Main Gates of St. Lucia and Quebec Barracks at dusk and also at the entrance to the Officers' Mess Lines, Quebec Barracks.

6. He will immediately investigate and report all expenditure of S.A. Ammunition to the Adjutant or Orderly Officer.

7. He will see that his sentries hold themselves to their beats. He will instruct sentries and check that they do not get into or start any vehicles in the M.T. Park.

8. He will see that the Knife Rest Road block is placed at entrance by Quartermaster Stores at dusk.

(CONTINUED ON PAGE TWO)

Q170:- How close was he to the keys ?
A170:- Right beside me.
Q171:- Is the front door of the guard room building ever locked ?
A171:- No, sir.
Q172:- When you were on guard and in charge and awake, and Henning was there, what could Henning have done if you had gone to sleep ?
A172:- He could have walked out of the guard room. I didn't go to sleep.
Q173:- And what would he have done about the door of the main guard room if you had gone to sleep ?
A173:- He could have unlocked the door, sir.
Q174:- If you went to sleep, would you leave someone else in charge ?
A174:- Yes, if I felt drowsy, I would wake the Bdr. and put him in charge.

CLOSING ADDRESS BY THE DEFENDING OFFICER:-

I think I have established that a custom did exist here. I think that custom was sufficiently established in this unit for any guard commander to follow it. A man cannot be held responsible where such a custom exists, when he has turned his guard over, he cannot be held responsible for the escaping of prisoners. We can only guess what happened when he turned his guard over to the Bdr.

CLOSING ADDRESS BY THE PROSECUTOR:-

The only thing I can say is that the custom may have existed, but the rules say that he will at all times have custody of the keys, which was not done. It also says that the guard commander is held responsible for all prisoners in the guard room. (Pros. quoted several passages from exhibit 2).

THE COURT IS CLOSED TO CONSIDER ITS FINDING.

The court re-opens, prosecutor presented AFB 296 and MFM 6, stating that they both related to the accused.
R.P. 40(B) complied with, and the defending officer and accused offered no objection to these two documents.

Pursuant to R.P. 37(C) the defending officer said that he would call one witness as to character on behalf of the accused.

1ST CHARACTER WITNESS: CAPT. H. KELLY, 1 CARU, sworn, states:-
I did not know Sjt. Leader very well until he came to this unit about the end of Novemeber last. I was not here at that time, I came in February, and since then the accused has been working with me as an instructor. In basic and advanced training he has impressed me as an excellent instructor and NCO, and very conscientious in his work. Altogether I think he is a very valuable NCO. As to his character, he has a clean crime sheet of course, and I have never noticed anything in his character other than that he is an excellent NCO.

PROSECUTOR DECLINES TO CROSS-EXAMINE THIS WITNESS.

DEFENDING OFFICER:-

I hardly think it necessary to add anything to what Capt. Kelly has just said, he is a competent and valuable NCO, and has a clear crime sheet. True he has done wrong, but here we have a valuable NCO, and I think he should be kept as an NCO.

C.A.R.O. 32b2 complied with.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

Q153:- Did you notice one prisoner sitting about ?
A153:- One prisoner was, and I was told that he had privileges. He was sitting at the table with the guard commander. I understood before I arrived that Henning, I think it was, was a privileged prisoner.

CROSS-EXAMINED BY THE PROSECUTOR

Q154:- How did you know this Henning was privileged ?
A154:- I was told by the orderly officer.
Q155:- What did you understand by that ?
A155:- That he was allowed out of the cell block into the guard room.
Q156:- Did you ever see any statement in writing that he was to be allowed out of the cell block ?
A156:- No, I asked the guard commander, and I took the guards commander's word that he was.

(Capt. Baird)

Q157:- What time did you visit the guard room ?
A157:- It was before eight O'clock on the morning of the 8th.
Q158:- It is stated on the guard report, about 0005 hours, would that be about correct ?
A158:- Yes.

3RD WITNESS FOR THE DEFENSE:- M 44020 SJT. MURRAY, W.E., 1 CARU, sworn, is examined by the defending officer:-
Q159:- Sjt. Murray, you have been guard commander on different guards in this R.U. I understand ?
A159:- Just once, sir.
Q160:- Did you have the understanding that a certain custom existed that the guard commander and the Bdr. under him exchanged being in charge of the guard ?
A160:- Yes, sir. That seemed to be the general custom. That is the only chance you have to get an hour's sleep, and while he is awake you get an hours sleep, as you have to go on duty the next morning.
Q161:-(Pres) That is the only NCO you have to assist you ?
A161:- Yes, sir, just the one Bdr.
Q162:- The time you were on, what did you do about the keys for the prisoners cells ?
A162:- Kept them right beside me, sir, or beside the Bdr, when he was awake.

PROSECUTOR DECLINES TO CROSS-EXAMINE THIS WITNESS

4TH WITNESS FOR THE DEFENSE:- L 9278 SJT. GLADOW, R.F., L 9278, 1 CARU, sworn, is examined by the defending officer:-
Q163:- Sjt. Gladow, you have been in this Reinforcement Unit for awhile ?
A163:- Yes, sir.
Q164:- You must have been on guard many times ?
A164:- I have sir.
Q165:- What arrangement exists between the guard commander and his Bdr. ?
A165:- Well, the arrangement is that during the night the Bdr. and the Sjt. of the guard will alternate in taking over the guard while one sleeps.
Q166:- About the keys of the cells, where are they kept ?
A166:- When I am on guard I keep them myself on the table in front of me, and when the Bdr.takes over they are on the table in front of him.
Q167:- You do not carry them on your person ?
A167:- No, sir.
Q168:- After you dismount your guard in the morning, you have to go on duty right away ?
A168:- Yes, sir, but at nine instead of 8.30 The day before we do our ordinary duties up to five o'clock, and then get ready to go on guard.

QUESTIONED BY THE PRESIDENT

Q169:- Do you allow prisoners out in the main guard room at night ?
A169:- The night that I was on guard, I was informed that Gnr. Henning was a privileged character, and was allowed out of his cell, and allowed to smoke, be cause he could not sleep, and the night I was on guard he sat at the table with me. He was sitting right beside me.

A134:- Yes, sir, and I signed here for the three prisoners who escaped.
Q135:- It says here that soldiers in arrest were inspected at intervals of two hours ?
A135:- Approximately that, when I was up, because you generally take a walk around.
Q136:- Is this whole sheet your writing ?
A136:- Yes, sir, I made it all out.

Pursuant to R.P. 56, the original guard report, and a copy thereof, certified to be a ture copy by Capt. Skinner, "Q" Wing, were produced and marked exhibit three, and the copy only will be attached to the proceedings, the original being urgently required elsewhere.

COPY OF GUARD REPORT MARKED EXHIBIT 3.

Q137:- Was Gnr. Henning a normal prisoner ?
A137:- Not according to my information, sir.
Q138:- You had no instructions that he was anything other than a normal prisoner ?
A138:- No, sir.

QUESTIONED BY THE PRESIDENT

Q139:- Did any prisoners escape that night ?
A139:- At 0500 hours I found out myself, as soon as the gunner came and woke me up, I dashed into the guard room, and opened the door of the main detention cell, and two prisoners were missing.
Q140:- Did you count them ?
A140:- I counted the prisoners, and there was only five there, and there should have been seven, and two of the beds were unrolled. I immediately went from there to the back room to the cell where Henning sleeps, and found that Gnr. Henning was also gone.
Q141:- Do you know the names of the other two men ?
A141:- No, sir, I checked the guard report and called the roll, and the prisoners found to be missing were Gnrs. Sharpe and Barritt, as well as Henning.
Q142:- Do you know anything about their escape ?
A142:- I don't know now or when they escaped, it was after I had gone to bed, after two o'clock, sir.
Q143:- Is it customary to keep the main door of the guard detention building locked ?
A143:- No, sir, not the main door. That is the door that leads in to where the guard sleeps.
Q144:- Is there a key and a lock for that door ?
A144:- Not to my knowledge, sir.
Q145:- When they get out the front door they are quite free ?
A145:- Yes, sir, quite free.
Q146:- Is there a corridor where the individual cells are located ?
A146:- Just for the main guard room, when you come through the door where the cells are. That door cannot be locked, to my knowledge.
Q147:- Is there anything else you wish to say ?
A147:- No, sir, that is all I have to say ?

2ND WITNESS FOR THE DEFENSE:- LIEUT. R.W.L. DUNNING, 1 CAMD, sworn, is examined by the defending officer:-
Q148:- Mr. Dunning, on the night of the 7th-8th of May, what were your duties ?
A148:- Regimental duty officer
Q149:- What did you do after twelve o'clock that night ?
A149:- Visited the various guard houses, I made the rounds.
Q150:- When you got to the main gate guard room, did you enter the guard room ?
A150:- Yes.
Q151:- Did you find the doors of the cells closed ?
A151:- Yes.
Q152:- Was the guard commander and the bdr. both there ?
A152:- I saw the Sjt., and spoke to him, I did not see the bdr.

Q113:- Start out from the time you took over the guard, did you sign for anything when you took over ?
A113:- Just the guard report. The prisoners are in the detention room, and I initialed that and for the equipment they have in the guard room. I did not sign for any keys.
Q114:- Was that your first time on that guard ?
A114:- No, sir, the second time, on the main gate guard.
Q115:- Would you say that the keys are not considered very important ?
A115:- No, sir, they are not handed over, they are left on the table practically all the time, even when the R.P's are in charge of the prisoners.
Q116:- You turned the guard over to the Bdr. at eleven o'clock ?
A116:- Approximately then, sir.
Q117:- Were the cell doors locked at that time ?
A117:- Yes, sir.
Q118:- All prisoners accounted for and locked in ?
A118:- All except Gnr. Henning, who was in the guard room. The only understanding I had was that he was a privileged character, and was allowed to go to the canteen under escort, and was to be let out in the guard room, as if he was locked up he got very despondent, and I had heard about his attempts to commit suicide.
Q119:- So it was not strange to have Henning out ?
A119:- When I took the guard over the first time the R.P. lead me to the detention room, and it was not locked at that time, and the prisoners were all sitting around the one bed.
Q120:- Was anything told you about Henning ?
A120:- No, sir, if anything was told me, it went over my head.
Q121:- So you understood Henning to be a privileged character ?
A121:- Yes, sir.
Q122:- The orderly officer came in ?
A122:- Around 12 o'clock, sir. I was up then, because the RSM was in about then.
Q123:- The cell block was locked then ?
A123:- Yes, sir. Gnr. Henning was out, and the rest of the prisoners were locked in.
Q123:- At approximately two o'clock, after the orderly officer left, I understand from previous evidence that you again turned the guard over to the Bdr. ?
A123:- Yes, sir.
Q124:- Did you give him any direct order ?
A124:- Yes, I placed him in charge and told him that if he were feeling sleepy to wake me up, if the guard was to be changed.
Q125:- When you are Sjt. of the guard, have you got the next day off to sleep ?
A125:- No, sir, you attend regular parades.
A126:- Did you get off any time before ?
A126:- No, sir. Sometimes if there is nothing to do you get the afternoon of the day previous off, but usually you take over at 0620 and dismount at 0630, and go on parade at nine o'clock the following morning.
Q130:- Is there some custom here that the guard commander and his Bdr. more or less share the guard between them, that is the being in charge of the guard ?
A130:- Yes, sir, apparently that is the custom, because when you have to go on parade the next day you share the sleeping hours.

CROSS-EXAMINED BY THE PROSECUTOR

Q131:- During the evening, where were the keys ?
A131:- On the table where I sat, in the middle of the guard room. It is the R.P.'s table for the day time. The guard commander and Bdr. sit there at night.
Q132:- Do you recognise this ?
A132:- Yes, it is the main gate guard report of the 7th-8th May, -3.
Q133:- Is this your signature here ?
A133:- Yes, sir.
Q134:- You signed for eight prisoners that night ?

Q92:- Was he there the rest of the night ?
A92:- No, sir, he came back. Then he left a second time, about 0200 hrs.
Q93:- Did you at any time go in the back room to see him there ?
A93:- I went right by that door.
Q94:- Did he remove any of his clothes ?
A94:- Not that I could see.
Q95:- Has it been a normal thing for the guard commander to take an hour off from 11 to 12, and from 2 to 6.
A95:- It has been done, sir.
Q96:- Is it a normal procedure ?
A96:- Most of the guard commanders do that.
Q97:- Then for a twelve hour guard they take roughly four hours off ?
A97:- Yes, sir.

CROSS-EXAMINED BY THE DEFENSE

Q98:- You say that it has been customary that your more or less share the guard between the Sjt. and the Bdr. ?
A98:- Yes, sir.
Q99:- When Sjt. Leader went off for a few winks or sleep at two o'clock, did he leave you in charge of the guard ?
A99:- Yes, sir.
Q100:- (Pres) Did any prisoners escape that night ?
A100:- Yes, sir.
Q101:- Who were they ?
A101:- Gnr. Sharpe, Henning, and Barrett.
Q102:- Do you know when ?
A102:- I cannot say the exact time, sir.

Q103:-(Pros) What time did the Sjt. take over from you again ? You said he left you in charge .
A103:- It was about 10 to 6, sir.
Q104:- He was away from the main guard room about four hours ? Is that customary ?
A104:- It all depends on who it is.

QUESTIONED BY THE PRESIDENT

Q105:- When did the prisoners escape ?
A105:- I don't know, sir, it was after three, and before six.
Q106:- Why do you say it was after three ?
A106:- After I took over from the Sjt. I read a pamphlet for an hour, and none had escaped during that hour.
Q107:- What did you do after three o'clock ? You don't have to answer.
A107:- I would rather not answer that, sir.

CROSS-EXAMINED BY THE PROSECUTION

Q108:- Exactly what words were used by the sjt. when he told you take over the guard ?
A108:- He said to me "just take over, I am going in the back of the guard room".
Q109:- Did he tell you if you were sleepy or anything to wake him to spell you off ?
A109:- Yes, sir, he did.
Q110:- Did you waken him after that ?
A110:- I won't answer that.

(CAPTAIN BAIRD)

Q111:- How was the fact that the prisoners had escaped brought to your attention ?
A111:- The one who was outside in the guard room, it is obvious that he opened the cell door.
Q112:- What time did you realize that they had escaped ?
A112:- I realized Henning was gone about ten to six.

CLOSE OF THE CASE FOR THE PROSECUTION

R.P. 40(A) note 2 complied with, and the Defending Officer stated that the accused would give evidence under oath, and also call witnesses on his behalf.

<u>1ST WITNESS FOR THE DEFENSE:-</u> THE ACCUSED, HAVING BEEN DULY SWORN, is examined by the defending officer:-

Q72:- Where were the keys when he left ?
A72:- They were on the table.
Q73:- Did he take them with him ?
A73:- No.
Q74:- He went in the back room, and left the keys lying there ?
A74:- Yes, sir.
Q75:- Who woke you for your next shift ?
A75:- The Bdr. went in the back part, and left this trusty in charge, and about half past two he was to call the guards. This trusty, at three o'clock, when I was getting read, wakened the rest of the boys, whose boots he had marked.
Q76:- Was this trusty actually mounting the guard at three o'clock ?
A76:- Yes. In the morning at 25 to six there was no one to waken the guards and they were late getting up. I came in about 25 to six and there was no one on duty at the table. I had no one to relieve me.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q77:- Would you say that Gnr. Henning was, in your opinion, more or less of a privileged prisoner ?
A77:- That was my third time on guard in five weeks, and he was given priveleges and allowed to roam around the guard room and sleep in a cell by himself, and only one night did he ask to be locked in with the prisoners, the night before this.
Q78:- You have been on guard quite often. All the time you were on guard did you see the keys lying around.
A78:- On the other guard they were hanging up on a nail or on the table.
Q79:- The keys were more or less sloppily and negligently handled ?
A79:- Yes. I don't know the rules about the keys, but they were always somewhere around.
Q80:- You say Sjt. Leader went out about one O'clock, and told the Bdr. to take over, and came back and went again at two o'clock, did you hear Sjt. Leader give the Bdr. and order to take over again ?
A80:- Yes, sir, he gave him an order he said "Bdr., take over. If you feel sleepy or anything be sure to wake me. Don't leave the room without letting me know, and if anyone comes in let me know".
Q81:- You thought that was a definite order ?
A81:- Yes, sir.
Q82:- Would you have taken that as a definite order ?
A82:- Yes, sir. I was right by the table, and heard that.

7TH WITNESS FOR THE PROSECUTION:- K 7009 BDR. ALLARDICE, W.J., 1 CARU, sworn, is examined by the prosecutor:-

The president advised the witness that he did not have to answer any question that might lay him open to any military charge, forfeiture or penalty, and asked him to consider what questions he would answer.

Q83:- In the evening when Bdr. Valliere was turning the guard over to the Sjt., did you hear Valliere give any instructions that would imply that Henning was out of the ordinary ?
A83:- I was not there, I was checking the sentries.
Q84:- Were the cell doors open at any time during the night ?
A84:- Yes, about nine, to let some of the prisoners out to the lavatory.
Q85:- That was the only time ?
A85:- To my knowledge, yes.
Q86:- Were all the prisoners locked up ?
A86:- All but Gnr. Henning, he was in the main guard room.
Q87:- Where were the keys during the course of that night ?
A87:- They were on the table, sir.
Q88:- All night ?
A88:- As far as I know, sir.
Q89:- Did Sjt. Leader leave the main room of the guard house at any time ?
A89:- Yes, sir, he went in the back of the guard room.
Q90:- When ?
A90:- It was after 11 o'clock, sir.
Q91:- How long was he gone ?
A91:- I cannot say for sure, sir.

TRANSCRIPT OF EVIDENCE

in the case of A35327 SJT. LEADER, V.O., 1 CARU, held at Quebec Barracks, Bordon, Hants., on the 13th day of May, 1943.

The order convening the court, the charge sheet, the summary of evidence and the medical certificate are laid before the court.
The court satisfy themselves as provided by Rs. P. 22 and 23.
The accused is brought before the court.
Prosecutor:- Lieut. C.R. Baker 1 CARU
Defending Officer:- Lieut. F.H. Itter 1 CARU.
At 1330 hours the trial commences.
The order convening the court is read, signed by the president, and attached to the proceedings.
The names of the president and members of the court are read over in the hearing of the accused, and they severally answer to their names.
Do you object to be tried by as president, or by any of the officers whose names you have heard read over ?
A:- No, sir.
The President and Members are duly sworn.
PRESIDENT :- LT.-COL. D.L. REDMAN, V.D., H.Q., C.R.U.
MEMBERS :- CAPTAIN J.D. BAIRD 1 CARU
A/CAPT. H.S. ANDREWS 2 CARU
The following officers under instruction are duly sworn.
Lieut. R.W. Ainscough 1 CARU Capt. L.B. Skinner 1 CARU
Lieut. R.W.L. Dunning 1 CARU.
Do you object to H 20133 Pte. Millard, R., acting as shorthand writer ?
A: No, sir.
The shorthand writer is duly sworn.
The charge sheet is signed by the president, and annexed to the proceedings.
The accused is arraigned upon the charge~~s~~ in the above-mentioned charge sheet, and pleads NOT GUILTY to the charge against him.
R.P. 39(A) complied with.
A:- No, sir.

1ST WITNESS FOR THE PROSECUTION:- CAPT. G.W. PRITCHARD, ADJUTANT "P" WING, 1 CARU, sworn, is examined by the prosecutor:-
Q1:- What have you there ?
A1:- I have here our standing order 9A , and also "Instructions For The Custody and Detention of Prisoners and Personnel Awaiting Trial". These are the standing orders of 1 CARU, dated 10th November, 1942, a copy of them is kept in the guard room.
Q2:- Have they been in force since the 10th of November, 42, and are they still in force ?
A2:- Yes, sir, they are. These instructions about guarding prisoners are posted in the guard room, and have been in force since the third of March, 1943, and are still in force.
Q3:- Are there any other instructions in force ?
A3:- No, sir, those are the only instructions about prisoners in the guard room.

STANDING ORDER MARKED EXHIBIT 1
ABOVE-MENTIONED INSTRUCTIONS REGARDING PRISONERS MARKED EXHIBIT 2.

DEFENSE DECLINES TO CROSS-EXAMINE THIS WITNESS

2ND WITNESS FOR THE PROSECUTION:- L 10409 L/Bdr. VALLIERE, J.R., R.P., 1 CARU, sworn, is examined by the prosecutor:-
Q4:- What are your duties here ?
A4:- My duties are in charge of one shift of the R.P's, 24 hours on and 24 hours off.
Q5:- On the 7th of May, what time did you finish your duties ?
A5:- At 1900 hours, approximately, and I turned the duties over to I think the name of the sjt. was Sergeant Leader, sir.
Q6:- Do you recognise him around here ?
A6:- Yes, sir, there sir (pointing to the accused).
Q7:- At that time how many prisoners were there in the St. Lucia Guard Room ?

A26:- The Main Gate Guard, sir.
Q27:- Who was the NCO in charge of the guard ?
A27:- Some sergeant, there (pointing to the accused)
Q28:- You were on guard from 11 to 1, and when you returned off guard at one o'clock, whom did you see in the guard room ?
A28:- The Sjt. and the Bdr, and the rest of the guards were asleep, or standing around. The Sjt. and Bdr. were sitting at the table.
Q29:- Was anyone else there ?
A29:- Yes, someone in his shirt sleeves, I did not know who it was.
Q30:- Was he in uniform ?
A30:- No, sir.
Q31:- What did you do then ?
A31:- When I came off guard, I had a book, and sat on a bed and read, just a little way from the NCO's table, till about quarter to four. I looked at my watch when I laid my book down. I think I dozed off then.
Q32:- Who else was present in the guard room ?
A32:- Just this other fellow in his shirt sleeves.
Q33:- Have you any idea when they left the guard room ?
A33:- No, sir, sometime in that period they left the guard room.
Q34:- Did you see the keys at all ?
A34:- Yes sir, just by the Sjt's. hand on the table.
Q35:- Did you see the keys at quarter to four ?
A35:- No, sir.
Q36:- Was anyone else awake at that time ?
A36:- Yes, sir, Gnr. Crone was reading too.
Q37:- Then you dozed off after quarter to four ?
A37:- Yes, and woke up at half past four. I looked at my watch when I woke up. We intended to have a shave. Crone was awake, and I asked him if he was going to shave then.
Q38:- Who was present in the guard room then ?
A38:- No one, sir.
Q39:- Did you see the keys ?
A39:- No, sir.
Q40:- Was the main cell door open ?
A40:- No, it was closed.
Q41:- Was it closed at one o'clock ?
A41:- Closed, sir.
Q42:- Did you see it open at all ?
A42:- Only early in the evening, sir.
Q43:- Who woke you at five o'clock for the guard ?
A43:- I don't know, sir, It was not the Sjt. or the Bdr.
Q44:- Did you see anyone when you woke ?
A44.- No, sir, I did not see the Sjt. or the Bdr.

CROSS-EXAMINED BY THE DEFENCE

Q45:- In your evidence you said that the Sjt. and the Bdr. had left the guard room, what did you mean ?
A45:- I meant gone to the back room, sir.
Q46:- They had gone in the back somewhere ?
A46:- Yes, I guess so.
Q47:- During the time you were awake, did you hear the Sjt. give the Bdr. and orders ?
A47:- I heard the Sjt. tell the Bdr. to take over for awhile, as he was going to lie down.
Q48:- You heard the Sjt. tell the Bdr. to take over ?
A48:- Yes, sir, roughly between one and two-thirty.
Q49:- Somewhere around two o'clock ?
A49:- Yes, sir. I did not pay much attention to them, but I did hear the sjt. tell the bdr. that.
Q50:- You say that early in the evening the cell door was open, what time would that be, after the guard was mounted ?
A50:- Around lunch time, just before 11 O'clock, because the other chap in shirt sleeves was given a drink of cocoa.
Q51:- You think then that it would be quite normal that the prisoners were served with some lunch ?
A51:- Yes, sir.

A7:- Eight, sir.
Q8:- What time did you resume your duties ?
A8:- Approximately 0630 hours. I was supposed to take over, but by the time I got to the guard room, it was seven, or 0715 hours, sir.
Q9:- How many prisoners were there then ?
A9:- Four, sir.
Q10:- In the evening when you turned over the guard to Sjt. Leader, what instructions did you give him ?
A10:- I showed him where the guard orders were, and there was one of the detention men was out, and I spoke about Gnr. Henning being allowed in the guard room, and I put the guards clear on him, that he had 90 days to do, and that he was to be locked up and treated like the others.
Q11:- Were all the prisoners locked up ?
A11:- Just Gnr. Smith, and Gnr. Bricks were out, and I told the Sjt. About them.
Q12:- Were they returned to their cells then ?
A12:- No, sir.
Q13:- Did you return to the guard room at any time after that ?
A13:- Yes, at approximately 2100 hours, sir. I came back to tell the Sjt. to wake me at 0445 hours in the morning.
Q13:- What were the conditions in the guard room at that time ?
A13:- Both cell doors, the main one and the back cell door were open. I did not recognise any of the prisoners running around inside the guard room. There was quite a huddle, and I asked the Sjt. if he had read the guard orders. I had him mark the time down he was to call me in the morning.
Q14:- Were the Sjt. and the Bdr. of the guard present in the guard room ?
A14:- Yes.
Q15:- Was there anyone else there outside the members of the guard ?
A15:- Not that I noticed, sir.
Q16:- Did you recognise any of the prisoners out ?
A16:- No, sir.
Q17:- Where were the keys at that time ?
A17:- I did not notice the keys.
Q18:- What time were you called in the morning ?
A18:- Quarter past seven, sir.
Q19:- Are you certain about that ?
A19:- Yes, to witning 5 minutes. I was called by the Bdr. I showed him where I sleep the night before, and I was supposed to be called at quarter to five.
Q20:- Have you ever seen either or both of these exhibits 1 and 2 before ?
A20:- Yes, sir, in the guard room, copies are kept there at all times.
Q21:- Are these the orders which you showed to the accused ?
A21:- Yes, sir.

DEFENSE DECLINES TO CROSS-EXAMINE THIS WITNESS

QUESTIONED BY THE PRESIDENT

Q22:- Did you have the keys for the guard detention room in your possession just before you handed over to Sjt. Leader ?
A22:- Yes, sir, They were on the desk, and I unlocked the ammunition and laid the keys on the desk in front of the sjt. I explained what the keys were for.
Q23:- Did he pick them up ?
A23:- I didn't notice, sir, they were in front of him on the table.

3RD WITNESS FOR THE PROSECUTION:- D 1888891 GNR. BAIN, A., 1 CANU/ sworn, is examined by the prosecutor:-
Q24:- Were you on guard on the night of the 7th-8th of May ?
A24:- Yes, sir.
Q25:- What guard were you on ?
A25:- On the last guard sir, from 11 to one o'clock, and from 5 to 7 in the morning.
Q26:- What is the name of the guard you were on ?

TRANSCRIPT OF EVIDENCE

in the case of A35327 SJT. LEADER, V.O., 1 CARU, held at Quebec Barracks, Bordon, Hants., on the 13th day of May, 1943.

The order convening the court, the charge sheet, the summary of evidence and the medical certificate are laid before the court.
The court satisfy themselves as provided by Rs. P. 22 and 23.
The accused is brought before the court.
Prosecutor:- Lieut. C.R. Baker 1 CARU
Defending Officer:- Lieut. F.H. Itter 1 CARU.
At 1330 hours the trial commences.
The order convening the court is read, signed by the president, and attached to the proceedings.
The names of the president and members of the court are read over in the hearing of the accused, and they severally answer to their names.
Do you object to be tried by as president, or by any of the officers whose names you have heard read over ?
A:- No, sir.
The President and Members are duly sworn.
PRESIDENT :- LT.-COL. D.L. REDMAN, V.D., H.Q., C.M.U.
MEMBERS :- CAPTAIN J.D. BAIRD 1 CARU
A/CAPT. H.S. ANDREWS 2 CARU
The following officers under instruction are duly sworn.
Lieut. R.W. Ainscough 1 CARU Capt. L.P. Skinner 1 CARU
Lieut. R.W.L. Dunning 1 CARU.
Do you object to H 20133 Pte. Millard, R., acting as shorthand writer ?
A: No, sir.
The shorthand writer is duly sworn.
The charge sheet is signed by the president, and annexed to the proceedings.
The accused is arraigned upon the charge~~s~~ in the above-mentioned charge sheet, and pleads NOT GUILTY to the charge against him.
R.P. 39(A) complied with.
A:- No, sir.

1ST WITNESS FOR THE PROSECUTION:- CAPT. G.W. PRITCHARD, ADJUTANT "F" WING, 1 CARU, sworn, is examined by the prosecutor:-
Q1:- What have you there ?
A1:- I have here our standing order 9A , and also "Instructions For The Custody and Detention of Prisoners and Personnel Awaiting Trial". These are the standing orders of 1 CARU, dated 10th November, 1942, a copy of them is kept in the guard room.
Q2:- Have they been in force since the 10th of November, 42, and are they still in force ?
A2:- Yes, sir, they are. These instructions about guarding prisoners are posted in the guard room, and have been in force since the third of March, 1943, and are still in force.
Q3:- Are there any other instructions in force ?
A3:- No, sir, those are the only instructions about prisoners in the guard room.
STANDING ORDER MARKED EXHIBIT 1
ABOVE-MENTIONED INSTRUCTIONS REGARDING PRISONERS MARKED EXHIBIT 2.

DEFENSE DECLINES TO CROSS-EXAMINE THIS WITNESS

2ND WITNESS FOR THE PROSECUTION:- L 10409 L/Bdr. WILLIAMS, J.H., R.P., 1 CARU, sworn, is examined by the prosecutor:-
Q4:- What are your duties here ?
A4:- My duties are in charge of one shift of the R.P's, 24 hours on and 24 hours off.
Q5:- On the 7th of May, what time did you finish your duties ?
A5:- At 1900 hours, approximately, and I turned the duties over to I think the name of the sjt. was Sergeant Leader, sir.
Q6:- Do you recognise him around here ?
A6:- Yes, sir, there sir (pointing to the accused).
Q7:- At that time how many prisoners were there in the St. Lucia Guard Room ?

MF3 246

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) FARA 557

I certify that I have, this morning, examined

No. A 35 327 Sgt Leader V.O.

of No.1 Cdn Arty Reinforcement Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station. In the field.

Date May 13th 1943

J. Anderson. Capt.
Medical Officer
No.1 Cdn Artillery Reinforcement Unit.

CHARGE SHEET.

The Accused, A-35327 Sjt. Leader, V.O., Royal Canadian Artillery, on the strength of "F" Training Wing, No 1 Canadian Artillery Reinforcement Unit, (Overseas) is charged with WHEN ON ACTIVE SERVICE:

First Charge. A.A. Sec. 20 (2).

WITHOUT REASONABLE EXCUSE ALLOWING TO ESCAPE PERSONS COMMITTED TO HIS CHARGE WHOM IT WAS HIS DUTY TO GUARD,

in that he at St. Lucia Barracks, Bordon, Hants., between the hours of 0300 hrs and 0400 hrs on the 8th May 1943, did allow three persons, H-12191 Gnr. Henning, D.W., D-10122 Gnr. Barritt, J.C., D-90776 Gnr. Sharpe, J.C., to escape.

Second Charge. A.A. Sec. 11.

NEGLECTING TO OBEY STANDING ORDERS,

~~in that he at St. Lucia Barracks, Bordon, Hants., failed to comply~~ with No. 1 C.A.R.U. Standing Orders No. 3 (a), Sec 2, Para 11, ~~d/16 Nov 42.~~

Dated at Bordon, Hants.,
11th day of May 1943.

(T.H. Musgrave) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.
(Overseas).
Canadian Army

To be tried by Field General Court Martial.

Brigadier,
Commanding 4th Group, Can Reinforcement Units.
(Convening Officer)

Bordon, Hants.
12 May 43.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-35327 SGT. LEADER, V.O. (RCA) 1 CARU	FIRST CHARGE A.A. Sec.20(2)	not Guilty	Guilty	Confirmed [illegible]
	XXXXXXXXXXXXX XXXXXXXXXXXX. Sentence To be severely Reprimanded and to forfeit ~~15 days~~ [illegible] his ordinary pay for a period of Fifteen (15) days. See Charge Sheet attached.		13th May 1943 [illegible]	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— answer - no.

(Signed) [signature] Brigadier. (Signed) [signature]

Commanding "C" Gp, Cdn Rft Units.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A-35327 Sgt Leader, V.O.
1 CARU

FF. 56

RECEIVED 13 MAY No. 1 A.H.U. ORDERLY ROOM

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELFTH day of MAY, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if applicable.

~~* I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—~~

Proceedings Endorsed

Reviewing Officer (A.O.C.) C.A.O.

Good Conviction

9 June 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COLONEL	D.L. REDMAN	H.Q. CRU

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.D. BAIRD, RCA	1 CARU
A/CAPTAIN	H.S. ANDREWS, RCA	2 CARU
LIEUT.	W.B. CURT, RCA (Waiting Member)	3 CARU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding "C" Gp, Cdn Rft Units,
Convening Officer.

[signature]

FF-56

SGT LEADER V.B.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

..... dated ....., and in his regiment (or corps), the rank of unit

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental Books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number F.35032 Rank Gunner

Name LEADEN, A.C. of No.1 C.A.R.U, Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 day of Sept 43 [illegible] Capt

OFFICER IN CHARGE OF RECORDS

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F.35032	GUNNER	LEADEN, A.C.	No.1 C.A.R.U.

1. The following is a fair and true summary of the entries in the Conduct sheets ~~[illegible]~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 15(1)	8 times	AA Sec 15(1)	16 times
For	AA Sec 40	1 times	AA Sec 40	2 times
For	AA Sec 11	1 times	AA Sec 9(2)	1 times
For		times	AA Sec 11	1 times

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for ~~[illegible]~~ 12 days in military custody, making a total of 12 days in custody.

5. The present age of the accused according to his attestation paper is 28 yrs 1 mon 20 days

6. The date of his attestation specified in his attestation paper is 5 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 3 mons 24 days

8. The accused is entitled to reckon 3 yrs 3 mons 24 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12May 43	Gnr		(1) WOAS AA Sec 15(1) Absent 11 days 5 hrs 30 mins. (in close arrest from 0030 hrs 24May43 until 1700 hrs 26May43	BSM Durbin H. Bdr Wakeham Documentary	28 days F.P. Placed under stoppages of pay to the amount of	26May43	(H.C. Edworthy) Major	Ffts 12 dys pay FR&I 149(1)(a) Ffts 28 dys pay FR&I 149(2)
	8May 43	Gnr		(2)WOAS AA Sec 11 Neglecting to obey Unit Standing Orders.	Documentary	£0.6.3. for cost of apprehension.			Ffts 2 dys pay FR&I 149(2)

Certified true copy: R.E. Riddle, Capt
Officer having custody of the original document

Arthur S. Bethune, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	8-9-41	Gnr.			Sjt MacDougal	Admonished	12-9-41	Major Sinclair	
Bedford,NS	23-9-41	Gnr.		WOAS AA Sec 15(1) Absent 9 days 3 hrs 30 mins.	Sjt Nobles Sjt McDonald Bdr.Coull	28 dys Detn	21-10-41	Major Kine	10 days pay FR&I 149(1)(a)
~~Halifax~~	19-9-41	Gnr.		WOAS AA Sec 15(1) Absent 3 days 14 hrs 30 mins.	Bdr.Coull Bdr McDonald		21-10-41		4 days pay FR&I 149(1)(a)
Halifax	29-11-41	Gnr.		WOAS AA Sec 15(1) Absent 28days 20 hrs 45 mins.	Sjt Morrison Documentary	28 dys Detn	9-3-42	Lt-Col Guildford	Ffts 28 days pay
Halifax	2-4-42	Gnr.		WOAS AA Sec 15(1) Absent 15 days 9 hrs.	CSM Chapman Documentary	28 dys Detn Costs $25.23	18-4-42	Lt-Col Guildford	Ffts 44 days pay
Field	2-10-42	Gnr.		(1)WOAS AA Sec 15(1) Absent 3 days 2 hrs 15 min. (2) WOAS AA Sec 40 In possession of forged pass.	Bdr Kearny Documentary	Stp of pay to cover cost of apprehension £0-7-2	8Oct42	Col F.B.	Ffts 4 days pay FR&I 149(1)(a)
Field	27-11-42	Gnr.		WOAS AA Sec 15(1) Absent 3 days 5 hrs 30 mins.	BSM Durbin L/Bdr Barker	7 days F.P. Ffts 7 dys pay	1Dec42	Major R.S. Hallett	Ffts 4 dys pay FR&I 149(1)(a) Ffts 7 dys pay FR&I 149(1)(b)

No. F35032 Name LEADEN, A.C. Sqn., Battery, or Company — Corps R.C.A. Date of enlistment 5Jun40 G.C. Badges N/A Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 17351—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk 8-9-41 Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. Character G.F.Colclough, Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12Dec 42	Gnr.		WOAS AA Sec 15(1) Absent 12 hrs 30 mins.	Bdr Duley Bdr Serres	2 days F.P. Ffts 2 dys pay	14Dec42	Lt Col G.T. Inch	Total Ffts 3 days pay
Field	2Jan 43	Gnr.		WOAS AA Sec 15(1) Absent 1 day 18 hrs 15 mins.	Bdr Coutre Documentary	4 days F.P. Ffts 4 dys pay Cost of app 8s.8d	6Jan43	Major H.G.S.Franks	Total Ffts 6 days pay
Field	31Jan 43	Gnr.		WOAS AA Sec 15(1) Absent 1 day	Sjt West Bdr Serres	3 days F.P. 3 days pay	2Feb43	Lt-Col G.T. Inch	Total Ffts 4 days pay
Field	18Apr 43	Gnr.		WOAS AA Sec 15(1) Absent 8 hrs 30 mins.	Bdr Wakeham	1 days F.P. 1 days pay	19Apr43	Lt-Col D.R. Corbett	Ffts 1 dys pay FR&I 149(1)(a) Ffts 1 dys pay FR&I 149(2)
Field	1May 43	Gnr.		WOAS AA Sec 15(1) Absent 1 day 3 hrs 30 mins.	Bdr Totten Documentary	7 days F.P.	3May43	Major H.C. Edworthy	Ffts 2 dys pay FR&I 149(1)(a) Ffts 7 dys pay FR&I 149(2)

No. F35032 Name LEADEN, A.C. Sqn., Battery, or Company — Corps R.C.A. Date of enlistment 5-6-40 G.C. Badges N/A Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 17351—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character G.F. Colclough, Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	14-1 41	Gnr.		WOAS AA Sec 40 Neglecting to get out of bed at Reveille. Insubordination.	Cpl. O'Connell L/Cpl. Wilson	3 days pay	18-1-41	J.Jeffrey	
Aldershot	2-2- 41	Gnr.		WOAS AA Sec 15(1) Absent 5 days 12 hrs.	Documentary	168 hrs Detn	2-4-41	J.Jeffrey	
Lawlors Island	20-2- 41	Gnr.		WOAS AA Sec 15(1) Absent 1 day 16 hrs 35 mins. Breaking out of hospital.					
Halifax	17-41	Gnr.		WOAS AA Sec 15(1) Absent 2 days	Sjt Cawswell	7 days C.B.	3-7-41	Capt G.B. Roberteon	Ffts 7 dys pay
Halifax	16-8- 41	Gnr.		WOAS AA Sec 15(1) Absent 4 days	Sjt Martin L/Bdr Nobles	14 days C.B. 12 days pay	20-8-41	C.Dumaresq	
Halifax	25-8- 41	Gnr.		WOAS AA Sec 9(2) Disobeying a lawful command	L/Sjt. Marshall L/Bdr. Fraser	14 dys Detn	25-8-41	D.J.Manwell Lt.Col.	

(P.T.O.)

SUMMARY OF EVIDENCE in the case of No.F-35032 Gunner Alonzo Carl LEADEN, 13th Cdn Field Regt., on strength of No.1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

M.57016 A/L/Sjt. Payne, S.T., on strength of No.1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states.

On the 29th of May 1943 as duty N.C.O, of "H" Battery I placed F.35032 Gnr. Leaden. A.C., in St. Lucia Gunner's mess and ordered him to report to the Educational building occupied by the regimental police. He was to report at 2130 hours. He failed to report and I made a thorough search of the camp. On my Tattoo report I showed F.35032 Gnr. Leaden. A.C., absent as at 2130 hrs. This man was undergoing field punishment at the time. I produce certificate in accordance with P.C. 2797 of the 10th of April 1943 which is marked "A" and is attached to the summary. I produce certificate Ref. K.R. & O (Can) 539 which includes expenses which were incurred in apprehending and returning F.35032 Gnr. Leaden. A.C., which is marked "B" and is attached to the summary.

The accused declines to cross examine this witness.

A/L/Sgt. Payne S.T.
M.57016 A/L/Sjt. Payne, S.T.

The accused was cautioned as follows.

Do you wish to make any statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declined to make a statement or give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Bordon, Hants.
22 Sep 43.

L McDougall Lieut. R.C.A.
(L. McDougall) Lieut. R.C.A.
No.1 C.A.R.U.

Peter S. Pettapiece Maj.

SCHEDULE "P"

CERTIFICAT IN ACCORDANCE WITH P.C. 2797 of 10 APR 43

I certify that NO. F-35032 Rank Gnr. Name LEADEN, A.C.
Unit No. 1 C.A.R.U. was arrested at Newbury, Hants
at 2145 hrs. on 18 Sept 43 and that at the time of his
arrest he was wearing (military uniform)

A/ Lieut
(H.M. Childerstone) Capt.
Officer Commanding
No. 5 Cdn. Provost Coy.

LIST OF WITNESSES

PROSECUTION

M.57016 A/L/Sjt. Payne, S.T. No.1 Cdn Artillery Reinforcement Unit

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LIST OF EXHIBITS

Exhibit "A" Certificate in accordance with P.C.2797 of 10 Apr43

Exhibit "B" Expense Voucher

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P.14(B)

I, F.35032 Gunner Leaden, A.C. of No.1 Canadian Artillery Reinforcement Unit, desire to have Lieut. W.E. Thomson to represent me at my trial by court martial.

.....A.C. Leaden.....
F.35032 Gnr. Leaden, A.C.

CHARGE - 1068

Army Form B 252
(See King's Regulations)

No. 1 C.A.R.U. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. F-35032 Rank Gnr

Name Leaden, A.C.

Place Field Date of Offence 18 Sept 43

OFFENCE 1. WOAS: Absenting himself without leave.

A. J. Scott Lieut.
for O.C. No. 5 Provost Company.

Names of Witnesses:—
M-49951 Sgt. Code, A.J. No 5 Provost Coy.
M-55532 Cpl Wilson, A.E. No 5 Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

[illegible] 2,000,000 7/41. K. & H., Ltd. [illegible]

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. F35032 Rank Gnr Name Leaden, A.C. Unit 1 CARU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Winchester

Date	Particulars (½ portion)	Amount	
21 Sept 43	Escorts return fare from LONDON To Winchester	5 ~~10~~	1
	Prisoners single fare to LONDON From Winchester	5	1
	Prisoners fare from To		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483(3287)

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

30 Sept 1943

Lieut. F.B. WATT No. 1 C.A.R.U.
Lieut F.L. BELMAS No 1. C.A.R.U.
Lieut W.L. GEORGE No 1 CARU
Lieut L.D. FARRELLY No 1 CARU
Lieut. R.G. TROTTIER No 2 C.A.R.U
Lieut R.M. BEGIN No 2 CARU
Lieut. D. Toupin 2 CARU
Lieut. M.R. TARÉ No 2 CARU
Lieut R.J. HANDY No 2 CARU

Officers under instruction

H.P.

Think *Any reference to shipping or troop movements will result in the delay or mutilation of this letter.*

himself in this country and his chance to do a job to regain his self respect, came when he was sent to a Field Regiment. But after one week the past and his disease caught up with him and he was s.o.s. to hospital when his V.D.A returned after he had indulged in a drink. He again arrived in CARU.

But what can be done in such a case as this?

He has undergone F.P. but a punishment consisting largely of fatigues does not seem to be the answer. He has undergone detention in Canada but that doesn't seem to be the answer either. I suggest that what the accused needs is a chance to do a job in which he can be a success and regain

(4)

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

_____ 194

his self respect

Instead of the following conversation being overheard - "Leaden? Who's he - oh yes - on kitchen fatigue?" if he could hear - Leaden is going on 7 days leave to morrow - who can we get to replace him? His type thinks on commendation which he has not yet truly had the opportunity to earn. He is rapidly losing his last shreds of self respect and in offering this plea for mitigation of sentence I would suggest that after a short period of detention under the supervision which he will receive there he be sent immediately to the field where he will have an opportunity to assert his individualism and find his place in the army.

W H Thomson hint per not [illegible]

Mr President, members of the court, —

In peace time the army is made up of individuals who wish to soldier. However in war we find all sorts of persons who were never cut out to be soldiers, enlisted in the forces and many misfits are brought to light. Such a person, I suggest, we find in the accused.

The accused is essentially an individualist — of a family with artistic tendencies, he was awarded three scholarships and in 1933 which enabled him to study for 2½ years at the Nova Scotia School of Art in Halifax. He left at the end of this period to go to work in a clothing factory to provide more funds for his study and did several odd

(2)

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

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jobs before June 1940 when he enlisted in the army.

All went well for 7 months; he was working hard and seemed to be getting on well but at the beginning of 1941, due to certain facts which were not disclosed him during his upbringing, he contracted a serious disease, V.D.

And here his trouble seems to have begun. For being one of those persons who craves other persons company and entertainment and in a Don't give a damn attitude caused by the effects of the disease from which he was suffering he committed an offence which was very seriously regarded in the army.

Arrest

However he eventually found

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Superior Camp, Bedshoth Kants.
ON THE 28th DAY OF September 1943

The accused F35432 Gas. Leader, A.C. Unit 1 CARU

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A. S. Pettapiece .....Unit. H.Q. CARU
Members. Capt. L. A. Blakely .....Unit. 1 CARU
Lt. A. R. Townsley .....Unit. 2 CARU

The officers under instruction are duly sworn:-
(see attached list) .....Unit.....
.....Unit.....

Prosecutor. Lt. R. M. Wyggle .....Unit. 1 CARU
Defending Officer. Lt. W. R. Thomson ..Unit. 1 CARU

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(B) is complied with. AHP
The accused does not desire to make a statement in reference to the charge~~(s)~~. R.P. 37(B). AHP
The Summary of Evidence is read. AHP
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ AHP
~~(b) Calls witnesses as to character.~~ AHP
~~(c) Calls witnesses in mitigation of punishment.~~ AHP
(d) Addresses the Court by his Defending Officer. AHP

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER. AHP

attached hereto. AHP

Arthur S. Pettapiece, Major

Medical Officers' Certificate
K.R. (Can) Para 557

F35032

I certify that I have this morning examined No Gnr Leadon AC
(Rank) (name)

of I.C.A.R.U. and in my opinion he is fit to undergo
~~unfit~~

trial by Court Martial.

Station I.C.A.R.U.

Date 30-9-43.

Sgd. C.W. Stephens capt.
(Medical Officer)

Arthur S. Pettapiece, Major
Medical Officers' Certificate

CHARGE SHEET

The accused, F.35032 Gunner LEADEN, Alonzo Carl, No.1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with: WHEN ON ACTIVE SERVICE:

1st CHARGE ABSENT WITHOUT LEAVE
A.A. SEC 15(1)

in that he,

in the field, on 29 May 43, whilst undergoing field punishment, did absent himself without leave from 2130 hrs 29 May 43 until apprehended by Cdn Provost Corps, Newbury, Hants, at 2145 hrs 18 Sep 43, incurring the cost of return under escort to the amount of ten shillings, two pence.

(Absent : 112 days 15 mins)

Dated at Bordon, Hants.,
this 29th day of
September, 1943.

(W.A. TOWNSLEY) Colonel,
Commanding Officer,
No.1 Canadian Artillery Reinforcement Unit,
R.C.A. Canadian Army Overseas.

To be tried by Field General Court Martial,

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
29 Sep 43.

President

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F-35032 Gnr HENDRY, Alonzo Carl (RCA) 1 CARU	FIRST CHARGE A.A.Sec.15(1)	Guilty	Guilty Sentenced to undergo detention for a period of one (1) years and to be put under stoppages of pay until he has made good the sum of 10s 2d in respect of the cost of apprehension. 3 Sept 43.	Confirmed [illegible]
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] Brigadier (Signed) [illegible] Maj.

Commanding "C" Gp, Cdn Rft Units.
Convening Officer (*a*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2nd day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 2nd day of September 1943.

[illegible] Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this First day of October 1943.

[illegible] Brigadier,
Confirming Officer.

F-35032 Gnr Hendry AC.

Promulgated and extracts taken in the case of

(*a*) (Dated) 4 Oct 43. (Signed) [illegible]
CO. - 1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(34679) W.A.6179-900 50,000 3-43 A.R.H.W.Ltd. Gp.498

F-35032 Gnr LEADEN, Alonzo Carl
1 CARU

RR-23

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-NINTH day of SEPTEMBER, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint~~

~~*(1 Three Officers to form the Court.)~~

~~*(2 A Field Officer as President.)~~

~~for the following reasons, namely:—~~

Proceedings Reviewed
Gen Graham Lord Branch
Reviewing Officer
18 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	HQ CRU

Members.

Rank.	Name.	Regiment.
CAPTAIN	S.A. BLAKELY, RCA	1 CARU
LIEUTENANT	A.R. TOWNSLEY, RCA	2 CARU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding "C" Gp, Cdn Rft Units.
Convening Officer.
[signature] Maj

RR-23
GNR LEADEN A.C.

3. The accused is not under sentence at the present time,

~~or~~

~~The accused at the present time is under sentence for~~

~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for 1 4. days in Civil Custody,

and 2 4. 15 days in Military Custody.

Total 3 4. 16 days.

Of which nil days were spent in hospital. 4

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 26th September 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1½ years.

8. The accused is entitled to deferred pay or gratuity in respect of 1½ years' service.

9. The accused is entitled to reckon 1½ years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~for is in possession of or entitled to~~

11. ~~*(If the accused is a warrant officer.)* The accused before he was made a~~ warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the ~~rank~~ of , dated , and in his regiment *(or corps or department)* the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years.

~~*(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.)*~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name C-4203 Pte. LEADBETTER, A.W. (H. & P.E.), of the No. 1 Cdn. Infantry Holding Unit.

NOTE.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Field General Court-Martial	19th October 1940	Absenting himself without leave from 0745 hours on the 19th September 1940 until 1630 hours on the 8th October 1940.	60 days' detention (Total forfeiture of 91 days' pay.)	Nil.

(Continued overleaf.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
				D.I.

D.I.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

David Ivor, Lieut.
David Ivor, Lieut.,
Officer i/c Records,
No. 1 Cdn. Inf. Holding Unit.

D.I.

~~Signed this twenty-first day of May, 1941.~~ D.I.

Signed this third day of June, 1941.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

C-4203 Pte. LEADBETTER, A.W., of the (The Hastings & Prince Edward Reg't), No. 1 Canadian Infantry Holding Unit.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

*See Para. 46a, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, permanent being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Absence without leave	4 times	5 times.
D.I. ~~For~~	~~times~~	~~times~~
For	times	times.
~~For~~	~~times~~	~~times~~ D.I.

Number of instances of gallantry or distinguished conduct, Nil.

~~or~~

D.I.

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~ D.I.

~~or~~

Previous convictions† of the accused by a court martial ~~or a civil court~~ D.I., summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

No. C-4203 Name Leadbetter, A. Sqn., Battery, or Company Depot Corps Hast.& P.E.Regt Date of enlistment 26-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. two | Signature O.C. Company, etc.) | Character

M.F.M. 6 (A.F.B. 122) 100M—8-39 (1700) H.Q. 1772-45-15

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Second sheet made from certified true copy		26-3-40 "R.B. Meredith"			
Picton Ont.	18-11-39	Pte		A.W.L. from 2200 hrs. 19-11-39 to 2400 hrs. 21-11-39 A.A. Sec. 15(1)	Sgt. Gray	Awarded 168 hrs. detn.	22-11-39	Lt-Col. Young	"R.M."
Aldershot	30-3-40	"		A.W.L. from 2300 hrs. 30-3-40 to 0755 hrs. 2-4-40 A.A. Sec 15(1)	L/C. Young	Awarded 5 days C.B. hard labour	2-4-40	Major Crowe	Forf. 3 days pay F.R.I. "RM" 149(1)(a)
Aldershot	7-7-40	Pte		A.W.L. from 0630 hrs. 7-7-40 to 1700 hrs. 8-7-40 A.A. Sec. 15(1)	Cpl. Davies	14 days C.B.	11-7-40	Major Crowe	Forf. 2 days pay F.R.I. 149(1)(a)
Bivouac Area Aldershot	21-7-40	"		A.W.L. from 1500 hrs. 21-7-40 while on C.B. A.A. Sec. 15(2)	Cpl. Dixon	Awarded 168 hrs. detn.	26-7-40	Maj.Graham	Forf. 1 days pay. F.R.I. "RM" 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Rusper Area	3-8-40	Pte		A.W.L. from 2300 hrs. 3-8-40 to 1600 hrs. 17-8-40 A.A. Sec. 15(1)	Cpl.Thompson " Fairchild	Awarded 21 days detn.	19-8-40	Maj.Graham	Forf. 14 days pay - FRI 149(1) (a) Forf.21 day pay FRI 149(1) (b) Total forf. 35 days pay "RM"
In the Field	19-9-40	Pte		A.W.L. from 0745 hrs. 19-9-40 to 1630 hrs. 8-10-40 A.A. Sec. 15(1)		Awarded 60 days detn.	31-10-40	F.G.C.M.	Forf. 20 dys. pay FRI 149(1a) Forf.11 days pay FRI 149(1b) Forf. 60 days pay FRI 149 Forf.91 days total forf. "RM"

CERTIFIED TRUE COPY:-

18th April 1941

David Ivor, Lieut.

David Ivor, Lieut.,
Officer i/c Records,
No.1 Can. Inf. Hldg. Unit

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. C-4203

Pte. LEADBETTER, A.W. (The Hastings & Prince Edward Regt.),

No. 1 Canadian Infantry Holding Unit, and in my

opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

(Medical Officer)

Algonquin Camp,
Witley, Surrey,
3rd June, 1941.

CHARGE

Army Form B 252
(See King's Regulations)

No.1 Inf. Holding Unit. Regiment

Battery
Squadron
Troop or
Company

CANADIAN MILITARY POLICE
LONDON AREA.
D.A.P.M.

CHARGE against No. A-42030 Rank Pte

Name Leadbetter A.W.

Place London. Date of Offence 19-May-41.

OFFENCE U.O.A.S. (1) Absent without leave from .....until apprehended by the Civil Police at Redbourn at about 0300 Hrs on the 19-May-41 (2) In possession of a pay-Book not his own, and knowing it to be such. (3) Giving a false staement of identity to the Civil Police.

Names of Witnesses :—

L/Cpl Basarab, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Q8366. Wt.W25440/80b. 1,000,000. 10/40. K. & H., Ltd. 6667/47.

Statement of **EVIDENCE** in the case of

C-4203 Pte Leadbetter A.W.
No.1 Inf. Holding Unit.

Sir,

At London on the 19-May-41 at about 17.45 Hrs while on duty at C.P.C.H.Q. acting on instructions received I proceeded to Harpenden Police Stn where I saw the a/m soldier. He had been apprehended by P.C. Gay #34 as being A.W.L. He was handed over to me and I escorted him to C.P.C.H.Q. where I handed him over to the N.C.O. i/c of Cells to be detained.

London.
19-May-41.

A. Basarab ..... L/Cpl
(M-17241 L/Cpl Basarab A.)

Sir,

I was N.C.O. i/c of Cells when the a/m soldier was brought to C.P.C.H.Q. to be detained. While being searched the a/m soldier was found to have in his possession a pay-book which he admitted was not his own. Also it was found that he had given false identity to the Civil Police when apprehended.

London.
19-May-41.

J. L. Blackadore ..... L/Cpl
(C-40604 L/Cpl Blackadore J.)

REMARKS

E.J.P.

DESCRIPTIVE RETURN OF § Private R.C. 4728 Lloyd Debby Stoughton was apprehended at Redbourne (hour) 0300 on the 18 day of May 1941 and was committed to confinement at Carpenter on the 18 day of May 1941 as a Deserter (or Absentee without leave) from the 1 E.S. Bn. of the A and P.C. Regiment of The Canadian Active Service Force.

Age 25 Height 5 feet 8½ inches

Complexion Fresh Hair Dark Brown Eyes Brown

Marks Pattern Arm or Body In uniform or plain clothes Uniform.

Probable date and place of attestation	26-1-39 Belleville Ontario
Probable date of desertion or beginning of absence and from what place.	Camp 101. Dutley Surrey
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Constable 34 Gay Redbourne Police Station Redbourne
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	*Apprehended at Boo his on 18th May 1941 on Watling Street, Redbourne. On interrogation by Constable, he admitted being absent from his unit without leave. He was therefore charged and detained

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he was an absentee from the before-mentioned Corps.

C.H. Pettitt Signature
Bowers End Residence
Halfender Post Town
of Committing Magistrate.

May 19. 1941 Date of Signature

L D Stoughton Signature of Prisoner

George Gay Cons'd Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____

Regiment at ____ on ____ by ____

who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the

Police in connection with the apprehension of

and are

payable to

(Superintendent or Officer
i/c Police Station at

Date

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster is hereby authorised to pay to being the person recommended by the Committing Magistrate, a reward of for the apprehension of

(O.C. Unit)
Officer Commanding.

Date

Where no reward is authorised though one was recommended by the Magistrates, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*18615) Wt.30115/6072. 20,000. 11/40. A.&E.S.,Ltd. Gp.678. Forms/O.1618/34

EXHIBIT 3

METROPOLITAN POLICE.

No. 992.

STATEMENT OF WITNESS.

Croydon *Station.* 'Z' *Division.*

15th April 1941.

Name Samuel West P.C.579'Z'.

Address Croydon Police Station.

Age . Occupation Police Constable.

Statement: At 6-30pm, on 15th April, 1941, in consequence of information received, I went to No 10 Tamworth Road, Croydon, where I saw Pte.C.4203.A.W.Leadbetter who I knew to be wanted for escaping from 1.Cdn Inf.Holding Unit, and also Pte.C.5218 R.C.Lee who stated he had been A.W.L. from Hastings and P.E. Regt,(stationed at Whitley, Surrey,) for four days.

Neither of these men were in possession of Pay Books or any other papers of Identification.

I took both men into custody.

Samuel West P.C.579'Z'.

I hereby certify that the hereon signed witness cannot be readily obtained. (R.P. 4(g)).

H.M.Howell Lieut.
Officer taking Summary

[signature] Capt
D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA.

[signature]

Signature Samuel West PC 579²

Signature witnessed by [signature]

M.P.-19160-200,000 Oct.1939 46 (8)

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(m) of the ARMY ACT.

I certify that the person whose description is given below was arrested (~~or surrendered~~) at Croydon Police Station at 2-30am on the 14th day of February 1941

Regimental particulars of officer or soldier reffered to above.

No. C.4203

Rank Pte

Name Leadbetter

Unit H. & P.E. Regt.

Description.

Age 25

Height

Complexion

Hair

Eyes

Marks

Signature of officer of police in charge of police station where the above named person was taken or placed in custody, on arrest or surrender.

J. Gregory 1/76

In charge of Police Station

[illegible] DIVISION

CONFESSION

STATEMENT OF ACCUSED

In the case of C-4203 Pte. Leadbetter, A.,
H. & P.E. Coy., No. 1 Cdn. Inf. Hldg. Unit.

The accused, C-4203 Pte. Leadbetter, A., having been duly cautioned and sworn, states:

I was absent without leave from Camp 101, Witley, Surrey, from 0700 hours, 26th day of December 1940, until 1800 hours, the 10th day of January 1941.

On or about the 19th day of October I obtained one Railway Warrant No. 378131 from a man named Girrard, a member of the Hastings and Prince Edward Regiment stationed at Reigate. He was a typist working in the Orderly Room, and at that time he was in detention with me for stealing a truck. At the same time I obtained from E-4784 Pte. R.L. Wager one pass with Orderly Room stamp on it in blank, and one pass without the Orderly Room stamp on it.

I sent a letter with enclosures dated October 20th, 1940, which letter starts with "Dear Daisy", and which was intended for Mrs. D. Day, 7 Tanfield Road, West Croydon, Surrey.

A. A. Leadbetter.

Witley, Surrey,
29th April 1941.

I hereby certify that the above confession was taken in my presence and was entirely voluntary.

David Ivor..... Lieut.

Witley, Surrey,
29th April 1941.

J.J.R.

I will Draw to a close
With my best Regards
From Sam and Pinhead,
Art.

I.T.R.

CANADIAN LEGION

WAR SERVICES

19

ourselves to a Warrent and
of pas and I will send
them in this Letter and
don't tell Rose or anybody
else about them, And don't
give them to anybody
else except Sam and I
Well Ma How is the
Gang getting on are they
all working or are they
all on Strike yet Sam
and I are in the jug now
for 12 Days now and we
are still going strong
and we still don't give
a dam, for the Army And
We are figuring on having
a real time when we
leave again. Well Ma

CANADIAN LEGION

WAR SERVICES

Pte. A. Leadbetter.
C4203 H.P.C. Reg.
C. Com. Gd. L.B.C.O.

Oct. 20 1940

Dear Daisy

Just a few lines to let you know that I got back to the units O. K. and that ~~as~~ I sure wished that I had of stayed longer Well Ma Sam and I were up for a Field General Court Marshal, But that will only mean about 90 Days and that Don't bother me a bit as I will be back to Croydon as soon as I get out again, to see you again. Well Ma Sam and I were ~~on~~ the scrounge Today they put us cleaning the Bradley room So we helped.

CANADIAN LEGION
WAR SERVICES

CROYDON
1
30 OCT 40
SURREY

Mrs. D. Day
7 Tanfield Rd.
West Croydon
Surrey.

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

PASS

Army Form B295.
(In pads of 100.)

No. ..... (Rank) .....

has permission to be absent from his quarters duty, from

..... to .....

for the purpose of proceeding to .....

(Station) .....

(Date) ..... Commanding

[P.T.O.

* Destination not required unless [illegible] to exceed [illegible] hours, unless notification is desirable owing to local conditions [illegible] enable purchase of a rail ticket at reduced fare.

† [illegible] is not [illegible]

CROWN COPYRIGHT RESERVED

PRINCE EDWARD REGT. ★ THE HASTINGS ★ C.A.M.G.F. ★
ORDERLY ROOM

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... *Regiment* .....

PASS

Army Form [illegible]
(In pads of [illegible])

No. ..... *(Rank)* ..... *(Name)* .....

has permission to be absent from his †quarters/duty, from

..... *to* .....

*for the purpose of proceeding to** .....

(Station) .....

(Date) .....

.....
Commanding.

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary for the purchase of a rail ticket at reduced fare.

† Delete whatever is not applicable.

GRAVEN COPYRIGHT RESERVED

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

PASS

Army Form B295
(In pads of 100)

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his quarters/duty from

..... to .....

for the purpose of proceeding to* .....

(Station) .....

(Date) ..... Commanding

(P.T.O.

* Destination not required unless allowance is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced rate.
* Delete whichever is not applicable.

THE HASTINGS & PRINCE EDWARD REGT.
ORDERLY ROOM

CROWN COPYRIGHT RESERVED

EXHIBIT 4

CONFESSION

In the case of C-4203 Pte. Leadbetter A.W. (H.& P.E.), No. 1 Cdn. Inf. Holding Unit.

The Accused, No. C-4203 Pte. Leadbetter, A.W., having been duly cautioned and sworn, states:

I broke out of the Detention Barracks, Camp 101, Witley, on the 1st May 1941 at about 1910 hours, and remained absent until I was apprehended by the civil power at Redbourn at about 0300 hours on the 18th May 1941.

When I was apprehended I was in possession of a false paybook in the name of C-4728 Pte. Stoughton, L.D. I falsely gave my name to the police as L.D. Stoughton and signed my name "L.D. Stoughton".

When I was apprehended I was in uniform and when asked by the civil power for a pass I admitted I didn't have one. I was not in possession of a service and pay book of my own.

A.W. Leadbetter.

I hereby certify that the above statement was made in my presence and was entirely voluntary.

....., Lieut.

Witley, Surrey,
21st May, 1941.

I.H.

ADDITIONAL
SUMMARY OF EVIDENCE

In the case of C-4203 Pte. LEADBETTER A.W. (H.& P.E.), No. 1 Cdn. Inf. Holding Unit.

The Commanding Officer directs that the evidence shall be taken under oath.

1st Witness — Lieut. DAVID IVOR, Officer i/c Records, No. 1 Cdn. Inf. Holding Unit, having been duly sworn, states:

I am Officer in charge of Records, No. 1 Cdn. Inf. Holding Unit, and as such produce the following documents in evidence:

1. Army Form O.1618, showing apprehension of the accused in the name of C-4728 Pte. L.D. Stoughton, at Redbourn, at 0300 hours on the 18th May 1941. ✓

2. Army Form B.252, containing statements of evidence of M-17241 L/Cpl. Basarab, A., and C-40604 L/Cpl. Blackadore, J., both of the Canadian Provost Corps. ✓

3. Soldier's Service and Pay Book (M.B.M. 1 Part I) in the name of C-4728 Pte. Stoughton, L.D. ✓ 17R

4. Confession by the accused dated at Witley, Surrey, on the 21st May 1941. ✓

These documents refer to No. C-4203 Pte. Leadbetter, A.W., whom I now recognize.

..David Ivor..... Lieut.

(The accused declines to cross-examine this witness)

Certified that Rules of Procedure No. 4 (c), (d) and (e) have been fully complied with.

Certified that owing to the exigincies of the service and the time and expense involved, none of the witnesses referred to in the evidence of Lieut. David Ivor can be readily procured; that their statements were read to the accused; and that he has not demanded the attendance for cross-examination of any of them.

..B.S. Worthington..Lieut.
Officer taking Summary.

Witley, Surrey,
21st May, 1941.

J.T.C.

Third Witness: A3660 L/Cpl. Barnett, G.M., Regimental Police No. 1 Cdn. Infantry Holding Unit having been duly sworn states as follows:

On the 22nd February 1941, I was on duty at No. 2 Detention Barracks, Camp 101, Witley, and at 1720 hours on that date the accused escaped from confinement there.

G.M. Barnett L/Cpl.

(The accused declines to cross-examine this witness)

Certified that Rules of Procedure No. 4 (c), (d) and (e), have been fully complied with.

K.S. Wrathall Lieut.
Officer taking Summary.

Witley, Surrey,
29th April 1941.

SUMMARY OF EVIDENCE

In the case of C-4203 Pte. Leadbetter, A., H. & P.E. Coy., No. 1 Cdn. Inf. Hldg. Unit.

The Commanding Officer directs that the evidence shall be taken under oath.

1st Witness -- Lieut. David Ivor, Officer i/c Records, No. 1 Cdn. Inf. Holding Unit, having been duly sworn, states:

I am Officer in charge of Records, No. 1 Cdn. Inf. Holding Unit, and as such produce the following documents in evidence:

1. War Office Railway Warrants 378131 and 378132, stamped by the Canadian Military Headquarters, London. ✓
2. Three leave passes, bearing the stamp of the Orderly Room of the Hastings & Prince Edward Regiment, C.A.S.F. ✓
3. Envelope addressed to Mrs. D. Day, 7 Tanfield Road, West Croydon, Surrey, bearing postal mark dated 30th October 1940, containing letter dated 20th October 1940 commencing "Dear Daisy" and signed "Art" purporting to be from Pte. A. Leadbetter, C-4203 H.P.E. Reg. C.Com. c/o B.P.O. ✓
4. Confession of C-4203 Pte. Leadbetter, A., dated 29th April 1941. ✓
5. Certificate of Metropolitan Police, "Z" Division, Croydon, in accordance with Section 163 (1)(M) of the Army Act. ✓
6. ~~Copies~~ Statement by Samuel West, P.C.579'Z', Croydon Police Station. ✓

These documents refer to C-4203 Pte. Leadbetter, A., whom I now recognize.

David Ivor ..... Lieut.

(The accused declines to cross-examine this witness)

2nd Witness -- ~~A-3741 Cpl. Jones, H.~~ D101801 S/Cpl Morin, A.R., Regimental Police, No. 1 Cdn. Inf. Holding Unit, having been duly sworn, states:

On the 1st February 1941, I was on duty at No. 2 Detention Barracks, Camp 101, Witley. The accused escaped from No. 2 Detention Barracks at 0730 hours on that date.

A.R. Morin ..... S/Cpl.

(The accused declines to cross-examine this witness)

F.J.R.

Q13 - Is the accused the person named in the statement which you have heard read?
A13 - Yes, sir.
Q14 - Have you compared the contents of the above statement with the regimental books?
A14 - Yes, sir.
Q15 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A15 - Yes, sir.

The accused declines to cross-examine.

Q16 - Do you wish to address the Court?
A16 - (Defending Officer) In regard to the first charge with which Leadbetter is charged, I would ask the Court to consider the factor of lack of supervision of defaulters which is largely a contributing factor in this charge. If the passes had been properly looked after they would not have been stolen. The last four charges relate to this man's private life. He is seeking a divorce from his wife at the present time and he tells me, and I have every reason to believe it, that he broke away from confinement so that he might straighten out his family affairs at Croydon. I don't think he will be a credit to the army until his private life is straightened out. The last two charges are based on the fact that he was on the downward path with a court-martial record behind him and he might be hanged for a cow as for a sheep. He was absent and had another man's pay book with him and was engaged on very urgent private business at that time. That is all I have to say.

The Court is closed for the consideration of the sentence.

J. J. [illegible] Maj. A.C.H.

C-4203, Pte. Leadbetter, A.W., No. 1 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 3rd day of June, 1941.

The order convening the Court, the charge-sheet, the summary of evidence and the medical certificate are laid before the Court.

Prosecutor - Lieut. H.M. Howell (Lawyer)
Defending Officer - Lieut. R.F. Wodehouse

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The court-stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Guilty, sir.
Q7 - Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7 - Guilty, sir.
Q8 - Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A8 - Guilty, sir.
Q9 - Are you guilty or not guilty of the seventh charge against you, which you have heard read?
A9 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Note: As they were required by the unit, the two return railway warrants and pay book referred to in the summary of evidence as exhibits, were handed to the Court for inspection and at the close of the trial returned to Courts-Martial Officer, Lieut. H.M. Howell.

Q10 - Do you wish to make any statement in mitigation of punishment?
A10 - No, sir.
Q11 - Do you wish to give evidence yourself or to call any witness as to character?
A11 - No, sir.

Lieut. H.M. Howell, No. 1 Cdn. Inf. Holding Unit, is duly sworn.

Q12 - Have you any evidence to produce as to the character and particulars of service of the accused?
A12 - Yes, sir, A.F.B. 296 and M.F.M. 6.

H.M.

Charge-Sheet (Cont'd)

Sheet No. 2

When on active service, absenting himself without leave--

Fifth Charge
Sec. 15 (1)
Army Act

in that he

when in confinement, at Camp 101, Witley, Surrey, absented himself without leave from about 1910 hours on the 1st May 1941, until apprehended by the civil power at Redbourn at about 0300 hours on the 18th May 1941.

Conduct to the prejudice of good order and military discipline--

Sixth Charge
Sec. 40
Army Act

in that he

when apprehended by the civil power at Redbourn at 0300 hours on the 18th May 1941, was in possession of a Soldier's Service Book (Militia Book M 1, Part I) other than his own, in the name of C-4278 Pte. Stoughton, L.D.

Conduct to the prejudice of good order and military discipline--

Seventh Charge
Sec. 40
Army Act

in that he

when apprehended by the civil power at Redbourn at 0300 hours on the 18th May 1941, falsely signed the name "L.D. Stoughton" on the certificate of apprehension (Army Form O.1618).

L.W.W. Slack ..... Lt-Col.
(L.W.W. Slack) Cmdg. Officer
No. 1 Cdn. Inf. Holding Unit

Witley, Surrey,
26th May, 1941.

To be tried by Field General Court Martial

L. F. Page .....Brigadier
Commanding Cdn Base Units

J. T. R. [illegible] Major A.C.H.
President

Bordon, Hants
This 29th day of May 41.

CHARGE-SHEET

The accused, No. C-4203 Pte. LEADBETTER, A.W. (The Hastings and Prince Edward Regiment), on the strength of No. 1 Canadian Infantry Holding Unit as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:-

Stealing Public property--

First Charge
Sec. 16 (4)
Army Act

in that he

in the Field, on or about the 20th October 1940, did steal from the Orderly Room of The Hastings and Prince Edward Regiment, Canadian Army (Overseas), two War Office Railway Warrants, Numbers 378131 and 378132, and three leave passes, of which one was blank and the other two bore the stamp of "The Hastings & Prince Edward Regt. C.A.S.F. Orderly Room".

When on active service, absenting himself without leave--

Second Charge
Sec. 15 (1)
Army Act

in that he

at Camp 101, Witley, Surrey, absented himself without leave from 0700 hours on the 26th December 1940, until 1800 hours on the 10th January 1941.

When on active service, absenting himself without leave--

Third Charge
Sec. 15 (1)
Army Act

in that he

when in confinement, at Camp 101, Witley, Surrey, absented himself without leave from about 0730 hours on the 1st February 1941, until apprehended by the civil power, The Metropolitan Police, at Croydon, at about 0230 hours on the 14th February 1941.

When on active service, absenting himself without leave--

Fourth Charge
Sec. 15 (1)
Army Act

in that he

when in confinement, at Camp 101, Witley, Surrey, absented himself without leave from 1720 hours on the 22nd February 1941, until apprehended by the civil power, The Metropolitan Police, at Croydon, at about 1830 hours on the 15th April 1941.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
	TO BE DISCHARGED WITH IGNOMINY FROM HIS MAJESTY'S SERVICE AND TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS.			
C-4203 PTE. LEADBETTER, A.W. (H & P E reinforcement) No.1 Cdn Inf Hldg Unit.	First Charge A.A. Sec 18(4) as per charge sheet	GUILTY	GUILTY	Confirmed L. F. Page. Brigadier Commanding Cdn Base Units, Cdn Army
	Second Charge A.A. Sec 15(1) as per charge sheet	GUILTY	GUILTY	
	Third Charge A.A. Sec 15(1) as per charge sheet	GUILTY	GUILTY	
	Fourth Charge A.A. Sec 15(1) as per charge sheet	GUILTY	GUILTY	
	Fifth Charge A.A. Sec 15(1) as per charge sheet	GUILTY	GUILTY	
	Sixth Charge A.A. Sec 40 as per charge sheet	GUILTY	GUILTY	
	Seventh Charge A.A. Sec 40 as per charge sheet	GUILTY	GUILTY	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Page. Brigadier *Commanding* Cdn Base Units, Cdn Army
Convening Officer (*e*)

(Signed) L. F. Page. Brigadier No 2 C.A.H.D.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of June, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 3rd day of June 1941.

L. F. Page. Brigadier
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~ L. F. P.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 30 day of June 1941.

L. F. Page. Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of C-4203 Pte LEADBETTER, A.W.

(*a*) (Dated) 3rd July, 1941 (Signed) L.W.W. Black. LIEUT.-COL.
L. W. W. BLACK, OFFICER COMMANDING
No. 1 CDN. INFANTRY HOLDING UNIT.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.L. 4013—851 [illegible] K.P. St. C. Co.

Correspondence to be PINNED here.

Original

235B

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 29th day of May, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[~~I am unable to appoint~~ :—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

*(3. ~~Three Officers having more than one year's service.~~)

~~for the following reasons, namely~~ :—]

President.

Rank.	Name.	Regiment.
Major	E.T. Renouf	No.2 Cdn Arty Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	T.S.A. Sutherland	No.1 Cdn (MG) Hldg Unit
Lieutenant	W.D.S. Careless	No.1 RCASC Hldg Unit
Lieutenant	M. St. Pierre	No.1 Cdn Gen Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the position ... urt to ... ed

*Signed L. F. Page Brigadier

Commanding Cdn Base Units, Cdn Army

Convening Officer.

235 b. Dte. Leatherter. D.W.

Dr. Leatherbee, Del.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C4203 Rank Private Name Leadbetter A.W. of Hast. & P.E. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	Field 31-10-40	A.A. Sec 15 (1)	60 days detention	
F.G.C.M.	Witley 3 Jun 41	A.A. Sec 18 (4), Sec 15 (1), Sec 40	2 years imprisonment with hard labour to be discharged from H.M. Forces with ignomy	Sentence commuted from imprisonment to detention credit for time off good begaviour in prison. 238 days remission
			Sentence of discharge with ignomy remitted by Senior Officer GMHQ 27 May 1942	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 th day of December 1942

L. S. Kemp Gill Lind
Major.
(C.S. Nickle) Officer Commanding
Hast. & P.E. Coy 1 G.F.I.R.S.

~~In the second instance, to the present date~~

In the rank of _____ years _____

In the rank of _____ years _____

~~In the rank of~~ _____ years _____

Date of Promotion _____

INSTRUCTION—*If any matter on any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

"Exhibit" F

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
C4203	Private	Leadbetter, A.W.	Hast. & P.E. Coy, 1 CDIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	Nil times	4 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted~~, or

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days civil custody, and 17 days in military custody, making a total of 17 days, which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 26 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 116 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 116 days service.

9. The accused is entitled to reckon 1 year 116 days service for the purpose of determining his pension, etc.

~~10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)).~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of , dated and in his regiment (or corps or department) the rank of dated~~

*[illegible] Wt.[illegible] 75,000 12/40 A. & E. W. Ltd. Gp.[illegible]
[illegible] Wt.[illegible] 25,000 4/41 " "

Certified true copy [signature] Major

No. C4203 Name Leadbetter A.W. Sqn., Battery, or Company Corps Hast. & P.E. Date of enlistment 26 Sep G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1210-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 34 2 Signature O.C. Company, etc. C.S. Nickle Character Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				6. Cond. to the predjudice in that he was in possesion of a Soldier's Service book other than his own A.A. Sec 40					
				7. Conf. to the predjudice in that he falsely signed the name of another man on a certificate of a apprehension A.A. Sec 40					
								E.J. Rider Lt.	

Remainder of sentence commuted from imprisonment to detention, credit for time ofoff good behaviour in prison. Sentence of discharge with ignomy remitted by senior officer CMHQ 27 May, 1942

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Trial	By whom awarded	Remarks
Rusper Area	3-8-40	Pte		WOAB, AWL from 2300hrs 3-8-40 to 1600hrs 17-8-40	Cpl Thompson Cpl Fairchild	21 days detention	19-8-40	Maj Graham	14 days pay
Field	19-9-40	Pte		WOAB, AWL from 0745hrs 19-9-40 to 1630hrs 8-10-40		60 days detn	31-10-40	F.C.C.M.	41 days pay
Witley	20 Oct 40	Pte		1. Stealing public property on or about 20Oct 40 A.A.Sec 18 (4) 2. AWL from 0700hrs 26 Dec 40 till 1600hrs 10 Jan 41 A.A. Sec 15 (1) 3. While in confinement AWL from 0730 hrs 1 Feb 41 till 0230 hrs 14 Feb 41 A.A. Sec 15 (1) 4. While in confinement AWL from 1720 hrs 22 Feb 41 till 1630 hrs 15 Apr 41 A.A. Sec 15(1) 5. While in confinement A.W.L. from 1900hrs 1 May 41 till 0300hrs 18 May 42		To be discharged 3 Jun 41 with ignominy from H.M. Service and to be imprisoned with hard labour for two years Found guilty on all charges the findings and sentence of the Court were confirmed by the G.O.C. in Chief Unit on 30 Jun 41 Released from detention 3 Oct 42 sentence having ex remission of 236 days		Forf 62 days pay while in arrest Forf 92 days pay Par 14y (1) (A)

Certified true copy [signature] Major

No. C4203 Name Leadbetter A.W. Sqn., Battery, or Company Corps Hast & P.E. Date of enlistment 26 Sep 1939 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1210-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet 29 Nov 1939 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. C.S Nickle Character Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed on completion of six months service 26 Mar 1940 [signature]					
Aldershot	7-7-40	Pte		WOAS, AWL from 0630hrs 7-7-40 to 1700hrs 8-7-40	Cpl Davis	14 days C.B.	11-7-40	Maj.Crowe	2 days pay
Aldershot	30-3-40	Pte		WOAS,AWL from 2300hrs 30-3-40 to 0755hrs 2-4-40	L/Cpl Young	5 days C.B.	2-4-40	Maj Crowe	3 days pay
Bivouac Area Aldershot	21-7-40	Pte		WOAS,AWL from 1500hrs 21-7-40 while on C.B.	Cpl Dixon	7 days detn	26-7-40	Maj Graham	1 days pay

[signature]

(P.T.O.)

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Witley, Surrey,
this 14th day of,
December 1942

A. W. Leadbetter
(C.4203 Pte Leadbetter) Hast. F.E.

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my Court-Martial.

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut. J.F. Faulkner
if he is available. Hast. & P.E. Coy.

Dated at Witley, Surrey,
this 14th day of
December 1942

A. W. Leadbetter.
(C.4203 Pte Leadbetter) Hast&P.E.

P.O.W.

Exhibit "B"
T.R.O.G.

P.F.P.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No C-4203... Rank Pte... Name ..Leadbetter. A.W.....

Unit ..#. 1 C.D.I.R.U..... was arrested at Birmingham. (Place)
By C.M. Police and handed over to Cdn, Provost Corps at about 15.30 hrs 13 Dec 42
at 0300...(Hour) on ..12th Dec-42....(Date) and that at the time of his
arrest he was wearing (Military Uniform) or ~~XXXXXXXXXXXXXXX~~).
Signature of Provost-Marshall, Assistant Provost-Marshall or other
officer or the Commanding Officer of the portion of His Majesty's
Forces or the officer, warrant-officer, or non-commissioned officer in
charge of the detachment of the Canadian Provost Corps, Canadian Army
into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)'

.....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Sir,

I have read over and corroborate the above statement.

BIRMINGHAM.
12th December 1942.

L/Cpl.
C.M.Police.

To:- Officer Commanding,
"D" Coy. Hasting & Prince Edward Regt.
Royal Canadian Army,
Bognor Regis.

HD/1/42

The above report is forwarded for your information and any action you may deem necessary.

Birmingham.
12.12.42

Major.
APM.168 Provost Company, C.M.P.

REPORT. "Exhibit" E. 1970

To. The A.P.M., Central Midland District, BIRMINGHAM.

Sir,

I have to report that at BIRMINGHAM, on 13th December 1942 about 0300hrs I was on duty at the Y.M.C.A., DALE END, in company with L/Cpl. Welham C.M.Police, where I requested to be allowed to inspect the register, containing the particulars of Service personnel sleeping there.

On examination I found that there were two entries in the name of J.Campbell, both in the same handwriting, but the regimental numbers stated where different, one being C.5553 and the other C.4203.

I then proceeded to the sleeping quarters where I saw the undermentioned soldier;

C.5553 J.CAMPBELL,
"D" Coy, Hastings and Prince Edward Regt.,
Royal Canadian Army,
BOGNOR REGIS.

I asked him to produce his leave pass and on examination I found that the dates had been altered to read 3/12/42 to 17/12/42, which made the pass appear to be genuine. I then asked him to produce his ration card. He was unable to do so and said, You have my pass. I have left my ration card at CROYDON". I then pointed out to him that the dates on the pass had been altered, he replied, "Thats how I got it from the office".

I then asked him to produce the return half of his railway ticket. This had been punched three times, there was no date of issue on the reverse side and the starting point was partly erased.

I then questioned him regarding the two different numbers which he had used in the register and he replied, "The number C.4203 was issued to me in Canada and the other was issued to me two years ago, when I came to this country. I must have made a mistake".

I was not satisfied with the explanations given by him and I conducted him to the Central Lock Up, Steelhouse lane for further enquiries to be made.

The Canadian Provost were later contacted by telephone on two occassions and on their instruction he was left under arrest pending the arrival of an escort.

The Militia Book 1. in his possession gave his particulars as stated above.

Leave Pass and Railway Ticket attached.

BIRMINGHAM.
13th December 1942.

A.A.Byrne L/Cpl.
C.M.Police.

P.T.O.

Exhibit "D" T.R.O.G.

If a calling-out of the whole Arm[illegible]serve is ordered every soldier on pass must return immediate[illegible] his unit without waiting for instr[illegible]tions.

No. ~~C5553~~ 56 Regiment A & P E Regt.

Reg. Form B295 (Rule 9 of 1881)

PASS

No. C5553 (Rank) Pte (Name) J. D. Campbell

has permission to be absent from his †quarters/duty, from

2/12/42 to 2308 hrs 2/12/42

for the purpose of proceeding to* Birmingham

(Station) Inthfield

(Date) 2/12/42

E. J. Ferguson
Commanding
Maj.

[P.T.O.

† Delete whichever is not practicable.
* Destination not required unless absence is to [illegible] 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of [illegible] ticket at reduced fare.

CROWN COPYRIGHT RESERVED

P.F.P.

CONDG. THE HASTINGS & PRINCE EDWARD REGT. LT. [illegible]

Wt. 27001/1006 300m. 9/41 L.P.S. Sl.1380

Exhibit "C" T.P.O.G.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 [illegible]

Reg. No. C4203 Rank Pte. Name Leadbetter, A.W. Unit 1 CDIRU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Un~~it from~~ London from Birmingham

Date	Particulars	Amount		
14 Dec. 42	Escorts return fare from LONDON To Birmingham (½ portion)		8	6
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		4	0
	Total £	1	1	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

5

Exhibit "A"
T.P.O.G.

1 C 10

RECORD of the Declaration of a Court of Inquiry assembled at 1 C.D.I.R.U.

on the 28th day of Nov. 1942

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. C-4203 Pte. Leadbetter A. (HPE) 1 CDIRU by authority of Par I D.O. 2868 d/27 Nov. 42

DECLARATION

The Court declare, that C-4203 Pte. Leadbetter A. HPE 1CDIRU illegally absented himself without leave from 0800hrs. at Algonquin Camp on 26 Oct. 42 and is still so absent and that on the 26 Oct. 42 he was deficient and is still deficient the following articles:

Anklets web	1	0- 3-5½	0- 2-6½
Badges cap	1	0- 0-4	0- 0-3
Badgges shoulder	3	0- 1-4½	0- 1-½
Blouses serge	1	1- 7-8	1- 0-10
Trousers serge	1	1- 7-11	1- 0-11
Boots ankle prs	2	2- 3-0	1-12-4
Braces prs	1	0- 1-3½	0- 1-0
Bras button	1	0- 0-2	0- 0-1½
Brushes black	1	0- 0-8	0- 0-6
Brush polish	1	0- 0-9	0- 0-6¾
Brushes cloth	1	0- 1-1	0- 0-9¾
Brushes shaving	1	0- 1-4	0- 1-0
Brushes tooth	1	0- 0-4½	0- 0-3½
Cap F.S.	1	0- 3-8	0- 2-9
Greatcoat	1	3-17-½	2-19-0
Comb hair	1	0- 0-2	0- 0-1½
Dressing 1st field	1	0- 1-1	0- 0-9¾
Fork	1	0- 0-5	0- 0-4½
Holdall	1	0- 0-3	0- 0-2½
Jacket sweater	1	0- 6-9	0- 5-¾
Knife clasp	1	0- 5-2½	0- 3-10½
Knife table	1	0- 0-9½	0- 0-7
Razor	1	0- 1-10;	0- 1-5½
Shirt flannel	1	0- 9-2	0- 6-10½
Spoon table	1	0- 0-4½	0- 0-3½
Towel	1	0- 0-11½	0- 0-9
Vests P.T.	2	0- 3-0	0- 2-3
Brushes hair	1	0- 1-1	0- 0-9
Waterbottle	1	0- 2-11	0- 0-9
Frog bayonet	1	0- 1-6	0- 0-10½
Hafersack	1	0-10-5	0- 7-10
Respirator complete	1	1- 4-10½	0-18-8½
Total £		13-0-11½	9-15-4

Names of President and Members:

President	Capt. J.A. Critch
Member	Lieut. H.C. Holland
Member	Lieut. G.C. Pullen

Signature of Commanding Officer C.C. Ferrie Lt-Col.

Certified true copy H. J. Lukenson Lieut.

Signature of Officer having custody of original record.

The accused having been duly warned in accordance with Rule of Proceedure 4 (E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused at Algonquin Ca mp, Witley, Surrey, on the 10th day of December 1942 and that Rules of Proceedure 4 (C), (D), (E), and (F) have been complied with.

T.P. O'Gorman Lieut.
(T.P. O'Gorman) Officer taking Summary of Evidence.

Algonquin Camp,
Witle y, Surrey.
10th day of December 1942.

President

to produce his ration card. He was unable to do so and said, You have my pass. I have left my ration card at CROYDON. I then pointed out to him that the dates on the pass had been altered. He replied, "That's how I got it from the office".

I then asked him to produce the return half of his railway ticket. This had been punched three times, there was no date of issue on the reverse side and the starting point was partly erased.

I then questioned him regarding the two different numbers which he had used in the register and he replied, "The number C4203 was issued to me in Canada and the other was issued to me two years ago, when I came to this country. I must have made a mistake".

I was not satisfied with the explanations given by him and I conducted him to the Central Lock Up, Steelhouse Lane, for further enquiries to be made.

The Canadian Provost were later contacted by telephone on two occasions and on their instruction he was left under arrest pending the arrival of an escort.

The Militia Book 1 in his possession gave his particulars as stated above.

Leave Pass and Railway Ticket attached.

BIRMINGHAM,
12th December 1942.

A.W. Byrne, L/Cpl.
C.M. Police.

A statement of this witnesses evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence. Due to the loss of time involved, the attendance of this witness cannot, in my opinion be readily procured. The accused does not demand the attendance of this witness for cross examination.

T.P. O'Gorman ...Lieut.
Officer taking the Summary.

THIRD WITNESS for the PROSECUTION

Major G.S. Nickle, Officer Commanding, Hast. & P.E. Company, No. 1 Canadian Division Infantry Reinforcement Unit, having been duly sworn states:

I am Major G.S. Nickle, Officer Commanding, Hast. & P.E. Company, No. 1 Canadian Division Infantry Reinforcement Unit. I have examined the pass marked Exhibit "D" made out to C5553 Pte. Campbell J.D. and state that this pass is not a genuine leave pass made out at the Hast. & P.E. Company or signed by an officer of this Company. I identify the accused as C4203 Pte. Leadbetter, A.W. who is and was at all times material hereto on the strength of the Hast. & P.E. Company, No. 1 Canadian Division Infantry Reinforcement Unit.

The accused declines to cross examine the witness.

G.S. Nickle ...Major
(G.S. NICKLE) O.C.
Hast. & P.E. Company,
No. 1 C.D.I.R.U.

SUMMARY OF EVIDENCE

In the case of No. C4203 Private Leadbetter, A.W. of the Hast. & P. E. Regt. on the strength of 1 Canadian Division Infantry Reinforcement Unit.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

FIRST WITNESS for the PROSECUTION — Lieut. H.J. McDougall, Assistant Records Officer 1 C.D.I.R.U., having been duly sworn states:

I am Lieut. H.J. McDougall, Assistant Records Officer 1 C.D.I.R.U. I produce M.F.R. 375, Copy of the Court of Inquiry, which relates to the accused whom I now recognize. This document is marked EXHIBIT "A".

I produce Certificate in Accordance with P.O.2797 relating to the accused and purporting to be signed by the Officer i/c Detention Room, No. 6 Canadian Provost Company. This document is marked EXHIBIT "B".

I produce Expense Voucher relating to the accused and purporting to be signed by the Officer issuing Railway Warrant and Expense Monies for the return of the accused and his escorts. This document is marked EXHIBIT "C".

The accused declines to cross examine the witness.

H.J. McDougall ...Lieut.
(H.J. McDougall) Assistant
Records Officer 1 C.D.I.R.U.

SECOND WITNESS for the PROSECUTION — L/Cpl. A.H. Byrne, Corps of Military Police, states:

REPORT

The A.P.M., Central Midland District, Birmingham.

Sir,

I have to report that at Birmingham on the 12th ofDecember 1942 at about 0300 hrs I was on duty at the Y.M.C.A., Da le End, in company with L/Cpl. Welham, C.M.Police, where I requested to be allowed to inspect the register containing the particulars of Service personnel sleeping there.

On examination I found that there were two entries in the name of J. Campbell, both in the same handwriting, but the regimental numbers stated were different, one being C5553 and the other C4203.

I then proceeded to the sleeping quarters where I saw the undermentioned soldier:

C5553 J. Campbell,
"D" Coy. Hastings and Prince Edward Regt.,
Royal Canadian Army,
Bognor Regis.

I asked him to produce his leave pass and on examination I found that the dates had been altered to read 3/12/42 to 17/12/42, which made the pass appear to be genuine. I then asked him

28th Dec 42.

Statement by the Officer Defending C.4203 Pte. Leadbetter A.W.

With the consent of the Court I would like the accused to answer a few questions.

Q. Tell the Court when you first broke the Law?

A. At the age of 8 and I was placed in an Orphans Home.

Q. You were there until you were fifteen years of age?

A. Yes Sir.

Q. What happened at the age of fifteen?

A. I came out.

Q. How long were you out before you broke the law again?

A. Two years, and I was apprehended for stealing a car, after which I spent eighteen months in Reform School.

There is very little point in proceeding Sir, but up to the time that this man joined the Active Militia he has been more or less in the Custody of the State. He is what is known as a criminal type. I submit Sir, that it was a mistake on the part of the State that the accused was accepted into the Active Militia. I believe it now the Duty of the State to Discharge this man from the Service to which he is obvilously not suited. I recommend that on the two charges to which he has pleaded guilty the accused be justly punished before his Discharge takes effect, but I would ask you to consider the fact that from boyhood the accused has known very little of any life except that of imprisonment. I hope that you will find it possible to keep the sentence down to a hundred and eighty days (Six Months) and that you will see fit to recommend a Discharge with Ignominy.

PRESIDENT, F.G.C.M.

.....

Peter F. Pirie, Major
O.C. Westminster Trng. Coy.
5 C.I.R.U. (Arm'd. Div.)

R.P.P.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Algonquin Camp Military THIS 28 DAY OF Dec 42

TRIAL OF:-No. C4203 Pte Lesbutter A.W. Unit Hart-o P.E.R. 1 C D I R

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. T.P.O'Gorman (Unit) 1 C.D.I.R.U

Defending Officer:- (Name) Lt. J.F. Faulkner (Unit) 1 C.D.I.R.U

At 08.30 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No.

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. Major Peter F. Pain ...(Unit) 5 C.D.I.R.U

Members Capt. C.A. Bryan ...(Unit) 5 C.D.I.R.U

~~Lieut. C.D. Mackay R.H.~~ ...(Unit) 5 C.D.I.R.U

Lieut W.A. McDonald

The officers under instruction are duly sworn.

Q2 Do you object to ~~Sgt. Pratt~~ acting as shorthand writer? A2 - ~~Sgt. Pratt~~ was used.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name. Lt. T.P.O'Gorman (Unit). 1 C.D.I.R.U. ....sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - yes

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - My Defending Officer.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

P.T.P.

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. C 4103 PTE LEADBETTER. A. No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion, he is fit ~~unfit~~ to undergo trial by Court-Martial.

[signature]

(Medical Officer)

DTHP

CHARGE SHEET

The accused , No. C4203 Private Arther Wilfred Leadbetter, of the Hastings and Prince Edward Regiment on the strength of Number 1 Canadian Division Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Sec. 15 (1)
Army Act

When on Active Service, absenting himself without leave,

in that he,

a t Algonquin Camp, Witley, Surrey, absented himself without leave from 0800 hours on the 26th of October 1942 until being apprehended by the Corps of Military Police at Birmingham at 0300 hours on the 12th of December 1942, thereby incurring expenses to the Public for the cost of his apprehension in the amount of £1-1-0.

Tota l Absenc e: 46 days and 19 hours.

Second Charge
Sec. 40
Army Act

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

at Birmingham on the 12th of December 1942 was in possession of a document purporting it to be a genuine leave pass well knowing that it was not genuine.

.....Colonel
(A.S. Pearson) Commander
1 Cdn. Div. Inf. Reinf. Unit.

Algonquin Camp,
Witley, Surrey.
16th day of December 1942.

To be tried by Field General Court Martial.

(M.K; Greene) Colonel,
A/Commander,
"A" Group Cdn. Reinf. Units,
C.A.(O).
Convening Officer.

Witley, Surrey,
26 Dec. 42.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-4203 Pte. Arthur Wilfred LEADBETTER Hast.& P.E.R. I C.D.I.R.U.	First Charge A.A. Sec. 15(1)	guilty	guilty	Confirmed W.H.Greene Col o/Cond "A" Gp CRU 28 Dec 42
	Second Charge A.A. Sec. 40 To be put under stoppages of pay until he has made good the sum for cost of apprehension	guilty	guilty ~~£1-1-0~~ To undergo Detention for 18. Months 28. Dec. 42. Peter F. Wise Maj President.	
	SEE CHARGE SHEET ATTACHED.			

"I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial."...

Peter F. Wise Maj
President of the Court.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) W.H.Greene Colonel (Signed) Peter F. Wise Maj
A/Commanding "A" Gp.Cdn.Reinf.Units, President. ±C
Convening Officer. C.R.U.(O). Mustn. Regt. Depot
5.C.D.I.R.U.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of December 42., and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) P.F.P.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th, day of December 19 42.

Peter F. Wise Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this 1st day of 19 .

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 28th day of Dec 19 42

W.H.Greene Col
Confirming Officer.
A/Cmd A Gp CRU

Promulgated and extracts taken in the case of Pte. A.W. Leadbetter (HPR)(I CDIRU)
Promulgated in UNIT PART II D.O. #313, d, 28 Dec 42

(*a*) (Dated) 28 Dec 42 (Signed) R Sainsbury Col.
COMMANDING I C.D.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(B4) Wt. 38092/1316 70m 1/41 W. & Co., Ltd. Gp. 746/2

C-4203 Pte. Arthur Wilfred LEADBETTER
Hast. & P.E.R. 1 C.D.I.R.U.

GO/313/29 Dec 4

22 V

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 26th day of DECEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in A/Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~I am unable to appoint:—~~

*(1. ~~[three Officers to form the Court.]~~

*(2. ~~A Field Officer as President.]~~

~~for the following reasons, namely:—]~~

Proceedings Reviewed
[signature]
for Reviewing Officer (J.A.G.) M.H.Q.
18 Jan 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	P.F. PIRIE (Westmr.R.)	5 C.I.R.U.(Arm'd Div.)

Members.

Rank.	Name.	Regiment.
Captain	C.A. Bryan (Perth R.)	5 C.I.R.U.(Arm'd Div.)
Lieutenant	W.A. MacDonald (C.B.Highrs.)	5 C.I.R.U.(Arm'd Div.)
Waiting Member Lieutenant	C.D. MacKay (R.H.L.I.)	2 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Colonel,

A/Commanding "A" Group Cdn. Reinf. Units, C.A.(O).

Convening Officer.

22-V (3rd case)

Ste. LEADBETTER, A.W.

See 135 for 1st case
2358 " 2nd "

A.F.B.296

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED.

C- 4203 PRIVATE ARTHUR WILFRED LEADBETTER, HAST.& P.E. (5C.I.R.U.)

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

Within last 12 months	Since Enlistment
A.A. 15(1) 1	A.A. 15 (1) 8 TIME

2. Number of instances of gallantry or distinguished conduct. NIL. A.A.R.
3. ~~The accused is not under sentence at the present time.~~ A.A.R. A.A.R.
~~The accused has not been previously convicted by a Court-Martial or a civil Court.~~ A.A.R.

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which 0 days were spent in hospital. at 0915 hrs 4 March 43.

5. The present age of the accused according to his attestation paper is 26 years. 164 days.

6. The date of his attestation specified in his attestation paper is
26 SEPT. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years 151 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 151 dys service.

9. The accused is entitled to reckon 3yrs 151 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

F.G.C.M. AND CONVICTED A.A. 15 (1) 31 OCT. 1940 — 60 days defn
F.G.C.M. AND CONVICTED A.A. 18(4), 15(1), 40. 3 JUNE 1941 — [illegible]
F.G.C.M. AND CONVICTED A.A. 15(1), 40. 28 DEC.1942.
A.A.R.

5 CIRU

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Exhibit "E"
Moore Major

H.C. Ross, Lieut
for RECORDS OFFICER,
5 C.I.R.U.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			5	While in confinement A.W.L. from 1900hrs 1may 41 till 0300hrs 18 May 41 A.A. Sec 15 (I)					
			6	Ander to the prejudce ect in that he was in possesion of a soldiers pay book other than his own A.A. Sec 40					
			7	Ander to the prej ectc in that he falsely signed the name of another man on a certificate of apprehenson A.A. Sec 40					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	19/9/40	Pte		A.W.L. from 0745hrs. 19/9/40 to 1630hrs. 8/10/40		60 Days Detn	31/10/40	F.G.C.M.	Forfeits 91 Days Pay 20 Days A.W.L. ii " Det awaiting Trial 60Days Det 91 Days Pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Algonquin	7-10-42	Pte		AWL from 2200 hrs 7-10-42 until 0730 hrs 8-10-42 Total Absence 9 hrs 30 min A.A.15	Sgt Amyott	Admonished	9-10-42	Lt.-Col W.J.BINGHAM.	1 days Auto forf
Algonquin	26/10/42	Pte		AWL from 0800 hrs 26/10/42 until 0300 hrs 12 Dec 42.Total absence 46 days 19 hrs Sec.15(1) A.A.Sec.40 Conduct to the prejudice etc.having in his possession a document purporting it to be a genuine leave pass knowing that the same was illegal		Guilty on both charges to undergo detention for a period of 18 Month and to pay Cost of Apprehension in the amount of $1-1-0		F.C.C.M. "The finding and sentence of the Court were confirmed by Commander "A" Group,CRU on 28 Dec 42. CERTIFIED TRUE COPY A Campbell Capt. A/C CAPITAL DOCUMENT	548 days F.R.& I 149(1)B 16 Days F.R.&I 149)1)C Total Forf.564 dys

No. C4203 Name Leadbetter. A.W. Sqn., Battery, or Company — Corps H.P.E. — Date of enlistment 26/9/39 — G.C. Badges — Service or Proficiency Pay — W.F.M. 6

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	20/10/40	Pte	1	Stealing public property on or about 20th October 40 A.A. Sec 18		To be discharged with ignominy from H.M.S and to be imprisoned with hard labour for two years	3 June 41	F.O.C.W.Forf 62dys Pay	
			2	A.W.L. from 0700hrs. 26 Dec 40 till 1800hrs. 10 Jan 41 A.A. Sec 15 (I)					While in arrest Forf 92 days Pay F.R. 149 (I) (a)
			3	While in confinenemt A.W.L. from 0730hrs. 1 Feb 41 until 0230hrs. 14 Feb 41 A.A. Sec 15 (I)					
			4	While in confinenemt A.W.L. from 1720hrs. 22 Feb 41 till 1830hrs. 15 April 41		Found guilty on all charges the findings and sentences of the court were confirmed by the G.O.C. Cdn Base Unit on the 30th June			

CERTIFIED TRUE COPY

No. C4203 Name Leadbetter. A.W. Sqn., Battery, or Company H.Q. Corps Hast.& P.E.R. — Date of enlistment 26/9/39 — G.C. Badges — Service or Proficiency Pay — W.F.M. 6

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Picton	5/II/39	Pte		A.W.L. from 0615 hrs. 4/II/39 to 2225 hrs. 5/II/39		Remanded to C.O. 6/II/39		Maj Matthews	
Picton	4/II/39	Pte		A.W.L. from 0615 hrs. 4/II/39 to 2225 hrs. 5/II/39		3 Days C.B.	7/II/39	Maj Matthews	Forfeits 1 Days Pay
Picton	19/II/39	Pte		A.W.L. from 2200hrs 19/II/39 to 2400hrs. 21/II/39	Sgt. Gray.	168 hrs. Det Hard Labour	22/II/39	Lt.Col Young	
Aldershot	30/3/40	Pte		A.W.L. from 2300hrs. 30/3/40 To 0755hrs. 2/4/40	L/cpl Young	5.Days C.B	2/4/40	Maj. Crowe	3 Dys pay
Aldershot	7/7/40	Pte		A.W.L. from 0630hrs 7/7/40 to 1700hrs. 8/7/40	Cpl Davis	14 Days C.B.	11/7/40	Maj. Crowe	2 Days Pay
Bivouac Area	21/7/40	Pte		A.W.L. from [illegible]00hrs. 21/7/40 while on C.B.	Cpl Dixon	7 Days Detn.	26/7/40	Maj Graham	1 Days Pay
Aldershot Rusper Area	3/8/40	Pte		A.W.L. from [illegible]00hrs. 3/8/40 to 1600hrs. 17/8/40	Cpl Thompson Cpl Fairchild	21 Days Detn	19/8/40	Maj Graham	14 Days Pay

No. C-4203 Name Pte. Leadbetter A.W. Sqn., Battery, or Company — Corps — Date of enlistment — G.C. Badges — Service or Proficiency Pay — W.F.M. 6

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Remainder of sentence commuted from imprisonment to detention credit for time off good behaviour in prison. Sentence of discharge with ignomy remitted by Senior Officer CMHQ 27 May, 1942.

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at FARNBOROUGH, LILLE BKS. , preliminary to my Court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-martial.

A W Leadbetter

Dated at
this 23 day of
February 1943

(2) I hereby acknowledge that I have been served with a true copy of an additional summary of evidence taken at FARNBOROUGH. LILLE BKS. , preliminary to my Court-martial.

(3) I hereby request that the Commanding Officer appoint an Officer to represent me at my trial.

I desire the services of
if he is available.

Dated at
this 23 day of
February 1943.

A W Leadbetter

LIST OF EXHIBITS

List of exhibits in the case of C.4203 Private Arthur Wilfred LEADBETTER, Hast. & P.E. Regt., on the strength of 5 C.I.R.U.

EXHIBIT "A"

Certified true copy of the Declaration of Court of Inquiry, d/18 Feb. 43, in the case of C.4203 Private Arthur Wilfred LEADBETTER.

EXHIBIT "B"

Certified True copy of Part II Order No. 5, 1 C.D.I.R.U. d/6 Jan. 43.

EXHIBIT "C"

Certificate of arrest.

EXHIBIT "D"

Expense voucher for C.4203 Private Arthur Wilfred LEADBETTER, and his escort.

EXHIBIT "E"

Statement of Lance Corporal B. Courtney, and Lance Corporal C. Swann, of the Canadian Military Police.

EXHIBIT "F"

Army Form B.295 which was in possession of C.4203 Private Arthur Wilfred LEADBETTER, when he was apprehended.

EXHIBIT "G"

Statement of Private E. Bettinson, and Private R. Vassey, of 334 Coy., Provost Corps.

LIST OF WITNESS

List of witness in the case of C4203 Private Arthur Wilfred LEADBETTER Hast.&P.E., on the strength of 5C.I.R.U.

FOR THE PROSECUTION

1. Lieut. D.A. McAlpine, Royal Highland Regt. on the strength o f 5C.I.R.U.

2. C-4278 C.S.M. Spiers R. Hast.&P.E. on the strenght of 5C. 5C.I.R.U.

3. L/cpl. B. Courtney Canadian Militiary Police, Birmingham detachment.

4. L/cpl. Swann C. Canadian Miliitary Police, Birmingham detachment.

5. 11426350 Pte. Bettenson E. 334 Co'y. Provost Corps.

6. 11269121 Pte. Vasey R. 334 Co'y. Provost Corps.

FOR THE DEFENSE

NIL.

Certificate in accordance with the Army Act. Section 163 (1) (ii) Exhibit C

I certify that No. C/4203 Rank PTE Name LEADBETTER A.W.

Unit H.P.E. REGT. R.CANADIAN FORCES was arrested at BIRMINGHAM.

---------- at 09.15 hrs. on 14th. February 1943

Station BIRMINGHAM

Date 14/FEB/43

Signature of Provost Marshal, A.P.E. or other officer into whose custody the a/n person was taken on arrest.

[signature]

O.C. Birmingham Detachment, C.M.P.

Exhibit A

RECORD of the Declaration of a Court of Inquiry assembled at Lille Bks. Farnborough. on the 18th day of February 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C4203 Pte Leadbetter, A.W. (Hast. & P.E.)

DECLARATION

The Court declare that No. C-4203 Pte Leadbetter, A.W. (Hast. & P.E.)

illegally absented himself without leave From lawful custody at No. 2 Det'n Bks. 1 CDIRU on the 4th day of January 1943, that he is still so absent, and that on the 5th Jan. 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE £	S.	D.	ARTICLES	VALUE
1 badges cap			3		
1 Boots ankle		16	8½		
1 Braces Pair			11¾		
1 Drawers Woolen		3	11¾		
1 Dressing F.F.			9¾		
1 Housewife		1	8¼		
1 Jacket Sweater		5	0¾		
1 Knife Table			7		
1 Shirt Flannel Khaki		6	10½		
1 Socks Pair		1	1½		
1 Denim Blouse		9	6¾		
1 Denim Trousers		8	9¾		
2 P.T. Vests		2	3		

(C.S. Nickle) Major President

(I. C. Campbell) Capt. Member

(H.B. Holland) Lieut. Member

Signed at Lille Barracks, Farnborough.

this 18th day of February 1943

Signature of Commanding Officer (A.B. Noble) Lt./ Col.

Certified true copy Duncan A. McAlpine Lt.

Signature of Officer having custody of original record

M.F.B. [illegible]
A.F.B. [illegible]
[illegible]
B.C. [illegible]

LAST ORDER
NO. 4
5 JAN 43

1. CANADIAN DIVISION INFANTRY
REINFORCEMENT UNIT
PART II DAILY ORDERS
SHEET SIX

THIS ORDER
NO. 5
6 JAN 43

26- POSTINGS

(a) Posted from Reinf. strength PPCLI Coy, and posted to "A" Wing (Surplus to Establishment) as Educational Cpl. w.e.f. 1 Jan 43. (Auth. Chu A 17 (A.3) d/4 Jan 43)
H16357 A/L/Cpl Moore E.R. (PPCLI)

AG

J R Turner Lieut Major
for (T.J. MacArthur) Admin. Officer.
1. Cdn. Div. Inf. Reinf. Unit.

Certified true copy consisting of three sheets
J R Turner
Lieut
Ass't Adjutant
1 CIRU

21- MARRIAGES

(a) Having been granted perm. to marry was married to (Miss) Majorie Joan Monger. at Milford, Surrey, on 26 Dec 42. (Cert. #D396471)
K86329 A/Sgt Palmer L.H. (PPCLI)

(b) Having been granted perm. to marry, was married to (Miss) Freda, Irene, Joan, Prosser. at St Barnabas, Sutton, Surrey, on 26 Dec 42. (Cert. #D.412621)
B73604 Pte Stirrat J. (48th H of C)

22- CHANGE OF ADDRESS OF NEXT OF KIN

(a) To: (Mrs) Patricia Kathleen Gray. (Wife) 6 Aldwick Rd, Bognor Regis, Sussex, Eng.
C5021 Sgt Gray W.S. (HPE)

(b) To: (Mrs) Marguerite Jewell (Wife) 32 Yarwood St. St Thomas Ont. Canada.
A88789 Pte Jewell D.H. (RCOC)

(c) To: (Mrs) M.J. Palmer (Wife) "The Nook" CranhurstLane, Witley, Surrey Eng.
K86329 A/Sgt Palmer L.H. (PPCLI)

(d) To: (Mrs) F.I.J. Stirrat. 7 Sutton Grove, Sutton, Surrey, Eng.
B73604 Pte Stirrat J. (48th H of C)

23- (a) The u/m personnel attended CMHQ Course #626 Ser 6, and were att'd to #33 Tech. Trng. Grp. from 22 Oct 42 to 20 Nov 42. Qualified "Passed Class III " as Dr. i/c. (DMM)
B75017 Pte Hodge A.B. (48th H of C)
H17896 Pte Amedeo S. (PPCLI)

(b) The u/m personnel attended CMHQ Course #626 Ser 6 (D&M) and were att'd #33 Tech. Trng. Grp from 22 Oct 42 to 20 Nov 42. Qualified "Passed"Class. III as Dr. i/c"
B72853 Pte Haldane J.D. ("A" W)
A10097 Pte Ridley C.E. (NCR)
G19732 Pte McDougall V.W. (CYR)

24- TRANSFER TO DETENTION

(a) The u/m SUS are transfered to Cdn. Det. Bks, w.e.f. 5 Jan 43.
E4442 Pte Guerin O. (R22eR)
P24705 Pte Morrison A.A. (WNSR)
C6173 Pte Lloyd D. (HPE)
G19095 Pte Godsoe G. (CYR)
G19032 Pte Galley J. (CYR)
G17557 Pte Thompson P.E. (CYR)

25- RELEASE FROM DETENTION

(a) Released from Cdn. Det. Bks. w.e.f. 5 Jan 43, and granted a remission of 20 days with pay.
C8309 Pte Palmer M.G. (HPE)

(b) Released from Cdn. Det. Bks. w.e.f. 4 Jan 43, and granted a remission of 4 days with pay.
E5073 Pte Racine M. (R22eR)

17- TRADESMEN'S RATES OF PAY CONT.

(a) Reverts to Regimental rates of pay w.e.f. 1 Jan 43.
H16357 Pte (A/L/Cpl) Moore E.R. (Clerk Gp. "C") (PPCLI)

(b) Reclaw trades pay group "C" (Clerk) on Edm. Regt. Coy,. Reinf. quaota, w.e.f. 5 Dec 42.
M16335 Pte McLeod, J.E. (EDM)

18- PUNISHMENTS

(a) Was on 27 Aug 41 sentenced to 2 years imprisonment with H.L. and on 27 Feb 42, remainder of sentence was commuted to detention. On 3 Sep 42, remainder of sentence was suspended by Senior Officer CMHQ and the u/m was given a remission of 357 days with pay. On 31 Dec 42, the suspended sentence was put into execution by Senior Officer CMHQ, 182 days of the remaining sentence to run concurrently with punishment awarded on 24 Dec 42. (See D.O. 312 d/28 Dec 42.)
Forf. 172 days pay under FR&I 149 (1) (b)
A4102 Pte Barnard D.L. (RCR)

(b) Was on 2 9 Dec 42 awarded 10 days C.B. and ordered to forf. 10 days pay for: WOA A.A. SEC 15 AWL from 0930 hrs 27 Dec 42, to 0930 hrs 28 Dec 42. (1 day)
(2) WOAS A.A. SEC 15 whilst under open arrest absent himself without leave from 1200 hrs 28 Dec 42 until 0830 hrs 29 Dec 42. (20 hrs 30 mins)
Forf. 10 days pay under FR&I 149 (2)
B73854 Pte Foster J.J. (UHQ)

(c) Was on 5 Jan 43, awarded 10 days C.B. and ordered to forf. 10 days pay for: WOAS A.A. SEC 15 AWL from 2200 hrs 4 Jan 43, to 0830 hrs 5 Jan 43. (10 hrs 30 mins)
Two days (2) of this ordered forfeiture to run concurrently with sentence awarded above (Awarded on 29 Dec 42)
Forf. 10 days pay under FR&I 149 (2)
B73854 Pte Foster J.J. (48th H of C)

(d) Was on 5 Jan 43, awarded 3 days F.P. and ordered to forf. 3 days pay for: WOAS A.A. SEC 15 AWL from 2359 hrs 2 Jan 43, to 1440 hrs 4 Jan 43. (1 day 14 hrs 41 mins)
Forf. 2 days pay under FR&I 149 (1) (a)
Forf. 3 days pay under FR&I 149 (1) (b)
Total forf. 5 days pay.
H17031 Pte LaVallee G. (PPCLI)

19- AMENDMENTS PUNISHMENTS

(a) D.O. 309 d/23 Dec 42, para 22 , insofar as it relates to the u/m is amended to read "By deleting Forf. 7 days pay under FR&I 149(1) (c) "Total forf. 9 days pay.
E5197 Pte Robidoux H. (R22eR)

20- STOPPAGE OF PAY

(a) Placed under stoppage of pay from 20 Dec 42, to 30 Dec 42. (Inclusive) Under FR&I 222 (Full pay)
G17153 Pte Gallagher D.J. (CYR)

LAST ORDER
No. 4
5 JAN 43

CANADIAN DIVISION INFANTRY
REINFORCEMENT UNIT
PART II DAILY ORDERS
SHEET THREE

THIS ORDER
NO. 5
6 JAN 43

11- HOSPITAL DISCHARGES CONT.

(e) E5815 Pte Gregoire J. (H22oR) From #1 CCD w.e.f. 5 Jan 43.
(f) G20080 Pte McLean H.W. (CYR) From #7 CGH w.e.f. 5 Jan 43.
(g) K62283 L/Cpl Seymour H.R. (PPCLI) From #14 CGH w.e.f. 5 Jan 43.
(h) H18903 Pte Shellington G.W. (PPCLI) From #1 CGH w.e.f. 5 Jan 43.

12- APPOINTMENTS & PROMOTIONS

(a) To be A/Cpl with pay whilst employed as educational Cpl. w.e.f. 4 Jan 43. (Auth. CRU A17 (A.3) d/4 Jan 43.)
H16357 Pte (A/L/Cpl) Moore E.R. (Aux. Services.) (A" W)

13- AMENDMENTS APPOINTMENTS & PROMOTIONS

(a) D.O. 4 d/5 Jan 43, para 12(a) insofar as it relates to the u/m is hereby cancelled.
F40168 Pte Jollimore R.E. (NSR)

14- REVERSIONS

(a) Relinquishes the acting rank of Sgt. on being appointed Band Cpl. w.e.f. 26 Dec 42.
P22200 Cpl (A/Sgt) Church M.R. (Band)

(b) Reverts to rank of L/Cpl at his own request on posting to 1 Cdn. Artillery Band w.e.f. 5 Jan 43.
P22191 Sgt Stephens W.R. (Band)

12(a) APPOINTMENTS & PROMOTIONS

(a) To be L-Cpl w.e.f. 26 Dec 42. (Auth. CMHQ 5/Band/1 (AG 1c) d/22 Dec 42)
D81490 Pte (A/L/Cpl) Lewis J.O. (Band)

15- LEAVE OF ABSENCE (AMENDMENTS)

(a) D.O. 4 d/5 Jan 43, para 13a (b) insofar as it relates to the u/m is amended to read "From 4 Dec 42, to 12 Dec 42 (8 days)"
K54079 Pte Bowie G. (SMOFC)
H65344 Pte Vader E.G. (EDM)

16- ABSENTEES

(a) The u/m SUS escaped from Local Det. w.e.f. 0945 hrs 4 Jan 43.
A4102 Pte Barnard D.L. (RCR)
A3281 Pte Schrans J.M. (RCR)
C4203 Pte Leadbetter A.W. (HPE)

17- TRADESMEN'S RATES OF PAY

(a) Ceases to draw trades pay Group "C" (Driver i/c) w.e.f. 10 Dec 42, (on being SUS to F.U)
B72855 Pte Canfield A.L. (48th H of C)

(b) To draw trades pay Group "C" (Clerk) on CYR Coy, Reinf. quota, w.e.f. 15 June 42.
G23325 Pte Gagne A. (CYR)

1. CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT
PART II DAILY ORDERS
SHEET TWO

4- STRENGTH INCREASE (CONT).

(h) TOS from F.U. (Nat Fus) w.o.f. 5 Jan 43. (Auth. D.O. 97/42 (WRSP)
R49827 Pte Plamondon R. (SHCFC)

(i) TOS from WRSR F.U. while on CMHQ Course #756 Sec L9. (Emerg. Cooks) w.o.f. 15 Dec 42. (Auth. D.O. 98/42 WRSP)
P49824 Pte Sheriff J.N. (WRSR)

5- STRENGTH DECREASE

(a) TOS to CMR F.U. on Returning from CMHQ Course #752 (Electro Mech) w.o.f. 21 Dec 42. (Auth. Int/Tel. Print. Ma2/22)
S19600 Pte Tompkins C.L. (CMR)

(c) SOS CMHQ Army w.o.f. 2330 hrs 2 Jan 43. (Deceased) (Auth. CANADIAN LIST "C" #924 3/4 Jan 43)
A8402 Pte Doupe W.N. (RCR)

6- ATTACHMENTS

(a) Attchd f.a.p. pending auth. to TOS w.o.f. 6 Jan 43.
R59183 Pte Tanguay A. (SHCFC)

7- AMENDMENTS ATTACHMENTS

(a) D.O. 4 d/5 Jan 43, para 6(a) insofar as it relates to the t/s is hereby cancelled.
C17634 Pte McInnis C.A. (CMR)

8- COURSES

(a) Proceeded on CMHQ Course #809 Sec H.V. 22 (Plt. Weapons) and attchd f.a.p. to Hythe Wing, Sma., Arms School, w.e.f. 5 Jan 43.
A71011 Sgt Lean F.H. (RCR)

9- HOSPITAL ADMISSIONS

(a) B77485 Pte Boyd H.L. (48th) To #15 CGH w.e.f. 5 Jan 43.
(b) M5105 A/Sgt Boucher J.(R22eR)To #15 CGH w.e.f. 5 Jan 43.
(c) M13532 Pte Nicholson J.J.(ETM)To #3 CMC w.e.f. 5 Jan 43.
(d) R5717 A/L/Cpl Phaneuf A.(R22eR) To #2 CMC w.e.f. 6 Jan 43.

10- HOSPITAL TRANSFERS

(a) [illegible] Pte Allen E.T. (CYR) To #1 CGH w.e.f. 6 Jan 43.

11- HOSPITAL DISCHARGES

(a) K46012 Pte Cameron A.D. (SHCFC) From #1 CGH w.e.f 5 Jan 43.
(b) 24740 Pte Bourgeois W. (R22eR) From #3 CCD w.e.f. 5 Jan 43.
(c) D120426 Pte Grant J.D.(RCOC) From #3 CMC w.e.f. 5 Jan 43.
(d) A4195 Pte Greenfield T. ([illegible]) From #3 CMC w.e.f. 6 Jan 43.

(Cont. on following page)

Exhibit B

LAST ORDER
NO. 4
5 JAN 43

1. CANADIAN DIVISION INFANTRY
REINFORCEMENT UNIT
PART II DAILY ORDERS
ISSUED BY
A/COL. A.S. PEARSON . E.D. COMMANDER.

THIS ORDER
NO. 5
6 JAN 43

SECTION "A" OFFICERS

1- STRENGTH INCREASE

(a) TOS from EDM F.U. w.e.f. 5 Jan 43,. (Auth. 6-1-CDIRU/1/2 (A.3) d/26 Nov 42)
Capt. B.B. Taylor. (EDM)

2- STRENGTH DECREASE

(a) SOS to 5(Batte) Wing CTS, w.e.f. 17 Nov 42. (Auth. CMHQ 2/5/Wing/Inst/1 (MS 5) d/9 Nov 42)
Capt. E.W. Thomas. (SHOFC)

3- ATTACHMENTS

(a) 4 Officers (Reinf) HPE att'd f.a.p. pending documents, and posted to HPE Coy,. w.e.f. 19 Dec 42.

(b) 5 Officers (Reinf) SHOFC att'd f.a.p. pending documents, and posted to SHOFC Coy,. w.e. f. 19 Dec 42.

(c) 3 Officers (Reinf) R22eR att'd f.a.p. pending documents and posted to R22eR Coy, w.e.f. 19 Dec 42.

(d) 2 Officers (Reinf) CYR att'd f.a.p. pending documents, and posted to CYR Coy, w.e.f. 19 Dec 42.

SECTION "B" OTHER RANKS

4- STRENGTH INCREASE

(a) TOS from RCR F.U. on adm. to Mil Hosp;, Iverasay, w.e.f. 30 Dec 42. (Auth. D.O. 2 /43 RCR)
A3102 Pte Doupe W.M. (RCR)

(b) TOS from SHOFC F.U. on adm. to #5 CGH w.e.f. 25 Dec 42. (Auth. D.O. 1 d/5 Jan 43 SHOFC)
K52454 L/Sgt Lannigan W.E. (SHOFC)

(c) TOS from CTS w.e.f. 20 Dec 42. (Auth. D.O. 116/42 CTS)
M17114 Cpl North J.O. (Group "C" Dr. Mech) (EDM)

(d) TOS from WNSR F.U. on adm. to #14 CGH w.e.f. 22 Dec 42. (Auth. D.O. 62/42 WNSR)
F43645 Pte Harris W. (WNSR)

(e) TOS from PPCLI F.U. and remains att'd f.a.p. to H.Q. 2 Cdn. Div. w.e.f. 2 Dec 42. (Auth. D.O. 57/42 PPCLI)
H16609 Pte Leclair C.E. (PPCLI)

Exhibit "H"
[illegible] major

(f) TOS from CTS w.e.f. 5 Jan 43. (Auth. AT/1432 d/4 Dec 42)
P21391 A/CSM Mainprize R.D. (PPCLI)

(g) TOS from EDM F.U. w.e.f. 1 Jan 43. (Auth. Ech/Circ. Letter #[illegible]2 d/28 Dec 42)
U1325 A/L/Cpl Patterson J.R. (EDM)

Exhibit B

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No. C-4203 Rank Pte. Name Leadbetter, A.W. Unit 5 C I R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ ~~Unit From~~ London from Birmingham

Date	Particulars	Amount		
20 Feb 13	Escorts return fare from LONDON To Birmingham		17	0
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Red~~, Meals, Bus fares		9	0
	Total £	1	14	6

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

Exhibit "G"

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Exhibit 6

Statement of EVIDENCE in the case of:-

No.C/4203.Pte.LEADBETTER. A.W.
IOI Camp. W.P.E. Regt. Royal Canadian Forces
Witley. SURREY.

Sir.

at BIRMINGHAM on the I4th February,I943, at about 0915hrs I was on duty at the SERVICES CLUB, JOHN BRIGHT STREET, where I saw the above named soldier. I asked to see his Pass and he produced a pass(attached hereto) On examination I observed that an alteration had been made in the date of expiration. I asked him for how long he was on leave to which he replied "Seven days, I return on the I8th". I then requested to see his M.B.I he replied " It is back at Camp". I informed him that I would have to check up on his statements and left him in the custody of L/Cpl.SWANN. Whilst making a telephone call to my Headqaurters the soldier broke away in an effort to evade arrest, he was chased by L/Cpl.SWANN and also Police Constable ORR. B'HAM CITY POLICE who finally caught the soldier in ELLIS STREET. He was escorted back to the SERVICES CLUB where he admitted being absent and also that the pass found in his possession was not his property. He was arrested and conveyed to the CENTRAL LOCK-UP STEEL HOUSE LANE to be detained and await escort.

Birmingham.
I4.2.43.

B Woolley L/C.
C.M.Police.

Sir.

I have read over and corroborate the above statement.

BIRMINGHAM
14-2-43

C Swann L/C.
C.M. POLICE

FORWARDED **CHARGE** O.C. Birmingham Army Tech. B 252
C.M.P. (See King's Regulations)

H.P.E. Regiment

ROYAL CANADIAN FORCES. Battery / Squadron / Troop or Company

CHARGE against No. C/4203. Rank Pte.

Name LEADBETTER. A.W.

Place BIRMINGHAM. Date of Offence 14.2.43.

OFFENCE W.O.A.S. . Absent from ? until apprehended by the Military Police at the SERVICES CLUB, JOHN BRIGHT STREET at about 0915hrs on the 14th February, 1943. 2. Irregular Conduct i.e. Being in improper possession of a Leave Pass, the property of No.7870. Pte. GAUETT. No.7. Canadian Gen Hospital. 3. Stating falsehoods to a N.C.O. of the Military Police. 4. Attempting to evade arrest. 5. Not being in possession of his M.B.I.

Names of Witnesses :— L/CPL. B. COURTNEY. C.M.P.
L/CPL. C. SWANN. C.M.P.

W. FERRY O.C. P.M.
LONDON AREA

Signature of Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

83/81.

30133. Wt.W12472/969. 2,000,000. 5/42. K. & H. Ltd. G87/43. P.T.O.

Exhibit G

EVIDENCE

At 14.00 HRS 18 Feb '43, I was detailed to escort Pte Headbetter on fatigues. Having filled a sack with coal, we proceeded towards the cookhouse, when, on approaching it, I turned my head towards the other prisoner. At that precise moment the prisoner immediately made off towards the camp boundary. I immediately gave chase accompanied by the other escort Pte Vassey. The prisoner scaled a wall & ran over the brough of the hill. I made several enquiries & followed but without success. The prisoner was in civilian shoes & without cap & blouse. I immediately had the escape reported to the guard room, & a search party was detailed.

Pte Bettenson E. 11426350. 334 Coy. P.C.

At 14.00 hrs 18 Feb '43. I was detailed to escort Pte Headbetter, accompanied by the other escort Pte Bettenson. Having filled the sack we proceeded towards the cookhouse, when just before approaching it, the prisoner made off for the camp boundary scaling a wall & jumping a hedge. I made after him, & attempted to cut him off, by proceeding towards a road at rt angles to the wall. I did not see the prisoner again until he was returned to custody under escort.

Pte Vasey R
11269121

334 Coy. Pioneer Corps.

REMARKS

No. C4203 Pte Headbetter A was apprehended by 1176 P.C. Ogilvie at 07.55 HRS 18 Feb '43. He was received in custody at Moor Lane Guard Room at 11.15 HRS 19 Feb '43. He was now wearing a Greatcoat & boiler suit in addition to the clothing at time of escape.

R D Manley Lieut 334 Coy P.C.

Exhibit G

CHARGE- Army Form B 252
(See King's Regulations)

Hastings & Prince Edward Regt. Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. C 4203 Rank Pte

Name LEADBETTER A.

Place MOOR LANE R'HAM Date of Offence 17 Feb '43

OFFENCE Breaking escort while in custody awaiting arrival of Canadian Provost Corps escort.

Names of Witnesses :—

(1) 11426350 Pte Bettinson E.

(2) 11269121 Pte Vassey R.

Signature of O.C. Battery, Squadron, Troop or Company } R.D. Manley Lt. 334 Coy Pioneer Corps.

Punishment Awarded }

By whom Awarded } Exhibit "F" Brooks Maj.

Adjutant.

P.T.O

R4889. Wt.W21972/580. 2,000,000 7/42 K. & H., Ltd. G657/47

Exhibit F.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 7 CANADIAN GENERAL HOSPITAL
R.C.A.M.C. C.A.O.S.
FEB 9 1943
ORDERLY ROOM

No. 7 Can. General Hospital

Army Form B.197
(In pads of 100)

PASS

No. 7870 (Rank) Pte (Name) Garrett A.V.

has permission to be absent from his quarters/duty, from

after Duty 10 Feb 43 to 0659 hrs 18 Feb 43

for the purpose of proceeding to* Birmingham

(Station) Marston Green N.M. Halkett, Col

(Date) 10 Feb 43.

N. M. HALKETT, Colonel, R.C.A.M.C.
Commanding
C.O. No. 7 CANADIAN GENERAL HOSPITAL.

† Delete whichever is not practicable.
* Description not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

CROWN COPYRIGHT RESERVED

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C. 4203 Private Arthur Wilfred LEADBETTER. (Cont'd.)

SIXTH WITNESS
FOR THE PROSECUTION

11269121 Private Vasey, R. 334 Coy. Provost Corps.

A written statement of this witnesses' evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured. (Statement marked exhibit "G")

John H. McKibbon Lieut.
.....
(J.H. McKIBBON) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

I hereby certify that the foregoing Summary of Evidence consisting of three pages was taken down in the presence and hearing of the accused, and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been complied with.

John H. McKibbon Lieut
.....
(J.H. McKIBBON) Lieut.,
Officer Taking Summary.

LILLE BARRACKS,
FARNBOROUGH, HANTS,
22 Feb. 1943.

Exhibit "D"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C.4203 Private Arthur Wilfred LEADBETTER. (Cont'd.)

THIRD WITNESS
FOR THE PROSECUTION

Lance Corporal B. Courtney, Canadian Military Police.

A written statement of this witnesses' evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured.(Statement marked exhibit "E")

John H. McKibbon Lieut.
.....
(J.H. McKIBBON) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

FOURTH WITNESS
FOR THE PROSECUTION

Lance Corporal C. Swann, Canadian Military Police.

A written statement of this witnesses' evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured. (Statement marked exhibit "E")

John H. McKibbon Lieut.
.....
(J.H. McKIBBON) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

FIFTH WITNESS
FOR THE PROSECUTION

11426350 Private Bettenson, E. 334 Coy. Provost Corps.

A written statement of this witnesses' evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured. (Statement of Pte. Bettenson marked exhibit "G")

John H. McKibbon Lieut.
.....
(J.H. McKIBBON) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

Exhibit "D"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C.4203 Private Arthur Wilfred LEADBETTER, Hastings & Prince Edward Regt., on the strength of 5 Canadian Infantry Reinforcement Unit, a soldier in the Canadain Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

Lieut. D.A. McAlpine, Royal Highland Regiment, on the strength of 5 C.I.R.U., having been duly sworn states:-

I am Lieut. D.A. McAlpine, Royal Highland Regiment, on the strength of the 5 C.I.R.U. I produce the following documents in evidence:

Certified true copy of Declaration of Court of Inquiry in the case of C.4203 Private Arthur Wilfred LEADBETTER, showing that the accused was declared absent as of 4 Jan. 43. (A.F.B. 115 marked exhibit "A")

Part II Order No. 5, 1 C.D.I.R.U. d/6 Jan. 43, showing in para. 16 that the accused escaped from arrest at 0945 hours 4 Jan. 43. (Certified copy of Part II Order marked exhibit"B")

Certificate of arrest in accordance with A.A. Sec. 163(1)(JJ) showing that the accused was arrested at Birmingham at 0945 hours on 14 Feb. 43. (Certificated of arrest marked exhibit"C")

Expense voucher for accused and escort in the amount of £1-14-6.(Expense voucher marked exhibit "D")

Duncan D. McAlpine Lt.
.....
(D.A. McAlpine)Lieut.

The accused declines to cross-examine this witness.

SECOND WITNESS
FOR THE PROSECUTION

C.4278 C.S.M. Spiers, Hast. & P.E. Regt., on the strength of 5 C.I.R.U., having been duly sworn states:-

I am C.4278 C.S.M. Spiers, Hast. & P.E.Regt., on the strength of 5 C.I.R.U. I can truthfully state that the accused, C.4203 Private Arthur Wilfred LEADBETTER, Has not been with this Company from the time that he broke detention on 4 Jan. 43.

R. Spiers C.S.M.
.....
(R. Spiers) C.S.M.

The accused declines to cross-examine this witness.

Exhibit "D"
Rhodes Major

Q.11 When did you last see her?

A.11 In October 1942 for about five minutes.

Q.12 You have nothing to do with her now?

A.12 No Sir. The Padre told me to write her and I did, and am waiting for an answer now. This trouble with my wife is to blame for everything I have done.

Q.13 Do you feel that if the trouble was straightened out you would soldier?

A.13 Yes Sir I would.

Q.14 How much money do you owe the government now?

A.14 Around $1500.00

Q.15 She told you she wanted a divorce?

A.15 Yes, to marry another fellow.

Q.16 How did you get this theft charge against you.

A.16 I wasn't guilty but I pleaded guilty as I knew I would be stopping her allowance that way.

Q.17 Do you desire to soldier?

A.17 Not the way things are going at present.

Q.18 Was all this trouble with your wife brought out in your previous courts martial?

A.18 Yes Sir. But they did nothing about it.

Pte Leadbetter arrived in England in January 1940 and was married in May the same year. Shortly after his marriage he found that his wife was running around with other men. He asked to have his assigned pay to her stopped, but this was not done, according to Leadbetter the only way he could get this stopped was to serve detention. His wife desires that he should divorce her but he has not sufficient money to pay for same. He has spoken to his Padre but no action has been taken.

The court feels that if some definite action could be taken to have his divorce settled, he might show some improvement.

He also states that his older brother who is in the R.C.H.A. has claimed him but no action was taken in the matter of transfer.

The court is of the opinion that he is a hopeless case, he has a debit in his pay book of over $1500.00 but if he could be transferred so that he could be with his brother it may have some tendency to straighten him out.

Woods Maj.

.....Maj..President.

(continued) sworn produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regtl. records and are true extracts of the same. No cross-examination. Above documents read, signed by the President and attached to the proceedings.

Q.3. (To accused) Do you wish to make any statement in mitigation of punishment?

A.3. I wish the officer to make my plea.

Q. 4 Do you wish to give evidence yourself or to call any witnesses as to character?

A.4 No Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The accused enlisted in 1939 and came overseas in December 1939. He met a young lady over here and was married some six months after arrival. Most of his troubles then began as he had word that his wife was running around. He tried to get in touch with her, and when he finally did, she told him she wanted a divorce. But the accused did not have the money needed for a divorce. I would like the court to consider the mental state of the accused when he committed these crimes. The Defence asks the Court to be as lenient as possible for this reason.

Q.5. How long, before the marriage, had you known the girl?

A.5. About six months.

Q.6. Was she living at home?

A.6. No Sir, alone.

Q.7. How long after your marriage was it, that you heard about her running around with someone else?

A.7. About eight months, Sir.

Q.8. What did you do about it?

A.8. I went to see the Padre and we were getting things arranged when I received two years hard labor. They told me that everything would be fixed up when I came out.

Q.9. How much of the two years sentence did you serve?

A.9. Sixteen months.

Q.10. Does she want a divorce?

A.10. Yes Sir. If I give her the grounds. But I wouldn't because if I did I would still have to assign pay to her.

Proceedings of a FIELD GENERAL COURT MARTIAL HELD AT LEIPZIC BARRACKS, EWSHOTT, HANTS, on THURSDAY 4 MARCH 1943. in the case of C 4203 Pte. LEADBETTER, A.W., H.&P.E.R. 5 C.I.R.U.

President : Major P.A. Woods, R.W.R. 1 C.G.P.C.

Member : Capt. V.S.J. Richmond, S.D.G. 1 C.G.P.C.

Member : Lieut. H.J.H. Reynolds, 3 C.I.R.U.

Prosecuting Officer : Lieut. W.L. Pettit, H.& P.E. 5 CIRU

Defending Officer : Lieut. P. Makepeice, S.D.G. 5 CIRU

The Order Convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

At 1030 hrs the trial commences.

The Order Convening the Court is read by the President.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

(The accused herewith demanded a higher Court claiming he had not received justice on three previous courts martial. The President explained the justice of an F.G.C.M. and of this in particular. On being again asked if he still chose a higher court he demanded a higher court. After consulting with higher authority the Court found that he had not sufficient grounds for a higher court.)

Q.1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over?

A.1. No Sir.

The President, members ~~and judge advocate (if any)~~ are duly sworn.

~~The Officers under instruction are duly sworn.~~

Q.2. Do you object to H 77514 Pte. Watson, D.H. acting as short hand writer?

A.2. No Sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.

The Summary of Evidence is read, signed by the President, and attached to the proceedings.
Court is closed to consider its findings. Court is re-opened.
Name Lieut. W.L. Pettit Unit H & P.E. 5 C.I.R.U.

(continued on page two)

MEDICAL CERTIFICATE (K.R. CAN. 557)

I certify that I have this morning examined No. C-4203 PTE. LEADBETTER A

of #5 CIRU. and in my opinion he is fit to undergo trial by

Court Martial.

Station. 5 CIRU. Medical Officer. Tho Alan Conway Capt

Date. 4 March 43.

Exhibit "B"

Brooks Major

CHARGE SHEET

The accused No. C.4203 Private Arthur Wilfred LEADBETTER, Hast. & P.E. Regt., on the strength of 5 Canadian Infantry Reinforcement Unit, a soldier in the Canadian Army Overseas is charged with:-

FIRST CHARGE
ARMY ACT
SEC. 15(1).

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

In That He

At Algonquin Camp, Witley, Surrey when in arrest absented himself without leave from 0945 hours 4 Jan. 43 until apprehended at Birmingham by the Canadian Provost Corps at 0915 hours 14 Feb. 43, thereby incurring expense to the public for his return to his Unit in the amount of £1-14-6. (Absent 40 days, 23 hours, 30 minutes.)

SECOND CHARGE
ARMY ACT
SEC. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In That He

At Birmingham on 14 Feb. 43 was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

THIRD CHARGE
ARMY ACT
SEC. 22

WHEN IN LAWFUL CUSTODY ATTEMPTING TO ESCAPE

In That He

At Birmingham on 14 Feb. 43 when in the custody of Lance Corporal Swann, Canadian Military Police, broke away and attempted to escape.

FOURTH CHARGE
ARMY ACT
SEC. 22

WHEN IN ARREST ESCAPING I

In That He

At Birmingham on 17 Feb. 43 when in arrest escaped from the custody of 11426350 Private Bettenson, E. and 11269121 Private Vasey, R. of No. 334 Coy. Provost Corps.

In the Field
LILLE BARRACKS,
FARNBOROUGH, HANTS,
22 Feb. 43.

A.B. Noble,
(A.B. Noble) Lt.-col.,
A/Officer Commanding,
5 C.I.R.U.

To be tried by Field General Court Martial.

J.A. McIntosh
(J.A. McIntosh) Colonel
A/Commander
"D" Group, Cdn Rft Units

In the Field
5 Mar 43

Exhibit "C"

The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the sentence in these proceedings is invalid, I hereby direct that the record of the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused to undergo detention for a period of 21 months and 24 days and to be put under stoppages of pay until he has made good the sum of £1.14.6. expenses incurred for the purpose of effecting the apprehension and return of the accused to his unit.

P. J. Montague

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

(Date)

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
16 APR 1945

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-4203 Private LEADBETTER, Arthur Wilfred Hast & P.E.R. 5 C.I.R.U.	First Charge --- A.A. Sec 15 (1) Second Charge --- A.A. Sec 40 Third Charge --- A.A. Sec 22 Fourth Charge --- A.A. Sec 22 See Charge Sheet attached.	Guilty Guilty Guilty Guilty Guilty	Guilty Guilty Guilty March 4/43 Guilty. 10 months D. Sentence to run consecutive to sentence awarded by Court dated 17-2-43 to pay cost of apprehension $1-14-5	I hereby confirm the finding and sentence of the Court. J.G. McIntosh Lt.-Col. A Cmd. D. Group

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) J.G. McIntosh Lt-Col Colonel (*Signed*) A Woods Major

Commanding "D" Group, C.R.U. Adtv Gen. Pioneer Coy. Pro. Cpl.
Convening Officer (*c*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th. day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Court stenographer
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 4th day of March 1943.

A Woods Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ J.G.M.

Signed this 5 day of March 1943.

J.G. McIntosh Col.
Confirming Officer.

Promulgated and extracts taken in the case of C-4203 Pte. Arthur Wilfred LEADBETTER Hast. & P.E.R. 5 C.I.R.U.

(*a*) (Dated) 6 Mar.43. Part II Order #23, d/7 Mar.43. (Signed) N.D. Noble, Lt.-Col., a/Commanding Officer, 5 C.I.R.U.

Promulgated and extracts taken in the case of C-4203 Pte. Arthur Wilfred Leadbetter

(Dated) APR 26 1943 D.O. #57 D/23 Apr. 43. 5 C.I.R.U. (Signed) MAJOR, COMMANDANT, CANADIAN MILITARY PRISON AND DETENTION BARRACKS.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C-4203 Pte LEADBETTER, Arthur Wilfred
Hastings & Prince Edward Regiment
5 Cdn Inf Rft Unit

DD-53

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this third day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ Nº 2

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~[I am unable to appoint~~ :— Nº 2

~~(1. Three Officers to form the Court.)~~ Nº 2

~~*(2. A Field Officer as President.)~~ Nº 2

~~for the following reasons, namely :—]~~ Nº 2

Proceedings Reviewed

Reviewing Officer (J.A.G.) C.M.J.G.

11 May 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	P.A. Woods.	1 C.G.P.C.

Members.

Rank.	Name.	Regiment.
A Captain	from	1 C.G.P.C.
A Lieutenant	from	3 C.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Exhibit "A" March H/W

Woods Major

*Signed J.A. McIntosh Colonel

a/ Commanding "D" Group, C.R.U.

Convening Officer.

DD-53 (case #4)

PTE LEADBETTER A.W.

See 135 for 1st case

See 235-B for 2nd case

See V-22 for 3rd case

FORM OF APPLICATION FOR A COURT-MARTIAL

The Hastings and Prince Edward Regiment, C.A.S.F.

STATION In The Field DATE. 12 Oct. 1940.
Application for a FIELD GENERAL Court-Martial.

Sir:

I have the honour to submit charge against No. 64203 Pte Leadbetter, A. of the Hastings and Prince Edward Regiment, C.A.S.F. under my command, and request that you sanction a Field General Court-Martial to be assembled for his trial at Brigade Area.

The Case was investigated by (1) Capt R.P. [illegible] - Coy. Comdr. of the accused
(ii) Capt [illegible] - who took the summary of evidence
(iii) Lieut-Col H.D. Graham - Comdg. The Hast + P.E.R.

The accused is now at my headquarters. His General Character is very bad. I enclose the following documents:-

1. Charge Sheet (in duplicate) ✓

2. Summary of Evidence, original and one Copy. ✓

3. List of Witnesses for the prosecution and defence (with their present stations or addresses). ✓

4. Statement as to character (A.F. B. 296) and Field Conduct Sheets of accused. ✓

5. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial. (R.P. 14 (B).

The Prosecutor will be Capt. L. Nethery.

H.D. Graham Lt.-Col.
Commanding
The Hast + P.E.R. C.A.S.F.

To Brigadier A.A. Smith
Commanding No. 1 Cdn. Inf. Bde.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. 64203 Pte Leadbetter A Regiment. is 1 to undergo trial by Court-Martial.

12 Oct. 40

Signature of Medical Officer.

F. J. Argus Capt.

CERTIFICATE IN ACCORDANCE WITH R.P. 14 (B)

I, C4203 Pte. Leadbetter, A., The Hastings & Prince Edward Regt., C.A.S.F., wish to have an officer assigned to represent me at the trial and request that Lieut. J.M. Reycraft, The Hastings & Prince Edward Regt., C.A.S.F. be so assigned.

A W Leadbetter

LIST OF WITNESSES FOR PROSECUTION

No. C.4816 A/L/Sgt. Corson, A. "C". Coy. The Hast. & P.E.R.
No. C.4850 A/Sgt. Ponsford, G. "C". Coy. The Hast. & P.E.R.

LIST OF WITNESSES FOR DEFENCE

N I L.

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. C4203 Pte Leadbetter A.
The Hast. & P.E. Regt., is fit to undergo trial by Court Martial.

Signature of Medical Officer.

F. J. Argue Capt.
19-10-40

Summary of Evidence in the case of No. C.4203, Pte. Leadbetter, A. The Hastings and Prince Edward Regiment, C.A.S.F.

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st. Witness for the prosecution.

No. C.4816, A/L/Sgt. Corson, A. The Hastings and Prince Edward Regiment, C.A.S.F. having been duly sworn, states:

Sir, on 18 Sep. 40 in Rusper Area while being C.O.S., I called the roll at 2300 hours and found Pte. Leadbetter absent from the lines. I never saw Pte. Leadbetter between this time and when he reported in on 6 Oct. 40.
The accused declines to cross-examine the witness.

A/Sgt Corson

2nd. Witness for the prosecution.

No. C.4800, A/Sgt. Ponsford, G.E. The Hastings and Prince Edward Regiment, C.A.S.F. having been duly sworn, states:

Sir, on 6 Oct. 40 in the Reigate Heath Golf Club, I was acting C.O.S. At 1830 hours Pte. Leadbetter reported in to me, Sir. I have never seen Pte. Leadbetter from 18 Oct. 40 until he reported in to me.
The accused declines to cross-examine the witness.

G.E. Ponsford

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (D) (F) and (G) have been complied with.

Taken down by me in the presence of and hearing of the accused this 10th day of October 1940 at In The Field.

D.B. Whytock Capt

(D.B. Whytock) Capt.
The Hast. & P.E. Regt. C.A.S.F.

I hereby certify that the above Schedule of convictions and dispensations with trial is a true extract from the regimental records in my custody.

Signed this 12th day of Oct-40

Drawby Cork Capt
Adjt.
The Hast & P.E.R. CASF.

STATEMENT as to CHARACTER and PARTICULARS of

SERVICE of ACCUSED.

C4203 Pte Leadbetter. A OF THE Hqst & P.E.R. C.A.S.F.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For A.W.L. A.A. (5½)	7. times	7. times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil.

2. The accused has not been previously convicted,

~~or~~

~~Previous convictions of the by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 76 of the Army Act, are set out in the Schedule annexed to this Statement.~~

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charge

for Nil days in Civil Custody,

and 4 days in Military Custody.

Total 4 days.

Of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is Not available

6. The date of his attestation specified in his record of service ~~attestation paper~~ is 26/1/39

7. The accused is, entitled, to deferred pay or gratuity in respect of Nil year's service.

8. The accused is entitled to reckon Nil years service for the purpose of determining his pension, etc.

9. The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read,

~~marked~~ signed by the president, and annexed to the proceedings.

P.T.O.



CHARGE SHEET.

The accused C4203 Pte. Leadbetter, A.
The Hastings & Prince Edward Regiment, C.A.S.F.
is charged with:

First Charge
Sec 15(1)
Army Act

W.O.A.S. being absent without leave in that he,
at in the Field, absented himself without leave
from tattoo roll call at 2300 hrs. on 18 Sep. 40.,
till 1630 hrs. 8 Oct. 40.

..... Lt.-Col.
Commanding.
The Hastings & Prince Edward Regiment, C.A.S.F.

In The Field.
9 Oct. 40.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C4203, Pte. A. Leadbetter. Regt'l P.B.R.	While on Active service absent without leave, in that he, at in the field, absented himself without leave from tattoo roll call at 2300 hrs on 18 Sept 40 till 1630 hrs 8 Oct 40. Sec.15 (1) A.A.	Not Guilty		
	Charge amended by Court to read as follows:		The accused is GUILTY of the charge with the exception that the period of absence is from 0745 hrs on 19 Sept. to 1630 hrs. 8 Oct 40.	
	While on active service absent without leave in that he, in the field absented himself without leave from 2300 hrs 18 Sept 40 to 1630 hrs 8 Oct 40 A.A. 15 (1).	Not Guilty.	The Court strikes the accused to 90 days imprisonment without hard labour.	Commuted to 60 days detention. Confirmed Armand Smith Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No.

(Signed) Armand Smith Brig (Signed) J.L. Ganong major
Commanding 1 Can. Inf. Bde. Convening Officer (*e*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

"Was adjourned to the 19th day of October" J.L.G.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of October 1940, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 19th day of October 1940.

J.L. Ganong major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23rd day of October 1940.

Armand Smith Brig.
Confirming Officer.
1 Can. Inf. Bde.

Promulgated and extracts taken in the case of

(*a*) (Dated) 31 Oct 40 (Signed) R. Graham LT. COL
GOMDG. THE HASTINGS & PRINCE EDWARD REGT. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22738) Wt. 40013—851 500 m 1/40 P. St. G. Ltd.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

C.R. 1 NOV 40 Canadian Military H.Q.

PROCEEDINGS.

A. Order convening the Court

On Active Service, this fourteenth day of October, 19 40.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde. (C.A.S.F.), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

President.

Rank.	Name.	Regiment.
Major	J.E. Ganong	48 Highrs.

Members.

Rank.	Name.	Regiment.
Captain	F.M. Griffiths	1 Inf A.Tk. Coy.
Captain	G.O. Taschereau	R. C. R.
WAITING MEMBER. Lieut.	C.S. Nicho[illegible]	Hast & P.E.R.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] *Commanding* Comd., 1 Cdn. Inf. Bde. *Convening Officer.*

Leadbeater a. Pte C. 4203
135
10-L-214

10-L-214

135

135

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M-2913 Rank Gunner Name Leacock, C.E. of 8 A Fd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of July 1942

(E.B. Roe) Adjutant Capt.
8 Army Fd Regt., RCA.

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, and in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph thereafter completed accordingly.)

E-1 G.J. Kennedy, Major. Pres.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M-2013	Gunner	Leacock, G.E.	8th Army Field Regiment, R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absent without leave	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N.A. beginning on the - day of -

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Four days in military custody, making a total of Four days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 22 Years.

6. The date of his ~~enlistment~~ attestation specified in his record of service ~~or other paper~~ is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N.A.

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A. dated - and in his regiment (*or* corps *or* department) the rank of N.A. dated -

(7/5540) W.L.2013/6/42 75,000 12/40 A.& E.W.Ltd. Gp.698

MFM 6 (AFB 122)

No. M2013 Name Leacock, G.E. Sqn., Battery, or Company 61 Bty Corps R.C.A. Date of enlistment 5 Sep 39 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/2/41	Sgt		Neglect of Duty - Sec 40 WOAS Sec 15 A.A. A.W.L. from 1200 hrs. 29 Dec 41 until 1845 hrs. 15 Jan 42 (Absent 17 days 6 hours 45 min).	Sgt. O'Neill BSM Cuthbertson Bdr. Kelly J. F.P.	Repremanded 27 days	17/2/41 17/1/42	L.M. Jones Lt/Col	Forf 18 days pay
Field	29/12/41	Gnr.							

CERTIFIED TRUE COPY

(L.M. Jones) Lieut-Col RCA
Cmdg., 8th Army Fd Regt., R.C.A.

E-2 K/Kenney G. Major Pres.

(P.T.O.)

F

Sentence.

The Court sentence the accused *Sentence.*

"To 52 days F.F. and to forfeit 52 day's pay".

E

Finding.*

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

The Court is closed for the consideration of the finding.

The Court find that the accused is Guilty.

Proceedings on Conviction *before Sentence.*

**When the Court is already open this sentence will be struck out.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

The Prosecuting officer is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* (Army Form B.296 By the Prosecuting Officer: Yes, Sir. and MFM 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E.1. and E.2. signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* By the Prosecuting Officer: Yes Sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes, sir.

Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

~~Cross-examined by the accused.~~

Question to the accused.

Do you wish to address the Court? *Answer.* No, sir.

The Court is closed for the consideration of the sentence.

J.J. Kennedy, Major. Pres

D 3

The Court closed for consideration of the Evidence.

The Court re-opens.

Y.2008 Maj Cuthbertson is brought back in as a Character Witness for the Defence:

By the Defence:

Q.25. - Will you tell the Court what you know of the record of Gnr Leacock since you have known him.

A.25. - I knew him in peace time when in the Militia. Then he first joined up he was made a Sergeant, and he helped in instruction of gun drill, etc., until we went to Oak Hampden camp in April 1940. We left the Regiment then and I did not see him again until he came back to the Regiment about a year ago. Since then he has been in "A" troop, and was a Gunner under me. When we were at Borden he was in charge of instructional gun drill for the regiment, and is a very good man.

Q.26. - Did you find him to be a good soldier?
A.26. - Very good, Sir.

Q.27. - Have you had any trouble with the accused?
A.27. - No, Sir.

Y.5111 Sgt. Brown W. being duly sworn, makes the following statement:

"I was on a course in Borden in 1941 and Leacock was at the same school. We just arrived back from CWAH and we were staying together. We met an officer of my regiment and he asked Leacock what he was going to do and Leacock said he would like to come back to the S.D. Sgt, but that he would have to revert. The officer said that he could come back and he promised him his stripes back in a short time. A claim was put in for him and he came back to the regiment about the 8th of July 1941.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of

†The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

Statement made by the Defence:

With regard to the evidence given by the prosecution, the fact that Gnr. Leacock failed to turn in his pass does not in my opinion constitute absence. There are several assumptions which can be made as to why he failed to turn in the pass, one of them being that perhaps he was in no condition to do so. With regard to Gnr Cuthbertson's evidence, he has stated that Gnr. Leacock failed to answer at the roll call held at 0640 hours 29 June 42. The Prosecution has stated that Gnr Cuthbertson stated that at no time between that hour and when Gnr Leacock reported to him at 1325 hours 14 July 42 did Gnr Leacock attend a parade. I believe you will find he made no such statement if the evidence is reviewed.

Further Gnr Cuthbertson has stated nothing which indicates that he was in a position to attend and take all roll calls during that period. He is only connected with the dates 29 June 42 and 14 July 42. There is nothing which states that Gnr. Leacock was not going about his duties during the period.

The charge reads absent from 2359 hrs 28 June 42 to 1325 hrs 14 July 42. I submit that there is no evidence to state that he was absent during that time, but only that he was absent at the one parade held at 0640 hours 29 June 42.

The Court is closed for consideration of the evidence.

The Court re-opens.

P.2008 Gnr Cuthbertson is brought back in.

By the President:--

Q.21. - Referring back to the Summary of Evidence which was sworn to by you, you state that the accused did not turn up on parade the following day, that is, the day following the 28 June 42, or on any parade from that time until he reported to you at 1325 hours on the 14th July 42. Is that right?

A.21. - Yes, sir.

Q.22. - Do you take the parade every morning?

A.22. - Yes, Sir.

Q.23. - Did you at any time during the period mentioned see the accused on parade?

A.23. - No, sir.

By Capt. Appleby:

Q.24. - Were you on duty yourself during the period mentioned?

A.24. - Yes, Sir.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No, sir.

Question. Do you intend to call any other witness in your defence?

Answer. Yes, sir.

Question. Is he a witness as to character only? *Answer.* Yes, sir.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

The Prosecution states:

I have produced facts to show that Gnr. Isaacock did not [illegible] his pass at 2359 hours, which was the time of its expiration. This is substantiated by the Roster, and the Orderly N.C.O., and this proves that he was absent at that hour. I then called Gnr. Cuthbertson, who in his evidence stated that Gnr. Isaacock was absent at 0640 hours the following morning, and he did not attend any parade from then until 1725 hours on the 14th July 40. That being a total time missing of approximately 15 days. Also, the accused does not wish to make any statement, and thereby acknowledged the fact that he was absent.

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

C2

The Defence questions the Witness:
Q.9. - Did you or did you not see Gnr Leacock in the lines?
A.9. - I personally did not see him.

Q.10 - Do you know that he was not there?
A.11 - As far as I know. I did not see him myself.

W.2008 R.S.M. Cuthbertson W.M. being duly sworn, is examined by the prosecutor:

Q.12 - On the morning of 29 June 42 as you called the roll did Gnr Leacock answer to his name?
A.13 - No, Sir.

Q.14 - Do you recognize this duty roster?
A.14 - Yes, Sir.

Q.15 - Do you also know the procedure of how it works?
A.15 - Yes, Sir.

Q.16 - Was Gnr Leacock absent at the 0640 hour parade on 29 June 42.
A.16 - Yes, Sir.

Q.17 - When did Gnr Leacock first report to you?
A.17 - At 1325 hours 14 July 42.

Q.18 - What was the first time he reported to you?
A.18 - Yes, Sir.

Q.19 - You are definitely sure that he did not answer roll call on the morning of 29 June 42 at 0640 hours.
A.19 - Yes, Sir.

Q.20 - You are also definitely sure that he first reported to you at 1325 hours 14 July 42?
A.20 - Yes, Sir.

The Defence had no questions to ask.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

~~The prosecutor makes an opening address (hands in a written address which is read, marked ..... signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution.

W.2050 Pdr Conn R.J. & A. Wd. Sect. RCA.
being duly sworn, is examined by the prosecutor.

Q. 1 - What is your name and rank?
A. 1 - W.2050 Pdr Conn R.J.

Q.2 - What Battery are you connected with?
A.2 - The 61st Battery

Q.3. - On the night of 28 June 42 you were on duty as what?
A.3. - I was Battery Orderly N.C.O.

Q.4. - Your duties at that time were to receive the passes as they were turned in, is that correct?
A.4. - Yes sir.

Q.5. - On the night of 28 June 42 did Gnr. Isacock hand a pass in to you?
A.5. - No, sir.

Q.6. - Would you definitely state that at 2359 hours 28 June 42 Gnr Isacock was absent?
A.6. - Yes, sir.

Q.7. - Would you show the Court, and explain the working of this Duty Roster.
A.7. - The names are all put down and as passes are handed in they are checked off with a check mark.

Q.8. - Is this your entry at 2359 hrs Gnr Isacock was A.W.L.?
A.8. - Yes, sir.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Not guilty, sir.

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field on the 23rd day of July 19 42 by order of Commander Royal Artillery

Commanding 3rd Canadian Division Artillery

dated the 20th day of July 19 42

President.

P.J.Kennedy, Major
3 A.Tk. Regt. RCA

Members.

A.M. Appleby, Capt.,
4 Lt. A.A. Regt. RCA.

W.W.Hood, Lieut.
8 A. Fd. Regt. RCA.

, Judge Advocate.

Trial of* M.2013 Gnr LEACOCK, G.E.
8 A. Fd. Regt. RCA.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† J.E.Thompson, Lieut. RCA

~~Counsel~~‡ or defending officer† F.H.Kelly, Capt. RCA

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4276. Wt.W16839/78. 25,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9/25.

. . .

This is to certify that I have today examined M-2013 Gnr Leacock, G. E. and found him fit to undergo trial by F.C.C.M.

W. J. Ewen

(W. J. Ewen) Capt
Medical Officer
8 Cdn Army Fd Regt., RCA.

A-1

Pres.

CHARGE SHEET

B-2

The Accused M-2013 Gnr. Leacock, G.E. of the 61st Field Battery, 8 Cdn Army Field Regiment, R.C.A. a soldier of the Canadian Army (Overseas) is charged with:-

1st Charge
Sec 15(1)
A.A.

Absenting himself without leave in that he, in the Field, absented himself without leave from 2359 hrs. 28 June 1942 until reporting in to T.B.S.M. Cuthbertson at 1325 hrs., 14 July 1942. Time absent 16 days, 13 hours, 26 minutes.

Dated
In the Field
14 July 42.

(L. M. Jones) Lieut-Col.
Commanding,
8 Cdn Army Field Regiment,
R.C.A. Cdn Army (O/S).

To be tried by F.G.C.M.

(E.C. Plow) Brigadier,
C.R.A., 3 Cdn. Div.

Pres.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-2013 Gnr. LEACOCK, G.E. 5 A. Fd. Regt.RCA.	(1) Sec. 15 (1) A.A.	Not guilty	Guilty 28 days F.P. and to forfeit 28 days pay	Promulgated 21 Pl Pars 27/7 24/7/42

*The Judge Advocate General, for Canadian Military and Air Forces Overseas, having advised that the conviction upon the Charge in these Proceedings is invalid, I hereby Direct that the record of the conviction, on the said charge, be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

21 Pl Pars
(E.C.Plow) Brigadier,
19/7/42 C.R.A. 3 Cdn Div.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No Sir.

(Signed) 21 Pl Pars. (Signed) P.F. Kennedy, Major
(E.C. Plow) Brigadier. 3rd A/T Regt, R.C.A.
Commanding C.R.A., 3 Cdn. Div. Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twenty Third day of July, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*3. [redacted]
*4. [redacted]
were duly sworn.

* Omit if not applicable.

Signed this 23rd day of July 1942.
W.F. Kennedy, Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 750 M.M.L. 1929.

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19

~~President of the Court Martial.~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I ~~direct that the entries noted in the margin be not committed to prison until further order.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 24th day of July 1942.
21 Pl Pars.
Confirming Officer.
(E.C. Plow) Brigadier,
C.R.A., 3 Cdn. Div.

Promulgated and extracts taken in the case of M 2013 Gnr Leacock G.E.
(a) (Dated) 27 Jul 42 (Signed) A.T. Cookan Major
as endorsed by minute on page 2 of these proceedings
Promulgated and extracts taken in the case of M 2013 Gnr Leacock G.E.
(Dated) Pt I Order 3078 23 Jul 42 (Signed) J. Jones Capt
Comdg 3 Cdn A Tk Regt R.C.A.
Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21750) Wt. 40125—493 200 M. 12/41 F. St. G. Ltd.

P-36

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twentieth day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Cdn. Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint:~~

*~~(1) Three Officers to form the Court;~~

*~~(2) A Field Officer as President;~~

*~~(3) Three Officers having more than one year's service;~~

~~for the following reasons, namely:—~~

PROCEEDINGS REVIEWED.

Gen Graham Capt
Reviewing Officer
12 Oct 42

President.

Rank.	Name.	Regiment.
Major	P.J. Kennedy	3 A. Tk. Regt. RCA.

Members.

Rank.	Name.	Regiment.
Capt.	A.M. Appleby	4 Lt. A.A. Regt. RCA.
Lieut.	W.M. Hood	8 A. Fd. Regt. RCA.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E C Plow

(E.C. Plow) Brigadier,
Commanding C.R.A., 3 Cdn. Div.
Convening Officer.

36 P

Gnr. Leacock, G E

O. H. M. S.

M. F. B. 270
1000 M-12-60 (8668-99-703)
H.Q. 1772-28-67

"X" EW

No. F5675 Name LEACH W E Sqn, Battery or Company A Corps RCAC Date of enlistment 21-4-43 GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/PAS/150 (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Previous sheet destroyed on completion of six months service wef 21 Oct 43					
In the Field	22 Aug 45	Tpr		A.A. Sec 40 WOAS conduct to the prejudice etc. in that he, in the field on 22 Aug 45 was improperly dressed and failed to comply with an order given by a Military Policeman	Documentary	7 Dys C.B.	(A D Perdue) Capt.		

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

(P C R Black) Lt-col, CO 18 Cdn Armd C Regt

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th day of October

(E M James) Lt & Adjt
18 Cdn Armd C R gt (12D)

'Y' E4

ARMY FORM B. 296 (WAR.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F56757	Tpr	William Edward LEACH 18 Cdn Armd C Regt	

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 40 1 time.

~~For~~ ~~times.~~

~~For~~ ~~times.~~

~~For~~ ~~times.~~

Date of first entry in Field Conduct Sheet 22 Aug 45

Date of last entry in Field Conduct Sheet do.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for N/A~~

~~beginning on the N/A day of N/A~~

4. The accused has been awaiting trial on the present charges for

days in civil custody ; and for 21 (19 Sep 45) days in military custody, *i.e.*,

Nil days in open arrest, 21 days in close arrest ; of

which Nil days were spent in hospital.

5. The present age of the accused is 21 yrs.

6. The date of his attestation ~~calling up for military service~~ is 21 Apr 43

7. The service which the accused is allowed to reckon is ~~Nil~~ 2 yrs 5 mons 20 days E4

*State the military decorations (if any) held by accused.

~~*8. The accused is in possession of~~

9. *(If the accused is a warrant officer or N.C.O.)* The accused has served continuously without reduction to the present date—

Date of Promotion.

In the substantive rank of Not applicable

In the war substantive rank of

In the acting rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

EN

List of Exhibits in the case of F56757 Tpr William Edward LEACH, 18 Cdn Armd C Regt, to be tried by FGCM on a charge under Sec 18 (4):

Exhibit 'A' :- Statement by 2065416 Sgt Beal, J, 90 SIS, CMP

Exhibit 'B' :- Statement by Pierre Oscar, 240 Torhout Steenweg, Ostend

List of Witnesses for the
Prosecution and Defence
in the case of F56757 Tpr LEACH W.E. 18 Cdn Armd
C Regt, to be tried by FGCM on acharge under
A.A. Sec 18 (4)

(1) 2065416 Sgt BEAL, J.
90 SIS, Corps of Military Police,
OSTEND BELGIUM

(2) Pierre Oscar
240 Torhoutsche Steenweg
OSTEND BELGIUM

EX

I desire the Covening Offr to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

I desire the services of Capt C E Henry 18 Cdn Armd C Regt , if he is available.

In the Field
4 Oct 45

W E Leach
(F55757 Tpr LEACH W.E.)
18 Cdn Armd C R[illegible]st

E4

This is **Exhibit** 'B' referred to in the Summary of Evidence in the case of F56757 Tpr William Edward LEACH, taken before me this 2nd day of October 1945.

A. L. Minaker Lt

(A L Minaker) Lieut
18 Cdn Armd C Regt

90 S.I.S COPY E.H.

Ostend the 19 - 9 - 45 at 19.00 hours

Statement of:

PIERRE OSCAR
240 Torhoutsche Steenweg. Ostend

States:
About 19'00 Hours near the Maria Hendrika Park.
I was taken in contrevention, by the English Police, who found me in the possession of two metal boxes, containing 28 Valves.
I bought those Valves from two Canadian soldiers, who were walking along the road.
One of the soldiers, was arrested by the English M.P.
The valves in question, will be used for a wireless, to be sold afterwards, it is difficult to get the valves.

Signed

Pierre Oscar

Statement: taken by 1st Sergeant LOOTENS, of the Belgian Gendarmerie aft Ostend, in the presence of Sgt Beal 90 S.I.S.

I hereby certify, that the above is to the best of my ability, a true translation of the statement made by Pierre Oscar.

Pols Joseph
INTERPRETER 90 S.I.S.

COPY

90 Special Investigation Section BAOR

Verklaring van:

PIERRE. Oscar
240 Torhoutsche Steenweg. Oostende

Die verklaart:

Heden omstreeks 19 uur, werd ik ter hoogte van het Maria Hendrika park te Oostende in overtreding genomen door de Engelsche M.P. wegens in het bezit te zijn bevonden, van twee bussen inhoudende 28 radio lampen,
Deze lampen had ik gekocht aan twee Kanadeesche soldaten, welke aldaar, langs den openbare weg kwamen. Een van deze soldaten werd eveneens door de Engelsche M.P. aangehouden.
Ik betaalde daarvoor 500 franken
Die lampen in kwestie zou ik gebruiken om in radios te plaatsen om daarna te verkoopen, gezien deze moeilijk zijn om er zich aan te schaffen

Geteekend
PIERRE Oscar

Verklaring genomen door 1st Wachtmeester Saatens der rijkwachtbrigade te Oostende in tegenwoordigheid van Sgt Beal. 90 S.I.S

90 Special Investigation Section,
B.A.O.R.

Statement of:- PIERRE Oscar,
240 Torhoutsteenweg,
O S T E N D.

Who states:-

About 19.00 hrs. near the Maria Hendrika Park I was taken in costudy, by the English Police, who found me in possession of two metal boxes containing 28 valves. I bought those valves from two Canadian soldiers, who were walking along the road. One of the soldiers was arrested by the English M.P.

The valves in question would have been used for a wireless, to be sold afterwards. It is difficult to get the valves.

(Signed) PIERRE Oscar.

Statement taken by 1st Sergeant LOOTENS of the Belgian Gendarmery of Ostend, in the presence of Sgt. BEAL, 90 S.I.S., C.M.P.

I hereby certify that the above is to the best of my ability, a true translation of the statement by PIERRE Oscar

(Signed).....,Interpreter,
90 S.I.S., C.M.Police.

90 Special Investigation Section,
B.A.O.R.

EJ

Statement of:- F 56757 Trooper LEACH W.E.
18th Armoured Car Regiment,
Canadian Forces, Netherland.

Who saith:-

I have been told that I need not say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence. I understand this caution.

(Signed) Tpr. W.E. LEACH.

I arrived at the 111 Transit Camp about 16.00 hrs. today, the 19th September, 1945, About 1900 hrs. the same day, a civilian appraoched me and asked me if I had any wireless valves to sell. I told him I had, and sold to him for five hundred francs, one box of No.19 spare valves. I knew these valves were the property of the Canadian Army, but as I was short of money, I thought it was a chance to make some.

(Signed) Tpr.W.E. LEACH.

I have read over the above statement which is true and made quite voluntary.

(Signed) Tpr.W.E. LEACH.

Statement taken and signature witnessed by me at 2030 hrs. on the 19th September, 1945, at Ostend.

(Signed) J. BEAL, Sergeant,
90 Special Investigation Section,
C.M. Police.

90, Special Investigation Section,
B.A.O.R.

Statement of:- F56454 Trooper LEACH, W.E.
18th Armoured Car Regiment, Canadian Forces
Netherland.

I have been told that I need not say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence. I understand this caution. Spr. W E Leach

I arrived at the 111 Transit Camp about 1600hrs today the 19th September, 1945. About 1900hrs the same day a civilian approached me and asked me if I had any wireless valves to sell. I told him I had, and sold to him for five hundred francs, one box of No. 19 spare valves. I knew these valves were the property of the Canadian Army, but as I was short of money, I thought it was a chance to make some. Spr. W E Leach

I have read over the above statement which is true and made quite voluntary.
Spr. W E Leach

Statement taken and signature witnessed by me at 2030 hrs on the 19th September, 1945, at Ostend.

J Beal Sgt.
90 Special Investigation Section
CM Police.

90 Special Investigation Section,
B.A.O.R.

Statement of:- No. 2065416 Sgt.BEAL,
90 Special Investigation Section,
Corps of Military Police,
B.A.O.R.

Who saith:-

On the 19th September about 1900 hrs. I saw the accused and he said to me, "I have just sold these tubes to this civilian". I immediately cautioned and conveyed him to my office.

Later the same evening he handed me a five hundred franc note which he had received for the valves. I cautioned him again and he elected to make a statement which I took down in writing and after reading over he signed in my presence. (Statement produced).

(Signed) J. BEAL, Sgt.
90 S.I.S., C.M.Police.

REPORT

CONFIDENTIAL.
90/C/90.

90 SPECIAL INVESTIGATION SECTION. B.A.O.R.

Subject:- Larceny and receiving of Canadian Army property at Ostend,

To:- The Officer Commanding,
90 Special Investigation Section.

Sir,

I have to report with reference to the above mentioned subject that on the 19th September,1945, whilst on observations in the vicinity of 111 Transit Camp, Ostend, I noticed a civilian with two metal boxes of Army type on the carrier of his bicycle. I asked the civilian where he had got them from and he told me he had just bought them from a Canadian soldier.

There was a Canadian soldier standing nearby and he approached me and said, "I have just sold a box of 'tubes' to this civilian for five hundred francs". I immediately cautioned him and conveyed him together with the civilian to my office.

I examined the soldier's identity documents from which I discovered him to be No.F56757, Trooper LEACH, W.E., of the 18th Armoured Car Regiment, Canadian Forces Netherlands. I again cautioned him and he elected to make a statement, which I took down in writing at his dictation and after reading over he signed in my presence. He then handed me a five hundred franc note which he had received for the valves. I then placed LEACH in "Close arrest" in the Town Guard Room, Ostend.

Later the same evening accompanied by a Gendarme, I went to the house of the civilian Oscar,Jan PIERRE, 246 Torhout Road. PIERRE was told who I was and that I had reasons to believe he was detaining W.D.property on his premises. PIERRE invited us to search his house. This was done, and the following W.D. property was recovered.

1 W.D. Blanket G.S.
The value of this property being 15/-

The civilian is being proceeded against by the Civil Police.

It appears that LEACH was engaged on taking a truck to England and this truck held a box of spare valves. LEACH was short of money and saw an easy chance to make some by selling the valves.

The other box of valves which were found in possession of the civilian were bought from another Canadian soldier. All efforts are being made to trace him.

Each box, containing fourteen valves are valued at £ 5.12.0 and the total value of the valves recovered is £ 11.4.0

Statement made by the civilian, the accused and myself are attached.

In the Field,
B.A.O.R.,
21st Sep 45.

Sergeant,
90 Special Investigation Section,
Corps of Military Police.

CONFIDENTIAL

90/C/90.

Subject:- Larceny and receiving of Canadian Army property at Ostend.

To:- The Officer Commanding,
18th Armoured Car Regt.,
Canadian Forces,
Netherlands.

18 CDN ARMD C REGT (1)
26 SEP 1945
R.H.Q.

The attached report by Sgt. BEAL, C.J. (SIS) is forwarded for your information and necessary action, please.

Captain,
D.A.P.M.,
90 Special Investigation Section,
Corps of Military Police.

In the Field,
B.A.O.R.,
22 Sep 45.

Copies to:- O i/c. J.A.G.'s Branch H.Q. L of C,
D.P.M., H.Q. L of C,
A.P.M., H.Q. L of C,
File.

EH

This is Exhibit 'A' referred to in the summary of evidence in the case of F56757 Tpr William Edward LEACH, taken before me this 2nd day of October 1945.

A. L. Minaker Lt

(A L Minaker) Lieut
18 Cdn Armd C Regt

Third Witness

Lieut R I P Cameron, 4 Cdn Armd Div Sigs, att to 18 Cdn Armd C Regt, sworn, states:

I was on 22 Sep 45 and am still, OC 18 Cdn Armd C Regt Sig Tp, 4 Cdn Armd Div Sigs. No 19 set spare valves are issued in metal boxes each containing fifteen valves. I estimate the value of such a box with its contents to be approximately £7-0-0.

R I P Cameron Lt
(R I P Cameron) Lieut
4 Cdn Armd Div Sigs
att to 18 Cdn Armd C Regt

The accused declines to cross-examine this witness.

W E Leach
(F 56757 Tpr W E Leach)
18 Cdn Armd C Regt

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The Accused: I desire to give evidence under oath.

The Accused, F56757 Tpr William Edward LEACH, 18 Cdn Armd C Regt, sworn, states:

I arrived at 111 Transit Camp at 1600 hrs 19 Sep 45. At 1900 hrs the same day a civ approached me and asked if I had any wireless valves to sell. I told him I had and sold them to him for 500 francs. This box being loose in the bin, I did not think that it belonged to the car. After I received the money for the valves, the civ strapped the box on his bicycle. A Sgt approached the civ and asked him what he had. The civ told him he had some valves. The Sgt asked him where he got them, and was told that they were bought from a soldier. The civ was asked if he could identify the soldier and replied, "No." Hearing this, I told the Sgt that I had just sold the valves to this civ. Then I asked him if I could return the 500 francs in exchange for the box of valves. The Sgt told me to come along to his office where I was questioned and later put under close arrest.

W E Leach
(F56757 Tpr W E Leach)
18 Cdn Armd C Regt

I certify that the foregoing Summary of Evidence consisting of two pages and two appendices was taken down by me in the presence of the accused and that R.P. 4 (c), (d), (e), (f) and (g) have been complied with.

A L Minaker Lt.
(A L Minaker) Lieut
18 Cdn Armd C Regt

"Z"
Ed Army

Summary of Evidence in the case of F 56757 Tpr William Edward LEACH, 18th Armoured Car Regiment, (XII Manitoba Dragoons), Canadian Army Overseas, charged with fraudulently misapplying public property on 22 Sep 45

The CO directs that the evidence be taken on oath.

First Witness

2065416 Sgt Beal, J, 90 SIS, CMP,

Document purporting to be signed statement of the evidence of 2065416 Sgt Beal, J, 90 SIS, CMP, was read over to the accused, marked Exhibit "A" and att hereto.

I certify that in my opinion, owing to the exigencies of the service, incl the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot be readily procured.

A. L. Minaker Lt
(A L Minaker) Lt
18 Cdn Armd C Regt

I do not demand the attendance of this witness for cross-examination.

W. E. Leach
(F 56757 Tpr W E Leach)
18 Cdn Armd C Regt.

Second Witness

Pierre Oscar, 240 Torhautsche Steenweg, OSTEND.

Document purporting to be signed statement, translated, of the evidence of Pierre Oscar, 240 Torhautsche Steenweg, OSTEND, was read over to the accused, marked Exhibit "B" and att hereto.

I certify that in my opinion, due to the exigencies of the service, incl the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot be readily procured.

A. L. Minaker Lt.
(A L Minaker) Lt
18 Cdn Armd C Regt

I do not demand the attendance of this witness for cross-examination.

W. E. Leach
(F 56757 Tpr W E Leach)
18 Cdn Armd C Regt

Plea of Mitigation F 56727 Tpr Leach,W.E.

The accused has been willing to admit to this court that he is, in fact, guilty of the charge that has been made against him and thereby save this court time and inconvenience. Why has he been willing to make this admission? Because when he reflected upon the temptation to which he succumbed he realised that it was unworthy of him, unworthy of his character, unworthy of his previous unblemished record, unworthy of one who had spent all the previous years of his life in respect of the law. But now there was a charge against him. What to do? Certainly not try to cover it up, not try to brazen his way out of it. No -- better to admit his shortcomings and ask that the court temper justice with mercy. Only in such a way could he return to civilian life when his turn for repatriation comes and know that this one and only lapse had been atoned for, that he had faced up to the charge and offered, by direction of this court, to expiate his sins. If this court be lenient and by taking due note of [redacted] Tpr Leach's hitherto unmarred record, saw its way clear to believe that he is indeed repentant, could he hope to return amongst his own people again without a black mark that, try as he would to forget it,would serve as a reminder of his one lapse. But should he carry this black mark against him because he had once been tempted [redacted]

Tpr Leach joined the army when he was just nineteen years of age, that is almost as soon as he was of the age required for overseas service and has been in the army for over two and a half years, during which time there has been no complaint of his ability as a soldier. You, gentlemen, by reference to his M.F.M.6 will find that the only entry is a trifling one which does not reflect adversely on his general character. He joined this regiment long before the unit was required to embark for a theatre of operations and has served continuously with it since, that is to say, throughout the entire period of its operational activity. During the time that I have known him he has served under various officers and N.C.O.s, none of whom I have ever known to have anything but good marks for the way in which he discharged his duties as a driver of an armoured fighting vehicle. Surely a man's previous record as a law abiding soldier and his record as a competent serving soldier should count something in his favour before this court decides to what extent he shall be [redacted] penalised for this one misdemeanor, this only [redacted] that threatens to mar an otherwise excellent record.

[redacted]
On behalf of the accused I ask this court to reflect carefully before passing judgement and sentence. I ask you to think carefully before doing anything that will redound to his discredit when the time comes for him to return to his home. I ask the court, in view of his previous good service to take as lenient a line as is consistent with your opinion of the seriousness of the charge of which he is accused [redacted]

EH

MED CERTIFICATE

I certify that I have this date examined No F56757 Trooper William Edward Leach, 18 Cdn Armd C Regt, and declare him fit to stand trial by Field General Court Martial.

(E H Brotman) Capt RCAMC
RMO 18 Cdn Armd C Regt

In the Field
10 Oct 45

EH

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (*or* accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 566. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*b*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-56757	Tpr		William Edward EH	LEACH	19 Cdn Armd Car Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Oct 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ". EHP

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) EHP
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. EHP
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. Hulbert	HQ Sigs 4 Cdn Armd Div.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R.B. Hour	27 EH Cdn Armd Regt
Lieut	E. Neydli	RCEME 4 Cdn Armd Div

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	L.A. Patterson	HQ Sigs 4 Cdn Armd Div

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

E G Pallister (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 8 Oct 45

(E.G. Pallister)
Commanding CRCEME 4 Cdn Armd Div.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 99 (In lieu of AFA 2) 40/P & S/1697 (6148)

(See overleaf for oaths and notes for use on trial.)

E Hulbert

CHARGE SHEET

The accused, F56757 Tpr LEACH, W.E., 18 Cdn Armd Car Regiment, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 18 (4)
Army Act

WHEN ON ACTIVE SERVICE FRAUDULENTLY MISAPPLYING PUBLIC PROPERTY

in that he
in the field on 19 Sep 45, did sell to a civilian a metal box containing 14 wireless valves, valued at £5-12-0 the same being public property.

H.C.R. Black.

(P C R Black) Lt-Col
Comd 18 Cdn Armd C Regt
(XII MANITOBA DRAGOONS)

In the Fd
4 Oct 45

To be tried by Field General Court-Martial.

E.G. Pallister

(E.G. Pallister) Lt-Col
CRCMME 4 Cdn Armd Div.

In the Field
4 Oct 45.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ...N/a... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ...this... charge(s). The accused is (not) so informed, and he (does) changes(s) his (their) plea(s) on ... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex Z , initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ... (1)
(1. If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, R& Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ... charge(s), and allowed on the ... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ... Do you intend to call witnesses on your behalf ?
Ans ... Are they witnesses as to character only ? Ans ...
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 3.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF Ans. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ...N/a...
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex X respectively.(2)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheets, and in mitigation of punishment ?(1) Ans ...Yes...(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F56757 Tpr. Leach W.E. 18 Cdn Armd Car Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A A 18(4)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to undergo detention for a period of (61) Sixty days detn EH

(Sgd) _____ Judge-Advocate, if any. 10 Oct 45 Date awarded. (Sgd) E Hulbert maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) EH

(1. AA 57A. Delete if not used.)

(Sgd) E Hallister Lt Col

Date 15 Oct 45

Commanding CREME 4 Cdn Armd Div.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
W E Leach	19 Oct 45	A L Phipps Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 20 OCT 1945 JAG'S BRANCH G.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA86 (To Beg of AFA31 40/P & S/1698 (40/0)) 4/38B

Convened by Order of Lt Col E.G. Pallister Comd RCEME dated 8 Oct 45 4 Cdn Armd Div

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F56757 ~~F56757~~ EH	Tpr		William Edward	Leach	18 Cdn Armd Car Regt

PROCEEDINGS REVIEWED R Lawrence Capt 31 Oct 45 REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 10 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 38/27.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED EY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) EH

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ~~1100~~ 1130 hours trial commences. EH

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ EH

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to _____ as interpreter? Ans EH

~~The Interpreter is sworn.(1) Do you object to _____ as shorthand writer? Ans _____~~
~~The shorthand writer is sworn.(1)~~ EH

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2) EH

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	E Hulbert	Sigs, 4 Cdn Armd Div
Member	Capt	R B Hear	27 Cdn Armd Regt
Member	Lt	E Heydi	RCEME 4 Cdn Armd Div
Judge-Advocate			
Prosecutor	Lt	AL Minaker	18 C Armd C Regt
Defending Offr	Capt	CE Henry	

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2) EH

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused F56757 Tpr Leach WE before arraignment make(s) (no) (1) plea EH

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. EH

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B EH

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 4 CAD A8160 Vol TU P 126.

5 U- 107
Spr. Leach, H.E.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Third Charge Cont.			without due precaution, did not immobilize or place picquet on said veh permitting it to be stolen. Contrary to CASF(Overseas) RO d/19 Aug 40 A.A. Sec 11		See first Charge			
Brighton	5 Jan 43	Pte		WOAS AWL from 0900 hrs 5 Jan 42 to 1800 hrs 5 Jan 42 TTA:- 9 hrs A.A.Sec 15(1)	D-56600 Sjt Marcil, P.E. A-9154 A/Sjt Hewitt, M.L.	Automatic forf of 1 dy pay.	10 Jan 42	T.C.Gibson Major	Forf 1 dys pay FR&I 149(1)a
Field	4 Nov 43	Pte		WOAS Conduct to the prejudice of good order and military discipline in that he was found in Tea Shop when his duty required him to be with his Unit A.A. Sec 40.	L/Cpl Coombs	3 dys CB.	4 Nov 42	M.Carleton Capt.	

CERTIFIED TRUE COPY.

for R.L.McGillawee Lt

(R.L.McGillawee) Lt RCASC
MT Trg Wing
I Cdn ASC Rft Unit

No B-83915 Name Leach, F.W. Sqn, Battery or Company — Corps RCASC — Date of enlistment 9 Sep 39 — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc Sgd C.J.Hamill, Lt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed, 9 Mar 40, nil entries and nil cases of drunkenness.				Lt-col	
Field	7 Feb 41	Pte		First Charge: Conduct to the prejudice of good order & Mil discipline in that he at Caterham, 7 Feb 41 at 2100 A. hrs did unlawfully & without proper auth use WD Veh CL-16583 40.) Second Charge: WOAS failure to obey Gen orders in that he, at Caterham 2100 hrs 7 Feb 41 left Seccamp area without signing out when 11 Coy Order #100 d/3 Nov 40 called him to do so. Third Charge: Failure to obey Gen Orders in that he at Croydon 2200 hrs 7 Feb 41 did park WD Vehicle CL-16583	T.Leach Cpl Bullock L/Sjt Cunningham	28 dys FP 28 dys forf pay. Total forf 28 dys pay.	10 Feb 41	GRD Farmer	

(Cont on reverse side)

(PTO)

B.83915 Pte Leach, F.W.	Tried by FGCM on 25 Oct 44.
CHARGE	A.A. Sec 15(1) AWL from 2359 hrs 6 Sep 44 to 2145 hrs 13 Oct 44 when he surrendered to Unit Guard Rm. (Absent 36 days 21 hrs 45 mins)
Findings	Guilty
Sentence	To under go detn for a period of 60 days
Confirmation	Findings confirmed but the sentence mitigated to read: To undergo detn for a period of 48 days and confirmed as so mitigated by Comd B Gp ~~on XXXXXXX~~ 30 Oct 44
Custody	In custody from 2145 hrs 13 Oct 44 to 1415 hrs 25 Oct 44.
Forfeitures	Forf 37 days pay Art 149(1)(a)FR&I Forf 12 days pay Art 149(1)(c)(ii)FR&I Forf 48 days pay Art 149(1)(b)FR&I Total forf 97 days pay.
Promulgated	On 1 Nov 44

N Rec d 3 Nov 44

I, the accused, B-83915 Pte Leach, F.W., RCASC, on strength of 1 Cdn ASC Rft Unit, desire the services of a competent officer to defend me at my forthcoming Trial by Field General Court Martial.

(B-83915 Pte. Leach, F.W.)

F.W.

F.W.

F.W.

LIST OF EXHIBITS

(a) Certified True Copy of 1 Cdn ASC Rft Unit Daily Orders Part II No. 215 d/12 Sep 44 showing that the accused, B-83915 Pte. Leach, F.W., was absent without leave with effect from 2359 hours 6 Sep 44.

(b) Certified True Copy of 1 Cdn ASC Rft Unit Daily Orders Part II No. 245 d/17 Oct 44 showing that the accused, B-83915 Pte. Leach, F.W., ceased to be absent without leave with effect from 2145 hours 13 Oct 44.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~ unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/" years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B83915 Rank Private Name Leach, Frederick Walter of 1 Cdn ASC Rft. Unit ~~Unit~~ Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NOT APPLICABLE				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19 Oct 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Ex. B
~~APP~~
J. W. Mor.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-83915	Pte	Leach, Frederick Walter	1 Cdn ASC Rft Unit

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Regimental ~~and Equation, Battery~~ Conduct sheets ~~[illegible]~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment		
For	N/A	times	A.A. Sec. 40	2	times
For	N/A	times	A.A. Sec. 11	2	times
For	N/A	times	A.A. Sec. 15(1)	1	times
For	N/A	times			times

~~[illegible]~~

~~[illegible]~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~[illegible]~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~[illegible]~~ Army Act and dispensations with trial under ~~[illegible]~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 12 days in ~~[illegible]~~ military custody, making a total of 12 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 30 years

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 9 Sep 39

7. ~~[illegible]~~

8. ~~[illegible]~~

9. The accused is in possession of ~~[illegible]~~ military decoration, ~~[illegible]~~ military (or is in possession of or entitled to). State any ~~[illegible]~~ military decoration or reward. Cdn.Vol.Service Medal-and Clasp - 15 Jan 44 and 1939-43 Star.

10. ~~[illegible]~~

LAST DO
NO 244
16 Oct 44

1 CDN. A.S.C. REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS
DAILY ORDERS PART II
BY
COLONEL H.P. BONNICK, COMMANDING.
SECTION "B"

THIS DO
NO 245
17 Oct 44

EXHIBIT "B"
DORS.

13. ABSENT WITHOUT LEAVE
(b) The u/m personnel cease to be AWL w.e.f.
Times and Dates shown:
B.83915 Pte. Leach, F.W. 2145 hrs 13 Oct 44

Certified True Copy

.....
(T.M. Justice) Lt.,
for Records Officer
1 Cdn A.S.C. Rft Unit.

Sgd.
for

(E.A. Lynch) Major
(H.P. Bonnick) Colonel,
Commanding,
1 Cdn A.S.C. Rft Unit
Canadian Army Overseas

J. T. M. Mac.

LAST DO
NO 214
11 Sep 44

1 CDN. A.S.C. REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS
DAILY ORDERS PART II
BY
LTCOLONEL L.C. PARKINSON A/COMD.
SECTION "B"

THIS DO
NO 215
12 Sep 44

EXHIBIT "A"
D681

16. ABSENT WITHOUT LEAVE

(a) The u/m personnel are AWL from times and dates shown:

B.83915 Pte. Leach, F.W. 2359 hrs 6 Sep 44 (24 hrs)

Certified True Copy

.....
(T.M. Justice)Lt.,
for Records Officer
1 Cdn ASC Rft Unit.

Sgd. (J.A. Whitelaw) Capt & Adjt
for (L.C. Parkinson) Lt. Col.
A/Comd
1 Cdn A.S.C. Rft Unit
Canadian Army Overseas.

J.F.W. mcy. SUMMARY OF EVIDENCE

THE CASE OF B-83915 Pte Frederick Walter Leach, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st WITNESS (For the Prosecution) Lieut. S. Rowton, RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

"I am Lieut. S. Rowton, RCASC, on strength of 1 Cdn ASC Rft Unit and produce the following documents relating to the accused, whom I now recognize:-

(a) Certified True Copy of 1 Cdn ASC Rft Unit Daily Orders Part II No. 215 d/12 Sep 44 certifying that the accused, B-83915 Pte. Leach, F.W., was shown as absent without leave with effect from 2359 hours 6 Sep 44.
Marked Exhibit "A"

(b) Certified True Copy of 1 Cdn ASC Rft Unit Daily Orders Part II No. 245 d/17 Oct 44 showing that the accused, B-83915 Pte. Leach, F.W., ceased to be absent without leave with effect from 2145 hours 13 Oct 44."
Marked Exhibit "B"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

S. Rowton
(S. Rowton) Lieutenant.

2nd WITNESS (For the Prosecution) C-12117 Cpl. Blackburn, P.G., RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

"I am C-12117 Cpl. Blackburn, P.G., of 1 Cdn ASC Rft Unit, and was on duty in the Unit Guard Room on the evening of 13 Oct 44 when B-83915 Pte. Leach, F.W., whom I now recognize, voluntarily surrendered himself to me at 2145 hours 13 Oct 44.

"He was sober and properly dressed."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

Cpl Blackburn P.G.
(C-12117 Cpl. Blackburn, P.G.)

The accused was cautioned as follows:- "Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in writing at 1 Cdn ASC Rft Unit on this 18th day of October 1944 in the presence and hearing of the accused and that R.P. 4(c) (d) (e) (f) ~~and (g)~~ have been complied with.

D.G.R. Sargent Lt

(D.G.R. Sargent) Lieut., RCASC
Officer detailed to
take Summary of Evidence.

IN THE FIELD.
19 OCTOBER 1944.

24 Oct 44

TO WHOM IT MAY CONCERN

B-83915 PTE LEACH F.W.

1. As CSM of transport, 5th Cdn Fd Ambulance, from 4 Feb 41 until 30 May 43, Pte Leach was on strength of this Unit.

2. During this time I found the M/N OR to be a good, conscientious soldier.

3. Pte Leach performed any duties assigned him cheerfully and always in the prescribed soldierly manner.

4. Any vehicle assigned to him was always well-serviced and well maintained.

D/Donald CSM

(M-20504 CSM DONALD D.J.)
1 CDN ASC RPT UNIT.

F.W. Leach

disastrous in his present medical category which, at the present time, is B4.

GENTLEMEN, this man's future service to his country rests with you, and I strongly recommend that this case be referred to Higher authority immediately with the view of re-uniting this man with his family.

PLEA IN MITIGATION IN THE CASE OF PTE LEACH

GENTLEMEN OF THE COURT, the accused pleads "GUILTY" of the charge against him.

In consequence he is quite prepared to take his punishment, but, before sentence is passed may I present to the court salient facts that have a vital bearing on subsequent physical and mental actions by the accused.

On the out-break of war he was one of the first to enlist, to serve his country. He came overseas with the 5th Cdn Fd Ambulance, arriving in England DEC 1939. He saw operational service with this Unit in Sicily and Italy. In the course of his duties his lorry was burnt from under him, and in one instance was so badly shaken it was necessary for him to spend some time in hospital in TRIPOLI. On discharge from hospital he immediately reported back to his Unit. However the results of the air-raids he had experienced in England, together with the bombing and straffing he had been subjected to in Sicily and Italy, effected his nerves. He was returned to England 16 Mar 44. In all the years of service with this Unit he had just three minor entries on his MFM 6.

On arriving in the CASCRU he was re-categorized and classified as B4.

Now gentlemen, here is a man who for nearly five years served his country faithfully. He has a wife whom he loves deeply, and a little baby 5 years old. It is 4½ years since he has seen either of them. What is more natural than he think of home? With that thought in mind he made application to be returned to Canada. He did not ask for a discharge, he felt he could still serve his country, but not as actively as five years ago.

He was interviewed by various officials, and told that his case would be investigated. In the meantime he sees men that have not seen half the services he has, going home. His wife writes to him, hoping against hope, that he will be sent home. Month after month he is put off,- for further investigation. Finally he asks for, and gets, a few days leave. Whilst on his leave the bitter disappointments together with his nervous condition makes him do a thing - that if he had been given the right treatment months ago it would never have happened. He decided in his own mind that the only possible way that his case could be brought to a head was to go AWL.

I submit that through worry and frustration the accused's power of reasoning was warped.

GENTLEMEN, in all pity for this man, in justice to his wife, who no less than he, serves her country, by this agony of five long weary years of separation - when you pass sentence think of his little one - ease the anguish of this man's mind. I assure you, GENTLEMEN, the sentence you pass on to this man will hurt his family more than we can realize at this time, but the effect on the accused might prove

J. T. W. Mag.
CBB. Cert.

App. A:

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: B 83915

Ste. Leach, F. W. and in my opinion he is fit to undergo
(rank) (name) m.f.

trial by Court Martial.

Station: Blenheim Brks.

Date: 25 Oct 1944

M. Tickelstein Capt
(Medical Officer)
1 Cdn A.S.C. Rft Unit

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

J. T.W. May.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-83915	Pte		Frederick Walter	LEACH	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 23 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J.T. Williams	RCE	1 CERU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Captain	G.B. Bent	RCE	1 CERU
Lieutenant	P.F. Pullen	RCE	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	to be detailed by	1 CSRU

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 23 Oct 44

Commanding (A.B. Connelly) Brig Comd "B" Gp CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused B.83915 Private Frederick Walter LEACH, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas, is charged with, When on Active Service:-

Sec 15(1) Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, absented himself without leave from 2359 hours 6 September 1944 until 2145 hours 13 October 1944 when he voluntarily surrendered himself to the Unit Guard Room, 1 Cdn ASC Rft Unit.

TOTAL TIME ABSENT: 36 days, 21 hours, 46 minutes.

(H.P. Bonnick)Col.,
Comd.,
1 CdnASC Rft Unit

IN THE FIELD
19 OCTOBER 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(A.B. Donnelly) Brig
Comd "B" Gp
Cdn Rft Units.

23 Oct 44

J.F.W. Morg.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on J.T.W. charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~now~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on ~~the~~ charge(s), the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 152. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A52. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

J.T.W. E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

J.T.W. E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes. through my defending officer (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

J.T.W. E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 7/10
(*1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-83915 Pte Frederick Walter LEACH 1 CASCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	Guilty.	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Nil. Days. J.T.W. In Custody on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court To undergo detention for a period of 60 days.

Sgd J.T. Williams Major.
(J.T. Williams) Major
President

Date 25 Oct 44.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings of the court but I mitigate the sentence so that it shall read. "To undergo detention for a period of (48) forty eight days", and I confirm the sentence as so mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) N/A

(1. AA 57A. Delete if not used.)

Date 30 Oct 44 (Sgd) (A.B. Connelly) Brig
Commanding Comd "B" Gp
Cdn Rft Units
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B/83195 Pte Leach, F.W.	1 Nov 44	(J.G.Ryerson) Major, RCASC, A/Comd. MT Trg Wing. No. 1 Cdn ASC Rft Unit. Cdn. A.S.C. Reinf

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 15 NOV 1944 JUDGE ADVOCATE GENERAL'S BRANCH

RECORDED AT CMHQ IN A8 160, 40-61

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) 40/P & S/1606 (2864)

Convened by Brig A.B. Connelly Comd "B" Gp CRU dated 23 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R ~~(b) Appmt, A/R or A/Appmt~~	Full Christian Names.	Surname.	Unit.
B-83915	Pte	Frederick Walter	LEACH	1 CASCRU

PROCEEDINGS REVIEWED 15 NOV 44

W.A. Thurnwood

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to an interpreter? Ans~~
~~The Interpreter is sworn.(1) Do you object to a shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.T. Williams	RCE	1 CMRU
Member	CAPT.	~~R.F. PULLEN~~ G.B. BENT	R.C.E.	1 C.E.R.U.
Member	LIEUT.	R.F. PULLEN	R.C.E.	1 C.E.R.U.
~~Judge-Advocate~~				
Prosecutor	LIEUT.	D.G.R. SARGENT	R.C.A.S.C.	1 CASCRU.
Defending Offr	LIEUT.	R. DAKIN	R.C.A.S.C.	1 CASCRU.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans. No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B 83915 Pte. Leach, F.W. before arraignment make(s) (no) ~~the~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on the charge(s) in the charge sheet.(1) The accused does (do) not object to the charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4D61 .

PTE LEACH FW

COUNTER NUMBER 77307

HOUR 13 20

OPERATOR'S INITIALS AW

RELIEVING OPERATOR _____

I, No. B.83915, Private F. W. Leach, desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of Capt. O. Barrett Blase or Major Howard Graham if ~~he~~ they is available.

9-April-40

F. W. Leach

Aldershot, Hants,
24th April 1940.

CERTIFICATE OF COURT STENOGRAPHER

I, No. B72524, Sergeant Frank Godley, 48th Highlanders of Canada, C.A.S.F., Corunna Barracks, Aldershot, Hants, England, hereby certify that the foregoing Transcript of Evidence taken in short-hand by me, relating to the trial of

B83915 Private Frederick Walter LEACH

R.C.A.S.C., Att. No. 5 Fd. Amb. R.C.A.M.C.

conducted in Court-Marial Room, Headquarters, 1st Canadian Infantry Brigade, Knollys Road, Aldershot, Hants., is a true transcript to the best of my knowledge and belief.

Aldershot, Hants.
24 Apr 40

Frank Godley, Sgt.

is entitled to be discharged.

The Court has to decide whether or not the Accused was careless in handling his rifle. He is still not guilty on the second charge because, even if he were careless, that is not enough on which to convict him.

The Court requested Defence Counsel to give his interpretation of the word "culpable".

The Defence Counsel defined the word "culpable" as "wilful, or with intent".

The Court retired to consider its decision.

Then he laid it on his bed and went over and had a smoke. There was no haste or confusion. Then he sat down, put the muzzle of the rifle against his foot and started to remove the breech-cover, and apparently got his finger caught in the trigger and discharged the weapon.

Having in mind that he was aware that he was aware that the rifle had been tampered with, he was not exercising the proper care.

Having regard to the fact that other people were in danger, it is obvious that a higher degree of care must be exercised. It is my opinion that, if he had exercised the proper caution, he would first have taken care to see that the rifle was not pointed at anyone until he had ensured that it was not loaded.

He agrees that he was careless in ~~him~~ pointing the rifle at his foot when handling it, and by removing the breech-cover in such a way as to get his finger entangled in the trigger, thus causing it to dis~~h~~ charge .

I feel that, if I were to recommend that he be acquitted on that charge, I would be placing a stamp of approval on conduct that is not consistent with the degree of care and precaution necessary in handling a military weapon.

-- 00 --

Defending Officer's Summary:

The Prosecuting Officer has stated exactly what I feel--that there does not appear to be sufficient evidence on the first charge. The law is that "intent" must be proven.

My submission is, shortly, that there is absolutely notevidence whatsoever to prove that there was "intent" or to raise the presumption that the Accused had any intent to "wilfully injure himself".

With regard to the second charge, I refer you to Manual of Military Law, top of page 459, which reads:

> "Neglect, to be punishable under this section, must be wilful or culpable and not merely the result of forgetfulness, error of judgment, or inadvertence.

My submission is that there has been absolutely no evidence adduced to warrant a conviction on the second charge. There was no discrepancy in the evidence. It was clear all the way insofar as the witnesses told about what they actually saw. The Accused was willing to be subjected to cross-examination. It seems to me that that might very well have happened to anyone, anyone in the room.

It seems to me that everyone in the Army has at some time handled a rifle contrary to military law. In this case the Accused demonstrated to the Court exactly what he was doing. The circumstances were such as to excuse him. The last thing that occurred to him was that a round might be in the chamber.

Quite true the breech-cover had been changed, but that is far removed from contemplating that there might be a live round in the chamber. The Accused's Commanding Officer spoke very highly of him. The charge now, if he is judged guilty, will be a black mark against him while ever he is in the Army.

I need hardly explain to this Court that the same principle applies as in any other British Court, namely, that the Accused is entitled to every reasonable doubt.

To my mind the evidence scarcely raises a suspicion of guilt on either charge. It seems to me that, if there is a doubt, the Accused

and work have been very satisfactory.

Q. Does he still carry on with his work?

A. No, because he is still under open arrest.

The Prosecutor addressed the witness:

Q. Have you had any conversation with the Accused since the accident?

A. No. Only this afternoon.

Objection raised by Defence Counsel, who maintained that character witness not subject to cross-examination when giving evidence as to character only.

The Court ruled that a character witness can only be cross-examined as to character evidence. He gives evidence as to character only in the point of view that sentence may be remitted in the event of the Accused being found guilty.

The Court was adjourned at 1805 hrs. 22 April 40

Court re-opened at 1400 hrs. 23 April 40

(13)

Prosecutor's Summary:

Bearing in mind the cogent observations of this Court, I feel it is my duty to say that I do not think there is any evidence upon which to found the first charge. I feel that all the way the evidence has tended to exonerate the Accused, rather than to convict him of it in any way.

As regards the alternative and less serious charge, I think there is some evidence to be taken into consideration before the decision is finally arrived at. It would appear to me that there is considerable difference between the duty imposed upon a man in civilian life when handling a dangerous weapon and the duty of a soldier when handling firearms.

In civilian life when a man in injured by a firearm it is not an offence. But when a man is subject to military law it is part of his duty to carefully observe all precautions when handling firearms and to prevent avoidable accidents.

I feel that the principle to be followed in arriving at a decision as to whether or not the offence was committed would depend upon whether or not the Accused took all reasonable precautions to avoid the accident. Obviously there was no necessity for the Accused to point this weapon at his foot when handling it.

Secondly, even though the rifle was loaded and the breech was covered, there was no necessity for the Accused to handle it in such a way that the rifle was discharged upon removing the breech-cover, which could obviously be removed without discharging the weapon.

We, therefore, might fairly say that it was an avoidable accident.

With regard to the care exercised by him, he has stated that he noticed that his rifle had been tampered with and he went over to the rifle and took it down.

A. No, sir.

Q. Is it fair to say that you do not want driving vehicles to be your regular occupation?

A. No, sir.

Q. Then you were not dissatisfied with your occupation?

A. No, sir.

Q. Have you not ever been warned against point a rifle at yourself or anyone else when unloading it?

A. Yes, sir. I admit that.

Q. Do you agree that it was carelessness in having the rifle on your toe when unloading it? Would not ordinary care and precaution indicate that you would not point it at yourself when you were not sure that it was not loaded?

A. I don't know, sir. I have seen many rifles hanging on the wall without safety-catches on.

Q. Did you say that you saw that your rifle had been tampered with before you took it down and that you rested the muzzle on your foot?

A. Yes, sir.

Q. Don't you think that that was carelessness, when you knew that the rifle had been tampered with?

A. Yes, sir.

Q. You agree that that was carelessness on your part?

A. Yes, sir.

Defence Counsel calls character evidence:

Called Major G.A. Sinclair. Witness sworn.

Q. What is your full name?

A. Gordon Anson Sinclair.

Q. What is your rank?

A. Major and Acting Officer Commanding.

Q. What is your unit?

A. 5 Fd. Amb. R.C.A.M.C.

Q. How long have you known the Accused, Private Leach?

A. Since his attachment on December 18th, 1939, to 5 Fd. Amb. R.C.A.M.C.

Q. Have you had occasion to know him particularly?

A. Simply on parade and when as a passenger in the car.

Q. What have you observed as to his character?

A. He has always been prompt, smartly turned out, and quite interested in his work. In fact, in his tradesman's test he was given special commendation. Up to the time of his injury his conduct, character,

Q. Then you have had fairly thorough instruction as to the handling of rifles?

A. So far as breech-covers are concerned, sir.

Q. What instruction have you had?

A. In removing the bolt and the magazine.

Q. After removing the rifle from the nail on which it was hanging, what did you do?

A. I took the rifle over to my bed and had a smoke and laid the rifle on my bed.

Q. Why did you lay the rifle on your bed and then walk away and have a cigarette?

A. Because it was not the proper time to clean it.

Q. What time was that?

A. About 9.15 p.m.

Q. What next?

A. I opened the butt-trap and took out the pull-through and a piece of two-by-four and put it on the pull-through. I then asked Private Vickers if the two-by-four was on the pull-through properly. I then commenced to remove the breech-cover.

Q. Then the rifle exploded?

A. Yes, sir.

Q. How did that happen--did your finger touch the trigger?

A. Possibly, sir. I don't remember.

Here the Court ruled that the line of questioning adopted not admissible.

Q. You were asked by Major Graham (Defence Counsel) if you wanted to get out of the Army, and you replied that you did not. Are you satisfied with your employment, and were you satisfied with your employment before the time of the accident?

A. Yes, sir.

Q. Do you find yourself fully competent to drive vehicles?

A. Not at all times, sir.

Q. How is that?
A.
A. I do not like driving in this country.

Q. Any other reason why you are not satisfied with your occupation?

A. Onlybecause I am wearing glasses when driving at night. In cold weather the glasses steam up when driving an ambulance.

Q. Then I take it that at that time you were desirous of being placed in some other occupation than driving vehicles?

A. Not in another unit, sir.

Q. You don't want to be taken out of your unit?

A. Yes, sir. After being in hospital.

Q. Have you talked this matter over with anybody?

A. No, sir. Except for saying that I would like to know how the bullet got in there, sir.

Q. Have you any ideas as to whether your rifle was half-cocked or fully cocked?

A. No, sir.

Q. Do you know who checked the spent round?

A. No, sir.

The Prosecutor then addressed the Accused:

Q. When did you go to the North Horn Hotel?

A. (It is believed that the Accused replied: "Around 7 p.m., sir").

Q. Were you talking to anyone there?

A. I was playing darts with an English fellow.

Q. You had a glass of beer?

A. Yes. Only one, sir.

Q. When you came back, were you alone?

A. Yes, sir.

Q. How long had you been in the room before you noticed, as you say, that your rifle had been tampered with?

A. About ten minutes, sir.

Q. Your rifle was hanging on a nail?

A. Yes, sir. With the butt pointing towards the floor.

Q. When had you last had your rifle in your hands prior to that occasion?

A. The rifle was checked about three or four days before. I had handled it the day before and had cleaned it.

Q. In order to clean it, you removed the breech-cover?

A. Yes, sir.

Q. On February 29th, 1940, did you have your rifle in your hands, prior to the accident on that day?

A. No, sir.

Q. When did you clean it on the previous day?

A. I had cleaned it prior to an inspection of it by Corporal Gray.

Q. You asked who had been fooling with your rifle?

A. Yes, sir. The breech-cover was on wrong.

Q. Did you put it on that way?

A. No, sir. We were taught how to put them on.

the pull-through properly. He said it was, and then I commenced to remove the breech-cover.

Q. Did you cock the rifle before you were cleaning it?

A. No, sir.

Q. What happened then?

A. So far as I remember, I looked down at my right shoe and I noticed that it had been split and I sort of stood on my left foot. I cannot remember much from there, sir.

Q. How is a rifle supposed to be laid on a table.

A. With the bolt up.

Q. How did the rifle go off?

A. I was sitting on a chair with the muzzle on my right toe and I was starting to remove the breech-cover.

Q. Did you have a rifle of your own in Canada?

A. No, sir.

Q. It has been stated that you got a rifle a day or two before going to the open range. Is that correct?

A. Yes, sir.

Q. When this accident happened, how long had you had a rifle?

A. For about three weeks, sir.

Q. What sort of training were you doing at this time, the end of February?

A. Driving and rifle drill.

Q. Have you had much rifle drill?

A. Not much, sir.

Q. How long were you in hospital.

A. Twenty-six days, sir.

Q. Did you lo se a toe?

A. Yes, sir. The great toe of the right foot.

Q. Is your foot affected in any way?

A. No, sir.

Q. Do you want to get out of the Army?

A. No, sir.

Q. Do you like your work?

A. Yes, sir. Very much, sir.

Q. What dos you do?

A. Drive a truck, sir.

Q. You had a preliminary hearing before your Commanding Officer?

The President inquired if the Accused wished to give evidence himself as a witness. The Accused was warned that he might be cross-examined upon any evidence given.

Witness sworn.

Q. Where were you on the evening of this accident, February 29th, 1940?

A. At the North Horn Hotel.

Q. Had you been drinking there?

A. Yes, sir. I had one glass of beer.

Q. At what time did you return to your barrack-room?

A. Around 9.00 o'clock p.m. sir.

Q. What did you do?

A. I was talking to some chaps there and happened to notice that my rifle had been tampered with.

Q. Where were you sitting?

A. In about the centre of the room.

Q. Where is your bed?

A. In the centre of the room.

Q. Where was your rifle?

A. It was hanging on a nail in the wall about six feet from the floor.

Q. What did you notice about your rifle?

A. The breech-cover was wrapped around the sling.

Q. In the manner in which it now is?

A. Yes, in that manner, sir.

Q. What did you do then?

A. I asked who had been fooling with my rifle.

Q. How many lads were there around at the time?

A. About six, sir.

Q. Did you get any reply to your question?

A. They just took a look at my rifle and said I must haveput it there myself.

Q. What did you say then?

A. I did not say anything, but took the rifle down and decided that I would clean it.

Q. What were the other lads doing at this time?

A. Some were reading at the table and some were lying on their beds.

Q. Then what happened?

A. I took down the rifle, opened the butt-trap, took out the pull-through and two-by-four and asked Private Vickers if the two-by-four was on

Private T.R. Leach

Recalled and reminded that he was still under oath.

The Court addressed the witness:

Q. In connection with conversations with your brother after the accident. Was there any explanation or suggestion made to you by him as to what might have happened?

A. No, sir.

Q. Did you not ask him?

A. No, sir.

Q. Were you not interested?

A. He didn't know how the round had got in the rifle.

Q. Was there any effort made to check on how it got in there?

A. I don't know, sir.

Q. Other than his statement that he would like to know how it got in there, was there any other conversation?

A. No, sir.

Q. Do you talk to your brother much?

A. No, sir.

Q. It seems peculiar that, when your brother got shot in the foot, you would not talk about it. Is your brother given to talking much?

A. No, sir. He is very quiet.

Q. Did he give you an idea how he was holding the rifle when it happened?

A. No, sir. I did not ask him.

No further witnesses.

The Court questioned the witness:

Q. Have you had any conversation with Private Leach since the time of the accident?

A. No, sir. Except that he said that he would like to find out who put the bullet in the rifle.

The Prosecutor then addressed the witness:

Q. Having said that much, did he say anything further?

A. Not that I recall, sir. There were one or two things which I cannot recall, but that was the outstanding thing which he did say ("I would like to find out who put the bullet in the rifle".)

The Court questioned the witness:

Q. I take it that he must have made the explanation to you that someone put the bullet in his rifle. Did he speculate as to how it was done?

A. No, sir.

Q. Would you regard it as a fairly serious matter.

A. Yes, sir. We discussed it amongst ourselves whilst he was in hospital

Q. Was it taken for granted in your conversation that somebody had done it?

A. Yes, sir.

Q. You hold that opinion?

A. Yes, sir.

Q. On what grounds?

A. The fact that it was his own rifle and I do not think that a man used to handling rifles would do such a thing.

Q. Has the Accused any enemies that you know of?

A. No, sir. Not that I know of;

Lance-Corporal Templeton

Recalled and reminded that he was still under oath.

The Court addressed the witness:

Q. You stated that the Accused used your rifle at the ranges?

A. Yes, sir. His rifle had just been issued at the time, and he had no time to clean the grease from the barrel.

Q. You are not in the same room as he is?

A. No, sir.

Q. Was his rifle cleaned subsequently and before the accident happened?

A. Yes, sir. We had rifle-cleaning drill the day prior to the accident.

Q. You do not have much contact with Leach?

A. No, sir.

Private T.R. Leach

Q. Did he say anything?

A. No, sir. Not that I can recall.

Q. After that, did you hear any statement made by him?

A. No, sir.

Q. Have you seen Private Leach since the accident and before today?

A. Yes, sir.

Q. Have you had any conversation with him?

A. Only regarding his foot, sir.

Q. Has he stated anything to you about it?

A. No, sir.

Q. Have you had instruction in care of arms and the manner of cleaning a rifle?

A. Yes, sir.

Q. Can you say that Leach has had instruction?

A. I don't know, sir. He was not in my section.

Q. Can you explain the presence of a live round of ammunition?

A. No, sir.

Q. Have you told us everything you can that has a bearing on the matter in question?

A
A. Yes, sir.

Defence - No question.

The Court questioned the witness:

Q. You say that Leach was sitting on the bed with the rifle on his knees, and that at that time he was talking to you. Did you notice particularly whether or not he had the breech-cover on the rifle?

A. No, sir.

Q. Is there anything familiar in the sound of the opening of a rifle bolt?

A. Yes. A click, sir.

Q. Did you hear in that room the click of the bolt?

A. No, sir.

Court cleared at 1605 hrs.

Court re-opened at 1625 hrs.

The Court addressed Defence Counsel:

The Court is not satisfied and we wish to recall one or two witnesses.

Call Private Vickers.

Private Vickers recalled and reminded by the Court that he was still under oath.

Q. Do you know the Accused, Private F.W. Leach?

A. Yes, sir.

Q. Do you recall where you saw him on the evening of February 29th last?

A. Yes, sir.
Q. Where?

A. In our hut, sir.

Q. Do you occupy the same sleeping-quarters as Leach?

A. Yes, sir.

Q. Can you tell me what took place on that occasion?

A. Yes, sir. Leach came into the room. We were all sitting around the fire. Leach happened to notice that the breech-cover of his rifle had been changed, as it was on incorrectly.

Q. Then what happened? How long had he been in the room before he appeared to notice that something had happened to his rifle?

A. About twenty minutes.

Q. What happened next?

A. Leach took the rifle down off the wall.

Q. Did you see him.

A. I saw him with the rifle across his knees, sitting on the bed. At the time he was talking to me.

Q. About what?

A. I cannot recall what it was about, sir. I turned and walked towards my bed.

Q. Then what happened?

A. I heard a shot.

Q. Can you say who was holding the rifle?

A. I had my back turned when the shot was fired.

Q. Can you say as to whether or not there was any person standing near Leach at the time?

A. No, sir. My back was to him.

Q. Where was the Accused then?

A. He just rolled off the bed onto the floor, and the rifle was lying on the floor. Private Vickers picked up the rifle and examined it.

Q. Then what did he do?

A. I don't know, sir.

Q. What did you do?

A. I just stood by and helped to lift him onto the bed.

Q. What was Leach doing at the time?

A. He was moaning at the time.

Q. Where did the bang come from?

A. It seemed to come from Leach's gun.

Q. After you heard the bang, what did you do?

A. I went for the Medical Officer.

Q. What was Leach doing?

A. He seemed to be pretty excited. He was saying: 'Oh, my God! What happened?", and he seemed unable to figure out what had happened.

Q. Then what happened?

A. The M.O. came. Leach was removed.

Q. Have you seen Leach since?

A. Just since he returned from hospital.

Q. Have you had any conversation with him in regard to the occurrence?

A. We try not to mention it.

Q. Has it, in fact, been mentioned?

A. Not to my knowledge.

Q. Can you say as to whether or not the Accused has received instruction in the care and cleaning of a rifle?

A. Yes, sir. I imagine they have all had instruction.

Defence Counsel questioned the witness:

Q. With regard to the cleaning of a rifle. If the floor is dirty the muzzle will be placed on the toe of the boot. Is that the way you were taught?

A. Yes, sir.

The Prosecution questioned the witness:

Q. When you are cleaning a rifle and place the muzzle on the toe of your boot, do you remove the bolt before or after placing the rifle on the boot?

A. After placing the rifle on the boot.

Defence - No question.

12th Witness: B83950 Private S.J. Brown, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Sidney John Brown.

Q. What is your Regimental number?

A. B83950.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

A. No, sir.

Q. Can you account for the presence of a round of live ammunition in your barrack-room?

A. No, sir.

Defence Counsel - No question.

The Court questioned the witness;

Q. How many men are there in your barrack-room?

A. Twelve, sir.

Q. Did you have any dummy ammunition?

A. No, sir. It was all locked up.

Q. Did you not discuss with your brother how that bullet came to be in his foot?

A. No, sir. He did not say how it had happened, and there was no further discussion so far as that was concerned.

11th Witness: B03955 Private W.S. Johnston, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. William Samuel Johnston.

Q. What is your Regimental number?

A. B03955.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Private Leach?

A. Yes, sir.

Q. Do you recall seeing Private Leach on the evening of February 29th last?

A. Yes, sir.

Q. Where did you see him on that occasion?

A. In the barrack-room which I occupy.

Q. What took place?

A. He glanced at his rifle and noticed that the breech-cover was off, and said: 'Who has been fooling with my rifle?".

Q. Then what was said?

A. I went back to my writing.

Q. Did you hear anything further?

A. Nothing whatever. I was busy writing a letter and then I heard a bang.

A. In the barrack-room, sir.

Q. What were you doing?

A. Just sitting writing a letter, sir.

Q. When?

A. At about 9 o'clock, sir.

Q. Were you in his company from that time?

A. No, sir.

Q. When did you see him next?

A. At about 9.15 p.m.

Q. Where?

A. In the barrack-room.

Q. What took place? I understand that he just came into the room where you were at about 9.15 p.m.

A. Yes, sir.

Q. After he came in, what took place?

A. He remarked that somebody had touched his rifle. The breech-cover was on wrong. We did not pay any attention.

Q. Did anyone pay any attention to that remark?

A. No, sir.

Q. Then what happened?

A. In the meantime he had taken the rifle down.

Q. Did you see him taking it down.

A. No, sir.

Q. Then what happened?

A. I heard a shot fired.

Q. Do you know who fired the shot?

A. No, sir.

Q. Then what took place?

A. I went and got the M.O. and stood there until the Officer came and checked all our kit-bags.

Q. Did you have any conversation with him?

A. No, sir.

Q. Have you had any conversation with your brother since that time?

A. No, sir. Except for everyday matters.

Q. Has he said nothing to you about this shooting occurrence?

A. Nothing whatsoever.

Q. Can you say that the rifle was held by your brother or by someone else when fired?

Q. Then what took place?

A. After that I heard a shot.

Q. What did you do then?

A. I just stayed in bed. All the other boys were around him.

Q. What took place?

A. The Medical Orderly came in and rendered first aid to Private Leach and took him away to hospital.

Q. Have you seen him since that afternoon and before this afternoon?

A. Yes, sir.

Q. Have you had any conversation with him?

A. Yes, sir. Only about drill.

Q. Have you ever discussed the occurrence of February 29th with him?

A. No, sir.

Q. Have you received instruction as to the proper manner of cleaning a rifle?

A. Yes, sir.

Q. Can you say that Private Leach has had instruction?

A. I could not say, sir.

Defence Counsel - No question.

10th Witness: B83868 Private T.R. Leach
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Robert Leach.

Q. What is your Regimental number?

A. B83868.

Q. What is your Unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. I understand that you are a brother of the Accused, Private Frederick Walter Leach. Is that correct?

A. Yes, sir.

Q. Do you recall the evening of February 29th, 1940?

A. Yes, sir.

Q. Did you see your brother on that evening?

A. I did, sir.

Q. Where?

Q. Was there any live ammunition found in the room then?

A. It was in another room where the inspection took place.

Defence Counsel - No question.

9th Witness: B84189 Pte. W.H. Hiltz, R.C.A.S.C. att. No. 5 Fd. Amb, R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. William Henry Hiltz.

Q. What is your Regimental number?

A. B84189.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the accused, Leach?

A. Yes, sir.

Q. Do you occupy the same hut with him?

A. I do.

Q. Did you see Leach on the evening of February 29th, 1940?

A. Yes, sir.

Q. Where?

A. Sitting on his bed.

Q. When?

A. Between 9.30 and 10 p.m.

Q. What was he doing at the time?

A. He was about to clean his rifle.

Q. What was he doing?

A. I was reading a paper and was not paying much attention at the time. Some of the boys were talking to him about cleaning his rifle.

Q. Who was talking to him?

A. About five or six of the boys in the hut.

Q. Was Leach talking to them?

A. I don't remember that very clearly, sir.

A. What do you remember about what he was talking?

A. Nothing, sir.

Q. Can you say that Leach had a rifle at the time? Did you see a rifle in his hand?

A. No, sir. I was lying in bed with my back to him.

Q. When you entered, did you see him?

A. No, sir. I was in bed before he entered.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Did you see him on the evening of February 29th, 1940?

A. I saw him on the night of the accident.

Q. To what accident are you referring?

A. To the shooting accident, sir.

Q. When did you first see him on the night in question?

A. At about 9.30 p.m. when returning from the show.

Q. Was he in the room as you entered?

A. When I entered, he was sitting on the edge of his bed, with the rifle across his knees.

Q. Did you observe the rifle at the time?

A. I just got a glimpse of him.

Q. Was there a breech-cover on the rifle at the time?

A. I don't know, sir. We just entered the room and were talking about the show. I turned my back and then heard a shot.

Q. Then what happened?

A. We told a man to go for the Medical Officer.

Q. What was done then?

A. The man reported that he could not find him. I placed the man in charge of the room and went to the Officers' quarters.

Q. Did you hear Leach say anything?

A. He shouted something, of which I am not quite sure.

Q. Do you occupy the same room with Private Leach?

A. Yes, sir.

Q. Can you say how a live round of ammunition would be in a gun?

A. No, sir.

Q. Since then have you had any conversation with him?

A. Only regarding his foot.

Q. What has he said?

A. Only that he can walk with it.

Q. Has he said anything about the accident?

A. The boys have kept away from that, sir.

Q. Do you know whether or not there was any inspection of rifles prior to the time of the accident?

A. About two or three days before there was an inspection.

A. B84354.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. I do, sir.

Q. Did you see him on the evening of 29th February last?

A. Was that the evening of the accident, sir?

Yes.

A. Yes. I saw him then.

Q. Where was he when you first saw him that evening?

A. Lying on his bed.

Q. What was taking place at the time?

A. The Orderly was rendering first aid.

Q. Did you hear any conversation on that occasion?

A. No. I didn't, sir.

Q. Have you had any conversation with Private Leach since the accident?

A. None whatever, sir.

Q. Do you know when Private Leach was at the ranges to fire his rifle practice?

A. Yes, sir. On the previous Saturday. (February 24th, 1940.)

Q. What rifle did he use?

A. He used my rifle, sir.

Q. How did that happen?

A. He tooke mine on my suggestion, as it waw ready for firing and his was not cleaned.

Q. Was his rifle used between that time and the time of the accident?

A. No, sir.

Q. Do you occupy the same room with Private Leach?

A. No, sir.

Defence Counsel - No question.

8th Witness: B84240 L/Cpl. J.K. Gray, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. James Knowles Gray.

Q. What is your Regimental number?

A. B84240.

Q. Where was he?

A. Beside his bed on the floor.

Q. What was he doing?

A. He was more or less in agony, sir.

Q. Did he say anything?

A. Nothing that I could understand, sir.

Q. Where was the rifle?

A. It had fallen near him on the floor.

Q. I am producing to view a rifle (Exhibit 1). Can you identify that rifle, or have you ever seen it before?

A. Yes, sir. I identify it as Private Leach's rifle.

Q. How do you identify it?

A. By the colour, sir.

Q. What next took place after you found him on the floor?

A. We held him and waited for the arrival of Officers. After the Officers came we placed him on the bed and his wound was dressed.

Q. Do you know anything further about this occurrence?

A. No, sir. I do not.

Q. Can you say how the live round happened to be in his rifle?

A. No, sir.

Q. Did you hear any statement on the night in question?

A. No, sir. I did not arrive until late.

Q. Have you had any conversation with Private Leach since the occurrence?

A. No, sir.

Defence Counsel questioned the witness:

Q. Who checked the empty cartridge-case?

A. I don't know, sir.

Q. Did you see it on the floor?

A. No, sir. I didn't pay any attention to it. I don't know how it got out of the rifle.

7th Witness: B84354 L/Cpl. T. Templeton, R.C.A.M.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Templeton.

Q. What is your Regimental number.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Do you recall whether or not you saw him on the night of February 29th last?

A. Yes, sir. I did, sir.

Q. Where?

A. In his quarters, sir.

Q. Do you occupy the same hut as he?

A. I do, sir.

Q. About what time di you see him on that evening?

A. At about 9.30 P.M.

Q. What was he doing at that time?

A. He was cleaning his rifle.

Q. Where was he, sitting down or standing up?

A. Sitting down, sir.

Q. How was he holding his rifle?

A. I did not pay any attention to that, sir.

Q. Can you say how the rifle was being held?

A. No, I cannot say, sir.

Q. How far away from you was he at the time.

A. Approximately three yards, sir.

Q. Were you facing him?

A. I was more or less to the side, sir.

Q. What were you doing at the time?

A. I was making my bed.

Q. Did you have any conversation with the Accused, or hear any conversation?

A. No, sir. Not as far as I know. I was not paying any attention, sir.

Q. Can you recall anything that was said in the hut immediately prior to the accident?

A. No, sir. It was noisy at the time.

Q. What was causing the noise?

A. They were all preparing for bed.

Q. What took place that you can recall-just what actually happened?

A. I heard a report. We ran over to the Accused, Leach

Defence Counsel questioned the witness:

Q. Sergeant-Major. Did this man have a rifle in Canada?

A. I would not swear to that, sir. We were short of rifles then.

Q. Has he had any lessons?

A. Yes, sir. Two lessons by myself.

Q. When do you place the rifle on the toe?

A. The only time you put the rifle on the toe is when "resting on arms reversed" at funerals.

Q. How long have you known the Accused?

A. Since before the War, sir.

Q. What would you say regarding his general character?

A. He is one of the best men I have.

The Court questioned the witness:

Q. What day did you go to the ranges?

A. On February 17th, sir.

Q. Were you with the Accused on that day?

A. Yes, sir.

Q. Were adequate precautions taken that the men would not have ammunition at the conclusion of the course?

A. Yes, sir.

Q. At the conclusion of the course at the ranges, before you left, were all rifles inspected by the Inspecting Officer?

A. Yes, sir. They were inspected and proven empty before they stepped off the firing point.

Q. Do you know if a rifle inspection took place between the day at the ranges at the time of the accident?

A. Yes, sir. I supervised the inspection of rifles in the huts.

Q. In your opinion could this round not have been left in the rifle since the day at the ranges?

A. No sir.

6th Witness: B83958 Private G. McKenzie, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Gordon McKenzie.

Q. What is your Regimental number?

A. B83958.

from him on 29th February. They were just taking it off when I arrived.

Q. What took place when you arrived?

A. They took the shoe off and I called an ambulance to take him away.

Q. Did you hear or did you have any conversation with Leach at that time?

A. No, sir.

Q. From what you observed of his condition when you arrived, would you say he was conscious?

A. No, sir. I do not think he was in condition to understand.

Q. Did you see anything of a rifle at that time?

A. I did, sir.

I am producing to view a rifle (Exhibit 1)

Q. Can you identify that rifle?

A. Yes, sir.

Q. What rifle is it?

A. That is the rifle used on the night of the shooting. It was handed to me by one of the men.

Q. At that time did it have the breech-cover on it?

A. No, sir. The cover was off and the bolt was pulled back.

Q. Was the sling on the rifle at the time in question?

A. Yes, sir.

I am producing to view an expended cartridge (Exhibit 3)

Q. Can you identify this cartridge-case?

A. Yes, sir. That is the cartridge-case found on the night in question.

Q. Did you see it then?

A. Yes, sir. It was handed over to Lieut. Purcell by one of the men.

Q. Have you had any conversation with the Accused since the night in question?

A. Yes, sir. But nothing with regard to this case.

Q. Can you say as to whether or not Private Leach has had instruction in the manner of cleaning a rifle?

A. Yes, sir. He has.

Q. What is the correct procedure and in what position is the rifle held?

A. With the muzzle up or down.

Q. Which is correct?

A. With the muzzle up is the proper position.

Q. If it is held with the muzzle down, where would the muzzle be placed?

A. Pointing down at a point ahead of the person holding the rifle.

Q. Do you know if the accused has had any previous training in the care of arms?

A. He has had some, but not as much as I had, which was not very much.

Q. How are you taught to clean a rifle?

A. Remove magazine and pull it through with an oiled cloth.

Q. Do you think that the Accused had cleaned his rifle several times before?

A. Yes, sir.

Q. Do you know how to put a piece of two-by-four on your pull-through?

A. Yes, sir.

5th Witness: B83962 C.S.M. E.C.G. Robertson
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Eric Charles Gordon Robertson.

Q. What is your Regimental number?

A. B83962.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Did you see him on the evening of February 29th last?

A. Yes, sir.

Q. When?

A. At approximately 9.30 p.m.

Q. Where?

A. Lying on his bed in his quarters.

Q. What did you observe as to his condition?

A. He appeared to be suffering from some injury. Two men were sitting beside him on his bed and he was groaning.

Q. Who were the two men?

A. I took no notice, sir.

Q. Did you make any examination?

A. Yes, they were just taking off his shoe and sock when I was there.

I am producing to view a running-shoe (Exhibit 2)

Q. Can you identify that shoe?

A. Yes, sir. It is the right shoe of Private Leach which was removed

Q. Where was the hole?

A. It was about three feet from the edge of Leach's bed.

Q. Since then, have you had any conversation with Private Leach?

A. Yes, sir.

The Court stated: "I do not think that is relevant".

Prosecution: "There might have been a confession".

Question allowed.

Q. Have you had any conversation with the accused since the accident?

A. Yes, sir. He wants to find out the one who put the sehll in his rifle. That is all that I can recall at the moment, sir.

Q. I notice that on this shoe (Exhibit 2) the top of the shoe seems to be considerably damaged but there is no damage to the bottom of the shoe. What part of the Accused's foot was injured?

A. It went through his great right toe. There is a hole in the bottom of the shoe, where the bullet penetrated.

Q. Was there any clowning or horse-play going on at the time the accident occurred?

A. None at all sir.

Defence - No question.

The Court questioned the witness:

Q. Was there anyone else in the room at the time of the accident?

A. It was fairly well filled.

Q. How far away from the adcused was your bed?

A. About two or three beds away.

Q. You say that the breech-cover was over the sling of the rifle. Did you actually see the breech-cover over the sling?

A. Yes, sir.

Q. Between that time and the time of the report did you see the breech of the rifle?

A. Yes, sir. The breech of the rifle was closed all the time I saw it. The rifle was between his knees, with the butt on the floor. I don't know whether or not the breech was closed.

Q. How long have you been in the Army?

A. I joined about two days after the accused.

Q. When were rifles issued to you?

A. In the middle of January last.

Q. Have you had any training in the care of arms?

A. Just elementary training, sir.

Q. How was it on wrong?

A. It was wrapped around the sling.

Q. What next took place?

A. I was making up my bed.

Q. Was the accused in your range of vision?

A. Yes, sir.

Q. Were there others in the room?

A. Yes, sir.

Q. What next took place?

A. He had his pull-through in the rifle and was sitting on the bed with the rifle on his knees and butt on the floor. He asked me if the two-by-four was on the pull-through correctly, and I told him it was. About two or three minutes later I heard the report. I was not paying any attention to him in the meantime.

Q. Did you hear anything further stated?

A. No, sir, I was not paying any attention.

Q. When you heard the report, what did you do?

A. I ran over to his bed and took off his right shoe and sock.

Q. What did you observe?

A. He asked what hit him. When we rolled him over, we saw that his foot was injured. We saw the rifle lying on the floor.

Ai I am producing to view a rifle (Exhibit 1)

Q. Can you identify that rifle?

A. No, sir.

I am producing to view a shoe (Exhibit 2)

Q. Can you identify that shoe?

A. It is the shoe which I took off Private Leach's foot.

Q. What next took place?

A. I picked up the rifle and by that time Staff-Sergeant Duncan and C.S.M. Robertson were there looking after Leach.

Q. Did you have any further conversation with the Accused?

A. No, sir.

Q. Did you hear anything further stated by him?

A. No, sir.

Q. Did you make any examination of the part of the room in which he was sitting, to ascertain where the bullet had travlled?

A. Yes, sir. We saw a hole in the floor.

The Prosecution maintained that it was sought to bring out the mental condition of the Accused prior to the accident.

Defence maintained that evidence being adduced to show "intent", and that it had no connection with the evidence being presently offered.

Court cleared at 1430 hrs.

Court resumed at 1450 hrs.

President ordered that foregoing be stricken from records as inadmissible.

The questioning of Captain Gibson was resumed:

Q. Have you had any conversation with the Accused, Private Leach, since the time of the accident?

A. No, I have not, sir.

Defence - No question.

4th Witness: B84207 Pte. A.R. Vickers
R.C.A.M.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Arthur Robert Vickers.

Q. What is your Regimental number?

A. B84207.

Q. With what unit are you serving?

A. R.C.A.M.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Private F.W. Leach?

A. Yes, sir.

Q. Where did you see him?

A. In our room.

Q. Did you occupy the same room at that time?

A. Yes, sir.

Q. At what time did you first see him on that evening?

A. At about 9.15 p.m.

Q. What was he doing at that time?

A. He had just come in.

Q. What took place?

A. He stated that somebody had been tampering with his rifle.

Q. Did you hear any further conversation between Leach and anyone else?

A. No, sir. But he repeated that statement. He stated that somebody had taken the breech-cover off his rifle. His cover was on wrong.

Counsel for the Defence:

Q. Where did you find this cartridge-case, was it in the rifle?

A. No, it was on the floor.

Q. Do you know who fired the actual shot?

A. No, sir.

Q. How long have you known the Accused, Private Leach?

A. Since mobilization.

Q. What sort of a chap is he?

A. I have no complaints with regard to his conduct as a soldier.

3rd Witness: Capt. T.C. Gibson, No. 5 Fd. Amb., R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Carlyle Gibson.

Q. What is your rank?

A. Captain.

Q. With what unit are you now serving?

A. No. 5 Fd. Amb., R.C.A.M.C.

Q. Do you know the Accused, Private Leach?

A. Yes, sir.

Q. Have you had conversation with him previous to this occasion?

A. Yes, sir. I have.

Q. Where?

A. I have seen him in his hut and in the Medical Inspection Room five times.

Q. Has he ever appeared on Sick Parade?

A. Yes. He has complained on five occasions of suffering with a severe pain in his chest.

The following questions were found inadmissible as evidence by the Court but are given hereunder as a matter of record:

Q. What were your observations?

A. My observations were that he seemed anxious or depressed.

Q. Did you examine him?

A. Yes, sir.

Q. What did you find?

At this juncture Defence Counsel raised the objection that the questions were irrelevant.

Q. Did you see him on February 29th, 1940?

A. Yes, sir. In the barrack room in which he was quartered in Crookham Camp.

Q. In what condition was he found?

A. In the presence of Private Leach I was told that he had shot himself.

Q. Who made that statement?

A. I do not know, sir.

Q. Did he make any statement on that occasion to you?

A. No, sir.

Q. As a result of what you found, what was done?

A. I confiscated the expended cartridge, the rifle and the shoe.

I am producing to view a rifle, with a sling and breech-cover attached (Exhibit 1)

Q. Can you identify this rifle?

A. That is the rifle from which the shot was fired.

Q.
I am producing to view a canvas and rubber shoe. (Exhibit 2)

Q. Can you identify that shoe?

A. That is the shoe which Private Leach was wearing on the night in question.

Q. Where did you first see that shoe?

A. On the floor near Private Leach's bed.

Q.
I am producing a brass cartridge-case (Exhibit 3).

Q. Can you identify that cartridge-case?

A. Yes, sir. That is the cartridge-case which I found when I attended the scene where Private Leach was shot.

Q. Where was Leach at the time?

A. He was lying on the end of his bed, with his right shoe off.

Q. Was he partially undressed?

A. He was fully dressed, except for his tunic.

Q. How many other persons were attending at the time you arrived?

A. The Medical Officer and a number of others.

Q. You state that you carried out a kit inspection. What did you find with regard to live ammunition?

A. Nothing.

Q. Have you any knowledge as to where this live round of ammunition came from?

A. No, sir.

Duplicate.

(C3) 2nd SC

TRANSCRIPT OF EVIDENCE

in the case of

B83915 Private Frederick Walter LEACH

R.C.A.S.C., att. No. 5 Fd. Amb., R.C.A.M.C.

Taken at Aldershot, Hants, on 22nd April 1940, by:

B72524 Sgt. F. Godley (48 Highrs)
(Shorthand writer)

1st Witness: Capt. T.W.D. Farmer (Q.M.), No. 5 Fd. Amb., R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas William Devey Farmer.

Q. What is your rank?

A. Captain (Quartermaster).

Q. With what unit are you now serving?

A. No. 5 Fd. Amb., R.C.A.M.C.

Q. In the capacity of Quartermaster, do you have occasion to draw .303 ammunition?

A. Yes. On February 16th, 1940, I drew three thousand rounds of .303 ammunition and issued it to Lieutenant J.R. Purcell, Transport Officer of the R.C.A.S.C. attached to No. 5 Fd. Amb. R.C.A.M.C., for his men. On March 1st, 1940, part of it was returned.

Q. Who is responsible for ammunition when it is issued?

A. The Officer to whom it is issued.

Q. Did you make an inventory of the returned ammunition?

A. Yes. There was one box not opened, one box containing 926 expended rounds, and another box with a shortage of nine cartridges, which remained unaccounted for.

2nd Witness: Lieut. J.R. Purcell, R.C.A.S.C., att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Jack Richard Beechey Purcell.

Q. What is your rank? A. Lieutenant.

Q. With what unit are you now serving?

A. As Transport Officer with the R.C.A.S.C., attached to No. 5 Field Ambulance, RCAMC.

Q. Do you know the Accused, Private Frederick Walter Leach?

A. Yes, sir.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is

Not Guilty on the first charge.

Not Guilty on the second charge.

The findings are read in open Court and the accused is released.

Signed at Aldershot, this 23rd April 1940

[signature] Major
President DCM.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The Accused

The accused being duly sworn was examined by the defending officer and his evidence is set out in (C4) hereto annexed signed by the president

Cross examined by the prosecutor

1st Witness for the defence.

Major Sinclair G.D. 5 Fd Amb R.C.A.M.C. the witness being duly sworn was examined by the defending officer and his evidence is set out in (C4)

Cross examined by the prosecutor

At 1800 hrs the court adjourned until 1400 h.

On 23 April 40 at 1400 hrs the court re-assembled pursuant to adjournment; present the same members as on the 23 April 40

The prosecutor addressed the court in accordance with R.P. 40 (c)(iii) as set out in (D3) hereto annexed and ~~and~~ signed by the president

The defending officer addressed the court as set out in (D4) hereto annexed and signed by the president

---

Medical certificate signed by the president and marked (D5) is attached hereto

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* Yes

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence?~~

Answer. ~~The accused in his defence says:†~~

~~[hands in a written address which is read, marked~~

~~signed by the President and attached to the proceedings.~~]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

C2 continues

8th witness for the prosecution — B 84240 L/Cpl. Gray T.K. R.C.A.S.C. attd No 5 Fd. Amb R.C.A.M.C. being duly sworn states while being examined by the prosecutor as set forth in (C3)

The defending officer declines to cross-examine

9th witness for the prosecution — B 84189 Pte Kelly W.H. R.C.A.S.C. attd No 5 Fd. Amb. R.C.A.M.C. being duly sworn is examined by the prosecutor his evidence being set forth in (C3)

The defending officer declines to cross Examine

10th witness for the prosecution — B 85868 Pte Cook T.R. R.C.A.S.C. attd 5th Fd Amb. R.C.A.M.C. being duly sworn is examined by the prosecutor his evidence being set forth in (C3)

The defending officer declines to cross-examine

The witness was questioned by the court.

11th witness for the prosecution — B 83955 Pte Johnson W.J. R.C.A.S.C. attd No 5 Fd Amb. R.C.A.M.C., being duly sworn is examined by the prosecutor his evidence being set out in (C3)

Cross examined by the defending officer

Re-examined by the prosecutor.

12th witness for the prosecution — B 53950 Pte Brown S.J. R.C.A.S.C. attd No 5 Fd Amb R.C.A.M.C. being duly sworn is examined by the prosecutor his evidence being set out in (C3). The defending officer declined to cross-examine. The witness was questioned by the court.

The defending officer objects to the line of questioning on the ground that it is irrelevant.
The court is closed to consider their decision
The court allow the objection & the court is re-opened and the decision is communicated to them present.
& proceed with the trial
The defending officer declines to cross-examine

4th witness for the prosecution — B 84207 Pte Vickers A.R. RCASC attd 5 Fd Amb. RCAMC. - being duly sworn is examined by the prosecutor, his evidence being set out in (C2)
The defending officer declines to cross-examine
The witness was questioned by the court

5th witness for the prosecution — B 83962 C.S.M. Robertson F.C.G. RCASC attd to Nos 5 Fd. Amb RCAMC. being duly sworn is examined by the prosecutor, his evidence being set out in (C3).
Cross examined by the defending officer
The witness was examined by the court.

6th witness for the prosecution — B 83958 Pte MacKenzie G. RCASC attd RCAMC being duly sworn, states what being examined by the prosecutor, as set forth in (C3)
Cross-Examined by the defending officer

7th witness for the prosecution — B 84354 A/Cpl Templeton T. RCASC attd Nos 5 Fd. Amb. RCAMC. - being duly sworn is examined by the prosecutor his evidence being set out in (C3). The defending officer declines to cross-examine

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?

Answer.

No sir

~~The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]~~ Medical Artificials is attached hereto marked (B3) and signed by the president

The prosecutor proceeds to call witnesses.

First witness for prosecution.

Capt. W.D. Farmer (QM) 5 Fd. Amb. RCAMC.

being duly sworn, is examined by the prosecutor. The evidence given being set out, as taken by the short hand writer in the document annexed hereto signed by the president and marked (C3)

In accordance with R.P. 83 (c) in the opinion of the court it is unnecessary to comply with R.P. 83 (b)

The defending officer declined to cross-examine this witness

2nd witness for prosecution

Lt. Powell J.R. RCASC. att'd 5 Fd Amb. RCAMC. being duly sworn is examined by the prosecutor, his evidence being set out in (C3)

Cross examined by the defending officer as set out in (C3)

3rd witness for prosecution

Capt. Gibson J.P. 5 Fd Amb. RCAMC. being examined by the prosecutor his evidence being set out in (C3)

2

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Capt S.L. Higgs 1st Fd Regt RCA.

Capt R.B. Burns 2nd Fd Regt RCA.

The short hand writer is duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Not guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Answer.

Not guilty

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

Duplicate Encl. 9B

A

Army Form A9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

*Form of Proceedings for General and District Courts-Martial.

10

Proceedings of a District Court-Martial held at Aldershot on the 22 day of April 1940 by order of Maj Gen A.G.L. McNaughton

Commanding 1 Can Div

dated the 18 day of April 1940

President.

Maj J. E. Ganong 48th Highlanders of Canada

Members.

Capt W.W. Mathews Royal Canadian Regt

Capt A.W. Embury Saskatoon Light Infantry (MG)

, Judge Advocate.

Trial of* B 83915 Pte Sach, Friedrich Walter R.C.A.S.C. att'd 5th Fd Amb R.C.A.M.C.

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves~~ that ~~is not available to serve owing to~~

, ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt L. Metherly, Hastings & Prince Edward Regt

Counsel‡ or defending officer† Major H.B. Graham, Hastings & Prince Edward Regt

At 1400 hrs. ~~o'clock~~ the Trial commences.

The order convening the Court is read, and is marked (A1) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over ?

Answer by accused.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

L10227. W1W27716/1437. 10,000. 12/35. K. & H., Ltd. G627/11. Forms A9/53

Ganong * That satisfied myself that none of the officers detailed as members of this court have previously served upon any court of inquiry regarding the matter forming the subject of the charges before this court martial

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This is to certify that I have examined B 83415 Pte Leach F W and have found him physically fit to proceed for trial

Capt & Adj [illegible]
R Camp

J E Ganong
Major
President D.C.M.

Summary of Evidence in the case of B.83915
Pte. Leach, F. W., R.C.A.S.C., Attached to
No. 5 Field Ambulance, R.C.A.M.C.(C.A.S.F.)

Certified that Rule of Procedure 4(c) (d) and (e) have been complied with.

Taken down by me in the presence and hearing of the accused, this Ninth day of April, 1940, at Haig Barracks, Crookham Camp, Aldershot Command.

C.H. Playfair, Major.

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Defence - No. B.83915, Pte. Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

The accused, having been duly cautioned, in accordance with R.P. 4(e), reserves his defence.

Summary of Evidence in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Thirteenth Witness for the Prosecution - Capt. T. C. Gibson, No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Pte. Leach, F. W., has appeared on sick parade a number of times and I saw him at his barrack room once.

On sick parade he complained of awaking at night with a palpitating heart, and a fear that he was choking to death. He also complained of poor vision.

His history is that he ha s had his eyes examined but finds nothing wrong with them. In spite of this he wears glasses. Also he has had no history of rheumatic fever or heart disease in childhood.

Examination failed to reveal any pathology of eyes or heart, and reassurance coupled with mild sedative medication had also failed to convince him that nothing was wrong.

In view of the negative findings, my opinion is that his condition is one of mild depression, due to a continued state of menta l anxiety.

Accused declines to cross-examine.

T. C. Gibson Capt.

Summary of Evidence in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Twelfth Witness for the Prosecution -

No. B.83950, Private S. Brown, R.C.A.S.C., Attached to No.5 Field Ambulance, RCAMC, CASF.

Leach came into the hut about 25 minutesbefore the a ccident occurred. He was standing by the stove when he noticed that the breech cover on his rifle was put on over the sling. He went over and took the rifle down from where it was hanging. I was talking to him for a short time, and was walking away when the gun was fired. I turned around and Leach was lying on the floor. Previous to the accident, I had handled a rifle, but it did not belong to Leach. He had taken the gun down to clean it, as well as to fix the breech cover.

After the accident occurred the breech cover was entirely off, and the rifle was lying on the floor. No-one touched the rifle from the time of the accident.

We have been instructed, whencleaning our rifles, to remove the bolt and magazine from the gun, and drop pull-through through the barrel. We were told never to put the muzzle of the gun on concrete, but we were told to place it on the boot only if we were in mud.

There was no quarrel or tussle before the accident.

Accused declines to cross-examine.

S Brown

Summary of Evidence, in the case of No. B.83915,
Private Leach, F. W., R.C.A.S.C., attached to
No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.
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Eleventh Witness for the Prosecution. -

No. B.83955, Private W. S. Johnston, R.C.A.S.C., Attached to No. 5 Field Ambulance, RCAMC, CASF.

I was in the hut when the accident occurred. Leach came in, and I heard him remark that someone had tampered with his gun. I paid no attention to him until I heard the shot. There had been no clowning previous to the accident. This was the first time I have ever seen the breech cover put on over the sling. Leach is very quiet and well liked. No-one was playing around with the rifles during the course of the evening. The accident occurred about twenty minutes to ten o'clock, I would say. A few of the boys clean their guns at that time, so I wouldn't say that it was unusual. We are instructed to take the bolt out and point the gun into the air, and look through the barrel to see if it is clear. If the floor is dirty, we are to place the muzzle on the toe of the boot, or on anything that is clean. I can only remember the one night that he took sick.

Accused declined to cross-examine.

W. S. Johnston

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Sixth Witness for the Prosecution - B.83868, Pte. T. R. Leach, R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

I was sitting writing a letter when my brother came in. He remarked about his rifle having been tampered with, because he found that the breech cover was on wrong. We paid no attention to him, and after I finished my letter I got up and went over to my own bed, turned my back and sat down. Just then I heard a report. I turned around and saw my brother fall on the floor holding his foot. I then ran over to the M.O.'s office and brought Staff Sergeant Duncan back. My brother appeared perfectly well just before the accident, and seemed to be getting along well with all the men.

Accused declines to cross-examine.

T. R. Leach

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Ninth Witness for the Prosecution - B.84189, Private W. H. Hiltz, R.C.A.S.C., attached to No.5 Field Ambulance, RCAMC, CASF

On the night of February 29th, about ten p.m., or a little before, Leach was sitting on his bed preparing to clean his rifle. He had remarked before this that his breech cover was on wrong, and that the sling was inside the cover. Leach was well liked by all the man. He drinks very little, if at all. The only sickness I know of his having, was one night when he fell against the door of the room as he was entering, and became unconscious.

In Canada, the N.C.O. Instructor told us to place the muzzle of the rifle on the toe of the boot while cleaning it, if there was a possibility of dirt getting into it.

Accused declines to cross-examine.

W. H. Hiltz

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Eighth Witness for the Prosecution - B.84240 - Lance-Corporal J. K. Gray, R.C.A.S.C., Attached to No. 5 Field Ambulance, RCAMC, CASF.

We had just come in from the show on the night of February 29. Fred Leach was sitting on his bed with his rifle across his knee. We thought nothing of this, but as I turned my back to walk away, the rifle went off.

Fred Leach is the most conscientious man we have in the hut. Is never late for parades; does his work well; is particular about the care of his equipment, and competent to care for and handle a rifle without danger to himself and others.

In my opinion, it was possible to bring live rounds of ammunition away from the range. Ammunition at camp is kept under lock and key and no-one but a N.C.O. has access to it.

A rifle inspection was made two days before, and at that time no live rounds were found.

Accused declines to cross-examine.

L/Cpl J K Gray

Summary of Evidence, in the case of No. B.83915,
Private Leach, F. W., R.C.A.S.C., attached to
No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Seventh Witness for the Prosecution -

B.84354, Lance-Corporal T. Templeton, R.C.A.S.C., attached to No. 5 Field Ambulance, RCAMC, CASF.

Leach was Room Orderly on February 10. His rifle had just been issued and was not cleaned. When he came in, I suggested that he use my rifle at the range, as I had to remain in the Orderly Room. In this way, I know that Leach's gun had not been fired, and that ammunition could not have been left in it at the range. The storeroom at camp is kept locked. No-one but the N.C.O.s are allowed in, and they go in only for petrol and oil.

Accused declines to cross-examine.

T. Templeton

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Tenth Witness for the Prosecution -

No. B.83958, Private G. McKenzie, R.C.A.S.C., Attached to No.5 Field Ambulance, RCAMC, CASF.

I came home from the show about ten minutes to ten, on the night of February 29th. I paid no attention to Leach, but began to make my bed. I heard no-one kid him as to the condition of his gun. I don't think anyone could have obtained a live cartridge from the rifle range. I think the check up was very thorough.

We go into our store room for petrol under the supervision of a N.C.O. only. A N.C.O. is always present.

Leach drinks very little and is very quiet. He gets along very well with the rest of the men. I can only recall the one night when he was sick, and he appeared to be allright the following day.

In my opinion, it would be very difficult to put the breech cover over the sling, if the sling were taut. The sling should always be taut when the rifle is not carried at the slung position.

Accused declines to cross-examine.

Pte G. McKenzie

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Fifth Witness for the Prosecution -

Lieut. J. R. Purcell, R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

It was reported to me, about 2150 hours, that Private Leach had been shot in the right foot. I went up to the hut in which Leach was quartered and found hewas suffering from a g.s.w. in the right foot. An ambulance was ordered, and he was taken to the hospital on the authority of the M.O. I took the rifle and the spent cartridge as evidence, and investigated the circumstances leading up to the accident, and had all other rifles in the barrack room examined. No more live rounds were found. I immediately carried out a minute kit inspection of each man in the barrack room. No live rounds were found.

In my estimation, it would have been possible for some person to have acquired a live round either from the ranges, or where the ammunition was stored, due to the traffic through the store room. I am further of the opinion that every possible precaution was taken to prevent loss of ammunition at the ranges and in storing of it.

I have no complaint to make with the conduct and appearance or efficiency of Private Leach. He was willing and interested in his job, and well liked by the N.C.O.s and men.

Accused declines to cross-examine.

J. R. Purcell Lieut.

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Fourth Witness for The Prosecution - Capt. T. W. D. Farmer, Q.M., No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

On February 6th, 1940, I indented for and drew 3,000 rounds of .303 ammunition. We kept these until the 10th February, 1940, on which date Mr. Purcell drew the entire lot from us and signed for them. This was the last the Q.M. Stores saw of the ammunition until 1-Mar-40 when Mr. Purcell returned the unfired ammunition to us for safe-keeping.

The Company Commander is responsible for ammunition issued to him. The ammunition is issued to the Company Commander on request, without an order from higher authority.

The amount of ammunition returned to Q.M. Stores consisted of one full case of 1,000 rounds; one part case of loaded ammunition, 926 rounds; and a case containing 1,065 empty cartridges. This leaves a shortage of 9.

Accused declines to cross-examine.

T. W. D. Farmer Capt.

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Third Witness for the Prosecution - No. B.83962, C.S.M., E.C.G.Robertson, R.C.A.S.C., Attached No.5 Field Ambulance, R.C.A.M.C., C.A.S.F.

About 2150 hours on February 29, I was called over, in the capacity of C.S.M., to the hut where Private Leach had his quarters. When I arrived, he was lying on his back on his bed. His running shoe was being removed. Blood was dripping from his foot, and it was obvious that he had suffered from some physical injury.

I was then informed this was the result of a gun shot wound, of the foot. There was no evidence of a scuffle or disorder. I took charge of the running shoe and rifle, and have kept them in my possession since then. I then ordered the ambulance and stood by until Leach was removed to hospital.

Generally speaking, in my opinion, Leach has been a good soldier. He had been specially complimented as being the best driver in the detachment. Recently, he appeared to have been worrying about his heart and eyes, claiming to have felt insecure in driving.

In my opinion the handling of the ammunition at the ranges and at camp, left no opportunity to obtain a live round.

Accused declines to cross-examine.

E.C.G. Robertson C.S.M.

Second Witness for
the Prosecution - - continued - page two

two-by-four were correct.

So far as I know, no-one in the hut had live cartridges or knew of the cartridge in the rifle.

Accused declines to cross-examine.

A. B. Vickers

Summary of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., attached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Second Witness for the Prosecution - No. B.84207, Private A.R.Vickers, R.C.A.S.C., Attached No. 5 Field Ambulance, R.C.A.M.C.(C.A.S.F.)

I was in bed at the time of the accident, on the night of February 29, about five or ten minutes to ten. Most of the boys in the hut were writing letters when Leach came in. He noticed that someone had tampered with his gun, the sling being inside the breech cover. We kidded him about not putting the gun away properly. It is a very unusual thing to do. None of the men in the hut have ever done the same thing, as far as I know. It would be very difficult to do. He asked me if the two-by-four was in the pull-through correctly. I said that it was, and turned over. My back was turned to him when I heard the report. He could not have cleaned the gun without first removing the bolt. If the breech cover were on, I would say it would be impossible to fire it. We have been instructed that the safety catch must be on a t all times. We were never to place the muzzle on mud, snow or concrete when cleaning it. To clean the rifle, we take off the breech cover and sling, then remove bolt and magazine. By removing the bolt, it is impossible to fire it.

I was on duty the first time the men went to the ranges, which was when Leach went. However, the time I did go, I would say it was impossible to keep a live round.

We are not instructed to carry cleaning equipment with us. We must remove the bolt before cleaning the rifle. There was no clowning in the room when I was there. It is most likely that he would have the bolt out before inquiring if the

Summa ry of Evidence, in the case of No. B.83915, Private Leach, F. W., R.C.A.S.C., a ttached to No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

First Witness for the Prosecution - No. B.89752, Staff-Sergeant W. E. Duncan, No.5 Field Ambulance, R.C.A.M.C., C.A.S.F.

On February 29, at approximately 2200 hours, I heard a commotion and shouts for the Medical Orderly, in the barrack room next to my room. I went in to find out what the trouble was, and a soldier, whom I later found out was Pte. T. R. Leach, told me that one of the men had just been shot in the foot. I went with him to the hut and found a man lying on the floor with a rifle at his side. Some men had taken off the right shoe and had cut off the lower half of the sock.
There were powder marks between the large and first toe, and a wound, evidently made by a bullet, on the under surface of the foot below the second toe. I sent for the Medical Officer, and dressed the wound, had the man placed on a stretcher, and put into the ambulance.

Accused declines to cross-examine.

W. E. Duncan S/Sgt

Original

Exhibit 5D

Summary of Evidence in the case of B.83915,
Pte. Leach, F. W., R.C.A.S.C., Attached to
No. 5 Field Ambulance, R.C.A.M.C.(C.A.S.F.)

- Witnesses for Prosecution -

1st Witness - # B89752, S/Sgt. W.E.Duncan, No.5 Fd.Amb., R.C.A.M.C.

2nd Witness - # B84207 Pte. A.R.Vickers,RCASC, attd.No.5 Fd.Amb.,RCAMC

3rd Witness - # B83962 C.S.M. E.C.G.Robertson, do

4th Witness - Capt. T.W.D.Farmer (Q.M.) No.5 Fd.Amb., RCAMC

5th Witness - Lieut. J.R. Purcell,RCASC attd.No.5 Fd.Amb.RCAMC

6th Witness - # B83868 Pte. T.R. Leach, do

7th Witness - # B84354 L/Cpl. T. Templeton, do

8th Witness - # B84240 L/Cpl. J. K. Gray, do

9th Witness - # B84189 Pte. W. H. Hiltz, do

10th Witness - # B83958 Pte. G. McKenzie, do

11th Witness - # B83955 Pte. W. S. Johnston, do

12th Witness - # B83950 Pte. S. Brown do

13th Witness - # Capt. T. C. Gibson, No.5 Fd.Amb., R.C.A.M.C.

Aldershot, Hants,
24th April 1940.

CERTIFICATE OF COURT STENOGRAPHER

I, No. B72524, Sergeant Frank Godley, 48th Highlanders of Canada, C.A.S.F., Corunna Barracks, Aldershot, Hants, England, hereby certify that the foregoing Transcript of Evidence taken in short-hand by me, relating to the trial of

B83915 Private Frederick Walter LEACH

R.C.A.S.C., Att. No. 5 Fd. Amb. R.C.A.M.C.

conducted in Court-Marial Room, Headquarters, 1st Canadian Infantry Brigade, Knollys Road, Aldershot, Hants., is a true transcript to the best of my knowledge and belief.

Aldershot, Hants.
24 Apr 40

Frank Godley, Sgt.

is entitled to be discharged.

The Court has to decide whether or not the Accused was careless in handling his rifle. He is still not guilty on the second charge because, even if he were careless, that is not enough on which to convict him.

The Court requested Defence Counsel to give his interpretation of the word "culpable".

The Defence Counsel defined the word "culpable" as "wilful, or with intent".

The Court retired to consider its decision.

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Then he laid it on his bed and went over and had a smoke. There was no haste or confusion. Then he sat down, put the muzzle of the rifle against his foot and started to remove the breech-cover, and apparently got his finger caught in the trigger and discharged the weapon.

Having in mind that he was aware that he was aware that the rifle had been tampered with, he was not exercising the proper care.

Having regard to the fact that other people were in danger, it is obvious that a higher degree of care must be exercised. It is my opinion that, if he had exercised the proper caution, he would first have taken care to see that the rifle was not pointed at anyone until he had ensured that it was not loaded.

He agrees that he was careless in ~~hx~~ pointing the rifle at his foot when handling it, and by removing the breech-cover in such a way as to get his finger entangled in the trigger, thus causing it to discharge.

I feel that, if I were to recommend that he be acquitted on that charge, I would be placing a stamp of approval on conduct that is not consistent with the degree of care and precaution necessary in handling a military weapon.

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Major
President D.C.M.

Defending Officer's Summary:

The Prosecuting Officer has stated exactly what I feel--that there does not appear to be sufficient evidence on the first charge. The law is that "intent" must be proven.

My submission is, shortly, that there is absolutely no evidence whatsoever to prove that there was "intent" or to raise the presumption that the Accused had any intent to "wilfully injure himself".

With regard to the second charge, I refer you to Manual of Military Law, top of page 459, which reads:

> "Neglect, to be punishable under this section, must be wilful or culpable and not merely the result of forgetfulness, error of judgment, or inadvertence.

My submission is that there has been absolutely no evidence adduced to warrant a conviction on the second charge. There was no discrepancy in the evidence. It was clear all the way insofar as the witnesses told about what they actually saw. The Accused was willing to be subjected to cross-examination. It seems to me that that might very well have happened to anyone, anyone in the room.

It seems to me that everyone in the Army has at some time handled a rifle contrary to military law. In this case the Accused demonstrated to the Court exactly what he was doing. The circumstances were such as to excuse him. The last thing that occurred to him was that a round might be in the chamber.

While true the breech-cover had been changed, but that is far removed from contemplating that there might be a live round in the chamber. The Accused's Commanding Officer spoke very highly of him. The charge now, if he is judged guilty, will be a black mark against him while ever he is in the Army.

I need hardly explain to this Court that the same principle applies as in any other British Court, namely, that the Accused is entitled to every reasonable doubt.

To my mind the evidence scarcely raises a suspicion of guilt on either charge. It seems to me that, if there is a doubt, the Accused

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and work have been very satisfactory.

Q. Does he still carry on with his work?

A. No, because he is still under open arrest.

The Prosecutor addressed the witness:

Q. Have you had any conversation with the Accused since the accident?

A. No. Only this afternoon.

Objection raised by Defence Counsel, who maintained that character witness not subject to cross-examination when giving evidence as to character only.

The Court ruled that a character witness can only be cross-exanired as to character evidence. He gives evidence as to character only in the point of view that sentence may be remitted in the event of the Accused being found guilty.

The Court was adjourned at 1005 hrs. 22 April 40

Court re-opened at 1400 hrs. 23 April 40

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Prosecutor's Summary:

Bearing in mind the cogent observations of this Court, I feel it is my duty to say that I do not think there is any evidence upon which to found the first charge. I feel that all the way the evidence has tended to exonerate the Accused, rather than to convict him of it in any way.

As regards the alternative and less serious charge, I think there is some evidence to be taken into consideration before the decision is finally arrived at. It would appear to me that there is considerable difference between the duty imposed upon a man in civilian life when handling a dangerous weapon and the duty of a soldier when handling firearms.

In civilian life when a man in injured by a firearm it is not an offence. But when a man is subject to military law it is part of his duty to carefully observe all precautions when handling firearms and to prevent avoidable accidents.

I feel that the principle to be followed in arriving at a decision as to whether or not the offence was committed would depend upon whether or not the Accused took all reasonable precautions to avoid the accident. Obviously there was no necessity for the Accused to point this weapon at his foot when handling it.

Secondly, even though the rifle was loaded and the breech was covered, there was no necessity for the Accused to handle it in such a way that the rifle was discharged upon removing the breech-cover, which could obviously be removed without discharging the weapon.

We, therefore, might fairly say that it was an avoidable accident.

With regard to the care exercised by him, he has stated that he noticed that his rifle had been tampered with and he went over to the rifle and took it down.

I, No. B.83915, Private F. W. Leach, desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of Capt. D. Barrett Please or Major Howard Graham if he is available.

9-April-40

F. W. Leach

A. No, sir.

Q. Is it fair to say that you do not want driving vehicles to be your regular occupation?

A. No, sir.

Q. Then you were not dissatisfied with your occupation?

A. No, sir.

Q. Have you not ever been warned against point a rifle at yourself or anyone else when unloading it?

A. Yes, sir. I admit that.

Q. Do you agree that it was carelessness in having the rifle on your toe when unloading it? Would not ordinary care and precaution indicate that you would not point it at yourself when you were not sure that it was not loaded?

A. I don't know, sir. I have seen many rifles hanging on the wall without safety-cathhes on.

Q. Did you say that you saw that your rifle had been tampered with before you took it down and that you rested the muzzle on your foot?

A. Yes, sir.

Q. Don't you think that that was carelessness, when you knew that the rifle had been tampered with?

A. Yes, sir.

Q. You agree that that was carelessness on your part?

A. Yes, sir.

Defence Counsel calls character evidence:

Called Major G.A. Sinclair. Witness sworn.

Q. What is your full name?

A. Gordon Anson Sinclair.

Q. What is your rank?

A. Major and Acting Officer Commanding.

Q. What is your unit?

A. 5 Fd. Amb. R.C.A.M.C.

Q. How long have you known the Accused, Private Leach?

A. Since his attachment on December 18th, 1939, to 5 Fd. Amb. R.C.A.M.C.

Q. Have you had occasion to know him particularly?

A. Simply on parade and when as a passenger in the car.

Q. What have you observed as to his character?

A. He has always been prompt, smartly turned out, and quite interested in his work. In fact, in his tradesman's test he was given special commendation. Up to the time of his injury his conduct, character,

Q. Then you have had fairly thorough instruction as to the handling of rifles?

A. So far as breech-covers are concerned, sir.

Q. What instruction have you had?

A. In removing the bolt and the magazine.

Q. After removing the rifle from the nail on which it was hanging, what did you do?

A. I took the rifle over to my bed and had a smoke and laid the rifle on my bed.

Q. Why did you lay the rifle on your bed and then walk away and have a cigarette?

A. Because it was not the proper time to clean it.

Q. What time was that?

A. About 9.15 p.m.

Q. What next?

A. I opened the butt-trap and took out the pull-through and a piece of two-by-four and put it on the pull-through. I then asked Private Vickers if the two-by-four was on the pull-through properly. I then commenced to remove the breech-cover.

Q. Then the rifle exploded?

A. Yes, sir.

Q. How did that happen--did your finger touch the trigger?

A. Possibly, sir. I don't remember.

Here the Court ruled that the line of questioning adopted not admissible.

Q. You were asked by Major Graham (Defence Counsel) if you wanted to get out of the Army, and you replied that you did not. Are you satisfied with your employment, and were you satisfied with your employment before the time of the accident?

A. Yes, sir.

Q. Do you find yourself fully competent to drive vehicles?

A. Not at all times, sir.

Q. How is that?
A.
A. I do not like driving in this country.

Q. Any other reason why you are not satisfied with your occupation?

A. Onlybecause I am wearing glasses when driving at night. In cold weather the glasses steam up when driving an ambulance.

Q. Then I take it that at that time you were desirous of being placed in some other occupation than driving vehicles?

A. Not in another unit, sir.

Q. You don't want to be taken out of your unit?

A. Yes, sir. After being in hospital.

Q. Have you talked this matter over with anybody?

A. No, sir. Except for saying that I would like to know how the bullet got in there, sir.

Q. Have you any ideas as to whether your rifle was half-cocked or fully cocked?

A. No, sir.

Q. Do you know who checked the spent round?

A. No, sir.

The Prosecutor then addressed the Accused:

Q. When did you go to the North Horn Hotel?

A. (It is believed that the Accused replied: "Around 7 p.m., sir").

Q. Were you talking to anyone there?

A. I was playing darts with an English fellow.

Q. You had a glass of beer?

A. Yes. Only one, sir.

Q. When you came back, were you alone?

A. Yes, sir.

Q. How long had you been in the room before you noticed, as you say, that your rifle had been tampered with?

A. About ten minutes, sir.

Q. Your rifle was hanging on a nail?

A. Yes, sir. With the butt pointing towards the floor.

Q. When had you last had your rifle in your hands prior to that occasion?

A. The rifle was checked about three or four days before. I had handled it the day before and had cleaned it.

Q. In order to clean it, you removed the breech-cover?

A. Yes, sir.

Q. On February 29th, 1940, did you have your rifle in your hands, prior to the accident on that day?

A. No, sir.

Q. When did you clean it on the previous day?

A. I had cleaned it prior to an inspection of it by Corporal Gray.

Q. You asked who had been fooling with your rifle?

A. Yes, sir. The breech-cover was on wrong.

Q. Did you put it on that way?

A. No, sir. We were taught how to put them on.

the pull-through properly. He said it was, and then I commenced to remove the breech-cover.

Q. Did you cock the rifle before you were cleaning it?

A. No, sir.

Q. What happened then?

A. So far as I remember, I looked down at my right shoe and I noticed that it had been split and I sort of stood on my left foot. I cannot remember much from there, sir.

Q. How is a rifle supposed to be laid on a table.

A. With the bolt up.

Q. How did the rifle go off?

A. I was sitting on a chair with the muzzle on my right toe and I was starting to remove the breech-cover.

Q. Did you have a rifle of your own in Canada?

A. No, sir.

Q. It has been stated that you got a rifle a day or two before going to the open range. Is that correct?

A. Yes, sir.

Q. When this accident happened, how long had you had a rifle?

A. For about three weeks, sir.

Q. What sort of training were you doing at this time, the end of February?

A. Driving and rifle drill.

Q. Have you had much rifle drill?

A. Not much, sir.

Q. How long were you in hospital.

A. Twenty-six days, sir.

Q. Did you lo se a toe?

A. Yes, sir. The great toe of the right foot.

Q. Is your foot affected in any way?

A. No, sir.

Q. Do you want to get out of the Army?

A. No, sir.

Q. Do you like your work?

A. Yes, sir. Very much, sir.

Q. What do you do?

A. Drive a truck, sir.

Q. You had a preliminary hearing before your Commanding Officer?

The President inquired if the Accused wished to give evidence himself as a witness. The Accused was warned that he might be cross-examined upon any evidence given.

Witness sworn.

Q. Where were you on the evening of this accident, February 29th, 1940?

A. At the North Horn Hotel.

Q. Had you been drinking there?

A. Yes, sir. I had one glass of beer.

Q. At what time did you return to your barrack-room?

A. Around 9.00 o'clock p.m. sir.

Q. What did you do?

A. I was talking to some chaps there and happened to notice that my rifle had been tampered with.

Q. Where were you sitting?

A. In about the centre of the room.

Q. Where is your bed?

A. In the centre of the room.

Q. Where was your rifle?

A. It was hanging on a nail in the wall about six feet from the floor.

Q. What did you notice about your rifle?

A. The breech-cover was wrapped around the sling.

Q. In the manner in which it now is?

A. Yes, in that manner, sir.

Q. What did you do then?

A. I asked who had been fooling with my rifle.

Q. How many lads were there around at the time?

A. About six, sir.

Q. Did you get any reply to your question?

A. They just took a look at my rifle and said I must haveput it there myself.

Q. What did you say then?

A. I did not say anything, but took the rifle down and decided that I would clean it.

Q. What were the other lads doing at this time?

A. Some were reading at the table and some were lying on their beds.

Q. Then what happened?

A. I took down the rifle, opened the butt-trap, took out the pull-through and two-by-four and asked Private Vickers if the two-by-four was on

Private T.R. Leach

Recalled and reminded that he was still under oath.

The Court addressed the witness:

Q. In connection with conversations with your brother after the accident. Was there any explanation or suggestion made to you by him as to what might have happened?

A. No, sir.

Q. Did you not ask him?

A. No, sir.

Q. Were you not interested?

A. He didn't know how the round had got in the rifle.

Q. Was there any effort made to check on how it got in there?

A. I don't know, sir.

Q. Other than his statement that he would like to know how it got in there, was there any other conversation?

A. No, sir.

Q. Do you talk to your brother much?

A. No, sir.

Q. It seems peculiar that, when your brother got shot in the foot, you would not talk about it. Is your brother given to talking much?

A. No, sir. He is very quiet.

Q. Did he give you an idea how he was holding the rifle when it happened?

A. No, sir. I did not ask him.

No further witnesses.

The Court questioned the witness:

Q. Have you had any conversation with Private Leach since the time of the accident?

A. No, sir. Except that he said that he would like to find out who put the bullet in the rifle.

The Prosecutor then addressed the witness:

Q. Having said that much, did he say anything further?

A. Not that I recall, sir. There were one or two things which I cannot recall, but that was the outstanding thing which he did say ("I would like to find out who put the bullet in the rifle".)

The Court questioned the witness:

Q. I take it that he must have made the explanation to you that someone put the bullet in his rifle. Did he speculate as to how it was done?

A. No, sir.

Q. Would you regard it as a fairly serious matter.

A. Yes, sir. We discussed it amongst ourselves whilst he was in hospital

Q. Was it taken for granted in your conversation that somebody had done it?

A. Yes, sir.

Q. You hold that opinion?

A. Yes, sir.

Q. On what grounds?

A. The fact that it was his own rifle and I do not think that a man used to handling rifles would do such a thing.

Q. Has the Accused any enemies that you know of?

A. No, sir. Not that I know of.

Lance-Corporal Templeton

Recalled and reminded that he was still under oath.

The Court addressed the witness:

Q. You stated that the Accused used your rifle at the ranges?

A. Yes, sir. His rifle had just been issued at the time, and he had no time to clean the grease from the barrel.

Q. You are not in the same room as he is?

A. No, sir.

Q. Was his rifle cleaned subsequently and before the accident happened?

A. Yes, sir. We had rifle-cleaning drill the day prior to the accident.

Q. You do not have much contact with Leach?

A. No, sir.

Private T.R. Leach

Q. Did he say anything?

A. No, sir. Not that I can recall.

Q. After that, did you hear any statement made by him?

A. No, sir.

Q. Have you seen Private Leach since the accident and before today?

A. Yes, sir.

Q. Have you had any conversation with him?

A. Only regarding his foot, sir.

Q. Has he stated anything to you about it?

A. No, sir.

Q. Have you had instruction in care of arms and the manner of cleaning a rifle?

A. Yes, sir.

Q. Can you say that Leach has had instruction?

A. I don't know, sir. He was not in my section.

Q. Can you explain the presence of a live round of ammunition?

A. No, sir.

Q. Have you told us everything you can that has a bearing on the matter in question?

A. Yes, sir.

Defence - No question.

The Court questioned the witness:

Q. You say that Leach was sitting on the bed with the rifle on his knees, and that at that time he was talking to you. Did you notice particularly whether or not he had the breech-cover on the rifle?

A. No, sir.

Q. Is there anything familiar in the sound of the opening of a rifle bolt?

A. Yes. A click, sir.

Q. Did you hear in that room the click of the bolt?

A. No, sir.

Court cleared at 1605 hrs.

Court re-opened at 1625 hrs.

The Court addressed Defence Counsel:

The Court is not satisfied and we wish to recall one or two witnesses.

Call Private Vickers.

Private Vickers recalled and reminded by the Court that he was still under oath.

Q. Do you know the Accused, Private F.W. Leach?

A. Yes, sir.

Q. Do you recall where you saw him on the evening of February 29th last?

A. Yes, sir.
Q. Where?

A. In our hut, sir.

Q. Do you occupy the same sleeping-quarters as Leach?

A. Yes, sir.

Q. Can you tell me what took place on that occasion?

A. Yes, sir. Leach came into the room. We were all sitting around the fire. Leach happened to notice that the breech-cover of his rifle had been changed, as it was on incorrectly.

Q. Then what happened? How long had he been in the room before he appeared to notice that something had happened to his rifle?

A. About twenty minutes.

Q. What happened next?

A. Leach took the rifle down off the wall.

Q. Did you see him.

A. I saw him with the rifle across his knees, sitting on the bed. At the time he was talking to me.

Q. About what?

A. I cannot recall what it was about, sir. I turned and walked towards my bed.

Q. Then what happened?

A. I heard a shot.

Q. Can you say who was holding the rifle?

A. I had my back turned when the shot was fired.

Q. Can you say as to whether or not there was any person standing near Leach at the time?

A. No, sir. My back was to him.

Q. Where was the Accused then?

A. He just rolled off the bed onto the floor, and the rifle was lying on the floor. Private Vickers picked up the rifle and examined it.

Q. Then what did he do?

A. I don't know, sir.

Q. What did you do?

A. I just stood by and helped to lift him onto the bed.

Q. What was Leach doing at the time?

A. He was moaning at the time.

Q. Where did the bang come from?

A. It seemed to come from Leach's gun.

Q. After you heard the bang, what did you do?

A. I went for the Medical Officer.

Q. What was Leach doing?

A. He seemed to be pretty excited. He was saying: 'Oh, my God! What happened?", and he seemed unable to figure out what had happened.

Q. Then what happened?

A. The M.O. came. Leach was removed.

Q. Have you seen Leach since?

A. Just since he returned from hospital.

Q. Have you had any conversation with him in regard to the occurrence?

A. We try not to mention it.

Q. Has it, in fact, been mentioned?

A. Not to my knowledge.

Q. Can you say as to whether or not the Accused has received instruction in the care and cleaning of a rifle?

A. Yes, sir. I imagine they have all had instruction.

Defence Counsel questioned the witness:

Q. With regard to the cleaning of a rifle. If the floor is dirty the muzzle will be placed on the toe of the boot. Is that the way you were taught?

A. Yes, sir.

The Prosecution questioned the witness:

Q. When you are cleaning a rifle and place the muzzle on the toe of your boot, do you remove the bolt before or after placing the rifle on the boot?

A. After placing the rifle on the boot.

Defence - No question.

12th Witness: B83950 Private S.J. Brown, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Sidney John Brown.

Q. What is your Regimental number?

A. B83950.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

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A. No, sir.

Q. Can you account for the presence of a round of live ammunition in your barrack-room?

A. No, sir.

Defence Counsel - No question.

The Court questioned the witness;

Q. How many men are there in your barrack-room?

A. Twelve, sir.

Q. Did you have any dummy ammunition?

A. No, sir. It was all locked up.

Q. Did you not discuss with your brother how that bullet came to be in his foot?

A. No, sir. He did not say how it had happened, and there was no further discussion so far as that was concerned.

11th Witness: B03955 Private W.S. Johnston, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. William Samuel Johnston.

Q. What is your Regimental number?

A. B03955.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Private Leach?

A. Yes, sir.

Q. Do you recall seeing Private Leach on the evening of February 29th last?

A. Yes, sir.

Q. Where did you see him on that occasion?

A. In the barrack-room which I occupy.

Q. What took place?

A. He glanced at his rifle and noticed that the breech-cover was off, and said: 'Who has been fooling with my rifle?".

Q. Then what was said?

A. I went back to my writing.

Q. Did you hear anything further?

A. Nothing whatever. I was busy writing a letter and then I heard a bang.

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A. In the barrack-room, sir.

Q. What were you doing?

A. Just sitting writing a letter, sir.

Q. When?

A. At about 9 o'clock, sir.

Q. Were you in his company from that time?

A. No, sir.

Q. When did you see him next?

A. At about 9.15 p.m.

Q. Where?

A. In the barrack-room.

Q. What took place? I understand that he just came into the room where you were at about 9.15 p.m.

A. Yes, sir.

Q. After he came in, what took place?

A. He remarked that somebody had touched his rifle. The breech-cover was on wrong. We did not pay any attention.

Q. Did anyone pay any attention to that remark?

A. No, sir.

Q. Then what happened?

A. In the meantime he had taken the rifle down.

Q. Did you see him taking it down.

A. No, sir.

Q. Then what happened?

A. I heard a shot fired.

Q. Do you know who fired the shot?

A. No, sir.

Q. Then what took place?

A. I went and got the M.O. and stood there until the officer came and checked all our kit-bags.

Q. Did you have any conversation with him?

A. No, sir.

Q. Have you had any conversation with your brother since that time?

A. No, sir. Except for everyday matters.

Q. Has he said nothing to you about this shooting occurrence?

A. Nothing whatsoever.

Q. Can you say that the rifle was held by your brother or by someone else when fired?

Q. Then what took place?

A. After that I heard a shot.

Q. What did you do then?

A. I just stayed in bed. All the other boys were around him.

Q. What took place?

A. The Medical Orderly came in and rendered first aid to Private Leach and took him away to hospital.

Q. Have you seen him since that afternoon and before this afternoon?

A. Yes, sir.

Q. Have you had any conversation with him?

A. Yes, sir. Only about drill.

Q. Have you ever discussed the occurrence of February 29th with him?

A. No, sir.

Q. Have you received instruction as to the proper manner of cleaning a rifle?

A. Yes, sir.

Q. Can you say that Private Leach has had instruction?

A. I could not say, sir.

Defence Counsel - No question.

10th Witness: B83868 Private T.R. Leach
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Robert Leach.

Q. What is your Regimental number?

A. B83868.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. I understand that you are a brother of the Accused, Private Frederick Walter Leach. Is that correct?

A. Yes, sir.

Q. Do you recall the evening of February 29th, 1940?

A. Yes, sir.

Q. Did you see your brother on that evening?

A. I did, sir.

Q. Where?

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Q. Was there any live ammunition found in the room then?

A. It was in another room where the inspection took place.

Defence Counsel - No question.

9th Witness: B84189 Pte. W.H. Hiltz, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. William Henry Hiltz.

Q. What is your Regimental number?

A. B84189.

Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the accused, Leach?

A. Yes, sir.

Q. Do you occupy the same hut with him?

A. I do.

Q. Did you see Leach on the evening of February 29th, 1940?

A. Yes, sir.

Q. Where?

A. Sitting on his bed.

Q. When?

A. Between 9.30 and 10 p.m.

Q. What was he doing at the time?

A. He was about to clean his rifle.

Q. What was he doing?

A. I was reading a paper and was not paying much attention at the time. Some of the boys were talking to him about cleaning his rifle.

Q. Who was talking to him?

A. About five or six of the boys in the hut.

Q. Was Leach talking to them?

A. I don't remember that very clearly, sir.

A. What do you remember about what he was talking?

A. Nothing, sir.

Q. Can you say that Leach had a rifle at the time? Did you see a rifle in his hand?

A. No, sir. I was lying in bed with my back to him.

Q. When you entered, did you see him?

A. No, sir. I was in bed before he entered.

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Q. What is your unit?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Did you see him on the evening of February 29th, 1940?

A. I saw him on the night of the accident.

Q. To what accident are you referring?

A. To the shooting accident, sir.

Q. When did you first see him on the night in question?

A. At about 9.30 p.m. when returning from the show.

Q. Was he in the room as you entered?

A. When I entered, he was sitting on the edge of his bed, with the rifle across his knees.

Q. Did you observe the rifle at the time?

A. I just got a glimpse of him.

Q. Was there a breech-cover on the rifle at the time?

A. I don't know, sir. We just entered the room and were talking about the show. I turned my back and then heard a shot.

Q. Then what happened?

A. We told a man to go for the Medical Officer.

Q. What was done then?

A. The man reported that he could not find him. I placed the man in charge of the room and went to the Officers' quarters.

Q. Did you hear Leach say anything?

A. He shouted something, of which I am not quite sure.

Q. Do you occupy the same room with Private Leach?

A. Yes, sir.

Q. Can you say how a live round of ammunition would be in a gun?

A. No, sir.

Q. Since then have you had any conversation with him?

A. Only regarding his foot.

Q. What has he said?

A. Only that he can walk with it.

Q. Has he said anything about the accident?

A. The boys have kept away from that, sir.

Q. Do you know whether or not there was any inspection of rifles prior to the time of the accident?

A. About two or three days before there was an inspection.

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A. B84354.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. I do, sir.

Q. Did you see him on the evening of 29th February last?

A. Was that the evening of the accident, sir?

Yes.

A. Yes. I saw him then.

Q. Where was he when you first saw him that evening?

A. Lying on his bed.

Q. What was taking place at the time?

A. The Orderly was rendering first aid.

Q. Did you hear any conversation on that occasion?

A. No. I didn't, sir.

Q. Have you had any conversation with Private Leach since the accident?

A. None whatever, sir.

Q. Do you know when Private Leach was at the ranges to fire his rifle practice?

A. Yes, sir. On the previous Saturday. (February 24th, 1940.)

Q. What rifle did he use?

A. He used my rifle, sir.

Q. How did that happen?

A. He tooke mine on my suggestion, as it waw ready for firing and his was not cleaned.

Q. Was his rifle used between that time and the time of the accident?

A. No, sir.

Q. Do you occupy the same room with Private Leach?

A. No, sir.

Defence Counsel - No question.

8th Witness: B84240 L/Cpl. J.K. Gray,
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. James Knowles Gray.

Q. What is your Regimental number?

A. B84240.

Q. Where was he?

A. Beside his bed on the floor.

Q. What was hedoing?

A. He was more or less in agony, sir.

Q. Did he say anything?

A. Nothing that I could understand, sir.

Q. Where was the rifle?

A. It had fallen near him on the floor.

Q. I am producing to view a rifle (Exhibit 1). Can you identify that rifle, or have you ever seen it before?

A. Yes, sir. I identify it as Private Leach's rifle.

Q. How do you identify it?

A. By the colour, sir.

Q. What next took place after you found him on the floor?

A. We held him and waited for the arrival of Officers. After the Officers came we placed him on the bed and his wound was dressed.

Q. Do you know anything further about this occurrence?

A. No, sir. I do not.

Q. Can you say how the live round happened to be in his rifle?

A. No, sir.

Q. Did you hear any statement on the night in question?

A. No, sir. I did not arrive until late.

Q. Have you had any conversation with Private Leach since the occurrence?

A. No, sir.

Defence Counsel questioned the witness:

Q. Who checked the empty cartridge-case?

A. I don't know, sir.

Q. Did you see it on the floor?

A. No, sir. I didn't pay any attention to it. I don't know how it got out of the rifle.

7th Witness: B84354 L/Cpl. T. Templeton,
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Templeton.

Q. What is your Regimental number.

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Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Do you recall whether or not you saw him on the night of February 29th last?

A. Yes, sir. I did, sir.

Q. Where?

A. In his quarters, sir.

Q. Do you occupy the same hut as he?

A. I do, sir.

Q. About what time di you see him on that evening?

A. At about 9.30 p.m.

Q. What was he doing at that time?

A. He was cleaning his rifle.

Q. Where was he, sitting down or standing up?

A. Sitting down, sir.

Q. How was he holding his rifle?

A. I did not pay any attention to that, sir.

Q. Can yousay how the rifle was being held?

A. No, I cannot say, sir.

Q. How far away from you was he at the time.

A. Approximately three yards, sir.

Q. Were you facing him?

A. I was more or less to the side, sir.

Q. What were you doing at the time?

A. I was making my bed.

Q. Did you have any conversation with the Accused, or hear any conversation?

A. No, sir. Not as far as I know. I was not paying any attention, sir.

Q. Can you recall anything that was said in the hut immediately prior to the accident?

A. No, sir. It was noisy at the time.

Q. What was causing the noise?

A. They were all preparing for bed.

Q. What took place that you can recall-just what actually happened?

A. I heard a report. We ran over to the Accused, Leach?

Defence Counsel questioned the witness:

Q. Sergeant-Major. Did this man have a rifle in Canada?

A. I would not swear to that, sir. We were short of rifles then.

Q. Has he had any lessons?

A. Yes, sir. Two lessons by myself.

Q. When do you place the rifle on the toe?

A. The only time you put the rifle on the toe is when "resting on arms reversed" at funerals.

Q. How long have you known the Accused?

A. Since before the War, sir.

Q. What would you say regarding his general character?

A. He is one of the best men I have.

The Court questioned the witness:

Q. What day did you go to the ranges?

A. On February 17th, sir.

Q. Were you with the Accused on that day?

A. Yes, sir.

Q. Were adequate precautions taken that the men would not have ammunition at the conclusion of the course?

A. Yes, sir.

Q. At the conclusion of the course at the ranges, before you left, were all rifles inspected by the Inspecting Officer?

A. Yes, sir. They were inspected and proven empty before they stepped off the firing point.

Q. Do you know if a rifle inspection took place between the day at the ranges at the time of the accident?

A. Yes, sir. I supervised the inspection of rifles in the huts.

Q. In your opinion could this round not have been left in the rifle since the day at the ranges?

A. No sir.

6th Witness: B83958 Private G. McKenzie, R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Gordon McKenzie.

Q. What is your Regimental number?

A. B83958.

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from him on 29th February. They were just taking it off when I arrived.

Q. What took place when you arrived?

A. They took the shoe off and I called an ambulance to take him away.

Q. Did you hear or did you have any conversation with Leach at that time?

A. No, sir.

Q. From what you observed of his condition when you arrived, would you say he was conscious?

A. No, sir. I do not think he was in condition to understand.

Q. Did you see anything of a rifle at that time?

A. I did, sir.

I am producing to view a rifle (Exhibit 1)

Q. Can you identify that rifle?

A. Yes, sir.

Q. What rifle is it?

A. That is the rifle used on the night of the shooting. It was handed to me by one of the men.

Q. At that time did it have the breech-cover on it?

A. No, sir. The cover was off and the bolt was pulled back.

Q. Was the sling on the rifle at the time in question?

A. Yes, sir.

I am producing to view an expended cartridge (Exhibit 3)

Q. Can you identify this cartridge-case?

A. Yes, sir. That is the cartridge-case found on the night in question.

Q. Did you see it then?

A. Yes, sir. It was handed over to Lieut. Purcell by one of the men.

Q. Have you had any conversation with the Accused since the night in question?

A. Yes, sir. But nothing with regard to this case.

Q. Can you say as to whether or not Private Leach has had instruction in the manner of cleaning a rifle?

A. Yes, sir. He has.

Q. What is the correct procedure and in what position is the rifle held?

A. With the muzzle up or down.

Q. Which is correct?

A. With the muzzle up is the proper position.

Q. If it is held with the muzzle down, where would the muzzle be placed?

A. Pointing down at a point ahead of the person holding the rifle.

Q. Do you know if the accused has had any previous training in the care of arms?

A. He has had some, but not as much as I had, which was not very much.

Q. How are you taught to clean a rifle?

A. Remove magazine and pull it through with an oiled cloth.

Q. Do you think that the Accused had cleaned his rifle several times before?

A. Yes, sir.

Q. Do you know how to put a piece of two-by-four on your pull-through?

A. Yes, sir.

5th Witness: B83962 C.S.M. E.C.G. Robertson
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Eric Charles Gordon Robertson.

Q. What is your Regimental number?

A. B83962.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Leach?

A. Yes, sir.

Q. Did you see him on the evening of February 29th last?

A. Yes, sir.

Q. When?

A. At approximately 9.30 p.m.

Q. Where?

A. Lying on his bed in his quarters.

Q. What did you observe as to his condition?

A. He appeared to be suffering from some injury. Two men were sitting beside him on his bed and he was groaning.

Q. Who were the two men?

A. I took no notice, sir.

Q. Did you make any examination?

A. Yes, they were just taking off his shoe and sock when I was there.

I am producing to view a running-shoe (Exhibit 2)

Q. Can you identify that shoe?

A. Yes, sir. It is the right shoe of Private Leach which was removed

Q. Where was the hole?

A. It was about three feet from the edge of Leach's bed.

Q. Since then, have you had any conversation with Private Leach?

A. Yes, sir.

The Court stated: "I do not think that is relevant".

Prosecution: "There might have been a confession".

Question allowed.

Q. Have you had any conversation with the accused since the accident?

A. Yes, sir. He wants to find out the one who put the sehll in his rifle. That is all that I can recall at the moment, sir.

Q. I notice that on this shoe (Exhibit 2) the top of the shoe seems to be considerably damaged but there is no damage to the bottom of the shoe. What part of the Accused's foot was injured?

A. It went through his great right toe. There is a hole in the bottom of the shoe, where the bullet penetrated.

Q. Was there any clowning or horse-play going on at the time the accident occurred?

A. None at all sir.

Defence - No question.

The Court questioned the witness:

Q. Was there anyone else in the room at the time of the accident?

A. It was fairly well filled.

Q. How far away from the adcused was your bed?

A. About two or three beds away.

Q. You say that the breech-cover was over the sling of the rifle. Did you actually see the breech-cover over the sling?

A. Yes, sir.

Q. Between that time and the time of the report did you see the breech of the rifle?

A. Yes, sir. The breech of the rifle was closed all the time I saw it. The rifle was between his knees, with the butt on the floor. I don't know whether or not the breech was closed.

Q. How long have you been in the Army?

A. I joined about two days after the accused.

Q. When were rifles issued to you?

A. In the middle of January last.

Q. Have you had any training in the care of arms?

A. Just elementary training, sir.

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Q. How was it on wrong?

A. It was wrapped around the sling.

Q. What next took place?

A. I was making up my bed.

Q. Was the accused in your range of vision?

A. Yes, sir.

Q. Were there others in the room?

A. Yes, sir.

Q. What next took place?

A. He had his pull-through in the rifle and was sitting on the bed with the rifle on his knees and butt on the floor. He asked me if the two-by-four was on the pull-through correctly, and I told him it was. About two or three minutes later I heard the report. I was not paying any attention to him in the meantime.

Q. Did you hear anything further stated?

A. No, sir, I was not paying any attention.

Q. When you heard the report, what did you do?

A. I ran over to his bed and took off his right shoe and sock.

Q. What did you observe?

A. He asked what hit him. When we rolled him over, we saw that his foot was injured. We saw the rifle lying on the floor.

I am producing to view a rifle (Exhibit 1)

Q. Can you identify that rifle?

A. No, sir.

I am producing to view a shoe (Exhibit 2)

Q. Can you identify that shoe?

A. It is the shoe which I took off Private Leach's foot.

Q. What next took place?

A. I picked up the rifle and by that time Staff-Sergeant Duncan and C.S.M. Robertson were there looking after Leach.

Q. Did you have any further conversation with the Accused?

A. No, sir.

Q. Did you hear anything further stated by him?

A. No, sir.

Q. Did you make any examination of the part of the room in which he was sitting, to ascertain where the bullet had travlled?

A. Yes, sir. We saw a hole in the floor.

The Prosecution maintained that it was sought to bring out the mental condition of the Accused prior to the accident.

Defence maintained that evidence being adduced to show "intent", and that it had no connection with the evidence being presently offered.

Court cleared at 1430 hrs.

Court resumed at 1450 hrs.

President ordered that foregoing be stricken from records as inadmissible.

The questioning of Captain Gibson was resumed:

Q. Have you had any conversation with the Accused, Private Leach, since the time of the accident?

A. No, I have not, sir.

Defence - No question.

4th Witness: B84207 Pte. A.R. Vickers
R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Arthur Robert Vickers.

Q. What is your Regimental number?

A. B84207.

Q. With what unit are you serving?

A. R.C.A.S.C. att. No. 5 Fd. Amb. R.C.A.M.C.

Q. Do you know the Accused, Private F.W. Leach?

A. Yes, sir.

Q. Where did you see him?

A. In our room.

Q. Did you occupy the same room at that time?

A. Yes, sir.

Q. At what time did you first see him on that evening?

A. At about 9.15 p.m.

Q. What was he doing at that time?

A. He had just come in.

Q. What took place?

A. He stated that somebody had been tampering with his rifle.

Q. Did you hear any further conversation between Leach and anyone else?

A. No, sir. But he repeated that statement. He stated that somebody had taken the breech-cover off his rifle. His cover was on wrong.

Counsel for the Defence:

Q. Where did you find this cartridge-case, was it in the rifle?

A. No, it was on the floor.

Q. Do you know who fired the actual shot?

A. No, sir.

Q. How long have you known the Accused, Private Leach?

A. Since mobilization.

Q. What sort of a chap is he?

A. I have no complaints with regard to his conduct as a soldier.

3rd Witness: Capt. T.C. Gibson, No. 5 Fd. Amb., R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas Carlyle Gibson.

Q. What is your rank?

A. Captain.

Q. With what unit are you now serving?

A. No. 5 Fd. Amb., R.C.A.M.C.

Q. Do you know the Accused, Private Leach?

A. Yes, sir.

Q. Have you had conversation with him previous to this occasion?

A. Yes, sir. I have.

Q. Where?

A. I have seen him in his hut and in the Medical Inspection Room five times.

Q. Has he ever appeared on Sick Parade?

A. Yes. He has complained on five occasions of suffering with a severe pain in his chest.

The following questions were found inadmissible as evidence by the Court but are given hereunder as a matter of record:

Q. What were your observations?

A. My observations were that he seemed anxious or depressed.

Q. Did you examine him?

A. Yes, sir.

Q. What did you find?

At this juncture Defence Counsel raised the objection that the questions were irrelevant.

Q. Did you see him on February 29th, 1940?

A. Yes, sir. In the barrack room in which he was quartered in Crookham Camp.

Q. In what condition was he found?

A. In the presence of Private Leach I was told that he had shot himself.

Q. Who made that statement?

A. I do not know, sir.

Q. Did he make any statement on that occasion to you?

A. No, sir.

Q. As a result of what you found, what was done?

A. I confiscated the expended cartridge, the rifle and the shoe.

I am producing to view a rifle, with a sling and breech-cover attached (Exhibit 1)

Q. Can you identify this rifle?

A. That is the rifle from which the shot was fired.

Q.
I am producing to view a canvas and rubber shoe. (Exhibit 2)

Q. Can you identify that shoe?

A. That is the shoe which Private Leach was wearing on the night in question.

Q. Where did you first see that shoe?

A. On the floor near Private Leach's bed.

Q.
I am producing a brass cartridge-case (Exhibit 3).

Q. Can you identify that cartridge-case?

A. Yes, sir. That is the cartridge-case which I found when I attended the scene where Private Leach was shot.

Q. Where was Leach at the time?

A. He was lying on the end of his bed, with his right shoe off.

Q. Was he partially undressed?

A. He was fully dressed, except for his tunic.

Q. How many other persons were attending at the time you arrived?

A. The Medical Officer and a number of others.

Q. You state that you carried out a kit inspection. What did you find with regard to live ammunition?

A. Nothing.

Q. Have you any knowledge as to where this live round of ammunition came from?

A. No, sir.

Original

(C.3) 13

TRANSCRIPT OF EVIDENCE

in the case of

B83915 Private Frederick Walter LEACH

R.C.A.S.C., att. No. 5 Fd. Amb., R.C.A.M.C.

Taken at Aldershot, Hants, on 22nd April 1940, by:

B72524 Sgt. F. Godley (48 Highrs)
(Shorthand writer)

1st Witness: Capt. T.W.D. Farmer (Q.M.), No. 5 Fd. Amb., R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Thomas William Devey Farmer.

Q. What is your rank?

A. Captain (Quartermaster).

Q. With what unit are you now serving?

A. No. 5 Fd. Amb., R.C.A.M.C.

Q. In the capacity of Quartermaster, do you have occasion to draw .303 ammunition?

A. Yes. On February 16th, 1940, I drew three thousand rounds of .303 ammunition and issued it to Lieutenant J.R. Purcell, Transport Officer of the R.C.A.S.C. attached to No. 5 Fd. Amb. R.C.A.M.C., for his men. On March 1st, 1940, part of it was returned.

Q. Who is responsible for ammunition when it is issued?

A. The Officer to whom it is issued.

Q. Did you make an inventory of the returned ammunition?

A. Yes. There was one box not opened, one box containing 926 expended rounds, and another box with a shortage of nine cartridges, which remained unaccounted for.

2nd Witness: Lieut. J.R. Purcell, R.C.A.S.C., att. No. 5 Fd. Amb. R.C.A.M.C.

Witness sworn.

Q. What is your full name?

A. Jack Richard Beechey Purcell.

Q. What is your rank? A. Lieutenant.

Q. With what unit are you now serving?

A. As Transport Officer with the R.C.A.S.C., attached to No. 5 Field Ambulance, RCAMC.

Q. Do you know the Accused, Private Frederick Walter Leach?

A. Yes, sir.

B3 12

This is to certify that I have ~~found~~ examined B834.5 Pte Lewis F.A. and have found him physically fit to proceed for trial

[illegible]

[illegible]

[illegible]
Major
President D.C.M.

List of Witnesses.

TRIAL OF B.83915 Pte. Frederick Walter LEACH, R.C.A.S.C.
Att'd No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

FOR PROSECUTION:-

B.89752 S/Sgt. W.E. Duncan, No. 5 Fd. Amb., RCAMC.
B.84207 Pte. A.R. Vickers, RCASC. Att'd No. 5 Fd.Amb. RCAMC.
B.83962 C.S.M., E.C.G. Robertson,
Captain T.W.D. Farmer(Q.M.) No. 5 Fd. Amb. R.C.A.M.C.
Lieut. J.R. Purcell, RCASC att'd No. 5 Fd. Amb. RCAMC.
B.83868 Pte. T.R. Leach - do -
B.84354 L/Cpl. T.Templeton - do -
B.84240 L/Cpl. J.K. Gray - do -
B.84189 Pte. W.H. Hiltz - do -
B.83958 Pte. C. McKenzie - do -
B.83955 Pte. W.G. Johnston - do -
B.83950 Pte. C. Brown - do -
Capt. T.C. Gibson, No. 5 Fd.Amb. RCAMC.

FOR DEFENCE: - N I L

Army Form A 47

10

A1

COURTS-MARTIAL

Form of Order for the assembly of a General or District Court Martial.

DISTRICT ORDERS BY Maj.-Gen. A.G.L. McNaughton, CB. CMG. DSO.

Commanding the 1 Cdn. Div.

(Place and Date) ALDERSHOT, Hants. 18-4-40

H.Q. 1 Cdn. Inf. Bde. Court Martial Room at 1000 hrs. on the 22nd day of April, 1940

B.83915 Private LEACH, Frederick Walter, R.C.A.S.C. att'd 5 Fd. Amb. RCAMC.

The detail of officers as mentioned below will assemble at for the purpose of trying by a DISTRICT court-martial the accused person [persons] named in the margin [and such other person or persons as may be brought before them].*

PRESIDENT.

Major J.E. Ganong, 48th Highlanders of Canada is appointed president.†

MEMBERS.

Captain W.W. Mathers - Royal Canadian Regiment, CASF

Captain A.W. Embury - Saskatoon Light Infantry (M.G.) CASF.

NOTE.—The president must be senior. The members and the waiting members may be mentioned by name, or the number and rank and the unit to which they belong may alone be stated.

WAITING MEMBERS.

A Captain - Royal Montreal Regiment, (M.G.), CASF.

JUDGE-ADVOCATE.

has been [*or where the convening officer has the appointment of a judge-advocate*, is hereby] appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to H.Q. 1 Cdn. Div.

Signed this 18th day of April 19 40

J.E. Ganong Maj. President D.C.M.

(A.G.L. McNaughton), Maj.-Gen. G.O.C., 1 Cdn. Div.

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* *Any opinion of the convening officer with respect to the composition of the Court (see Army Act, s. 48 (10) and Rules of Procedure 20 and 21) should be added here; thus, where a Court-Martial is ordered to assemble, composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry, the following should be added:—*

"In the opinion of the convening officer, other officers are not, having due regard to the public service, available," (*or as the case may be*).

† *Add here, in the case of either a General or District Court-Martial where a captain is appointed president and the officer convening the court is not under the rank of field officer,* "In the opinion of the convening officer a field officer is not, having due regard to the public service, available." *Where it is necessary for an officer under the rank of captain to be appointed president of a District Court-Martial, add,* "In the opinion of the convening officer a field officer or captain is not, having due regard to the public service, available." (*See Army Act, s. 48 (9).*)

‡ *The "unit," in the case of Royal Artillery, is a Brigade, where such organization exists.*

[illegible]

9

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Not guilty on the First Charge

Not guilty on the Second Charge

The findings are read in open Court and the accused is released.

Signed at Aldershot this 23rd April 1940

[signature] Major

President.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

*Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it, is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

8

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The Accused } The accused being duly sworn was examined by the Defending Officer and his evidence is set out in (C4) hereto annexed, signed by the President. Cross examined by Prosecutor.

Witness for the Defence } Major Sinclair G.A. 5 Fd. amb. R.A.M.C.

The witness being duly sworn was examined by the defending officer and his evidence is set out in (C4) Cross-examined by by Prosecutor.

at 1800 hrs. the Court adjourns until 1400 hrs on 23rd apr 40.

On the 23 apr 40 at 1400 hrs the Court reassembled pursuant to adjournment, present the same members as on the 23rd apr 40.

The Prosecutor addressed the Court in accordance with Rule of Procedure 40(c)(iii) as set out in (D3) hereto annexed, signed by the President.

The Defending officer addressed the Court as set out in (D4) hereto annexed, signed by the President.

Medical Certificate signed by the President and marked (D5) is attached hereto.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. yes

Question. Do you intend to call any other witness in your defence ?

Answer. yes

Question. Is he a witness as to character only ? *Answer.* yes.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence ?~~

Answer. ~~The accused in his defence says:†~~

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

11th Witness for Prosecution } B 83955 Pte Johnston W.S. RCASC att'd 5 Fd amb RCAMC
being duly sworn is examined by the Prosecutor
his evidence being set out in (C3)
Cross-examined by Defending Officer
Re-examined by Prosecutor

12th Witness for Prosecution } B 83950 Pte Brown S.J. RCASC att'd. 5 Fd. amb. RCAMC
being duly sworn is examined by the Prosecutor.
his evidence being set out in (C3)
The Defending Officer declined to cross-examine.
The witness was questioned by the Court.

5

C 2

4th Witness for Prosecution } B 84207 Pte. Vickers A.R. R.C.A.S.C. att'd 5 Fd. amb. R.A.M.C.
Being duly sworn is examined by the Prosecutor, his evidence being set out in (C3)
The Defending Officer declined to cross-examine.
The witness was questioned by the Court.

5th Witness for Prosecution } B 83982 C.S.M. Robertson E.G. R.C.A.S.C. att'd No 5 Fd. amb. R.A.M.C.
Being duly sworn is examined by the Prosecutor, his evidence being set out in (C3)
Cross-examined by Defending Officer.
The witness was questioned by the Court.

6th Witness for Prosecution } B 83958 Pte. MacKenzie G. R.C.A.S.C. att'd No 5 Fd. amb. R.A.M.C.
Being duly sworn is examined by the Prosecutor.
His evidence being set out in (C3).
Cross-examined by the Defending Officer

7th Witness for Prosecution } B 84354 L/Cpl. Templeton J. R.C.A.S.C. att'd No 5 Fd amb R.A.M.C.
Being duly sworn is examined by the Prosecutor,
his evidence being set out in (C3)
The Defending Officer declined to cross-examine.

8th Witness for Prosecution } B 84240 L/Cpl. Gray J.K. R.C.A.S.C. att'd No 5 Fd amb R.A.M.C.
Being duly sworn is examined by the Prosecutor
His evidence being set out in (C3)
The Defending Officer declined to cross-examine.

9th Witness for Prosecution } B 84189 Pte Hilly W.H. R.C.A.S.C. att'd No 5 Fd amb. R.A.M.C.
Being duly sworn is examined by the Prosecutor
his evidence being set out in (C3)
The Defending Officer declined to cross-examine.

10th Witness for Prosecution } B 83868 Pte Leach T.R. R.C.A.S.C. att'd. 5 Fd. amb. R.A.M.C.
Being duly sworn is examined by the Prosecutor.
His evidence being set out in (C3)
The Defending Officer declined to cross-examine
The witness was questioned by the Court.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

~~The prosecutor makes an opening address (hands in a written address which is read, marked to the proceedings)~~ , ~~signed by the President, and attached~~ marked (C2) and signed by the President.

The prosecutor proceeds to call witnesses.

First witness for prosecution. Capt Farmer, T.W.D. (R.M.) S. Fd. amb. R.C.A.M.C.

being duly sworn, is examined by the prosecutor, The evidence given being set out, as taken by the shorthand writer, in the document annexed hereto, signed by the President and marked (C3).

In accordance with Rules of Procedure 83(c) in the opinion of the Court it is unnecessary to comply with Rule of Procedure 83(B)

The Defending Officer declined to cross-examine this witness.

2nd witness for prosecution. Lieut Purcell, R.R. R.C.A.S.C. att'd. S. Fd. amb. R.C.A.M.C.

being duly sworn is examined by the prosecutor, the evidence being set out in (C3).

Cross-examined by the Defending Officer as set out in (C3)

3rd witness for prosecution. Capt Fielden, T.C. S. Fd. amb. R.C.A.M.C.

being duly sworn is examined by the Prosecutor, the evidence being set out in (C3)

The Defending Officer objects to the line of questioning on the ground that it is irrelevant

The Court is closed to consider their decision.

The Court on ~~closing~~ the objection and the Court re-opened and the decision announced and the Court proceed with the trial.

The Defending Officer declines to cross-examine.

(2)

B2

CHARGE SHEET

The accused, No. B.83915, Private Leach, Frederick Walter, of the Royal Canadian Army Service Corps, attached to No. 5 Field Ambulance, Royal Canadian Army Medical Corps, Canadian Active Service Force, a soldier of the Canadian Active Service Force, is charged with:-

1st Charge.
A.A.Sect.18
3.3.(2)

when on active service, wilfully injuring himself with intent thereby to render himself unfit for service -

in that he

at Haig Barracks, on the 29th February, 1940, by discharging his rifle wilfully, injured himself by shooting himself in the right foot, with the intent to render himself unfit for service.

2nd Charge.(Alternative)
A.A.Sect.40

when on active service, neglect to the prejudice of good order and military discipline -

in that he

at Haig Barracks on the 29th February, 1940, so negligently handled a rifle as to cause it to be discharged, thereby injuring his right foot and rendering himself temporarily unfit for service.

G K D Farmer
..... Lt.Col.
Commanding No.5 Field Ambulance,
Royal Canadian Army Medical Corps,
Canadian Active Service Force.

Haig Barracks,
8th April, 1940.

TO BE TRIED BY DISTRICT COURT MARTIAL

ALDERSHOT, Hants,
16 April 40.

A.G.L. McNaughton
(A.G.L. McNaughton), Maj.-Gen.
G.O.C., 1 Can. Div.

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Capt. S. L. Higgs - 1 Fd. Regt. R.C.A.
Capt. A.B. Burns - 2 Fd. Regt. R.C.A.

Re Shorthand writer - is duly sworn

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 86 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

not guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

not guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

Encl. 5F

1

A

Army Form A9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

*Form of Proceedings for General and District Courts-Martial.

Proceedings of a District Court-Martial held at aldershot on the 22nd day of April 1940 by order of Maj. Gen. A. G. L. McNaughton C.B. CMG. DSO.

Commanding 1 Cdn. Div.

dated the 18th day of April 1940.

President.

Major J. E. Garrong - 48th Highlanders of Canada.

Members.

Capt. W. W. Mathers - Royal Canadian Regiment

Capt. A. W. Cumberry - Saskatoon Light Infantry (M.G.)

, Judge Advocate.

Trial of* B. 83915 Pte. Leach, Frederick Walter, R.C.A.S.C.

att'd. 5 Fd. Amb. R.C.A.M.C.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.*

The accused is brought before the Court.

Prosecutor,† Capt. L. McKenny, Hastings & Prince Edward Regiment

Counsel‡ or defending officer† Major H. B. Graham, Hastings & Prince Edward Regiment.

At 1400 hrs ~~lock~~ the Trial commences.

The order convening the Court is read, and is marked (A1) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] Form A9.52

* I have satisfied myself that none of the officers detailed as members of the Court had previously sworn upon any Court of Inquiry respecting the matter forming the subject of the charges before this Court Martial

Leach 7 to Pte B. 83915

10

10-L-25

10-L-25

10

10

No C33102 Name Lazarus, A. | Sqn, Battery or Company | Corps | Date of enlistment 28-12-41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFW 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Hour	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 May 44		Tpr	WOAS conduct-discipline in that he at 1715 hrs 1 May 44 did talk in a unsoldierly manner to his superior officer A.A. 40	B69835 SSM McKeekin, A.	7 days C.B.	5 May 44	Major J.F.	Reason
Field	21 Nov 44		Tpr	A.A.(15)(1) AWL from 1530 hrs 21 Nov 44 until 1030 hrs 22 Nov 44 (Total absence 19 hrs)	B69985 Sgt Wilson, B69853 SSM Britton C.L.	Admimatic forf W.M.1 days pay FR&I 149 7 days C.B.	22 Nov 44	Maj W.W. Appleton	

Certified True Copy of Regt'l books in my custody
Date 29 Dec 44 "W.S. Jammieson Lt & Adjutant

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Apr 43	Tpr		A.A. Sec 15(1) AWL from 0630 hrs 5 Apr 43 till 2030 hrs 11 Apr 43 (6 days 14 hrs)	L/Sgt Henry Cpl Buchanan	28 days F.P. 28 days pay FR&I 149(1)(b)	12 Apr 43	J.D. Adams Lt-Col	And to forf 7 days pay FR& 149(1)(a) Total forf 35 days pay
Field	7 May 43	Tpr		A.A. Sec 9- Disobaying an order i.e when ordered to sit down replied to Lieut Button "Aw go fuck yourself"	Lt Button Sgt Henry	28 days F.P. 28 days pay FR&I 149(1)(b)	10 May 43	J.D. Adams Lt-Col	Total forf 28 days pay
Field				Voluntary Blood Donation			30 Aug 43		
Field	26 Dec 43			AWL from 1000 hrs 26 Dec 43 to 1130 hrs 26 Dec 43 Absent 1 hr 30 mins A.A. 15(1)	B4795 SSM Slater, W.N.	21 days C.B.	27 Dec 43	Major W.A.Boothe	
Field	10 Jan 44	Tpr		WOAS Drunkenness in that he at 1825 hrs 10 Jan 44 while on guard duty was drunk A.A. 19	B70020 Cpl Elson, G.C. B69973 Sgt Rankin	7 days F.P. and forf 7 days pay	14 Jan 44	Lt-col I.H.Cumberland	

No C33102 Name LAZARUS, A. Sqn, Battery or Company: A Sqn Corps — Last Sheet Destroyed as of 28/6/42 — Date of enlistment: 28-12-41 — OC: Ex "C" — Badges — Service or Proficiency Pay: AM

MFM 6 (AFB 122) 40/PAM3/136 (3438)

Date of last entry in Company Conduct Sheet: 21-5-42 — and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Field	22 Dec 42	Tpr		A.A. Sec 15(1) AWL from 2230 hrs 22 Dec 42 to 0730 hrs 23 Dec 42 (9 Hrs)	L/Cpl Ross	5 Days C.B.	28 Dec 42	H.N. Larkin Capt	Forf 1 days pay FR&I 149(1)(a)
Field	1 Mar 43	Tpr		A.A. Sec 40 Failing to arise out of bed on being warned A.A. Sec 40- Failed to arise from bed until 0800 hrs when Reveille was at 0630 hrs.	Cpl G.N. Holmes	7 days C.B.	1 Mar 43		
	1 Mar 43	Tpr		A.A. Sec 15 AWL from 1200 hrs until apprehended by RCMP in London at 1645 hrs 2 Mar 43 (28¼ hrs)	SSM Richardson	14 days F.P. 14 days pay FR&I 149(1)(b)	5/Mar/43		
				A.A. Sec 40 Breaking out of Barracks while a defaulter A.A. 40 In posession of pass knowing it not to be genuine	Cpl Gervais C.P.C.	Stoppage of pay £0-7-8 (Escort Fare)		"W.W. Darling" Major	

(PTO)

LRPG V LRIZ SRL 62

TO CDN O2E AFHQ 201130A

FROM CANMILITRY

QQX BT

A836 RESTRICTED (.) PARA ONE (.) FGCM PROCEEDINGS B69528

TPR GOURLEY JL L67104 TPR BRATLEE/ RA C33102

TPR LAZARUS A ALL SERIAL 1101/1 E39068 PTE RICHARD GJP SERIAL

289B/1 ENDORSED BY MGA 19 JAN 45 QUOTE I CONFIRM THE FINDING

AND SENTENCE AND I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING/

TWO YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

PARA TWO (.) FGCM PROCEEDINGS B84524 PTE BENNETT NL B48208 PTE

BIGGAR SN BOTH SERIAL 289D/1 ENDORSED BY MGA 19 JAN 45 QUOTE I

CONFIRM THE FINDINGS AND SENTENCES UNQUOTE. RETURN BOTH UK

EARLIEST

BT 212000 HR B

R SRL 62 212001 NAB

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
XX				
		NIL		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		
		XX		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~2nd~~ day of January 45

"W.Jemieson" Lt & Adjt

Ex "C" "AMM" ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C33102	Tpr	Lazarus, A.	3rd Cdn Armd Recce Regt(GGHG)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AWL AA 15(1) two five times.

For DRUNKENNESS AA 19 10-1-44 one times.

For AA 40 one five times.

For AA 9 one times.

Date of first entry in Field Conduct Sheet

Date of last entry in Field Conduct Sheet

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for

beginning on the day of

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 23 days 23 hrs days in military custody, *i.e.*, days in open arrest, days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation ~~calling-up for military service~~ is 28-12-41

7. ~~The service which the accused is allowed to reckon is~~

8. The accused is in possession of† CVSM & CLASP

†State the military decorations (if any) held by accused.

9. (~~If the accused is a warrant officer or NCO.~~) ~~The accused has served continuously, without reduction, to the present date~~

	Date of Promotion.
~~In the substantive rank of~~	
~~In the one substantive rank of~~	
~~In the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W: 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

"AAAA"

C33102 Tpr Lazarus, A — Summary of Evidence (Cont'd)

SIXTH WITNESS

Lieut E Dubac, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, Lieut E Dubac, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44, and still am, 5 Tp Leader of "A" Sqn. At approximately 0400 hrs, 5 Dec 44, I was at "A" Sqn Headquarters for an orders group when I was informed some of my men had returned from the river where they were to have awaited my return. They were not authorized to do so. I went to see them and I explained it was necessary to effect a third crossing of the river. I ordered them to return to the river bank. The three accused refused to participate any further in the action. I returned to Sqn Headquarters and Major Hugman ordered the men paraded before him. This was done and each in turn was asked directly by Major Hugman whether they would go back and carry out the orders. Each in turn refused and they were placed under open arrest."

The accused declined to cross-examine the Sixth Witness.

Lieut E Dubac

SEVENTH WITNESS

Lieut R W Murray, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, Lieut R W Murray, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am 2 Tp Leader, "A" Sqn. At approximately 0400 hrs, 5 Dec 44, Mr Dubac came into the room where Major Hugman and I were sitting. ~~He said some of his men refused to go on patrol.~~ Major Hugman asked for these men to be brought in to him. The three accused were brought in. Major Hugman asked each man in turn his name and asked him if he refused to go on patrol. Each man told him he flatly refused. The men were then told they were under open arrest and to go outside. Because of their failure to go on patrol, one of my sections had to be attached to 5 Tp to bring up their strength. My troop, which was acting as covering party, was depleted that much, making the operation in hand not as strong as it could be."

The accused declined to cross-examine the Seventh Witness.

Lieut R W Murray

At this time, the accused was asked, "Do you wish to make any statement, or give any evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing, and may be given in evidence."

The accused declined to make a statement.

Certified that the Rules of Procedure 4 (c) (d) (e) (f) (g) have been complied with.

Dated in the Field this 16th day of December, 1944

Officer Taking Summary

"A M 11"

C33102 Tpr Lazarus, A — Summary of Evidence (Cont'd)

THIRD WITNESS (Cont'd)

The accused declined to cross-examine the Third Witness.

J. M. Mehedan

B42881 Cpl Mehedan, J

FOURTH WITNESS

Lieut P F Nieukirk, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, Lieut P F Nieukirk, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am 3 Tp Leader of "A" Sqn. At approximately 0400 hrs on 5 Dec 44, the three accused were brought before Major Hugman by their officer, Mr Dubac, I was present. They were asked by Major Hugman individually and by name if they refused to participate in concluding the operation we had undertaken. They each refused."

The accused declined to cross-examine the Fourth Witness.

P F Nieukirk

Lieut P F Nieukirk

FIFTH WITNESS

Major A A Hugman, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, Major A A Hugman, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am Sqn Commander of "A" Sqn. At approximately 0400 hrs, 5 Dec 44, Mr Dubac came to me ~~and said he was having trouble with his troop in that certain personnel were refusing to take part in the operation at hand~~. I ordered Mr Dubac to have the men brought before me immediately. This was done and I personally asked them, each in turn and by name, did they refuse to obey a direct order. In the presence of Mr Dubac, Sgt Gilson and several others, their answer was yes. I then ordered the accused to be placed under open arrest and ordered a section from Mr Murray's troop to go in their stead."

The accused declined to cross-examine the Fifth Witness.

SIXTH WITNESS

A A Hugman

Major A A Hugman

EXB

3RD CDN ARMD RECCE REGT (GGHG)

SUMMARY OF EVIDENCE

IN THE CASE OF

C33102 Tpr Lazarus, A

FIRST WITNESS

B69985 Sgt Gilson, H M, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, B69985 Sgt Gilson, H M, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am 5 Tp Sgt of "A" Sqn. At approximately 0400 hrs, 5 Dec 44, I left Major Hugman's orders group and returned to my troop. I found some lads missing when I arrived. I enquired where they were and was told they were at Squadron Headquarters. I went to Squadron Headquarters and found the three accused and also Tprs Lefevre, Packard, Levine and Major. I told them to get their equipment on, we were going to cross the river again. They started grumbling. While I don't remember the three accused saying they wouldn't go, I was led to believe they would not. I reported to Lt Dubac, 5 Tp Leader, and he took the three accused in to Major Hugman."

The accused declined to cross-examine the First Witness.

H M Gilson
B69985 Sgt Gilson, H M

SECOND WITNESS

B69624 Cpl McCleverty, H H, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, B69624 Cpl McCleverty, H H, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am 4 Tp Cpl of "A" Sqn. At approximately 0400 hrs, 5 Dec 44, I was in Squadron Headquarters when Cpl Mehedan came in stating the three accused did not want to go back across the river. Five minutes elapsed when they were brought before Major Hugman. He asked each man individually if it was correct that they refused to cross the river again. Each one of the accused answered yes."

The accused declined to cross-examine the Second Witness.

H H McCleverty
B69624 Cpl McCleverty, H H

THIRD WITNESS

B62881 Cpl Mehedan, J, 3rd Cdn Armd Recce Regt (GGHG) having been duly sworn, states:-

"I, B62881 Cpl Mehedan, J, 3rd Cdn Armd Recce Regt (GGHG) was on 5 Dec 44 and still am 2 Tp Cpl of "A" Sqn. At approximately 0400 hrs, 5 Dec 44, I heard about the three accused refusing to cross the river. I went up to them and asked them individually why they did not want to go. I told them what they were letting themselves in for. Tpr Courley said if he had the proper equipment he would go. Tprs Bratlee and Lazarus just shrugged their shoulders."

3RD CDN ARMD RECCE REGT (GGHG)

C33102 Tpr Lazarus, A

List of Witnesses

Prosecution

1. B69985 Sgt Gilson, H M, 3rd Cdn Armd Recce Regt (GGHG)
2. B69624 Cpl McCleverty, H H, 3rd Cdn Armd Recce Regt (GGHG)
3. B62881 Cpl Mehedan, J, 3rd Cdn Armd Recce Regt (GGHG)
4. Lieut P F Nieukirk, 3rd Cdn Armd Recce Regt (GGHG)
5. Major A A Hugman, 3rd Cdn Armd Recce Regt (GGHG)
6. Lieut N Dubec, 3rd Cdn Armd Recce Regt (GGHG)
7. Lieut R W Murray, 3rd Cdn Armd Recce Regt (GGHG)

3RD CDN ARMD RECCE REGT (GGHG)

"AM 1"

SUMMARY OF EVIDENCE

IN THE CASE OF

C33102 Tpr Abraham Lazarus, 3rd Cdn Armd Recce Regt (GGHG), a soldier of the Canadian Army Overseas.

CHARGED WITH

FIRST CHARGE SEC 9 (2) AA — WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

In the field at 0400 hrs, 5 Dec 44, when engaged in operations against the enemy and ordered by Lieut R Dubac to return to the river bank, did not do so.

The accused had his rights with reference to taking of the Summary of Evidence explained to him.

The Commanding Officer directs that all evidence be taken on oath.

FIELD GENERAL COURT-MARTIAL

CF A46 (In lieu of AFAB) 46(F)(A1)-697 (20/68)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 358, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C33102	Tpr		Abraham	LAZARUS	3 Cdn Armd Recce Regt (GGHG)

"AMM"

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Dec 44 endorsed by me, (~~or by an offr of my rank or more~~), "To be tried by Field General Court-Martial". "JLS"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to obtain the attendance of more officers qualified to~~ "JLS"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint officers from the Army or RA Offr as President to the second Court~~ "JLS"

~~as required.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) A.M. Miller (Must be named. RP 106.) 5 Cdn Armd Div Sigs (Unit.)

MEMBERS.

Capt — To be detailed by — CREME 5 Cdn Armd Div

Capt or Lt (Rank.) — To be detailed by (Named or detailed. RP 106.) — ADMS 5 Cdn Armd Div (Unit.)

WAITING MEMBER.

Capt or Lt (Rank.) — To be detailed by (Named or detailed, if any. RP 106.) — 3 Cdn Armd Recce Regt (GGHG) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 31 Dec 44

"J.L.Sperling" (Signed personally. RP 105 fn 2.) (Rank.)

(J.L.Sperling) Lt-col

Commanding RCASC 5 Cdn Armd Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day.

"I certify that I have this morning examined No. C33102
Rank Tpr Name Lazarus, A. Unit 3rd Cdn Armd Recce Regt(GGHG)
and in my opinion he is fit to undergo trial by court martial.

Station Field
Date 2 Jan 45

"T.W.Broadfoot" Capt
Medical Officer RCAMC

(K.R. (Can) 577)

"AMM"

C33102 Tpr Lazarus, A. makes statement on Oath in answer to Question E-3

"When we had come back from the river bank I was wet and cold and my right foot was bothering me. When I was brought before Major Hugman, and was asked if I would participate in this action, I said "No" and was trying to explain why, but I guess he was too busy and could not listen to me, and he ordered me out of his office. I went into another part of the bldg and when I had rested up, I realized my mistake, and what I had done, and I left that area to go to my troop, because there was talk of an attack, but we returned that night. After the boys were going in again I asked Mr Dubac although I was under open arrest, if I could go in with the boys, and he said he would see what could be done.

On 9 Dec 44 my right foot was very sore and my ankle was swollen. I tried to explain this to Major Hugman but did not get an opportunity. Later about 10 Dec 44 when we were out of the line I reported to the M.O. who taped up my foot and who told me to leave it taped for 4 or 5 days.

When my troop did cross the river there were no enemy, there - fore

(P.T.O.)

---

it did not affect the operation"

The above is read back to the accused.

"A.M.Millar" Major

"AMM"

3RD CDN ARMD RECCE REGT (GGHG)

CHARGE SHEET

The accused, C33102 Tpr Abraham Lazarus, 3rd Cdn Armd Recce Regt (GGHG), a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE SEC 9 (2) AA

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

In that he

In the field at 0400 hrs, 5 Dec 44, when engaged in operations against the enemy and ordered by Lieut E Dubac to return to the river bank, did not do so.

In The Field
16 Dec 44

(A E Jordan) Lt Col
Commanding
3rd Cdn Armd Recce Regt (GGHG)

To be tried by Field General Court Martial

"J. L. Sparling"
(J. L. Sparling) Lt. Col
CRASC 5 Cdn Armd Div

In the field
31 Dec 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

"A.M.M."

President to accused: Do you wish to make a statement? Ans No (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) to charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

"A.M.M."

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

"A.M.M."

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans (1)

(1. *If "yes", see RP 39(A) for procedure. Statement of evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C). KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 para 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do you intend to call witnesses on your behalf? Ans Are they witnesses as to character only? Ans

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence of accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 47, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. *AA 54(3) (6), RP 45, 120(3).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

"A.M.M."

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C33102 Tpr A. LAZARUS 3 Cdn Armd Recce Regt

Charge. (insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st			
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~The period of time awarded for ..... beginning on (date) .....~~ "AMM"

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a term of five years

(Sgd) ..... 2 Jan 45 (Sgd) "A.M. Millar" Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation

Date 2 Jan 45 (Sgd) "J.L.Sparling" Commanding Lt-Col C.R.C.A.S.C. 5 Cdn (Arm'd) Div.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two yearsshall be served in a military prison".

~~I direct that the accused be not required to undergo the remainder of his sentence of imprisonment.~~

(I. AA 57A. Delete if not used.)

(Sgd) "E.C. Weeks" Major-General

Date 19 Jan 45 i/c Administration

Commanding CANADIAN MILITARY HEADQUARTERS

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C33102 Tpr LAZARUS A 3 Cdn Armd Recce	24 Jan 45	J.A. Nelson Capt Adjutant 2 Can Reallocation Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

(J.M. OWEN) Capt

Cdn Sec GHQ 2Ech AFHQ

J.B. Sword

8 May 44

4266

CFA96 (In lieu of AFA3) 40/P & S/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-col J.L. Sparling OBE Comd RCASC 5 CAD dated 31 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C33102	Tpr		Abraham	LAZARUS	3 Cdn Armd Recce Regt (GGHG)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~alts if any and Offrs under instr if any~~ assemble, and the Court is closed. "AMM"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial, instead of being dealt with summarily as charged (by)~~ "AMM"

~~who / President or accused / No one objects to ..... as interpreter. / Also~~

~~The interpreter sworn (by) / (by an oath) / (by an affirmation) / (by the oath previously taken). / Also~~

~~The shorthand writer is sworn (by)~~ "AMM"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if none employed.)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~alts if any and Offrs under instr if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A M. Millar	Sigs 5 Cdn Armd Div
Member	Capt	A.L. Schreg	5 C.A.Bde W/Shop
Member	Capt	J.M. Colthart	11 Cdn F.H. Sec RCAM C.
Judge-Advocate			
Prosecutor	Lt	W.G.L. Murphy	3 Cdn Armd Recce Regt
Defending Offr	Capt	C.S. Wass	3 Cdn Armd Recce Regt

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea "AMM" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "AMM"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

4L66.
Tpr. Lazarus, A.

LIST OF WITNESSES

For prosecution:

Annie deVOGEL, No 448 HAULERWYK, FRIESELAND.

Temkje Elizabeth MULDER, No 448 HAULERWYK, FRIESELAND.

Tjurd VAN DER LAAN, No 448 HAULERWYK, FRIESLAND.

Cornelis Wilhelmus BEUMEN, No 436 HAULERWYK, FRIESELAND.

K37003, Sgt LABERE, J.M. Support Coy, The Westminster Regt. (M)

For defence:

Nil

LIST OF EXHIBITS

Nil

I desire the Convening Officer to detail an officer to defend me at my forthcoming trial by Field General Court Martial

..W. Lazaruk.....
(W. Lazaruk)

I hereby acknowledge receipt of one copy of the Summary of Evidence and one copy of the Charge Sheet of my forthcoming trial by Field General Court Martial

..W. Lazaruk.....
(W. Lazaruk)

The accused was cautioned as follows:-

Do you wish to make any statement or to give any evidence upon oath? You are not oblidged to say anything or give evidence unless you wish to do so, but whatever you say on any evidence you will give will be taken down in writing and may be used as evidence.

The accused declines to make a statement.

Signed..W. Lazaruk.....
W. Lazaruk

The accused does not call any witnesses.

I certify that the forgoing summary of evidence, consisting of 4 pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(f)(e) have been complied with.

E.V. Ardagh

.....
(E.V. Ardagh) Capt.
The Westminster Regiment (M)

In the Field
3 July 45.

FOURTH WITNESS

Cornelis Wilhelmus Beumen, No 436 Haulerwyk, Friesland, sworn states:-

I am Cornelis Wilhelmus Beumen and am a qualified physician in the town of Haulerwyk, Friesland, in the afternoon 30 June 45, I was called to the home T. Van Der Laan, in connection with the case of Annie DeVogel I examined her but found no evidence of assualt.

Q. Were there any bruises on the body?
A. No

The accused declines to cross-examine the witness.

Signed C.W. Beumen
C.W. Beumer.

FIFTH WITNESS

K-37003 Sgt. Labere, J.M., Support Coy., The Westminster Regiment (Motor) sworn states:-

I am K-37003 Sgt. Labere, J.M., stationed in Haulerwyk, Friesland, on the afternoon of Saturday 30 June 45, at about 1445 hours., while I was acting in the capacity of C.S.M. a soldier Pte. Dreger, F.G. reported to me, that there was a disturbance in a civilian home. I went to investigate and found the family at house No. 448 in Haulerwyk crying. I then sent for the interpreter and through him I found that they claimed a soldier K51339 Pte. Lazaruk, W. who was billeted in their house, had assualted a minor refugee girl living in their house. I then reported the incident to my company commander, then placed K51339 Pte. Lazaruk, W. under close arrest.

Q. Did you see Annie de Vogel, when you arrived at the house?

A. Yes

Q. Was she crying?

A. Yes

The accused declines to cross examine the witness.

Signed J.M. Labere
J.M. Labere

Q. Did you see the soldier, after you had come downstairs, where you found Annie crying?
A. No.
Q. Did you ask Annie why she was crying?
A. Yes she said, a soldier has hurt me.
Q. Did you ask Annie where he had hurt her?
A. Yes, she told me she had been hurt, on her sexual organ, and her nose had been bitten.
Q. Who was upstairs, when Annie DeVogel was upstairs?
A. The soldier (pointing to the accused) my little boy, Annie. I was on my bed.
Q. Were there any marks on Annie DeVogel's face or body, when you saw her downstairs.
A. No, I did notsee anything on her face, but later when I gave her a bath, I noticed a small red mark on her back.
Q. When Annie DeVogel came downstairs, did you see any signs of discharge on her hands or clothes.
A. No.

The accused declines to cross-examine the witness.

Signed ..... Tenkje Elizabeth Mulder.

THIRD WITNESS

Tjurd Van Der Laan, No 448 Hualerwjk, Friesland, sworn thru the interpreter states:-

I am Tjurd Van Der Laan, at approximately half past two Saturday, 30 June 45. I was down stairs in my home, my little boy told me that the youngster of my home was wanted upstairs, by a soldier, I forbid it , thinking that they would ask for chocolate. After repeated requistes by the soldier for then to go upstairs, I said "allright". Annie DeVogel and some other youngster, went upstairs. After about ten minutes Annie came downstairs crying, complaining she had been hurt, on her sexual organ, by the soldier upstairs. I then asked another soldier, who is billeted in my house, what to do about this matter, and he went up to the Coy Orderly Room for me. Very soon a sergeant and an Officer came down to the house.

Q. How many soldiers were upstairs when the children went up?
A. Just one soldier.
Q. Doyou recognize the soldier?
A. Yes there(Pointing to the accused)
Q. Why was he in your house at this time?
A. He was billeted here.
Q. Who is Annie DeVogel ?
A. She is not my daughter, she is an evacuee from Schiedam, living in my house.
Q. Who was upstairs when Annie DeVogel went upstairs?
A. This soldier (pointing to the accused) my little boy, and my wife who was sleeping.
Q. Were there any marks on Annie DeVogels body or face, when she came downstairs.
A. Her nose was very red, at night when she had her bath, there was a red scar on her back.
Q. Was there any sign of discharge on Annie's hands or clothes?
A. No, I did not see anything.

The accused declinesto cross-examine the witness.

Signed ..... T. v.d. Laan

Summary of Evidence in the case of No. K-51339 Pte. LAZARUK, W., The Westminster Regiment (Motor), C.A.O., charged with committing a civil offence, that is to say, indecent assault , contrary to Sec 52 of the Offences against the Person Act, 1861

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS.

Annie DeVogel, No 448 Haulerwyk, Friesland, sworn thru the interpreter states:-

I am Annie DeVogel, on Saturday I was outside my house when a young boy called me and said I was to go inside to see a man. I went inside but stayed inside for awhile. I went upstairs nothing happened for a moment, then he bites my nose, then he puts his hand under my dress, then in my pair of pants, and then he made me take hold of his sexual organ. He pushed very hard, then he stopped with his dealings, he made open his pants, I had to put my hand in, I did so and he pulled out his sexual organ. I must stand quite near to him. I had to take his sexual organ in my hand. I did so for some time, then I run away fast.

Q. When you went upstairs who was there?
A. When I went upstairs, only one boy was there, his name was Sieger.
Q. Do you recognize the person who assualted you.
A. Yes, I can.
Q. Where is he now?
A. There. (Pointing to the accused).
Q. Was the accused upstairs, when you went up?
A. Yes.
Q. When you were assualted, who else was present?
A. Aled and Seiger, two dutch children.
Q. Did he hurt you at any time you were upstairs.
A. Yes.
Q. Where?
A. On my sexual organ.

The accused declines to cross-examine this witness.

Signed ..Annie DeVogel..
Annie DeVogel

SECOND WITNESS.

Tomkje Elizabeth Mulder, No 448 Haulerwyk, Friesland, sworn thru the interpreter states:-

I am Tomkje Elizabeth Mulder, at approximately two twenty five in the afternoon on Saturday, 30 June 45, I wasresting in my bed, my little boy came to me and said a soldier wanted to see me. I went and he asked me what time it was. I went downstairs looked at the clock, and told him it was two thirty P.M. I then went back to bed. At approximately three o'clock my little boy awakened me again and said: "Pappa wants to see you immediately downstairs." I went downstairs and found Annie there with my husband. She was crying.

Q. Do you recognize the soldier who asked you the time?
A. Yes there. (Pointing to the accused)
Q. Why was the soldier in your house at that time?
A. Because he was billeted in my house since Fridsy.
Q. Where did he live in your house?
A. Upstairs in a room.

SUMMING UP BY JA

1 Duty of JA to sum up and advise the Court on the law. Court should accept advice of JA on the law.

2 Court is the sole judge of the facts.

3 Credibility of the witnesses is for the Court. May believe whole of a witness' evidence or disbelieve it entirely, or may believe parts and disbelieve other parts, or may believe one witness' evidence as against another.

4 Accused is presumed to be innocent until he is proved guilty.

5 Burden of proof is on the Prosecution.

6 Accused is entitled to the benefit of any reasonable doubt in the minds of the members of the Court.

7 Reasonable doubt defined.

8 Refers to AA Sec 41 and to Sec 52 of Offences against the Person Act, 1861. (Archbold p 1032).

9 Refers to Criminal law amendment Act 1922, Sec 1. (Archbold p 1032).

10 Refers to Archbold p 927 on assaults generally, and MML page 113, para 54.

11 Refers to Archbold p 1034 on corroboration.

12 Corroboration must be as to the fact of the offence having been committed and the implication of the accused in it.

13 Evidence of a complaint, though admissible to show consistency in prosecutrix story, is not corroboration of the facts.

14 Signs of a struggle may, if believed, amount to corroboration of an assault. Refers to MML p 81 para 42 on circumstantial evidence. Accused may supply corroboration but in this case denies acts of indecency. He admits he was present.

15 It is not safe to convict on the uncorroborated testimony of the prosecutrix. The Court may, however, if satisfied of the truth of her evidence, after considering the warning, decide to disregard it and convict.

16 President, Prosecutor and Defending Offr state they wish nothing added to address of JA.

and one on her back and gave her a few flips and put her down. I don't know if I got my hand on her sexual organ or not. I don't think so. It might have slipped. I didn't get my hand down her neck. I didn't bite her nose. My pants were done up. Her hand did not go inside my pants. I did not have my penis out of my pants. From when I put her down until she started to cry was 5-6 seconds. I thought she was crying because I did not give her candy

(RP 83 (B) complied with)

Prosecutor's Closing address :-

1. Denial of accused as against statement of girl.
2. Her story is consistent. Complaint is an immediate one.

Defending offrs Closing address.

1. Have been pamphlets circulated about Canadians and it would give rise to imaginary things about this soldier
2. Child could have cried because of not getting candy
3. Biting of the nose is unlikely
4. No corroboration of the assault

or two and then I knew I didn't have much time left so went on polishing my boots. I didn't pay attention to what she was crying about. I grabbed my rifle, bedroll and pack and went downstairs and to the truck. Then I found I was off guard and placed under close arrest. At no time had I intentions of harming this child and if I did so I am very sorry. When I left the house I was short of time. I walked fast but did not run. I can't say if I harmed her. I didn't use force on her. I did not try to keep her upstairs.

Cross Examination :-

In the room there was annie de Vogt, two other children and myself - no one else. I don't know if the woman was in her bedroom, or not. What the girl said is not true.

No Re-Examination

Questioned by Court :-

I fondled her, but I did not put my hand inside her dress.

Questioned by JA :-

I had one hand underneath her stomach

D6

First Witness Defence

The accused, having been duly sworn, is examined by the Defending offr.

On 30 June 45 at about 1400 hrs I was detailed by S.M. to go on guard for Town Piquet in Groningen. I went to my billet to the room where I stayed and told two chums of mine that I was going on guard. I walked out of the room and took a wash and shave. Noticing a small boy standing at the top of the stairs, I asked if he knew the time. He went and asked his mother who was in her room. She went downstairs and told me it was 1430 hrs. Then I started packing and changing my clothes for guard duty. I told the little boy to get the kiddies up and I would give them candy. When they came up I found I had only two left and these I gave to two younger kiddies. I saw bigger girl was not happy about not getting candy. I picked her up swung her in the air a few times and let her down again. I fondled with her for a minute

for an interpreter and found out what happened. I reported to Coy Comd and placed accused, Pte Fagerah, under close arrest, as a result of what I was told.

Cross Examination :-

accused was on a parade when I arrested him. That was at 1500 hrs. I only noticed the girl was crying. The accused was sober when arrested.

No Re-Examination :

No questions by Court :-

The little girl who was here today is the same girl I saw on 30 June 45.

(RP 83(B) complied with)

Fifth Witness for Prosecution — Cornelius Wilhelmus Beeman 436 Hauterwyk, Friesland, having been duly sworn is examined by the Defending Offr, the Prosecutor having declined to examine the witness

Cross Examination

I examined annie de Vogel and found nothing. I found no evidence of assault. I saw no marks on her nose. I am a qualified physician. The examination was on 30 June 45 at the home where annie de Vogel stays.

(RP 83(B) complied with)

I was upstairs. I did not think anything was wrong then. My room is about 10 yards from the top of the stairs.

No Re-Examination

Questioned by Court :-

My bedroom door was closed when I was upstairs. I could hear the children's voices. They came from the landing. I heard no voices from Togawa's room.

Questioned by JA :-

I recognize accused as Togawa. I did not know Togawa was home when I heard the children. I did not ask annie about the red mark on her neck. I don't know how it got there.

I am married to Sjurd Van der Laan.

(RP 83(B) complied with)

Fourth Witness for Prosecution — K 37003 Sgt Labine J.M., Western Regt (M), having been duly sworn is examined by the Prosecutor.

On 30 June 45 I was acting CSM of Support Coy. At about 1430 hrs or 1445 hrs one of men of the Coy came to me and as a result of what he said I went to a civilian home. I found a small child and a woman crying. I sent

The soldier pressing his clothes was downstairs

(RP 83(B) complied with)

Third Witness Prosecution — Jenkje Elizabeth Mulder, having been duly sworn, is examined by the Prosecutor through the Interpreter.

I live at Haulerwijk 248. About 1430 hrs 30 June 45 I was upstairs on my bed. A little boy called me and I went downstairs. Alberts, a Canadian soldier billeted with us was pressing clothes downstairs. He was alone. I looked at the time and went back to my bed but did not sleep. Perhaps 20 minutes later I was called by my little boy and went downstairs. My husband, Annie de Vogel, my little daughter and my little boy were there. Annie was crying. She immediately told me that Lazaruk had hurt her sexual organ. She appeared a little nervous. I could not see anything about her pass that was unusual. I saw a small red line on her back later.

Cross Examination:-

I could hear the children talking when

and was crying. She told me this immediately she came down. I noticed annie's nose was red, but was not cut. I can't say I noticed anything else peculiar. I have seen no other marks on her. Lazaruk came downstairs with all his baggage and he ran away fast. This was about one minute after annie came down.

Cross Examination :-

My wifes room is 5-6 metres from railing at top of the stairs. Lazaruk left some things behind.

No Re-Examination

Questioned by Court :-

I don't know if her nose could have been red from crying. I did not speak to Lazaruk. He returned later in the presence of an officer.

Questioned by TA :-

I saw Lazaruk run and I got the impression he was in flight. There were three soldiers living in the house in the same room upstairs. One was pressing his clothes. The other one arrived after annie came downstairs and I sent him for help from the orderly room.

the kitchen and saw Van der Laan. I told Van der Laan that the man did such queer things.

(RP 83(B) complied with)

Second Witness Prosecution — I jurd Van der Laan, having been duly sworn, is examined by the Prosecutor through the Interpreter

I live at Hoeberwijk 448, Friesland. I know annie de Vogel. She is an evacuee living with me. I had Cdn soldiers billeted in my home. I recognize accused as one of them. About 1430 hrs 30 June 45 I was downstairs in kitchen. My wife was in bed. Lazarus was upstairs with a little boy. Then my little boy came down and spoke to me. Then Annie de Vogel went upstairs. At this time Lazarus was upstairs and also the little boy. My wife also was upstairs. About 10 minutes later annie came down stairs crying and I asked what is the matter. She said "I'll never go upstairs again. That nasty fellow". She said he had hurt her at her sexual organ and had bitten her nose. She was nervous

I was crying. He rather hurt my nose. There was no other part of my body hurt.

The Court adjourns at 1210 hrs until 1330 hrs.
The Court re-assembles at 1330 hrs.

First Witness Prosecution } continued

Cross Examination :-

No force was used on me. My dress was not torn. He did not try to stop me when I went downstairs.

No Re-Examination :-

Questioned by Court :-

When Lazarus did these things, Alice and Sieger were present.

Questioned by JA :-

Alice is seven years old. Sieger is five years old. The master of house is Djurd Van der Loon. I am there as an Evacuee. Lazarus was behind me when he put his hand down my neck. He was stooped and I could see his face. He was standing close to me but not against me. Lazarus seized my hand and I had to put it in the hole in his pants. When I went downstairs I came into

the workshop and then went upstairs and my friend also came behind me. Seiger called us. He was the son of the owner of the house. I saw the Canadian and Seiger upstairs. The Canadian was Lazarus. (indicates accused) The wife of the master of the house was upstairs too. No one else was upstairs. The wife of the master was in her room next to where there was another Canadian living. I was told the wife was upstairs. I did not see her upstairs. There were three Canadians lived upstairs. The other two were not upstairs when I was there, only Lazarus. I went upstairs and stood at the railing of the staircase. Then Lazarus bit my nose. Then he went on with preparing something. Then he put his hand down the neck of my undershirt at the front. Then his hand went further down. Then he hurt my sexual organ. He pressed with his hand very hard on it. Then he stopped and he opened his pants and I had to put my hand in the hole in his pants. Then his sexual organ came out. Then I ran away very fast. I ran downstairs because I was afraid.

A7 Officers Under Instruction

Lieut	J.H. Lackie	5 Cdn armd Regt.
Lieut	D.F. Bennall	9 Cdn armd Regt.
Lieut	A.S. Hutchings	H.Q. 5 Cdn armd Bde.
Lieut	J.C. Pallett	3 Cdn armd Regt.
Lieut	D.C. Irwin	2 Cdn armd Regt
Lieut	A.C. Hubb	Western Regt (M)
Lieut	A.W. Kipp	Western Regt (M)

The Court adjourns at 1045 hrs 12 July 45
The Court Reassembles at 1130 hrs 12 July 45
and the trial proceeds

D3

First Witness for Prosecution — annie de Vogel, Harlerwyk, Friesland.

The Court satisfies itself that the witness is of sufficient intelligence to understand the nature and moral obligation of the oath, and she is accordingly sworn, and is examined by the Prosecutor through the Interpreter.

I now live in Harlerwyk. I am nine years old On the afternoon of 30 June 45 I was outside the house with two Dutch children. A boy named Sieger called us in the house. He was not a Canadian soldier. I stayed sometime in

MEDICAL OFFICER'S REPORT.

K.R. (Can) Para. 557.

I certify that I have this morning examined

No K-51339. Rank ...Pte... Name .LAZARUK, W....

Unit ...Western Rept (M)...

and in my opinion he is fit [redacted] to undergo trial by

Court Martial.

Station In the Field.

Date ..12 July 45..

[signature] Capt

R.C.A.M.C.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K 51339	Pte		William	LAZARUK	Westmr R (M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 10 JUL 45 endorsed by me, (or as an offr of my staff thereon), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	*(Must be named. RP 106.)*	(Unit.)
Maj	J S USSHER	2 Cdn Armd Regt (LdSH)

MEMBERS.

(Rank.)	*(Named or detailed. RP 106.)*	(Unit.)
Capt or Lt	(to be detailed)	5 Cdn Armd Regt (SDGH)
Capt or Lt	(to be detailed)	3 Cdn Armd Recce Regt (GGHG)

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	(Unit.)
Capt or Lt	(to be detailed)	Westmr Regt (M)

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)
Maj	J A Bourne	HQ 5 Cdn Armd Div

On Active Service in the Fd

in HOLLAND
(Country.)

(Signed personally. RP 105 fn 2.)

Brig
(Rank.)

(I H Cumberland)
Commanding 5 Cdn Armd Bde
Convening Officer.

Date 10 Jul 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAMS (To Date) of AFAS) 40-P & S-1807 (4001)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, K-51339 Pte William LAZARUK The Westminster Regiment (Motor), a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, INDECENT ASSAULT, CONTRARY TO SEC 52 OF THE OFFENCES AGAINST THE PERSON ACT, 1861

in that he

in the field in HOLLAND, on 30 June 1945, indecently assaulted Annie de VOGEL, a girl under the age of sixteen years.

In the Field
7 July 1945

(G.S. Courbould, DSO) Lt-col
Comd
The Westminster Regiment (M)

Approved (HR Can 540)
John de Chastelain Major
DJA 5 Can Armd Div.

To be tried by Field General Court Martial.

In the fd
10 Jul 45

(I H Cumberland) Brig
Comd 5 Can Armd Bde

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 34(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR. (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans GIVE EVIDENCE AS WITNESS Do you intend to call witnesses on your behalf ? Ans NO SIR. Are they witnesses as to character only ? Ans N/A.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), (sentence) of Not Guilty, and states to the accused that the findings of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later ...~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-51, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 51339 PTE WILLIAM LAZARUK, WESTMR REGT (M)

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA SEC 41	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~To present under sentence for ..... beginning on (date) .....~~ (1)

(To insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

1

(Sgd) John M Bourne Major — 12 JULY 45 — (Sgd) [signature] — President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 5, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 (n 1.))

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5P-78

RECEIVED 24 JUL 1945 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA96 (In Bks of AFA3) 40/P.A.C./1808 (2664)

Convened by Order of Brig I H Cumberland Comd 5 Cdn Armd Bde dated 10 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 51339	Pte		William	LAZARUK	Westmr Regt (M)

PROCEEDINGS REVIEWED 24 July 1945 [signature] REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 12 JULY 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36/95.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ALBERT GUICHELAAR as interpreter? Ans NO SIR

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans. The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	J S USSHER	2 Cdn Armd Regt (LdSH)
Member	CAPT	J.S. BAXTER	3 CDN ARMD REGT (GGHG)
Member	LIEUT	R.H. QUINN	5 CDN ARMD REGT (SNSR)
Judge-Advocate	Maj	J A Bourne	HQ 5 Cdn Armd Div
Prosecutor	Capt	E V Ardagh	Westmr Regt (M)
Defending Offr	Capt	J Looney MC	9 Cdn Armd Regt (nCD)

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 31.)

A8. The accused ..... before arraignment make(s) (no) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~reviewed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

6 P. 78.

Pte. Lazaruk, W.

With reference to my pending trial by Field General Court Martial, I wish that an officer be assigned to act as Defending Officer.

(If Capt LaRose, Seaf of C, is available I wish that he may be assigned for this purpose)

J P Lazaruk

(J.P. LAZARUK)

In the Field
9 Mar 45

A5. On the night of ~~30~~ 30 Oct 1944.

Q6. How did you know Pte Lazaruk was absent on the morning of the 31st October 1944?

A6. He was not at his billets, our whole platoon was in the one building.

Q7. What kind of a building was it?

A7. a 2 (two) story farm building - 2 rooms upstairs and two rooms downstairs.

~~Q8.~~ The accused declines to cross-examine the witness. (R.P. 4(D))

The accused was questioned as follows "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused does not desire to make any statement or to give evidence on oath.

The accused declines to call witnesses for the defence

I certify that the forgoing additional summary of evidence consisting of two 2 pages was taken down by me in the presence of the accused and that rules of Procedure 4(C), D, E, F have been compiled with [illegible] 28 Mar 44 J K Koensgen Capt.

(1) additional Summary in the case of H 16450 Pte Lazuruk J.P.

a certified true copy of P.P.C.L.I. Pt II order No 83 dated 28 Nov. 1944 dealing with the illegal absence of H16450 Pte Lazuruk J.P. was read to the accused, attached to summary and marked exhibit B.

1st Witness recalled. C78028 Hcpl Meagher B.G. having been duly sworn states.

Q1. What is your job ~~in~~ the Scout and Sniper Platoon?

A1. I am 2½ of a section now.

Q2. Were you a N.C.O. in the Scout and Sniper pl. on the 31 oct 1944?

A2 Yes, Sir.

Q3. On the 31st of October 1944 was your pl. organized into sections

A3. It was organized into sections but due to action and patrolling we were pretty well mixed up

Q4. Was Pte Lazuruk in your section at that time, around the 31 oct 1944.

A4. He was in my section from time to time.

Q5. When was the last time you noticed Pte Lazuruk in the platoon.

or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not desire to make any statement or to give evidence on oath.

The accused declines to call witnesses for the defence

I certify that the forgoing summary of Evidence consisting of three (3) pages was taken down by me in the presence of the accused and that rules of procedure 4 (C), (D), (E) and (F) have been compiled with.

J R Koensgen Capt.

31st of October 1944.

A3 No Sir.

Q4. Have you been with the Pl. all this time since the 31st October 1944.

A4. Yes Sir.

Meagher B.G.

The accused declined to cross Examine the Witness.

RP 4(D)

a certified true copy of P.P.C.L.I. Pt. II order No 25 d/28. Feb 1945 dealing with the return of H16450 Pte Lazaruk J.P. on apprehension JRK has been read to accused. attached to proceedings and marked exhibit A.

The accused was questioned as follows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, But whatever you say

Summary of Evidence in the case of
H 16450 Pte. LAZARUK J.P.

The Commanding officer directs the evidence be taken on oath.

1st Witness
for Prosecution:- C 78028 Pte (L/Cpl) MEAGHER B. D. having been duly sworn states.

I am a member of the Scout and Sniper platoon Sp. Coy. P.P.C.L.I. on the 31st of october 1944 I was with the Scout and Sniper platoon Sp Coy P.P.C.L.I. I know that Pte Lazaruk J. P. whom recognize to be in this room, went absent at 0700 hrs 31 october 1944.

Q1. Where was the Battalion on the 31 st oct 1944. Was it in rest area.

A1. No, it was not in a rest area.

Q2. Was the Bn. in action?

A2 Yes Sir.

Q3. Has Pte Lazaruk J. P. returned to your platoon since the

I certify that the foregoing additional summary of evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E), (F) have been complied with.

(Sgd)(J R Koensgen)Capt
Officer Taking Summary

In the Field
28 Mar 45

Additional Summary in the Case of
H16450 Pte Lazaruk J P

The Commanding Officer directs that the evidence be taken on oath.

A certified true copy of PPCLI Pt II Order No 83 dated 28 Nov 44 dealing with the illegal absence of H16450 Pte Lazaruk J P was read to the accused, attached to summary and marked Exhibit "B".

1st WITNESS (Recalled)

C78028 L/Cpl Meagher B G having been duly sworn states:

Q 1 What is your job in the Scout & Sniper Platoon?
A 1 I am 2 IC of a section now.

Q 2 Were you a NCO in the Scout & Sniper Pl on the 31 Oct 19
A 2 Yes, Sir.

Q 3 On the 31st of October 1944 was your Pl organized in sections?
A 3 It was organized into sections but due to action and patrolling we were pretty well mixed up.

Q 4 Was Pte Lazaruk in your section at that time around the 31 Oct 1944?
A 4 He was in my section from time to time.

Q 5 When was the last time you noticed Pte Lazaruk in the platoon.
A 5 On the night of 30 Oct 1944.

Q 6 How did you know Pte Lazaruk was absent on the morning of the 31st October 1944?
A 6 He was not at his billets. Our whole platoon was in the one building.

Q 7 What kind of a building was it?
A 7 A 2(two) story farm building - 2 rooms upstairs and two rooms downstairs.

The accused declines to cross examine the witness(RP 4(D

The accused was questioned as follows:
"Do you wish to make any statement or give evidence oath? You are not obliged to say anything or give evi unless you wish to do so, but whatever you say or any dence you give will be taken down in writing and may b given in evidence".

The accused does not desire to make any statement or t give evidence on oath.

The accused declines to call witnesses for the defence

Summary of Evidence in the case of
H 16450 Pte LAZARUK, J.P.

The Commanding Officer directs that the evidence be taken on oath.

1st WITNESS for the PROSECUTION

C 78028 Pte(A/Cpl) Meagher, B.G. having been duly sworn states: "I am a member of the Scout and Sniper platoon Sp Coy, PPCLI. On the 31st of October 1944 I was with the Scout and Sniper platoon Sp Coy, PPCLI. I know that Pte Lazaruk, J.P. whom recognize to be in this room, went absent at 0700 hrs 31 October 1944.

Q 1. Where was the Battalion on the 31st Oct 44? Was it in rest area?
A 1. No, it was not in an rest area.
Q 2. Was the Battalion in action?
A 2. Yes Sir.
Q 3. Has Pte Lazaruk, J.P. returned to your platoon since the 31st October 1944?
A 3. No Sir.
Q 4. Have you been with the Platoon all this time since the 31st October 1944?
A 4. Yes Sir.

(Sgd)(B.G.Meagher)

The accused declines to cross examine the witness.(R P 4(D))

A certified true copy of PPCLI Pt II orders No 25 d/28 Feb 45 dealing with the return of H 16450 Pte Lazaruk J.P. on apprehension has been read to accused. Attached to proceedings and marked exhibit "A"

The accused was questioned as follows:-
"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not desire to make any statement or to give evidence on oath.

The accused declines to call witnesses for the defence.

I certify that the forgoing Summary of Evidence consisting of three (3) pages was taken down by me in the presence of the accused and that rules of procedure 4(c),(d),(e) and (f) have been complied with.

(Sgd) (J.A.Koensgen) Captain
Officer taking Summary

In the Field
8 Mar 45

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-3-43	Pte		(1) WOAS . AA Sec 40 Conduct to the prejudice of good order and military discipline in that he in the field on 10 Mar 43, did proceed on leave and left his kit in an untidy condition (2) WOAS AA Sec 15(1) AWL from 0800 Hrs 20 Mar 43 until 2230 hrs 21 Mar 43 (1day 15 hrs 30 mins)	Cpl Rennie J. L. Sgt. Routledge	7 days CB Deprived 4 d days T. Pay by FR&I 149 (1)(a)	22-3-43	Lt Col R.A.L. Lindsay	Forfeits 2 days Pay FR&I 149 (1)(a)
Field	9-4-43	"		W.O.A.S. , AA Sec 15(1) AWL from 1330 hrs 9 Apr 43 to 1335 hrs 9 Apr 43 (Absent 5 Mins)	Cpl. Rennie J.	3 days CB	10-4-43	Lt J Leach	
Field	14-4-43	"		WOAS. AA Sec 15(1) AWL in that he on 14 Apr 43 did absent himself without leave from 0630 Hrs 14 Apr43 until surrendering himself at 1600 hrs 30 Apr 43 (Absent 17 days 9 hrs 30 Mins)	Cpl Vanstone Doc.	Admonished	3-5-43	Major R P Clark	Auto-Forf; 14 days pay FR&I 149 (1)(a) Deprived 28 days pay FR&I149(2) Stop. of pay of 7/6 to make good cost of apprh.

No. H16450 Name Lazaruk J P Sqn., Battery, or Company Corps P.P.C.L.I. Date of enlistment 28-11-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 175M-7-41 (1210-26) H.Q. 1772-20-1852

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-5-43	Pte		WOAS. A.A. Sec 15(1) AWL in that he in the field did absent himself without leave from 0630 hrs 4 May 43 until 2230 Hrs 9 May 43 (Absent 6 days 16 hrs)	L/Sgt. Prior Doc.	21 days Det. F.P. (Recorded 27 June 43)	11-5-43	Major C B Ware	Auto. Forf. 7 days pay FR&I 149 (1) (a)

Certified to be a true copy, as from Regtl Books in my custody.

R P Clark
(R. P. Clark) Lt Col
CO, PPCLI

Exhibit A

No. H16450 Name Lazaruk J P Sqn., Battery, or Company Corps P.P.C.L.I. Date of enlistment 28-11-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 175M-7-41 (1210-26) H.Q. 1772-20-1852

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Adjutant, P.P.C.L.I.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entry from previous sheet; destroyed 28.11.41 on completion of 2 years Service									
Field	1-9-42	Pte		WOAS an act to the prejudice, etc., in that he did leave Officer's Mess kitchen before completing fatigues(AA Sec 40)	Cpl. C. H. Miller	7 days CB	2-9-42	Lieut. CD Beatty	
Field	28-10-42	"		WOAS Conduct to the prejudice of good order and military discipline in that he neglected his duty as a guard(i.e.)Failing to wake his platoon at reveille AA Sec 40	L/C Milum S	7 days CB	30-10-42	Major A.E. T. Paquet	
Witley	30-11-42	"		WOAS. AA Sec 15(1) AWL from 1400 hrs 30-11-42 to 1455 hrs 4-12-42	A/Sgt. Sterling A/Sgt: Cameron	7 days FP 7 days Pay	5-12-42	Lt Col Lawson	Auto- Forf 5 days Pay FR&I

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~9th~~ 30th. day of March 1945

(R.P. Clark) Lt Col
CO, PPCLI

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
H16450	Pte	LAZARUK J.P.	PPCLI

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Sec 40 AA 4 times.

For Sec 15(1) AA 5 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 1 Sep 42

Date of last entry in Field Conduct Sheet 4 May 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~[illegible]~~ } [illegible]

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 121 days in military custody, *i.e.*, NIL days in open arrest, 121 days in close arrest; of which 51 days were spent in hospital.

Exhibit B.

5. The present age of the accused is 25 Years days

6. The date of his attestation is 27 Sep 39

7. The service which the accused is allowed to reckon is 5 Years days

8. The accused is in possession of† CVSM & Clasp

†Each the military decorations (if any) held by accused.

9. ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W? [illegible] 30,000 [illegible] 21-4751. Forms/B.296(War)/2

PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY

Last Order No 24 26 Feb 45

PART II ORDERS ISSUED BY CDN SEC 2 ECH AFHQ

This Order No 25 28 Feb 45

"B" OTHER RANKS

2 STRENGTH INCREASE

(a) AMENDMENT. Part II Order No 88, para 2 (e) dated 12 Dec 44 insofar as it refers to the undermentioned is amended to read "TOS from Des on app, 0001 Hrs 29 Nov 44."

H16450 Pte LAZARUK J P

(Signed) R M Eacrett Lt
(R.M. Eacrett) Lieut
for Officer i/c,
CDN SEC 2 ECH AFHQ

CERTIFIED TRUE COPY

(A R MILLS) Captain,
Adjutant, PPCLI

PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY
PART 11 ORDERS ISSUED BY
CDN SEC 2 ECH AFHQ

Last Order
No 82
24 Nov 44

This Order
No 83
28 Nov 44

"B" OTHER RANKS

8. ABSENT WITHOUT LEAVE

(a) AWL from 0700 hrs 31 Oct 44
Still absent 0700 hrs 22 Nov 44. (22nd day)
H16450 Pte Lazaruk J P

(Sgd)(F F Knight)Lieut
for Officer i/c
CDN SEC GHQ 2 ECH AAI

CERTIFIED TRUE COPY (A M Mills)Capt
Adjt, PPCLI

(6)

(2(

Now just before the Gothic line someone wrote and told my wife little things that caused trouble and she stopped writing for a while.

I went and saw Mr. Eaton our Padre and he was going to help me, but he lost his life at the Gothic line, and everything at that time seemed to go wrong.

I am trying hard to have my wife sent to Canada but have noone one there I know, whom would give her a start or find her a place to stay. I haven't a bad record and I still have my family to fight for, so I am asking you now to take all this into consideration and beg of you to give me a chance, to regain the name which I have lost through this trouble.

Your Faithful Servant

H16450
Pte Lazaruk J.P.

5. Plea of mitigation for accused

March 28:th: 1945:

I am H.16450 Pte Lazaruk J.P. of the P.P.C.L.I. I enlisted with the Regt. on Nov. 17th. 1939. proceeding overseas the same year. I remained with them and laned on D Day at Sicily, and also D Day at Italy.

I was employed as a sniper, and I know that I have always held up my end of the job. I being in such battles as the Ortona Hitler, and Gothic lines.

Leading up to my going A.W.L. I beg of you to take into consideration the circumstances as they were. I know that I have done wrong but I must plead, that I was very upset at the time. and I am very sorry for doing what I have done.

While we were advancing, after the Gothic line was overrun. I went up with my section of the S.&.S. Plt. and we stopped at a house near the River Ronco, were it was dicided upon to advance futher.

I asked my Sgt. If I could go to an old latrine behind the house, I was given permission, and told to catch up as soon as I could. After I had finished I made my way to the river. There I meet an Italian Partisian, I asked him if he had seen my section, he replied that he had'nt. He also told me that he had seen some Jerrys across the river in a dugout. So I went with him across the river, which was only kneedeep that morning, and tossed in my two hand grenades. But it was empty. I went in to investigate for any imformatoin which I might run across, but found nothing. I did find some bottles of liquor and took them back with me. I went back across the river to our C. Coy outpost. There I meet C.S.M. Castles who gave me some breakfast. I gave C.S.M. Castles one of the bottles and I also gave one to Maj. Potts.

After breakfast I met Sgt. Andrees and Pte Scarlette and we again went out, I took up a position overlooking the river in a house. It was'nt very long before I was very lucky and scored for one Jerry. I then had a few drinks and then went back to rejoin my platoon at B.H.Q.

There I met Lt. Sherkie and was told we would be moving back down the line that afternoon. So I had a couple of hours sl sleep and moved with my platoon to a rear area.

We arrived at the area alotted us and I fell to drinking again, as I still had a couple of bottles of liquer.

Now with the liquor and my own troubles I guess I lost track of everything.

I haven't heard from my mom or dad for the last four years. Now I was brought up in a childrens home and since leaving the home I havent any friends. So the only mail I have received over here is from my wife, who is living in England. I being a married man since 1940 and am the father of Two children.

(4) :

Address By the Defense Counsel In the Case of H16450 Pte. Lazaruk J.P.

Sir :-

I would respectfully draw the attention of the members of this court to two phrases in the charge as laid against H16450 Pte. Lazaruk J.P.

The first phrase is "when serving with his platoon in a forward area": At the time that the accused absented himself from his regiment, we had been relieved from our forward positions against the River Ronca, and for four days were resting in billets five miles from the F.D.L.'s. Our advance party had already departed for billets in Riccione, and it was common information that we were moving on the following day, the 1st. Nov. 1944, to a training area in Riccione. It is my contention that this place, five miles from the front line, can not reasonably be termed a "forward area": I personally can not give you a definition of a "forward area"; and I would say that a private soldier would definitely not consider such a place a "forward area," where he had been for four days - having been told that they were then relieved, and were moving back to a training area on the following day.

The second phrase is "with intent to avoid such service": In the mind of a private soldier, all he was avoiding was "some more monotonous training"; by absenting himself at such a time. I think it far more reasonable to suggest that he went A.W.O.L., due to some domestic problem; or possibly due to the inevitable celebrations which take place after having been relieved from the front line; rather these reasons, than that he deliberately had intent to avoid serving any longer in action!

Pte. Lazaruk has told me how surprised he was when he was informed that he was being charged with desertion, rather than as an ordinary absentee. Desertion is a very serious charge; and I would respectfully submit, that if there is any reasonable doubt in the minds of the court, regarding the place & circumstances under which this private soldier absents himself, that the benefit of the doubt be extended to the accused. I would also like to point out that the accused has already been in military custody for almost four months, waiting for his charge to be disposed of. He was apprehended twenty-nine days after he went absent - actually we were in a training area for the whole of that time - and yet four months later he is now facing a charge of desertion, for the twenty-nine days of absence.

Aj Robinson CAPT. P.P.C.L.I.

(3) 3. closing address for Prosecution
In the case of Pte Lazaruk J.P.

I submit to the court that the evidence produced by the prosecution establishes the fact that Pte Lazaruk J.P. did desert from his platoon on the 31 oct 1944.

The evidence of L/cpl. Meagher definitely proves that Pte Lazaruk J.P. was in a forward area when he went absent and that he did go absent on the 31 oct 1944.

The extracts from Pt II ~~No 23~~ orders No 83 d/28 Nov. 1945 also collaborate the evidence of L/cpl Meagher B.G. as to his time of going absent and the extract from Pt. II orders. No 25 d/28 Feb 1945 show the time of his apprehension.

I therefore submit to the Court that Pte Lazaruk J.P. is guilty as charged and that he be given whatever punishment the court sees fit to award. J.K. Koenigsen Capt.

(2) Character witness for accused

I am 485313 L/Sgt Freer E. Scout and Sniper platoon PPCLI

I have known the accused over a period of five months, four months of which, I was his section leader, at which time I transfered to the tank busters who were also attatched to the Scouts. During this period we were nearly always in or near the front

I found the accused Pte Lazaruk to always be cheerful and efficient in the performance of his duties He was thought highly of by the platoon commander and the entire platoon as he was exceptionally alert and resourceful on patrol

R.P. 836 coupled with

[illegible]

[illegible]

Cross examination

Q1 In your capacity as 2 i C section of the Scout and Sniper platoon do you personaly check billets every morning?

Ans 1 No sir

Q2 Why did you check billets yourself on the morning the accused is alleged to have gone absent

Ans 2 We were living with civilians in the house, and I was detailed by the Sgt. to see that the quarters were clean.

Q3 How did you know that Pte Lazaruk was absent.

Ans 3 His bed was not made up and he was nowhere to be seen around or in the billets.

Q4 Why did you say the Bn was in action at the time

Ans 4 We were within range of enemy field guns and some shelling in our general area.

Q5. What was the job of your platoon during those four days that the Bn was in action.

Ans 5 We were holding a platoon position in the second line of defense, for the small recce ahead of us.

Q6 Had Pte Lazaruk been detailed for any particular job

Ans 6 No sir, none that I know of

Q7 Did you know that you were moving to Riccione the following day, 1 Nov 44.

Ans 7 I knew we were moving to a rear area but didn't know just what date.

R.P. 83(b) complied with

Exhibits C & D' produced [illegible] a witness by the prosecutor.

[illegible]

Evidence in the case of H16450 Pte. Lazaruk J.P.

1st witness for prosecution:

C78028 Cpl Meagher B.C. Scout and Sniper Pl. PPCLI

having been duly sworn states:-

I am C78028 Cpl Meagher B.C. 2 i/c section of the Scout and Sniper Pl. PPCLI.

I know that Pte Lazaruk was absent from 0700 hrs 31 Oct 44 and since then has not returned to the platoon.

Q1. Is Pte ~~Lazaruk~~ Lazaruk a member of the Scout and sniper platoon 31 Oct 44

Ans 1. Yes sir

Q2. Was the Bn in a forward area on 31 Oct 44

Ans 2 Yes sir

Q3 How did you know that Pte Lazaruk went absent on 31 Oct 44

Ans 3 He was not in his quarters ~~were~~ we were stationed

Q4 Did you check the platoon billet at the time

Ans 4 Yes sir

~~No cross examination~~

Questions from the court

Q1 At the time you found Pte Lazaruk absent had there been any orders issued to the platoon that they were going into an action

Ans 1 No sir

Q2 Was Pte Lazaruk under your immediate command at the time the accused was alleged to go absent

Ans 2 yes sir

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined

No H 16450 Rank Pte Name Lazaruk, J P

of (Unit) PPCLI

and in my opinion he is fit/~~unfit~~ to undergo trial by Court-Martial.

R Mendelson Capt
(Medical Officer)

In the field
Date 30 Mar 45

Unit 5 Can Fd Amb

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 3)
40/FA/8/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see NML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-16450	Pte		John Peter	LAZARUK	PPCLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Mar 45 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	H.A. Tucker		L.E.R.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	F.S. Middleton		Seaf of C
Lt	R.W. Dudley		L.E.R.

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	J.C. Moxon		Seaf of C

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 29 Mar 45

(Signed personally. RP 105 fn 2.)
(H.F. Bell-Irving
T/ Commanding 2 Cdn Inf Bde
Convening Officer.) Lt-Col (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused H16450 Private John Peter LAZARUK, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Overseas, (CMF), on active service, is charged with:

First Charge
Sec 12 (1) (a) Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, when serving with his platoon in a forward area, with intent to avoid such service, absented himself from his said platoon from 0700 hrs 31 Oct 44 until apprehended at 0001 hrs 29 Nov 44.

(R P CLARK) Lt Col
CO, PPCLI

In the Field
9 Mar 45

TO BE TRIED BY F.G.C.M.

(H.P. Bell-Irving) Lt-C
T/Comd, 2 Can Inf Bde

In the Field
29 Mar 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr conturs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 29(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 92(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 29(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 29(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. No neither. Do you intend to call witnesses on your behalf ? Ans. Yes (one). Are they witnesses as to character only ? Ans. Yes.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 8.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(B).*)

D8. The President [illegible] states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Character. Witness only.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. 'A' and Ex. 'B' respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [illegible].(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 16450 Pte John Peter Lazaruk P.P.C.L.I.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	(2) (a)	Not guilty	Not Guilty	Guilty of Absence without leave.
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 121 days, of which 51 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer 18 mos Imprisonment with hard labour.

(Sgd) ..... 30 March 45 (Sgd) Hla Tucker Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) N/A

(1. AA 57A. Delete if not used.)

Date 11 Apr 45 (Sgd) H. H. Sargent Brig

Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H16450 Pte John Peter Lazaruk	16 apr 45	[illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 JUN 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN A3 Vol 5730

CFA96 (In lieu of AFA32) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col H.P. Bell-Irving T/Comd 2 Cdn Inf Bde dated 22 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-16450	Pte	John Peter	LAZARUK	P.P.C.L.I.

PROCEEDINGS REVIEWED 2 June 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 21 Army Gp. Cdn. Soc. List D

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 30 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29/12

A1. The President, Members, waiting Member, ~~alternate~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~if~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3) DUE TO THE EXIGENCIES OF THE SERVICE IT WAS NECESSARY FOR THE COURT TO SIT ON GOOD FRIDAY

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-15, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.A. Tucker	R.E.R.
Member	Capt	D.A. Middleton	S.D.G.
Member	Lieut	R.W. Gadsby	R.C.R.
Judge-Advocate		n/a	
Prosecutor	Capt	J.R. Kerrigan	P.P.C.L.I.
Defending Offr	Capt	A.E. Robinson	P.P.C.L.I.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~N~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. H60

5 J - 30

P te Lazaruk J P.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 7884 Rank Pte Name Redmond LAYDEN of RMR (MG) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
Civil Court's	Sutton Surrey 14 Nov 40	Civil Offence - Looting	Fine £3.0.0	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is an extract from the regimental books in my custody.

Signed this 22nd day of October 1941

(B. W. STEVENS Capt. & Adjt.)
For O.C. R.M.R. (M.G)

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years
In the rank of	years
In the rank of	years

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D76891	Pte	Redmond LAYDEN	THE ROYAL MONTREAL REGT. (M.G.)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absent without leave	times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N.I

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, *or*~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. ~~The accused has been in confinement awaiting trial on the present charges, for _____ days in civil custody, and _____ days in military custody, making a total of _____ days, of which _____ days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 yrs 306 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 20 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*16949) Wt.30256/802 75,000 12/40 A.A.E.W.Ltd. Gp.698

IV

No. D76891 Name LAYDEN, R Sqn., Battery, or Company B Corps RMR (MG) Date of enlistment 20 Jan 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q. 1772-45-12

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1 Conv. Depot, Brisham	6 Sep 40	Pte		AWL 2215 6 Sep 40 to 2330 hrs 8 Sep 40 – 49 hrs 15 min	Sgt. Dorey	7 Days C.B.	9 Sep 40	A. Walsh, Capt	Forfeits 3 days Pay FRI 149
Sutton	27 Oct 40	Pte		Civil Charge – Looting in close arrest Oct 28-29 in Briston Jail Nov 2-14		Fine £ D	14 Nov 40	Civil Authorities	Forfeits 14 days pay FRI 149
				Certified true Copy 22 Oct 41					

(S. W. S. [illegible] Capt. & Adj.)
For O.C. [illegible]

(P.T.O.)

I certify that No. D 76891, Pte Redmond LAYDEN, The Royal Montreal Regiment (M.G.) is fit to undergo trial by Court-Martial.

11 Nov 41.

K. R. MacKenzie Capt.

(K.R. Mackenzie) Capt, R.C.A.M.C.
M.O., R.M.R. (MG).

4th. Witness for the Prosecution:

D 76660 L/Cpl. Durham B.R. R.M.R. (MG) having been duly sworn, states:--

" On the morning of 27 Sep 41 at about 1130 hrs Pte. Layden entered Montreal House; he was in possession of a black Kodak camera, and offered it for sale. Pte. Scott acquired 10s. from Sup. Mundy and paid it to Pte. Layden for the camera."

The accused declines to cross-examine this witness.

B.R. Durham
D 76660 L/Cpl. Durham B.R.

5th. Witness for the Prosecution:

Lieut. N. A. McLean, R.M.R. (MG) having been duly sworn states:--

" I was the officer in charge of the beer party while the battalion was on exercise BUCKER. On Friday 26 Sep 41 at about 1300 hrs I detailed Ptes. Layden, Garside, and Bedard to inspect "B" Coy. billets. I opened the kitchen for them; they had access to it from 1300 hrs to about 1600 hrs when it was locked-up again. The kitchen was not opened again until 4 Oct 41, when the company returned from the exercise."

The accused declines to cross-examine this witness.

N.A. McLean Lieut.
N. A. McLean, Lieut.

The accused, having been duly cautioned in accordance with R.of P. 4 (E) reserves his defence.

R. Layden
D 76891 Pte. Layden R.

Certified that R. of P. 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused, 13 Oct 41, in the field.

D.N. Campbell Major
D. N. Campbell, Major.

13 Oct 41

The Royal Montreal Regiment (MG)

Summary of Evidence in the case of D 76091 Pte. Layden R. The Royal Montreal Regiment (MG).

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st. Witness for the Prosecution: D 76349, Pte. Smith A.S.J., R.M.R. (MG) having been duly sworn, states:--

" On the morning of 5 Oct 41 at about 1100 hrs I went to get my camera from the cookhouse where I had left it during exercise HUNTER, and which was locked, and I found that it was missing. This I immediately reported to Sgt. Holden, who was orderly Sergeant on that day. I went down with Sgt. Holden at about 1530 hrs that day to Montreal House and identified the camera which was in the possession of Pte. Scott then, as being mine."

The accused declines to cross-examine this witness.

A S J Smith
.....
D 76349 Pte. Smith A.S.J.

2nd. Witness for the Prosecution: D 76011, Sgt. Holden L., R.M.R. (MG) having been duly sworn, states:--

" On Sun 5 Oct 41 during my tour of duty as Orderly Sgt. I was approached by Pte. Smith who informed me that his camera had been stolen from the cookhouse while he was away on a scheme. He asked me to go with him to Montreal House to identify a camera which he believed to be his. I accompanied Pte. Smith to Montreal House and he identified the camera which was in possession of Pte. Scott as the one he had lost."

The accused declines to cross-examine this witness.

L Holden
.....
D 76011 Sgt. Holden L.

3rd. Witness for the Prosecution: D 76235 Pte. Scott J.S., R.M.R. (MG) (Aux.Services) having been duly sworn, states:--

" On the 27 Sep 41 at about 1100 hrs Pte. Layden R. came to me at Montreal House with a Kodak camera. He asked me if I would buy a Kodak. I got a pound from Supervisor Mundy and paid Layden 10s. for the camera in the presence of L/Cpl. Durham. On Sun 5 Oct 41 at about 1300 hrs Sgt. Holden and Pte. Smith came to see me and asked me if I had bounht a Kodak. I showed them the camera which I had purchased from Pte. Layden, and Pte. Smith identified it as the one he had lost."

The accused declines to cross-examine this witness.

John S. Scott
.....
D 76235 Pte. Scott J.S.

Defending Officer:

I would like to point to the Court that this camera was not taken away from Bn lines to be sold, as it might well have been, and also the fact that the accused went to reclaim the camera before he was accused of the theft of it. This, I think, substantiates the claim that he just wished to use the camera as collateral for a loan of ten shillings.

Prosecuting Officer:

I would like to point out to the Court that the accused took the camera, which was not his own, out of the locked cupboard in the cookhouse, and not only this, but represented to Pte. Scott that this camera was his own possession when he sold it to Pte. Scott. Regardless of the reason why he took the camera, his actions constitute an offense of theft under Sec. 18 of the Army Act.

The accused called no witnesses as to character.

The Prosecuting Officer, having been duly sworn, presented certified copies of M.F.M. 6 and particulars of service and character of the accused, which he stated had been prepared by himself and were true extracts from the Regimental records of the accused.

The court closed to consider sentence.

E.H. Beattie Major

President: Do you object to being tried by me as President or by any of the officers whose names you have heard read over?

Accused: No,sir.

The President, members, and officers under instruction are duly sworn.

The charge sheet is marked by the President, signed, and attached to the proceedings.

The accused is arreigned upon the charge mentioned in the charge sheet, and pleaded guilty.
R.P. 35 B complied with.

The Court accept the plea of guilty.

The summary of evidence is read by the President, marked signed by the President and attached to the proceedings.

The accused, having been duly sworn, makes the following plea in mitigation of sentence:-

I met a young lady over here whom I like very much. Things had not been going very well at home, and I grew fonder of the girl here in England, but I got her into trouble and I needed some money in a hurry. I was going to ask Lieut. MacLean for a loan, but I found out someone else had already approached him and Lieut. MacLean had told him he had no money.

I did not know what to do, as, you see, I am already married and my wife is in Canada.

I took the camera and told Pte. Scott it was mine and sold it to him. If I had not told him it was mine, I could not have sold it for the ten shillings.

When I was paid I went down early Sunday morning to Montreal House but could find no one there, so I returned at about four o'clock in the afternoon and told Pte. Scott I wanted the camera back and was willing to give him back the ten shillings. However, Pte. Scott brought me up to the Coy. office before he could give me the camera.

R.P. 37 (c)complied with.

Questioned by D.O.
Did you go down to Montreal House and try to reclaim the camera before you were accused of stealing it?

Answer:
Yes,sir, I did.

Wt. 8274/1024. 900/900. 5/40. S.T.P. Ltd. 51-6689. Forms A2/52.

Army Form A 2.

*N.B.—The Form being applicable to any Board, or Committee, or Court of Inquiry, this blank to be filled in accordingly.

The proceedings should be signed by the President and by each Member of the Board, etc.

Attention is particularly drawn to the Rules for Courts of Inquiry contained in Rules of Procedure 124—125a, and especially to Rule 125a(8); also to paragraph 751, et seq., King's Regulations, 1935.

PROCEEDINGS of a* Field General Court -Martial

assembled at Sutton, Surrey

on the 11th day of November 1941

by order of C.E. Cdn Corps.

for the purpose of trying B76891 Pte. Redmond HAYDEN
The Royal Montreal Regiment (MG)

PRESIDENT.

Major E.R. Suttie 5 Med Regt R.C.A.

MEMBERS.

Capt. J. de St. Victor 18 Cdn Fd Amb, R.C.A.M.C.
Lieut. J.H. Clarry, R.C.A.S.C.

IN ATTENDANCE.

Officers under instruction:
Lieut. J.P. Hanson R.M.R. (MG)
Lieut. C.W.D. Scotcher R.M.R. (MG)

The Court having assembled pursuant to order, proceed to examine the charge sheet and the summary of evidence.

The accused is brought before the court.

Prosecutor Capt. B.W. Stevens R.M.R. (MG)
Defending Officer Lieut. D.Y. Patrick R.M.R. (MG).

At 1000 hrs the trial commences.

The order convening the Court is read, marked , signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they answer their names.

1

CHARGE SHEET

D76891, Pte. Redmond LAYDEN, a soldier of The Royal Montreal Regiment (MG), Canadian Army (Active Force), is charged with, while on Active Service,

First Charge — Stealing property of a person subject to military law,

in that he,

At Sutton, Surrey, stole a camera, the property of D76349, Pte. Smith, A.S.J., The Royal Montreal Regiment (M.G.), a person subject to military law, and sold the said camera to D76235, Pte. Scott, J.S., The Royal Montreal Regiment (MG), for ten shillings.

(J.A. Calder) Lt.Col.,
Commanding R.M.R. (MG).

22 Oct 41.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(C.S.L. Hertzberg) Brigadier
C.E., Canadian Corps

9 Nov 41

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.76891 - Private Redmond LAYDEN R.M.R. (M.G.)	FIRST CHARGE Army Act Sec 18(4) (As per attached Charge Sheet)	Guilty	Guilty 112 days Detention	I confirm the finding and sentence but remit 22 days of the sentence

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] (Signed) [signature]
(C.S.L. Hertzberg) Brigadier
~~XXXXXXX~~ C.E., Cdn. Corps
Confirming Officer (e)

major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the eleventh day of November, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this eleventh day of November 1941.

[signature] major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 12th day of November 1941.

[signature] BRIGADIER
Confirming Officer.

Promulgated and extracts taken in the case of D76891 Pte Layden R.

(a) (Dated) 13 Nov. 1941 (Signed) [signature] LT. COL. COMMANDING R.M.R. (M.G.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[B4] Wt. 38092/1319 70m 1/41 W. & Co., Ltd. Gp. 740/2

Original 1 of 6 D

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 9th day of NOVEMBER, 1941

Whereas it appears to me, the undersigned, ~~an officer in Command of~~ Chief Engineer, Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.~~

~~*(2. A Field Officer as President.~~

~~for the following reasons, namely:—~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.R. Suttie	5 Med. Regt., RCA

Members.

Rank.	Name.	Regiment.
Capt.	J. de St-Victor	18 Fd Amb., RCAMC
Lieut	J.H. CLARRY	R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C.S.L. Hertzberg

(C.S.L. Hertzberg) Brigadier

~~Commanding~~ C.E., Canadian Corps

Convening Officer.

1416 D - Bd. Leyden, R.



I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CITR, In the Field, preliminary to my trial by Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Signed at 1 CITR
In the Field
this 2nd day
of June 1945

W. J. Lawton

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of _____ if he is available.

LIST OF EXHIBITS IN THE CASE
OF
M-101452 Pte. Lawton, W.J.

Exhibit "A"	Record of Declaration of Court of Inquiry
Exhibit "B"	Certificate in accordance with PC 2787 of 10 Apr 42
Exhibit "C"	Expense Voucher

LIST OF WITNESSES IN THE CASE
OF
M-101452 Pte. Lawton, W.J

1st Witness	A/Capt. E.W.E. Plant - 1 Cdn Inf Depot Bn

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Nature of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Jan 45	Pte		WOAS, AA Sec 15(1) AWL, in that he absented himself without leave from 2200 hrs 15 Jan 45 to 2245 hrs 29 Jan 45.	F.G.C.M.	76 days Detn	13 Feb 45	F.G.C.M.	76 days pay FR&I 149(1)(b)
									12 days pay FR&I 149(c)(i)
					Released from the Detention Bks at Headely Downs on 4 Apr 45 sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons 25 days. COMMANDANTS INITIALS ???????????				15 days pay FR&I 149(1)(a)
									Stoppage of pay in the amount of 12/3 Costs of Apprehension
				AWL-24 days pay. 5 days concurrant with previous award dated 28 Dec 44.	DO 3 d/9 Jan 44 RWCH.				
				CERTIFIED TRUE COPY OF ENTRIES APPEARING ON MFM 4 Capt. (J.H. Galloway) Records Officer 1 CITR					

No. M101452 Name LAWTON, W.J. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposal with trial	By whom awarded	Remarks
Field	21 Jul 44	Pte		WOAS, AA Sec 15(1) AWL, in that he absented himself without leave from 2359 hrs 21 Jul 44 until 0445 hrs 12 Sep 44. (Absent 49 days 4 hrs 46 mins). Placed under close arrest from 0445 hrs 12 Sep 44 until 1100 hrs 21 Sep 44 (8 days 6 hrs 15 mins).		10 days FP 28 days pay FR&I 149(2) 8 days pay FR&I 149(1)(c)(ii) placed under stoppage of pay in the amount of £4-3-1 ($18.57) FR&I 172(8) Cost of Apprehension	21 Sep 44		50 days pay FR&I 149(1)(a) TOTAL FORF 86 days pay.
Field	26 Dec 44	Pte		WOAS, AA Sec 15(1) AWL, in that he absented himself without leave from 2200 hrs 26 Dec 44 until 0100 hrs 28 Dec 44(Absent 1 days 3 hrs).		6 days pay FR&I 149(2)	28 Dec 44		3 days pay FR&I 149(1)(a) TOTAL FORF 8 days pay.

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	13 Feb 45 In the Field	A.A. Sec 15(1), A.W.L. 14 days	76 days detention	Remission of 28 days on release.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2nd 8th day of June 1945

J.H. Galloway Capt
(J.H. Galloway) Records Officer 1 CITR

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M-101452	Pte	Lawton, W.J.	1 Cdn Inf Trg Regt

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. AA Sec 15(1) 4 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 21 Jul 44

Date of last entry in Field Conduct Sheet 15 Jan 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~*3. The accused at the present [illegible] under sentence for~~

~~beginning on the [illegible] day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for — days in civil custody; and for 16 days in military custody, *i.e.*, — days in open arrest, 16 days in close arrest; of which — days were spent in hospital.

5. The present age of the accused is 32 years 268 days

6. The date of his ~~calling up for military service~~ attestation is 11 May 1942

7. The service which the accused is allowed to reckon is above

8. The accused is in possession of‡ CVSM & CLASP

‡State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or [illegible]). The accused has served continuously,~~ without reduction, to the present date.

Date of Promotion.

In the substantive rank of _____

In the war substantive rank of _____

In the acting rank of _____

E x B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible]

(25094) Wt.42129/4399 42,000 11/44 [illegible]

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No M101452 Rank Pte Name Lawton, W.J Unit 1C 1TR

The following expenses were incurred in apprehending and returning ~~the~~ MON Soldier to ~~his Unit From~~ London from Glasgow

Date	Particulars (1/3 portion)		Amount		
24 May 45	Escorts return fare from LONDON To	Glasgow	2	1	1
	Prisoners single fare to LONDON From	Glasgow	1	10	10
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			7	5
		Total £	3	19	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Exhibit 'C'
R.C. Offices, Ht

John A. Primrose
Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

Capt

CMHQ 1000:55
40/P&S/483(3639

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I certify that No. M-101452 Rank Pte Name Lawton.W.J.

Unit No.1.C.I.T.R. (CRU) was Arrested at Glasgow (place)

at 0220 hrs (Hour) on 23-May-45 (date) and that at the time of his arrest he was wearing (Military Uniform) ~~XX XXXXXXXXXXXXXXXX~~. Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

Capt.
(H.W. Kyle)
D.A.P.M. C.M.H.Q.

London
25-May-45.

Exhibit B
Re Caulfield et

RECORD of the Declaration of a Court of Inquiry assembled at 1 CITR

on the 4th day of May 19 45

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. M-101452 Pte Lawton WJ

DECLARATION

The Court declare, that M-101452 Pte Lawton WJ, illegally absented himself without leave from 1 Cdn Inf Trg Regt at 1330 hrs on the 9th day of April 45, and that he is still so absent, and that on the 9th day of April 45 he was deficient, and that he is still deficient of the following articles

ARTICLE	No.	VOCAB. PRICE £	s	d	APPRAISED VALUE £	s	d
Badges, cap	1			5			4
Battle-dress blouse	1	1	9	1	1	1	10
" " trousers	1	1	9	3½	1	1	11½
Boots, ankle, prs	1	1	6	0		19	6
Brasses, button	1			2			2
Brushes, hair	1		1	6		1	2½
" clothes	1		2	2		1	11½
" shoe polishing	1		1	3			11½
" shaving	1		1	8		1	3
" tooth	1			6			4½
Beret, khaki	1		5	5		4	1
Comb, hair	1			2			2
Gloves, woollen prs	1		2	1		1	7
Holdall	1			10			7½
Razor	1			3			3
Shirts, Angola, drab	1		9	1		6	10
Vests, cotton, gym	2		3	8		2	9
Haversack	1		8	0		6	0
Braces, W.E.	1		1	4		1	0
Sheets, ground	1		13	2		9	10½
Ointment, A/Gas	2		6	2		4	8
Detectors, prs	2			6			4
TOTAL		7	2	8½	5	7	8½

Names of President and Members: President - Major J. J. D. Gagnon

Members - Lieut. C. W. Emms

- Lieut. S. H. Milne

Exhibit "A"
R.C. Officer, Lt

Signature of Commanding Officer "C. B. Ware" Col.
(C. B. Ware) Commander
1 Cdn Inf Trg Regt

Certified true copy Major
(B. J. Mothersill) Adm Offr
1 Cdn Inf Trg Regt
Signature of Officer having custody of original record.

SUMMARY OF EVIDENCE

In the case of M101452 Private William James LANTON, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION — A/Capt E.W.E. Plant, having been duly sworn, states:-

"I am A/Capt E.W.E. Plant, Canadian Infantry Corps, Adjutant of 1 Cdn Inf Depot Bn. I produce the following documents, pursuant to Overseas Ro 6352, which have been read over and shown to the accused, and which are attached hereto as exhibits:

Certified true copy of the Record of the Declaration of a Court of Inquiry purporting to relate to the accused, and signed by Colonel C.B. Ware, Commander 1 CITR.

Certificate in accordance with P.C.2797 of 10 Apr 42, purporting to relate to the accused, and purporting to be signed by R.W. Kyle, Captain, DAPM, CMHQ.

CMHQ form 1000:86, Expense Voucher, purporting to relate to the accused, and signed by John A. Primrose, Lt, Officer issuing railway warrant and expense monies."

Capt.
(E.W.E. Plant)

The accused declines to cross-examine this witness.

The documents referred to by this witness produced, read over to the accused, marked exhibits "A", "B" and "C" hereto respectively, signed by me and attached hereto.

Lt.
(R. Ostfield) Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make a statement and reserves his defence.

The accused declines to call witnesses in his own behalf.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Lt.
(R. Ostfield) Officer detailed to take the Summary of Evidence.

In the Field,
29th day of May, 1945.

M-101452, Pte, William James Lawton:

Plea in Mitigation.

Sir:-

The accused has for some time been in difficulties at home. Since he was wounded on Oct 16, 1944, while serving with the Regina Rifles, until this date, he has only received one letter from home.

This factor has upset him considerably. Due also to the fact that he has been drinking fairly heavily, he has been ~~fairly~~ rather unreliable.

He has written several times to find out what the trouble at home is, and has also had other people try to find out. He still does not know. Pte. Lawton has two children and is naturally concerned with their welfare.

Since coming to #1 CITR he has been drinking fairly heavily. While in this state of mind he went on a 36 hour pass and then went AWL. This was his method of trying to forget his troubles.

I humbly beg the court to take the foregoing facts into consideration when dealing with his case.

J. L. Muir.
Lieut.

E-3

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. M101452 Pte LAWTON J.L.

of 1 C I T R and in my opinion he

is fit to undergo Trial by Court Martial.

Station FIELD

Date 8 June 45

J. C. Allison Capt

Medical Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-101452	Pte		William James	LAWTON	CIC 1 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on *(date)* 6 Jun 45 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

LT COL *(Rank.)*	D L REDMAN, VD *(Must be named. RP 106.)*	HQ CRU *(Unit.)*

MEMBERS.

Captain	to be detailed by Comd	1 CITR
Lieutenant *(Rank.)*	to be detailed by Comd *(Named or detailed. RP 106.)*	2 CITR *(Unit.)*

WAITING MEMBER.

Captain *(Rank.)*	to be detailed by Comd *(Named or detailed, if any. RP 106.)*	4 CITR *(Unit.)*

JUDGE ADVOCATE

(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in England *(Country.)*

Dat 6 Jun 45

[signature] Brigadier *(Rank.)*

(Signed personally. RP 105 fn 2.)

(K G Blackader)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused M-101452 Private William James LAWTON, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, Absented himself without leave from 1330 hrs on the 9th day of April 1945 until arrested at 0220 hrs on the 23rd day of May 1945, thereby incurring an expense to the public in the amount of £3-19-4, the cost of his return to his unit.

TOTAL ABSENCE: 43 days 12 hours and 50 minutes.

Lt.-Col.
(H. White) A/Commander,
1 Cdn. Inf. Trg. Regt.

In the Field

1st day of June 1945.

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
6 Jun 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 55(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR.(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Con* 535. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 39(*D*). *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (6), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO I DO NOT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB* 355 *or AFB* 296. *2. MFW* 2. *3. RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes I do ~~if only to~~ (WRITTEN ATT'D)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any (2).~~ 7/10
(*1. When several accused tried separately see RP* [redacted]. *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 1323, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 58(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-101452 Pte William James LAWTON - CIC - 1 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of Six (6) Months and to be put under Stoppages of Pay until he has made good £3-19-7 the proceeds of his return to Unit.

8 JUN 45 (Sgd) [signature] President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be duly committed to prison as directed. I withhold until further orders (1)~~

(1. AA 57A. Delete if not used.)

Date 9 Jun 45 (Sgd) K G Blackader (K. G. BLACKADER) Brig

Commanding Comd 13 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M-101452 Pte William James Lawton.	11 Jun 45	[signature]

Published in Pt II DO 137 dated 12 Jun 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 52-148.

RECEIVED 20 JUN 1945 JAG DIVISION CMHQ

CFA96 (In lieu of AFA2) 40/P & S/1698 (2854)

FIELD GENERAL COURT-MARTIAL

Convened [illegible] Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 6 Jun 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-101452	Pte	William James	LAWTON	CIC 1 CITR

PROCEEDINGS REVIEWED [illegible] 26 June 45 [illegible] Capt

REVIEWING OFFICER, JAG ~~PROCEEDINGS OF TRIAL.~~ CMHQ

Held in the Fd in (*country*) England on (*date*) 8 JUNE 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ P24126 A/Lt. as interpreter? Ans

~~The Interpreter is sworn.~~(1) Do you object to SGT SINCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	J. McCONVEY	1 CITR
Member	LT	H.J. MACCOMB	2 CITR
~~Judge-Advocate~~			
Prosecutor	LT	R. OSTFIELD	1 CITR
Defending Offr	LT	J.A.L. MUIR	1 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Coev Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

62-148

Pte. Lawton, W. J.

Sheet No. 2

MFM 1 & 2a
10/P & S/119 (4398)

Regimental No. M101452 Rank PTE

Name LAWTON WILLIAM JAMES

	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority: DO Number	Authority: Dated
13	AA 15(1) Forfeits 2 days Pay	Pte	27 Nov 44	18 CGH	WC	97	28 Nov 44
14	Awarded Summary Forf: 1 day Pay - Tot. Forf AA 15(1) 1 day Pay	Pte	1 Dec 44	18 CGH	WC	98	1 Dec 44
15	Awarded forf 6 days Pay AA 15(1)	PTE.	22 Dec 44	RWC Hosp.	WC	55	22 Dec 44
16	Total forf. 8 days Pay AA 15(1)	Rfn.	28 Dec 44	RWC Hosp	WC	56	29 Dec 44
17.	AWL from 2200 hrs still AWL 1400 hrs	Rfn	29 Dec 44	RWC Hosp	WC	2	5 Jan 45
18	Forfeits 24 days Pay AA 15(1)	Rfn	8 Jan 45	RWC Hosp	WC	3	9 Jan 45

CERTIFIED TRUE EXTRACT FROM MFM 2.
[signature]
(RAC. JOHNSON) MAJOR
OFFICER HAVING CUSTODY OF DOCUMENTS
RECORDS OFFICE, C.M.H.Q.

30th Jan 45
C18

Regimental No. M101452 Rank PTE.

Sheet No. 1

MFM 1 & 2a
40/P & 8/119 (4300)

Name LAWTON William James

	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority DO Number	Authority Dated
1.	AWL 5 HRS awarded 3 days CB	PTE.	18 Dec 42	24 REGT	VAN.	104 106	22 Dec 42 25 Dec 42.
2.	AWL RETURNED 0730 - 25 Dec 42.	PTE.	25 Dec 42	24 REGT.	VAN.		
3.	AWL - 0600 hrs 23-12-42 to 0730 25-Dec 42. ABSENT 2 days 1 hr 30 min Total Forfeiture 9 days Pay	PTE.	26 Dec 42	24 REGT.	VAN.	107	26 Dec 42.
4	AWL from 0600 hrs 11 May 43 until 1400 hrs 13 May 43 Time absent 2 days 8 hrs Forfeits 3 days Pay [illegible] 149(1) (A) FR#1 (CAN) Total forfeiture 3 days Pay & allowances	Gnr.	14 May 43	24 FD REGT.	NANAIMO	89	17 May 43.
5	AWL from 0030 hrs 13 Mar 44 RET: FROM AWL 1800 hrs 14 Mar 44	Gnr.	14 Mar 44	24 RCA.	FIELD	21	21 Mar 44
6	ON 15 MARCH 44 was charged for an offence under 15(1) AA, AWL from 0030 hrs 13 March 44 to 1800 hrs 14 Mar 44 (absent 1 day 17 hrs 30 mins) Forf. 2 days Pay under FR#1 149(1)(a)	Gnr.	15 Mar 44	24 RCA	Field	21	21 Mar 44
7.	AWL from 2359 hrs 9 Jan 44 till 0230 hrs 10 June 44 awarded 3 days forfeiture of Pay and 3 days CB for an offence under sec 15(1) AA. AWL from 2359 hrs 9 June 44 untill 0230 hrs 10 June 44 absent 2 hrs 31 mins Forfeits 3 days Pay under FR#1 149(2)	Gnr.	12 June 44	R.M.R.	W.C.	10	13 June 44
8.	AWD 3 days F.P. forfeits 3 days Pay AA Sect. 15(1)	Gnr.	12 June 44	R.M.R.	W.C.	10	13 June 44
9	AWL from 2359 hrs	PTE.	21 July 44	1 BN. RM.	W.C.	24	24 July 44
10	STILL AWL 2359 hrs 11 Aug 44 (22nd day)	Pte	—	RMR (R)	W.C.	34	12 Aug 44
SOS	SOS AS DESERTER	PTE.	14 Aug 44	RMR	W.C.	38	18 Aug 44
11 TOS	TOS on Return from AWL 12 Sept 44	PTE	12 Sept 44	R.M.R.	W.C.	66	20 Sept 44
12	AWL from 235 hrs 21 July 44 app. at 0445 12 Sept 44 awarded 10 days F.P. Forf: 9 days Pay Cont: of app 4-3-1 Total forfeiture 90 days Pay AA 15(1)	PTE.	21 Sept 44	RMR	W.C.	72	27 Sept 44

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2ND day of FEBRUARY 1945

A. Dunton Major,
(A. Dunton) Registrar,
Roman Way Conval Hospital.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

HB

B

Number.	Rank.	Name.	Regiment (or as the case may be).
M-101452	Pte	LAWTON, William James	# 1 C.I.T.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. (1) 17 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 18 Dec 42

Date of last entry in Field Conduct Sheet 8 Jan 45

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*3. ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for _____ days in military custody, *i.e.*, _____ days in open arrest, 14 days in close arrest; of which _____ days were spent in hospital.

5. The present age of the accused is 32 yrs 4 mths 28 days

6. The date of his attestation is 11 April 1942

7. The service which the accused is allowed to reckon is 2 yrs 9 mths 22 dys

8. The accused is in possession of‡ Cdn Volunteer Service Medal

‡State the military decorations (if any) held by accused.

9. ~~If the accused is a warrant officer N.C.O.; The accused has served conduct~~ ~~without reduction, to the present date~~ ~~Date of Promotion~~

~~In the substantive rank of~~

~~In the war-substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.20721/3701 21,000 9/44 A.& E.W.Ltd. Gp.698

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No M/10452 Rank Rfmn Name Lawton, W.J. Unit R W Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London

Date	Particulars	Amount		
30 Jan 45	Escorts return fare from LONDON To Colchester		8	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London to Colchester		4	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		12	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON,
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

Capt

135 CMHQ 100-55
40/P & S/483 (6762)

Exhibit C

Statement of **EVIDENCE** in the case of.

M/101452.Rfn.LAWTON.W.J.
REGINA RIFLES.(CANADIAN ARMY)
ROMAN WAY CON HOSPITAL.COLCHESTER.

Sir.

At LONDON on the 29th.Jan.1945 at 22.45. Hrs I was on duty at LIVERPOOL STREET STATION where I saw the a/n soldier.

I asked him for his pass,he produced the attached pass,stating." I am absent from the 15th.Jan.1945.

I arrested him and he was conducted to the MILITARY POLICE office on this station where I contacted the CANADIAN PROVOST,and on their arrival I handed the a/n soldier to them.

LIVERPOOL STREET STATION. H D Uttley L/CPL.
LONDON. No.4742075.
29th.Jan.1945. C.M.POLICE.

REMARKS

CHARGE 8142

Army Form B 252
(See King's Regulations)

THE REGINA RIFLES. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. M/101452 Rank Rfn.

Name LAWTON.W.J.

Place Date of Offence

OFFENCE

[signature]
MAJOR,
ASSISTANT PROVOST MARSHAL,
LONDON

Names of Witnesses :- No.4742078.L/CPL.UTTLEY.m.
C.M.POLICE.

Signature of O.C. Battery,
Squadron, Troop or Company

Punishment
Awarded

By whom
Awarded

Adjutant

[illegible] 2/43 K. & H. Ltd. [illegible]

P.T.O.

E.1 B.

5. PUNISHMENTS (Patients)

(c) D.O. # 2, Section B, para 5(d) d/ 5 Jan 45, insofar as it refers to the u/m is amended to read " Our D.O. # 48 "
B- 91566 Gnr. Shea, A.D. # 2 C.A.R.U.

(d) D.O. 56, Section B, para 7(d) d/ 29 Dec 44 insofar as it refers to the u/m is amended by deleting " 1 days pay FR&I 149 (17(a)" and total forfeiture to read " 12 days pay"
C- 2710 Pte. Martin, A.A. # 1 C.I.T.R.

6. STRENGTH DECREASE

(a) S.O.S. to Y-3 List, # 1 C.I.T.R. or admission to # 18 Cdn General Hospital, w.e.f. 24 Jan 45
H- 102433 Rfn Geiger, R.J.

SECTION "C" OFFICERS' WING INCREMENT

OFFICERS

1. STRENGTH INCREASE

(a) T.O.S. from Y-3 List # 1 C.O.R.U. w.e.f. 21 Jan 45
(Auth: 10/Howes, E.W.M./1 (MS. 6) d/ 24 Jan 45)
Capt. E.W.M. HOWES R.C.A.M.C.

OTHER RANKS

2. LEAVE OF ABSENCE

(a) Granted 7 days P.L. plus 48 hrs with money allce in lieu of rations in accordance with Art. 789 F.R.&.I.(O'S) w.e.f. dates shown,

		RETURNED
M- 67135	Pte. Calvert, W.	16 Jan 45 to 25 Jan 45
A-115581	Pte. Smart, R.	16 Jan 45 to 25 Jan 45

(T.H.Coffey) Lt-Col.,
Officer Commanding,
Roman Way Convalescent Hospital.

3. LEAVE OF ABSENCE (Cont'd)

(d) Granted 7 days Sick Leave with Sick leave allce in accordance with Art. 793 F.R.&.I.(O's) from 17 Jan 45 to 24 Jan 45
(Auth: IO/Coughlan, D.H./1 (AMD 2) d/ 13 Jan 45)
(Auth: IO/Thomson, W.J./1 (AMD 2) d/ 10 Jan 45) RETURNED
C- 63390 Tpr. Coughlan, D.H. - 1st CAB, HQ
R- 84977 Pte. Thomson, W.J. - 1 COMERU
(Patients in Roman Way Convalescent Hospital)

(e) Granted 14 days Sick Leave with Sick leave allce in accordance with Art. 793 F.R.&.I.(O's) from 10 Jan 45 to 24 Jan 45.
(Auth: IO/Evans, F.E/1 (AMD 2) d/ 5 Jan 45) RETURNED
D-121095 S/Sgt. Evans, F.E. - 1 Cdn Rec Depot

(f) D.O. # 55, Section B, para 2(a) dated 22 Dec 44 insofar as it refers to the u/m is amended to read " Our D.O. # 53 "
I- 107670 Pte. Taylor, S.

(g) D.O. # 3, Section B, para 2(c) dated 9 Jan 45 insofar as it refers to the u/m is hereby cancelled
C- 65343 Pte. Pearns, A.H. # 3 C.I.T.R.
(Patient in Roman Way Convalescent Hospital)

(h) D.O. # 6, Section B, para 4(c) d/ 19 Jan 45 insofar as it refers to the u/m is hereby cancelled.
F- 40407 Cpl. Foster, C.M.

4. ABSENT WITHOUT LEAVE (Patients)

(a) A.W.L. from 2200 hrs 15 Jan 45. Still absent 2200 hrs 16 Jan 45.
M-101452 Pte. Lawton, W.J. # 1 C.I.T.R.

(b) A.W.L. from 2200 hrs 15 Jan 45. Still absent 2200 hrs 23 Jan 45 (8 days)
M-101452 Pte. Lawton, W.J. # 1 C.I.T.R.

5. PUNISHMENTS (Patients)

(a) On 17 Jan 45 tried by F.G.C.M.
CHARGE: A.A. Sec. 15(1) A.W.L.
FINDING: Guilty.
SENTENCE: To undergo detention for 90 days.
CONFIRMATION: Finding and sentence confirmed by MGA, C.M.F.Q. on 22 Jan 45
CLOSE ARREST: In close arrest from 1030 hrs 4 Jan 45 to 1400 hrs 17 Jan 45 (13 days 3 hrs 30 mins)
ABSENCE: A.W.L. from 2200 hrs 21 Dec 44 to 2330 hrs 3 Jan 45 (Time absent: 13 days, 1 hr, 30 mins)
FORFEITURES: 14 days pay Art. 149 (1)(c)(i)
14 days pay Art. 149 (1)(a)
90 days pay Art. 149 (1)(b)
TOTAL FORF: 118 days pay
F- 96122 Pte. Leblanc, A.M. # 3 C.I.T.R.

(b) On 25 Jan 45 awarded summary forfeiture of 7 days pay for an offence under A.A. Sec. 15( ) A.W.L. from 2230 hrs 21 Jan 45 until 1900 hrs 24 Jan 45 (Time absent: 2 days 20 hrs 30 mins)
Forfeitures: 3 days pay F.R.&.I. 149(1)(a)
7 days pay F.R.&.I. 149(2)
Total: 10 days pay
F- 45081 Spr. Murphy, A.F. # 1 C.E.R.U.

Last Order
7
d/ 23 Jan 45

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)
DAILY ORDERS PART II
issued by
Lt-Col. T.H.Coffey - Officer Commanding

This Order
8
d/ 26 Jan 45

SECTION "A" OFFICERS

1. LEAVE OF ABSENCE

(a) Granted 7 days P.L. plus 48 hrs with money allce in lieu of rations in accordance with Art. 789 F.R.&.I.(O's) w.e.f dates shown.

		RETURNED
Lieut (P/A)	Johanne LOEKEN	16 Jan 45 to 25 Jan 45

SECTION "B" OTHER RANKS

1. ATTACHMENTS

(a) Ceases to be attached from # 1 Cdn Adm Tpt Coy, RCASC, on admission to B.N. & P.S. Hospital w.e.f. 26 Jan 45
A-108191 Pte. Renaud, L.J. # 1 Cdn Adm Tpt Coy

2. HOSPITAL

(a) Admitted to # 18 Cdn Gen Hospital w.e.f. 24 Jan 45
H-102433 Rfn. Geiger, R.J.

(b) Admitted to B.N. & P.S. Hospital w.e.f. 26 Jan 45
A-108191 Pte. Renaud, L.J. # 1 Cdn Adm Tpt Coy

3. LEAVE OF ABSENCE

(a) Granted 7 days P.L. with money allce in lieu of rations in accordance with Art. 789 F.R.&.I.(O's) from 9 Jan 45 to 16 Jan 45.

		RETURNED
C- 5038	Cpl. Foster, H.C.	

(b) Granted 7 days P.L. plus 48 hrs with money allce in lieu of rations in accordance with Art. 789 F.R.&.I.(O's) w.e.f. dates shown.

			RETURNED
B-112784	Sgn. Atkinson,	C.S.	16 Jan 45 to 25 Jan 45
L- 9403	Pte. Colenut,	H.	15 Jan 45 to 24 Jan 45
L- 74769	Pte. Crawford,	A.V.	15 Jan 45 to 24 Jan 45
C- 36792A/Sgt.	Doan,	E.A.	15 Jan 45 to 24 Jan 45
B- 55679	Pte. Gibbons,	M.	15 Jan 45 to 24 Jan 45
L- 8380	Pte. Gillis,	M.M.	13 Jan 45 to 22 Jan 45 (# 1 Adm Tpt Coy)
H- 33089A/Sgt.	Kerr,	A.J.	12 Jan 45 to 21 Jan 45 (# 24 Cdn Educ Sec)
K- 69789A/Sgt.	Middleton,	T.H.	15 Jan 45 to 24 Jan 45
C-120851	Cpl. Mulville,	V.J.	29 Dec 44 to 6 Jan 45
D- 81291	Pte. Theobald,	D.	15 Jan 45 to 24 Jan 45 (# 3 C.I.T.R.)
K- 76218	Pte. Williams,	H.L.	13 Jan 45 to 22 Jan 45
D- 86081	Pte. Paton,	J.	15 Jan 45 to 24 Jan 45

(c) Granted 7 days Sick Leave with Sick Leave allces in accordance with Art. 793 F.R.&.I.(O's) w.e.f. dates shown.
(Auth: 10/Isenor N.A/1 (AMD 2), 10/Charlton, A.J/1 (AMD 2) dated 15 Jan 45)

			RETURNED
F- 7301	Pte. Isenor,	N.A. - 3 CITR	- 17 Jan 45 to 24 Jan 45
A- 17054	Pte. Charlton,	A.J. - 1 CGRU	- 17 Jan 45 to 24 Jan 45

Certifies True Copy from documents in my possession
A. J. Beinson
Ops. Records.

Exhibit A

The accused was cautioned as follows. HBB

Do you wish to make a statement or to give any evidence on oath?. You are not obliged to say anything or give any evidence unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused and the Rules of Procedure 4(c)(d)(E) and (f) have been complied with.

Signed this 2nd day of February 1945. at Roman Way Convalescent Hospital.

J Simpson Maj
Officer detailed to take
Summary of evidence.

HHB

Second Witness H 16526 Cpl Sanders W. H. on strength of Roman Way Conv. Hosp. RCAMC. Canadian Army Overseas having been duly sworn states as follows.

On 30 January 45 at approximately 1400 hrs. I received a phone call from the R. S. M's office to proceed ~~to proceed~~ to the Railway Station at Colchester to take custody of M 101452 Pte Lawton W. J, whom I now recognize, from #6 Canadian Provost Coy. I escorted him to the Guard Room of Roman Way Conv. Hosp and he was placed under close arrest at 1530 hrs. He was properly dressed and sober.

H 16526
Cpl Sanders W.H.

The accused declines to cross examine this witness.

Third Witness. H 19005 R.S.M Dunn J. W on strength of Roman Way Conv. Hosp. C.A.O. ~~having been duly sworn~~ states as follows.

I hereby hand in Daily Order #8 dated 26 Jan 45 ~~which shows~~ showing accused absent without leave. Exhibit A and Exhibit B a statement by L/Cpl Uttley H. #4742078 a member of C.M.P. stating that he arrested ~~of~~ Pte Lawton W. J. at Liverpool St Station at 2245 hrs. 29 Jan 45. Exhibit C. Expense voucher covering the accused's journey to Colchester and Escorts. not for dan to Colchester and Return - a total of 12 shilling and 3 pence.

J W Dunn R.S.M.

A

HMB

Summary of Evidence

Summary of evidence in the case of M101452 Pte Lawton W. J. #1 C.I.T.R. a patient in Romanway Convalescent Hospital R C A M C. a soldier of the Canadian Army Overseas. Charged under Army Act Section 15(1)

By order of the Commanding Officer this summary of evidence is taken on oath.

First Witness

B 89898 Cpl Philp H. G. on strength of Romanway Convalescent Hospital having been duly sworn states as follows.

at 2200 hrs 15 January 45 on making bed check in (Spider) found that Pte Lawton, M101452 was absent from his quarters. Each night since that time he has been absent at the time of roll call up to and including this day.

H. G. Philp.

The accused declined to question this witness.

Statement in Mitigation of Sentence

The accused, Pte Lawton joined the army 11 April 1942 since which time he has served in Kisker, and N.W. Europe. He was wounded 16 Oct 1944. Since his arrival back in England, someone has told his wife, in Canada, that he is running around with an English girl. No mail has been received from his wife, & he is worried about his domestic affairs.

HB

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)

13 Feb 45

I certify that I have this morning examined M-101452, Pte. LAWTON, William James, of No. 1 C.I.T.R., a patient in Roman Way Convalescent Hospital, and in my opinion he is fit to undergo trial by Field General Court Martial.

Medical Officer.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-101452	Pte		William James	LAWTON	1 CITR, a patient in Roman Way Conv Hosp RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has [redacted] committed the offence(x) set forth in the Charge Sheet(x) attached and on (date) this date endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(x) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(x), and to consist of the Offrs appointed or detailed hereunder.

[redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	HH	Berry		1 CARU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Capt	RL	Young	CIC	Patient in Roman Way Conv Hosp
Lieut	J.J.	Kavanagh	CAC	Patient in Roman Way Conv Hosp

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Lieut	KW	LaRush	CIC	Patient in Roman Way Conv Hosp

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	Nil	

On Active Service in the Fd

in England (Country.)

Date 8th Feb 45

(Signed personally. RP 105 fn 2.) (Rank.)

(EG Weeks) Major-General
i/c Administration
Commanding Canadian Military Headquarters.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA80 (In lieu of AFA3) (R/F & S/1907 (4801))

(J.M.E.L. Fortier) Lt.Col.
AJAG FEB -8 1945 CMHQ

4183

B2.

CHARGE SHEET

The accused, M-101452, Pte. LAWTON, William James, No. 1 Cdn Infantry Training Regiment, a patient in Roman Way Convalescent Hospital, RCAMC, a soldier of the Canadian Army, Overseas, is charged with:-

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on the 15 January 1945, absented himself without leave from about 2200 hrs on 15 January 1945 until apprehended by the Canadian Military Police, at Liverpool Street Station, London, at about 2245 hours on the 29th January 1945, thereby incurring cost of apprehension and return to his unit in the amount of £ 0-12-3.

(Total time absent: 14 days 45 minutes)

In the Field
2 February 1945

J.G.K. Lindsay Col.
(J.G.K.Lindsay) Colonel,
Officer Commanding,
Roman Way Convalescent Hospital

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

8th London
Feb 45

Ernest Weeks
(EG Weeks) Major-General
i/c Administration
CANADIAN MILITARY HEADQUARTERS
Convening Officer

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N.A. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (*) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 12. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N.A.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

MFM 2 MFM 6 and copy

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~Regtnl's of Conduct Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 253 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans N.A. (2)
(*1. RP 37(C), 46(C). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 98, 118, (119A), KR Con 308, 330, 363-366, Overseas RO 309, 2323, MML p 60, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44 (5), (6), KR Con 364. 2. RP 50. As to reinstate from arrest by Confirming Offr see KR Con 367. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Surname: M/101452 Pte Lawton William James

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for seventy-six (76) days to be put under stoppages of pay and the loss of all service towards pay, allowances & return to unit.

(Sgd) ..... 13 Feb 1945 (Sgd) H.H. Berry Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(B), 51-56, 120, MML pp 759-760, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision to Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence.

~~I direct that the accused be released from custody on the expiration of the period of his sentence.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Colonel Commanding
No. 16 Canadian General Hospital
Canadian Military Headquarters

Date ..... Commanding ..... 18 FEB 1945 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
M-101452 Pte. LAWTON, W.J.	20 Feb 45	J.H. Lindsay Col

Published in D.O. #16 d/ 23 Feb 45

Officer Commanding
Canadian Way Convalescent Hospital
C.A.N.C. E.R.(O'S)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 45-70

RECEIVED 21 FEB 1945 JAG

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/1 & 8/1698 (40/1)
4/38B

Convened by Order of Maj General E.L.M. Burns, D.S.O. Comd 1st Canadian, CMHQ dated 8 Feb 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M/101452		William James	Lawton	1 C.I.T.R.

PROCEEDINGS REVIEWED
JAG BRANCH C.M.H.Q.
2 C Mack Capt
24 FEB 1945
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 13 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and~~ Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr~~, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.H. Berry	1st CARV
Member	Capt	R.L. Young	CIC Patient Wing
Member	Lieut	J.N. Kavanagh	CAC Patient Wing
Judge-Advocate			
Prosecutor	Lieut	J.W. Duff	CIC Patient Wing
Defending Offr	Lieut	N.A. McL. Hemming	CIC Patient Wing

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~application~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4S-70

Pte. Lawton W.J.

5Y-114 Pte. Lawton, W. J. Respatched DND by AG5A

EXHIBIT No.3. Railway Warrant No. 97 619340

Blank Warrant stamped "Canadian Detention Barracks Orderly Room 26 Nov 41".

EXHIBIT No.4. Railway Warrant No. 97 619375

Blank Warrant stamped "Canadian Detention Barracks Orderly Room 2 Nov 41".

Certified a true copy of relevant portions of above exhibits.

25 Feb 42.

G.M. Graham

(G.M. Graham) Captain
JAG Rev Cts

EXHIBIT No.2. Railway Warrant No. 97 / 810341
Military Station FIELD Date 27.10.41

To C.N.R.

From Manchester
To Witley, Surrey.

Returning 24.11.41

Signature of Issuing Officer "Martin", Capt.
for Commandant
Cdn Det Bk.

Third Class two other ranks.

ON REVERSE SIDE OF VOUCHER

C.P.C. C.D. Bks. B.26272
Sgt Lawton
G.F.

R. 22e R. "B" Coy. E.4190
Pte
Robidoux
D.J.

Authority for Journey C.M.H.Q.(S.I.D/D.P.M./6-9 d/20.0.41.

Nature of Duty Escort & prisoner.

Signature of Issuing Officer "Martin", Capt.
for Commandant
Cdn Mil Det Bk

Certified a true copy of relevant
portions of above exhibit.

25 Feb 42 (G.M. Graham) Captain
JAG Rev Cts

COPY

PARTICULARS OF EXHIBITS 1,2,3 and 4 (Railway Warrants) in the Court Martial proceedings of No. B.26272 Sgt LAWTON G.F. Cdn Detention Barracks.

EXHIBIT No.1. Railway Warrant No. 97 GI800777

Military Station WHITLEY date 26.10.41

To Southern Railway

From Haslemere
to Glasgow

Returning on 2 Nov 41

Signature of Issuing Officer W.Dick, Lieut for Commandant Cdn Mil Det Bk

Third class one other rank.

ON REVERSE SIDE OF VOUCHER

Cdn Detn Barrack No. B.26272
Sgt G.
Lawton

Authority for journey. Privilege leave.

Nature of duty -- -- (P.3) Free Issue 2

Signature of issuing officer W.Dick, Lieut. for Commandant Cdn Mil Det Bk.

Certified a true copy of relevant portions of above exhibit.

G.M. Graham

(G.M. Graham) Captain
J.A.G. Rcv Cts

26 Feb 42

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

B26272 Sgt.Lawton, G.F. Cdn.Detention Barracks.

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

Within last 12 months	Since Enlistment
NIL	NIL

Number of instances of gallantry or distinguished conduct: NIL

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court-Martial or a civil court.

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 52 days in military custody, making a total of 52 days in custody, of which 15 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 32 years.

6. The date of his attestation specified in his attestation paper is 2-5-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year and 8 months.

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr. 8 mos.service.

9. The accused is entitled to reckon 1 yr. 8 mos.service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Major
(Commandant) G.W.Ball.
Canadian Detention Barracks.

No. B.26272 Name Lawton George Frederick | Sqn., Battery, or Company B Coy | Corps 1st. Can. Pioneer Bn. | Date of enlistment 2nd. May 1940 | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet: nil | No. and date of last drunk: nil | Period not reckoning towards freedom from extra fine | Sheet No. | Badges | Signature O.C. Company, etc. | Character very good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
B.26272 Cpl. Lawton, G.F., having completed 6 mons. service on 2/11/40 his first sheet has been destroyed there being no entries to carry forward. (Signed) J.C.Bym, Capt. for O.C. "B" Coy. 1st Can. Pioneer Bn. R.C.E., C.A.S.F.									
T.C.S. Cdn. Detention Barracks from 1st Bn. R.C.E. Pt. II Order #26 d/23-5-41 wef. 22-5-41.									

CERTIFIED TRUE COPY.

Major,
(G.W.Ball) Commandant.,
Canadian Detention Barracks.

(P.T.O.)

3

No. 1-194

DEPARTMENT OF NEURO-PSYCHIATRY REPORT

No. B26272 Rank Sgt. Name Lauton C. F. Unit #1 C.D.G.R.U.

REPORT: DATE Jan 8/42

Pt feels he is responsible for his actions although he states that under similar circumstances he would do the same thing again. Pt is well in touch with his environment, no delusions nor hallucinations were elicited. He is emotionally stable.

Impression

agree that this is a case of psychopathic personality. There can be no doubt from the history that this intelligent, & in many ways competent, individual has a very unstable temperament which shows itself in anti-social behaviour whenever adverse conditions arise.

He is fit to undergo trial but his mental condition should be taken into account when sentence is imposed. It is unlikely that punishment will have any beneficial effect.

H. H. Hyland Lt Col
Specialist, R.C.A.M.C.

No. 1 CANADIAN NEUROLOGICAL HOSPITAL

Mays, Aldershot: [illegible]

WB

2

No. 1-193

DEPARTMENT OF NEURO-PSYCHIATRY REPORT

No. B26272 Rank Sgt. Name Lawton C. F. Unit #1 C.D.I.R.U.
Age 31.

REPORT: DATE Jan 8/42

He has not been legally separated from his wife but they never became reconciled. He has never seen the child but considers from photographs that there is no resemblance to him. He has heard that his wife is running around with other men. In recent months he has been drinking quite a bit & has run into debt. His wife would not send him any money & his situation became very acute. He became very depressed & brooded over how he could get even with her - deciding finally on the desertion plan. When AWL he went to places where arrangements were made hoping the places would be bombed & he killed so that she would get nothing (he being a deserter at the time). While AWL he developed nervous dyspepsia which became severe & he finally went to #1 C.G.H. where he was apprehended. Frequently in the past when nervous & upset he has developed gastric symptoms & since being in the army he has had a number of attacks.

Pt. is quiet, rather unassuming, polite & intelligent. He says he is ashamed of his past record but does not appear to feel it very much. He attributes his misdemeanors to the state he is in at the time - nervously upset & involved in difficulties which seem insurmountable. He believes that people are against him because they dont understand. He regards his O.C. as being unfair in his attitude in pressing so many charges. Does not seem unduly depressed or anxious although resentful of the way he has been treated since arrest.

No. 1 CANADIAN NEUROLOGICAL HOSPITAL

Specialist, R.C.A.M.C.

Mays, Aldershot A43408

(cont.)

WSB

1 EX. 10

No 1-192

DEPARTMENT OF NEURO-PSYCHIATRY REPORT

No B 26272 Rank Sgt Name Lawton G. F. Unit #1 C. D. I. R. V.
Age 31

REPORT:

DATE Jan 8/42

Was Sgt in O.R. at C.D.B. - went AWL. 26/10/41 for 14 days. Is charged with this now & also stealing Govt. property with ration cards etc. Is referred here for opinion re psychopathic personality. Pt states that his behaviour was due to a desire to be court martialed & serve in detention in which event his wife's allowance would be cut off.

Enlisted May/40 Overseas June/40. Became corp. Aug/40 Sgt May/41 No previous crimes in the army.

Born England - Canada at age 16. Was delicate in childhood much illness. Attained Matric at 16 - did well at school. Did not play games or mix well because sickly & fearful of injury. F. - killed in last war. M - nervous breakdowns. Mother father & sister in mental hospitals. 1 B - drinks to excess.

Pt went to Canada by himself. - worked in bank 2½ yrs - left because responsibility caused a nervous upset (drinking heavily) was short $60 in his books - new away, issued N.S.F. cheques - was arrested - 3 yr suspended sentence. Then worked on farm for a while, started a small dairy & chicken business. In 1931 took charge of a printing plant where he remained several yrs. Married 1935 - happy for a few months then suspected her of unfaithfulness. Later started to drink again & went into debt. Wife got pregnant & intimated that child not his. Stole $126 & went to U.S.A. - forged documents which enabled him to steal from the banks for 3 months. Was finally arrested on another charge - sentenced to 3 years, served 17 months. On return to Canada was sent to gaol for 6 mos on former crime. Enlisted after release & has done good work in army in hope that on return he could get a satisfactory job with RCM P - finger print effect.

No. 1 CANADIAN NEUROLOGICAL HOSPITAL Specialist, R.C.A.M.C.

(cont.)

GB

weapon would give me the appearence of being on duty and so obviate any chance of being questioned, enroute.

Having read over the above statement, I find it is correct.

A. R. Allen S/Sgt.
C41972 A.R.Allen.(SIB)

[illegible] Sgt.
B [illegible] [illegible] Lawton.

"Exhibit 10"
R. R. Allen
18-11-41

18 Nove. 41.

Statement of Reg. No. B 26272 Sgt. LAWTON G.F.S.-Cdn Det. Camp. EX.9

DO YOU WISH TO MAKE A STATEMENT ? YOU ARE NOT OBLIGED TO SAY ANYTHING UNLESS YOU WISH TO DO SO. BUT WHAT EVER YOU SAY WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE.
Having been warned as above, I make the following statement.

Lawton Sgt.
B 26272. G.F.S. LAWTON.

I have been station at No. 1 Canadian Detention Barracks at Witley since the 21 May 41., where I have held the rank of Sgt., being confirmed on the 20th. Aug. 41.
During this period my financial affairs had been in a muddled state and during the three weeks prior to my going A.W.L. I had sent to Air Mail letters to my wife in Canada requesting that a sum of money be forwarded to me. About the 16th. Aug. 41, I sent a cable making an urgent request and received no reply. Whilst awaiting an answer to the Air Mail letters, I came to the conclusion that my wife was not going to help me. During the week of the 19th. Oct. 41. I gave considerable thought to the possibility of getting the assignment cut in order to even thing up. My subsequent actions were baised on this planning. Also during the course of my service at the Cdn. Det. Bks. I had seen soldiers under sentence whose pay books were badly in arrears able to make a substantial increase in their balance in order to clear up legimate indebtedness and thought that this would be a solution for my difficulties should I be court martialled.
On the 26th. Oct. 41, I took two travel warrants from the duty book and two from the free leave book, also a quantity of Ration cards, and several blank pass forms, two of which I used and destroyed, as they became invalid by date. I took the travel warrants from the middle of the books so that they would not be noticed for some time. I cashed warrant No. 619077 at Haslemere St. Surrey, for a return ticket from there to Glasgow, although I did not go to Glasgow, I travelled to various towns in the Midlands. On the 10th. Nove. 41, whilst returning to my unit, I was enroute between Manchester and London, and by the time I arrived at Birmingham, I was too sick to proceed further, suffering from Diarrhoeatic condition. I was admitted to hospital at App. 2100 hrs. 10-11-41, where I remained till taken under escort to London.
Two of the travel warrants have not been used, other than the Orderly Room stamps, which I put on them. The one warrant that is filled in, I filled in to use as a prop in case I should be stopped whilst travelling without a pass. On warrant No. 619077 I signed the name of Lieut. Dick. On warrant No. 619341 I used the name of Lieut. Martin, which is a ficticous name.
I did not incurr any debts whilst being A.W.L. I took 7 Ration cards with me, but only used one of them.
The revolver that I had in my possession is the property of Cpl. Quantrill of No. 1 Cdn. Det. Bks. (No. H.3890) .Cal. 38 Enfield Mark 1 it came into my possession some weeks previously when I borrowed it from Cpl. Quantrill he unlocking his cupboard and handing it to me for the purpose of having a picture taken with sidearms, to send home. I retained possession of this revolver placing it in my locker under lock and key and prior to going AWL I gave Cpl. Quantrill the key so that he could get it since the lock on his locker was missing. At the moment of going A.W.L. I decided that wearing the

WB

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

Ex. 9.

CANADIAN

MILITARY PRISON AND DETENTION BARRACK.

Ex. 5

PASS

Army Form B295
(In pads of 100)

No. B26272 (Rank) Sgt (Name) Lawton G.

has permission to be absent from his †quarters/duty, from

27-10-41 - 0600 hrs to 0600 hrs 24-11-41

for the purpose of proceeding to Dewsbury & Glasgow.

(Station)

(Date)

27 OCT 1941

CANADIAN MILITARY PRISON AND DETENTION BARRACK.

ORDERLY ROOM

MAJOR,
COMMANDANT,
Commanding

(P.T.O.

* Delete if the required duty is absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

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WEB

MEDICAL OFFICER'S REPORT

I certify that No. B26272 Sgt Lawton G.F.

of Cdn Provost Corps is in a good state of health,

and [illegible] to undergo trial by Court Martial

[illegible]
Medical officer
CANADIAN DETENTION BARRACKS

Station Witley

Date 14-1-42

[illegible]

The accused is duly cautioned (R.P. 4(e)) and declines to make any statement.

Certified that Rules of Procedure No. 4 (C), (D) and (E) have been fully complied with.

W. Dick A/Capt.,
(W. Dick)
(Officer taking Summary)

4th WITNESS — C30247 RSM.(W.O.1) SMITH, F.J.
Canadian Detention Barracks, Canadian Provost Corps.

Accused does not wish the evidence of this witness taken under oath:

I have been employed in the fingerprint identification Bureau of the Royal Canadian Mounted Police for the past eighteen years, from 1923 until I enlisted in the Canadian Army.

I was instructed to examine the documents in question and in my opinion the signatures on leave pass, Rly.Warr.No.97/619341 and 97/619077, and ration card ZT 431619 were written by the same person.

On comparing the above mentioned signatures with that of the accused I am further of the opinion that they were written by the same person.

(The accused declines to cross-examine this witness)

F.J. Smith
C30247 RSM.Smith, F.J.

5th. WITNESS DOCUMENTARY — D.Hayday, Clerk, Haslemere Station, Southern Railway, made the following statement:

Re: Warrant 97/619077
Dated 26th.October 1941
to Glasgow.

This is to certify that I issued Government Warrant ticket No.375 in exchange for above mentioned warrant on 26th.October 1941.

Sgd."D.Hayday"

(The accused does not question the above statement and does not require the presence of this witness for cross-examination)

Taken down by me in the presence and hearing of the accused this 7th. day of January 1941.

W. Dick A/Capt.
W.Dick
Officer taking Summary.

Birmingham where I found the accused a patient, having been admitted to hospital 2100 hours, 10 November 41, suffering from intestinal flu. At this time he had sufficiently recovered and was due to be discharged. I therefore took the accused into custody receiving A.M.D. 2-1, hospital discharge notification signed by Capt. L. I. Quinn, which I submit as exhibit #2. On route between Birmingham and London and during conversation with Sgt. Lawton he handed me two blank pass forms bearing Orderly Room stamp, Canadian Detention Barracks, dated 27 Nov. 41, also two stubs of blank passes which I tender as exhibit #3. Sgt. Lawton also gave me six blank ration cards #ZT431613 to ZT431618 inclusive which I tender as exhibit #4. Ration card #ZT431619 being filled in in the name of G.P.Lawton, Sgt., B-26272, Canadian Provost Corps, dated 25 October 41 to 8 November 41, signed with a name illegible, tendered as exhibit #5. Travel warrant #619078 and 619340 were handed to me by Sgt. Lawton at this time. These warrants are blank with exception of the Orderly Room stamp which on warrant #619078 bears the date 2 Nov. 41, whereas warrant 619340 bears the date 26 Nov. 41. These I tender - 619078 as exhibit #6 - 619340 as exhibit #7. I also received warrant #619341 from Sgt. Lawton which is made out for two single fares from Manchester to Witley, Surrey, dated 27 Oct 41 to the Great Western Railway. This warrant being signed by Capt. Martin. The reverse side being marked, C.P.C., C.D.Hks. Reg. No. B26272 Sgt. Lawton G.P., and R.22nd Reg., B Coy., Pte. Robideaux, D.J. - authority for journey, C.M.H.Q., S.I.D., D.P.M. 6-9-d 20/10/41, nature of duty escorting prisoner. Itender this as exhibit #8. Sgt. Lawton also gave me a pass made out to Reg. No. B26272 Sgt. Lawton, G.P. from 27/10/41, 0800 hours to 0600 hours 24/11/41 for Shrewsbury and Glasgow and signed by Capt. Martin, this pass being stamped with the Orderly room stamp of the Canadian Detention Barracks, 27/10/41. This pass bears the words, "sick leave" printed across the centre which I tender as exhibit #9. On arrival in London the accused was warned according to M.M.L. at which time he made a statement which was taken down in writing, read over to him, and signed. I tender this as Exhibit #10.

Q: Whom signed the statement mentioned in your evidence.
A: The accused, Sgt. G.P.Lawton.

(The accused declines to cross-examine this witness)

A. R. Allen
.....
C-41972 S/Sgt. Allen, A.R.

3rd WITNESS A/Capt. W. DICK
Canadian Detention Barracks, Canadian Provost Corps.

Accused does not wish the evidence of this witness taken under oath:

I am the Asst. Cmdt. at the Canadian Detention Barracks. At 0900 hours, 27 October 41, it was reported to me that Sgt. G.P. Lawton, who at that time was employed as clerk in the Orderly room, Canadian Detention Barracks, was absent from duty. Enquiries were made and it was learned that Sgt. Lawton had been absent from 2359 hours, 26 Oct 41. Further investigation led to discovering that four railway warrants had been removed from the books of R.R. warrants kept locked ~~one~~ Sgt. Lawton had a key. Further investigation led to one warrant being found cashed in at the Southern R.R. Station at Haselmere. It was found to bear the signature of Lieut. W. Dick. I did not sign this warrant. In connection with the warrant bearing the signature of a Capt. Martin I wish to state that at no time has there been a Capt. Martin stationed at the Cdn. Detention Barracks.

(The accused declines to cross-examine this witness)

W. Dick
.....Capt.
(W.Dick)

exs a stat cahier
to Orderly room

SUMMARY OF EVIDENCE

In the case of No. B26272 Sgt. LAWTON, G.P.
Canadian Detention Barracks, Canadian Provost Corps.

1st WITNESS C-41995 S/Sgt. DURFY, R.H.
Canadian Detention Barracks, Canadian Provost Corps.

The accused wishes the evidence of this witness taken under oath:

I am N.C.O. i/c of the Orderly room, Canadian Detention Barracks. At 0815 hours, 27 October 41, on arriving at the office I noted that Sgt. Lawton was not on duty. I was informed that he was absent from his quarters. He was last on duty in the afternoon of the 26 October 41, when he relieved S/Sgt. Joyce at approx. 1300 hours, and remained in charge of the Orderly Room until approx. 1700 hours. On investigation it was discovered the four blank railway warrants, Nos. 97/619078, 97/619077, 97/619340 and 97/619341 had been removed from the middle of the railway warrant books which were locked in a steel cabinet in the Orderly Room. Sgt. Lawton had a key to this cabinet. Seven ration cards No. ZT431613 to ZT431619 were also missing from the same cabinet. I proceeded to Hazelmere Railway Station and examined the warrants cashed there on the 26 October 41, Railway warrant No. 97/619077 was found. It was filled in for a return ticket from Hazelmere to Glasgow, in favour of Sgt. G.P.Lawton and signed W.Dick, Lieut., for Cmdt., Canadian Detention Barracks. The Orderly Room stamp of the Canadian Detention Barracks was impressed on the face of the warrant. The station master at Hazelmere turned the warrant over to me and I returned to Barracks and handed it over to the Commandant. On 18 November 41, S/Sgt. Allen of the S.I.D., Canadian Provost Corps, produced the above mentioned warrants and ration cards, less the one which had been exchanged. These were taken from the person of Sgt. Lawton at the time of his arrest. I indentified them as the missing articles. I also indentified two blank pass forms which were impressed by the Orderly Room stamp and the Commandant's stamp.

(The accused declines to cross-examine this witness)

.....
C-41995 S/Sgt. Durfy, R.H.

2nd WITNESS C-41972 S/Sgt. ALLEN, A.R.
S.I.D.,C.M.H.Q., London

Accused does not wish the evidence of this witness taken under oath:

I am C-41972 S/Sgt. A.R.Allen, S.I.D., C.M.H.Q., London. On the 28th October, 1941, as result of a complaint received, I proceeded to Canadian Detention Barracks, Witley for the purpose of investigating circumstances surrounding Sgt. G.P.Lawton going A.W.L. On my arrival at the Detention Barracks, I received certain information from which as a result of inquirey made N.D. travel warrant No. 97/619077 came into my possession. This warrant which I present as exhibit #1 is for a return railway fare from Hazelmere, Surrey to Glasgow, Scotland. The warrant having been made out on 26 October 41 for one return fare date of return 2 November, 1941. This warrant bears rubber stamp of C.M.H.Q. the Canadian Detention Barracks Orderly Room stamp dated 26 November 41 and is signed W.Dick, for Commandant, Military Prison and Detention Barracks, on the reverse side is Regt. No. B-26272 Sgt. G. Lawton, Canadian Detention Barracks, authority for journey being privelege leave P.3, Free issue 2. On receipt of this warrant inquiries were carried out throughout the Witley Area and the Met. Police and Newcastle on Tyne Police given full details. On 17th November, 1941 a telephone call was received and as the result I patrolled to No. 1, Canadian General Hospital, Marston Green,

pleaded Guilty, I suggest under all the circumstances a very minor punishment will meet the interests of justice in this case.

The Court is closed for the consideration of the sentence.

Upon completion of closing addresses by the defending officer and the prosecutor, the Court is closed for the consideration of the finding.

The Court find that the accused is Not Guilty of the fourth charge, and their decision is announced in open Court.

The Prosecutor, LIEUT. J. R. TURNER, No. 1 C.D.I.R.U., being duly sworn, is examined by the Court:-

The witness identifies himself.

Q109. Have you any evidence to produce as to the character and particulars of service of the accused?
A109. Yes sir, I produce AF B-296 and certified true copy of MFM-6.

The above statement is read, signed by the President, and annexed to the proceedings.

Q110. Is the accused the person named in the statement which you have heard read?
A110. Yes, sir.
Q111. Have you compared the contents of the above statement with the regimental books?
A111. Yes, sir.
Q112. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A112. Yes, sir.

No cross-examination.

THE COURT: Do you wish to address the Court?

DEFENDING OFFICER: Gentlemen:- I think it is important first of all to appreciate the fact that although there are a great number of charges here it is really only one transaction, and you will find in Col Hyland's report the history of the circumstances leading up to this man's actions. It is an unfortunate story. The aunt of this man suffered from insanity and was confined to a mental asylum. She was destitute and the accused made arrangements to assist to the extent of $5.00 per month. It was later discovered that owing to some mistake in the orderly room the assignment had been $10.00 per month. When this mistake was discovered the accused, who was already in debt to some small amount (and his debtors were pressing him for payment), found himself in considerable financial difficulty as a result of his own good will in making these arrangements for his aunt. He wrote to his wife, asking her to send some money. He had previously had some difficulty with his wife in Canada. They did not get along any too well, although there is no suggestion his wife was unfaithful to the extent of sleeping with somebody else. It appeared to have blown over when the accused joined the army, but he wrote for some money and his wife did not reply for some time. However, she did reply eventually because she said she did not see why he was under any obligation to look after his aunt, and she did not send him any money. He perhaps rightly or wrongly assumed there was more trouble in respect to his wife's conduct, and we have had evidence as to his mental condition. It upset him considerably. That, of course, is not a defence to these charges, it cannot even be suggested that he was suffering from insanity, he knew what he was doing, but he was not morally guilty, he was mentally upset. All the circumstances in this case would have led to a condition of mental upset, even in the case of a normal person, and we have here a person who has been defined as a psychopatic personality by Col Hyland. All these charges arise out of that one simple transaction. It was really one transaction, not a number of separate offences. It is understandable under the circumstances why he did it. I suggest with deference that this is not a case calling for any heavy punishment. Col Hyland says he does not consider punishment will be beneficial in this case. I don't think it will, either, although it will be necessary for some punishment to be imposed on the accused. With respect to the charges to which he has

Q99. Now then, what about exhibits 1, 2, 3 and 4?
A99. In a comparison with the serial nos of the ration cards I have there now they run in sequence with them. They run next to the numbers I have there in the office.
Q100. Can you identify those four rly warrants, Nos 1, 2, 3 and 4?
A100. Yes, I can, sir, I can identify them from the orderly room stamp and the stamp on the bottom here, which is the one the C.O. uses. It is the same in each case, and I have the books here, and I can identify them as being taken from our book. (witness produces book to the Court). Here are the warrants kept in the office and there are the stubs from which these warrants were taken (indicating). They are definitely from this book.

THE COURT: Have you any further proof of the ration cards, that they actually belonged to the unit?

Q101. PROSECUTOR: I refer to Ex 6, Leave or Duty Ration Card, serial No ZT-431619; can you identify that exhibit as coming from your office?
A101. The only identification I have actually is the stamp on the bottom which we have in the orderly room; that is the stamp of the Cdn Military Prison & Det Bk.

Q102. THE COURT: Are all your ration cards stamped like that before being issued?
A102. Not before being issued, sir.
Q103. You have not proved that these came from your ration cards; they might have been taken from somewhere else and your stamp put on them?
A103. But these follow in sequence, sir, the numbers of the ration cards in our office, the numbers corresponding with the ration cards we still have on hand.

Q104. PROSECUTOR: Now exhibit 7, consisting of six ration cards, serial Nos ZT-431613 to ZT-431618 incl. Have you any way of recognising exhibit 7 as coming from your office?
A104. Yes, I recognise them by the stamp, Cdn Mil Prison & Det Bk, and I also recognise them by the serial Nos, because they are the numbers that follow in sequence the nos of the ration cards left in the orderly room after they had been taken.

THE COURT: I think we will have to have evidence that these ration cards were the property of the unit concerned.

Q105. PROSECUTOR: Were these ration cards, listed as Ex 7, the property of the unit for which you are working?
A105. Yes, they were, sir.
Q106. You have identified Ex 8 as coming from your office. Were the blank passes, listed as Ex 8, the property of the Cdn Mil Prison & Det Bk?
A106. They were turned in by the S/Sgt in charge of the investigation. The identification I can make of them is by the orderly room stamp on them and by the stamp that is usually used by the Commdt to sign documents.
Q107. And that indicates they were the property of the Cdn Det Bks?
A107. That would indicate to me they were, sir.

THE COURT: It would not indicate that to me. I can take a form into your office and put the orderly room stamp on it, but that does not make it part of your records, does it?

PROSECUTOR: I think the evidence is sufficient to indicate that these forms did come from the office, bearing the stamp they do, and the evidence of this witness definitely indicates there there is no reason to suppose that these came from anywhere else except the Cdn Det Bks.

THE WITNESS: To the best of my knowledge, our orderly room is the only place in possession of these two particular types of stamps.

Q108. PROSECUTOR: Do you recognise Ex 6 as being the property of your unit?
A108. Yes sir, from that same stamp and the stamp used by the Major to sign documents with, and from the serial Nos which correspond with the Nos I have still left there.

Q78. Do you consider him entirely responsible for his actions?
A78. I would not be able to answer that, yes or no.
Q79. With regard to this faulty judgment, just how serious is the implication in this report?
A79. He would not have gained any benefit from any punishment received in the past.
Q80. There is no indication that, for example, in a case of theft he would not know what he was doing?
A80. No, nothing like that, unless he was in an unconscious state or in a coma or something like that.

Q81. THE COURT: He is more or less emotionally unstable?
A81. Yes sir, that would be a fair way to put it, although the question is more or less the attitude, what response the average person makes to past experiences.

3rd witness for the defence) No. C-41995, S/SGT. R. H. DURFY, Cdn Det Bks, C.P.C., being duly sworn, is examined by the defending officer:-

The witness identifies himself.

Q82. You are NCO i/c orderly room of the Cdn Det Bks?
A82. Yes, sir.
Q83. Do you know the accused, Sgt G.F. Lawton?
A83. I do.
Q84. Was he employed at the Cdn Det Bks?
A84. Yes, sir.
Q85. In the orderly room?
A85. Yes, sir.
Q86. What was his job?
A86. He was my asst; he was orderly room Sgt.
Q87. Now the passes, rly warrants and so on, they would be kept in the orderly office, would they?
A87. That is right.
Q88. Were they kept under lock and key?
A88. Yes sir, always.
Q89. Who had the keys?
A89. I had one key; Sgt Lawton had another key.
Q90. Who would customarily make out these warrants, passes and so on?
A90. It might be myself or Sgt Lawton.
Q91. Do you recall the week before the accused went absent, a few days preceding the time he went absent?
A91. In what sense, sir?
A92. Well, do you recall noticing his actions or the conduct of the accused during the week he went AWL?
A92. Not in detail, sir, but in a general way.
Q93. Was he behaving in a normal manner at that time?
A93. How do you mean?
Q94. Did you notice anything unusual about his conduct immly before he went absent?
A94. He was not as efficient as he had been several weeks before; he appeared to be slightly on the absent minded side. Giving an opinion I should say he appeared to have something on his mind, sir.

CROSS EXAMINED BY THE PROSECUTOR

Q95. Will you examine these exhibits?
A95. Yes, sir.
Q96. Have you any way of recognising them as coming from your office?
A96. That is our orderly room stamp (ex 6). On the top is a stamp we have in use in our orderly room, also that is the sametype of ink we use on our stamp pad.
Q97. This is ex 6. Can you identify that as coming from your orderly room?
A97. I can identify that from the stamp on the bottom there, sir.
Q98. And ex 7, a number of ration cards?
A98. I can identify them from the stamps on the bottom; that is the stamp used in the orderly room.

170

DEFENCE: Sir, in view of the acceptance by the Court of exhibit 9, the statement of the accused, I desire to alter the plea of Not Guilty in connection with a number of the charges. To the first charge the accused now pleads Guilty. The plea of Not Guilty remains for the second, third and fourth charges. The fifth charge, the accused pleads Guilty. To the sixth charge the accused pleads Guilty. To the seventh charge the accused pleads Guilty. To the eighth charge the accused pleads Guilty.

The prosecution is closed.

The accused having pleaded Guilty to the first, fifth, sixth, seventh and eighth charges, the provisions of R.P. 35(B) are duly complied with.

Q64. THE COURT: Do you apply to give evidence yourself as a witness?
A64. No, sir.
Q65. Do you intend to call any other witnesses in your defence?
A65. Yes, sir.
Q66. Are they witnesses as to character only?
A66. No, sir.

2nd witness for the defence) CAPT. G. A. KIRKPATRICK, R.C.A.M.C., attached to No 1 C.D.I.R.U., being duly sworn, is examined by the defending officer:-

The witness identifies himself.

Q67. Have you had occasion to have any dealings with the accused, Sgt Lawton?
A67. I have, on several occasions.
Q68. Have you examined him?
A68. I have.
Q69. From what is he suffering?
A69. Under the circumstances, sir, I could not give evidence as a mental specialist, but I can give you Col Hyland's report. I would say that the diagnosis was a psychopatic personality.
Q70. That would mean in layman's language he was subject to being upset very easily?
A70. More that at times his judgment would be faulty.
Q71. Did you receive a report from Lt-Col Hyland of the Neurological Hosp with regard to the accused?
A71. Yes, on the 8 Jan 42.
Q72. Is this the report you received (producing document)?
A72. It is.

EXHIBIT 10 - Dept of Neuro-Psychiatry Report relating to accused, signed by Lt-Col H.H. Hyland, dated 8 Jan 42.

Q73. THE COURT: Is Lt-Col Hyland on the staff of No 1 Neurological Hosp?
A73. Yes, sir.
Q74. Is he the chief psychiatrist on the staff of that hospital?
A74. Yes sir, he is.
Q75. What is his official diagnosis of the case?
A75. Psychopatic personality.
Q76. Is not that a very wide medical term to use?
A76. Yes sir, it is.

THE COURT: This is actually submitted in mitigation of punishment?
DEFENCE: Yes, sir.

CROSS EXAMINED BY THE PROSECUTOR

Q77. I would like an enlargement on the expression "psychopatic personality." Is there any implication that the accused would not know right from wrong?
A77. I don't think there would be any such implication in the ordinary definition; no, I don't think there would be.

Q58. Just confine yourself to the actual conversation with respect to this statement; if anything was said about the statement, yes, you may give your evidence with respect to it?
A58. It was the start of the discussion. I had been placed under arrest at No 1 Gen Hosp and S/Sgt Allen came from London to take me back under escort. He came into the ward and came up to my bedside and he said, "Hello, Lawton," and I said, "Hello, Jeekie," which is S/Sgt Allen's nickname; I had met him before on a number of occasions. He said, "Well, what have you been up to?" and I said, "I have got myself into a little bit of a jam, I believe." That is all that was said then. We were taken from the hosp to the station at Birmingham in an ambulance, and while riding in the ambulance I asked S/Sgt Allen how everything was back at the unit and what Major Ball's feeling towards me was in connection with this trouble, and Allen told me then, "I don't know for sure, I have only been to the det bks in connection with this matter the once when I went down to investigate; when I spoke to the Major at that time he was slightly upset about it." On the train from Birmingham to London I completed my story to S/Sgt Allen and told him why I had gone AWL, and as he stated in his evidence I gave him the balance of the forms I had, after having told him the complete story. At that time S/Sgt Allen said to me, "It is obvious you have not taken these forms to sell them or try to dispose of them in any way, and I feel sure when you get back and make a statement in this connection the charges will be reduced to a straight charge of absence and obtaining a rly ticket." I gave him the statement in Henrietta St; I was called up and as I went in he said, "I will get you to make that statement now, Sgt," and I said, "Right," and I made the statement, sir.
Q59. On the train he said, "I guess when you get back and make a statement the charge will be reduced to straight AWL?"
A59. I am not sure if he used the word "guess," but that is it in effect.

Q60. THE COURT: As a member of the Prov Corps you were sufficiently acquainted with procedure to realise that S/Sgt Allen had no authority to give you any promise of that kind?
A60. That did not enter into my mind, sir, at all. I had merely questioned S/Sgt Allen to try and find out how my C.O. felt about it. I was wondering what I was heading into and tried to get some advice and I felt I knew S/Sgt Allen well enough that I could talk to him and tell him my troubles and get some advice from him, sir.

The Court is closed to consider whether or not the statement will be admitted in evidence.

The Court being re-opened, the accused is again brought before it.

THE COURT: The Court over-rules the objection of the defending officer, and will admit this statement.

1st witness for prosecution) No. C-41972, S/Sgt. A. R. ALLEN, S.I.D., C.M.H.Q., London, Eng., being previously sworn, is recalled and examined by the prosecutor:-

Q61. Would you identify that as the document, the statement referred to?
A61. Yes sir, that is it.
Q62. Is that your signature there (indicating)?
A62. That is my signature there, sir.

PROSECUTOR: I would like this statement read into the record.

DEFENCE: That is not necessary; it is produced as an exhibit.

Q63. PROSECUTOR: Will you produce that to the court then as an exhibit?
A63. I produce this statement taken from Sgt Lawton dated the 18 Nov 41; that is a statement made by the accused.

EXHIBIT 9 - Statement of Accused, dated 18 Nov 41.

Whereupon the Court adjourned from 1200 hrs to 1330 hrs.

Q42. In other words, you are suggesting to this court that when the question of his making a statement came up you merely called him into a room and asked him this question, "Do you wish to make a statement?" and so on?
A42. That is correct.
Q43. Did you not ask him prior to that if he wished to make a statement?
A43. No, sir.
Q44. Had not the matter of a statement been discussed in any way?
A44. Not before that, no sir.
Q45. You called him into your office, did you?
A45. Yes, and asked him if he wished to make a statement.
Q46. Did you have him sit down?
A46. I did.
Q47. And then you read out to him, "Do you wish to make a statement, etc."?
A47. That is correct.
Q48. Was anything else said?
A48. The remainder of the caution was given to him and he stated that he wished to make a statement, and his statement was read over to him and then signed.

Q49. THE COURT: That was on the 18th?
A49. Yes sir, the morning of the 18th.

Q50. DEFENCE: You know perfectly well, S/Sgt Allen, that you are here to give your evidence honestly, and you say this is what happened, that you simply brought him into the office there, sat him down, read over this warning to him, and nothing else was said whatever?
A50. That is the way the statement was taken, and all our statements are taken in the same manner.

RE-EXAMINED BY THE PROSECUTOR

Q51. Do you identify this statement?
A51. Yes sir, that is the statement.
Q52. Is this your signature on it?
A52. That is my signature, sir.

The Court is closed to consider whether or not the above-mentioned statement will be accepted in evidence.

The Court being re-opened, the accused is again brought before it.

The Court announce that they will hear the evidence of the accused as to the circumstances surrounding the taking of the statement.

R.P. 40 & 41 duly complied with.

1st witness for the defence) The Accused, No B-26272, Sgt. G. F. LAWTON, being duly sworn, is examined by the defending officer:-

The Accused identifies himself.

Q53. Sgt Lawton, you have heard the evidence given by the previous witness with respect to the circumstances surrounding the giving of this statement offered in evidence?
A53. Yes, sir.
Q54. Do you recall the occasion when you made that statement?
A54. Yes, sir.
Q55. Had you had any conversation with S/Sgt Allen before making the statement, with reference to it?
A55. Yes, sir.
Q56. When did you discuss the question of making a statement with him?
A56. When we were travelling from No 1 Gen Hosp at Birmingham to London.
Q57. What did you say during the trip? What was said by yourself and by S/Sgt Allen?
A57. Sir, may I start at the time I first spoke to S/Sgt Allen at the hospital just before we left?

PROSECUTOR: In this case, sir, there is no attempt on the part of the prosecution to bring the statement into court at this time, but I think it is the privilege of the prosecution to indicate just how the statement was obtained. At the present time the court is unaware as to the making of the statement and I think it is the privilege of the prosecution to find out just how the statement was obtained before it is submitted.

Q24. Do you recognise the accused as Sgt G.F. Lawton?
A24. I do, sir.
Q25. Did you ask the accused to make a statement?
A25. No sir, the accused made a voluntary statement to me, after having been warned.
Q26. Did you give him the statutory warning?
A26. Yes, I did, and I then copied it on the top of the form, read it over to him, and he signed it before making his statement.
Q27. Did you suggest to him in any way that it might be easier for him if he ---

DEFENCE: I object to these leading questions.

Q28. PROSECUTION: Did you make any additional statement?
A28. I didn't. The warning was read to him and typed out.
Q29. Did he enter into any conversation with you relevant to that statement?
A29. No, he did not.
Q30. Did he ask for any advice as to his statement?
A30. No sir, he did not.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q31. You did not threaten him with a club or anything like that?
A31. No, sir.
Q32. Or suggest to him that he had better make a statement or he would probably get into trouble?
A32. No.
Q33. Do you recall, before this statement was made, discussing Major Ball?
A33. I have no recollection of that.
Q34. Just try and think back?
A34. The accused en route between Birmingham and London was talking regarding the conditions of this camp and the surroundings, but there were no questions asked.
Q35. But he did discuss Major Ball's probable attitude towards this matter, didn't he? Major Ball is his C.O.?
A35. Yes, sir.

PROSECUTOR: I suggest the witness is being led.

DEFENCE: Of course he is; I am entitled to lead in cross-examination

Q36. Carry on?
A36. On the train the accused was giving me his reasons for having gone AWL, but it had no bearing on the fact of his being AWL, therefore I took no notice of the conversation.
Q37. During the course of this conversation he may have given you the information which appears in this statement?
A37. That statement was taken down on the 16th.
Q38. Yes, but prior to the actual statement being taken down in writing he may have given you all this information beforehand?
A38. That is hard to say; he gave me this statement in his own words.
Q39. But this information may have been given beforehand?
A39. I can't say.
Q40. You do not recall him discussing Major Ball?
A40. I have no recollection of that at all.
Q41. You don't recollect mentioning anything to the effect that if all the facts were laid before Major Ball it would be better for all concerned?
A41. There was nothing to that effect at all.

accused, Sgt Lawton, after his arrest at No 1 Gen Hosp, Marston Green. Two of these warrants are in blank, bearing the orderly room stamp, and one is made out from Manchester to Witley, Surrey, that is No 97/619341, and signed by Capt Martin. I tender these warrants as exhibits, sir.

EXHIBIT 2 - War Office Rly Warrant No 97/619341.

EXHIBIT 3 - " " " " " 97/619340.

EXHIBIT 4 - " " " " " 97/619078.

Q18. Yes, proceed?
A18. During the time I was escorting Sgt Lawton from Birmingham to London he handed me one pass made out and bearing the orderly room stamp of the Cdn Det Bks, alleged to have been signed by Capt Martin.

EXHIBIT 5 - Pass in favour of accused from 27-10-41 to 24-11-41, dated 27 Oct 41.

Q19. Yes, continue?
A19. That pass was marked "Sick Leave". He also handed me one Leave or Duty Ration Card, No ZT-431619, made out in the name of Sgt G.F.Lawton and signed by -- I can't make the name out very well. That ration card had been used.

EXHIBIT 6 - Ration Card No ZT-431619.

A19. (continued) Sgt Lawton also handed me six blank, unused ration cards, unsigned, Nos ZT-431613 to ZT-431618 incl.

EXHIBIT 7 - Six unused Ration Cards Nos ZT-431613 to ZT-431618 incl.

A19. (continued). Sgt Lawton also handed me two blank passes bearing the orderly room stamp of the Cdn Det Bks, dated 27 Nov 41, which were unsigned. Attached to these passes are the corresponding stubs and two unused portions of stubs.

EXHIBIT 8 - Two blank pass forms, and two blank pass stubs.

Q20. PROSECUTOR: On what date did you take Sgt Lawton into custody?
A20. At 1400 hrs on the 17 Nov 41.
Q21. Did you ask him for these tickets which you have produced in evidence?
A21. He handed them to me himself, sir.
Q22. Now, after taking him into custody, where did you take him to?
A22. To London, to No 6 CPC HQ.
Q23. Did the accused make any statement?
A23. He did. I warned him according to the MML and his statement was then taken down, read over to him, and signed.

DEFENCE: I think at this point before the statement is introduced I should be entitled to examine the witness as to the circumstances surrounding the taking of the statement, what the conversation was and so on. With the court's permission I would like to examine the circumstances surrounding the taking of this alleged statement.

PROSECUTOR: It is the duty of the prosecution at this point to establish that this statement was obtained correctly, and I would like to do that.

DEFENCE: There is no question about the practice. If there is any dispute on this point, before the evidence is admissible the opportunity is given to the defending officer to examine into the circumstances surrounding the admission. It stands to reason, in an ordinary criminal case the jury is excluded, and it is what we term a "trial within a trial"; you examine the circumstances surrounding the taking of the statement before it is admitted.

THE COURT: Yes, I agree with that.

Q11. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A11. No, sir.

The prosecutor makes no opening address.

PROSECUTOR: If agreeable to all concerned, I would prefer all these charges to be tried together, sir.

DEFENCE: That is agreeable to me, sir.

1st witness for prosecution) No. C-41972, S/Sgt. A. R. ALLEN, S.I.D., C.M.H.Q., London, Eng., being duly sworn, is examined by the prosecutor:-

The witness identifies himself, and produces his credentials to the Court, being dressed in civilian clothing.

Q12. PROSECUTOR: On the 28 Oct 41 were you detailed to proceed to the Cdn Det Bks for the purpose of investigating the circumstances concerning the absence without leave of Sgt G.F. Lawton?
A12. I was, sir.
Q13. Will you carefully outline to the court what you discovered from your investigations and submit the necessary exhibits to the court as you proceed?
A13. On my arrival at the Cdn Det Bks I received information to the effect that ---

DEFENCE: I object to the witness telling the court what information he received; it is not evidence. He acted on certain information, but he cannot give the particulars of the information he received.

THE COURT: Quite right.

Q14. PROSECUTOR: Proceed, please?
A14. Acting on the information I received -- it is pretty difficult for me to put it that way -- it was a complaint given to me and as a result of that complaint certain inquiries were carried out. I found one War Office Rly Warrant No. 97/619077. I submit the warrant referred to, made out for one return fare from Haselmere to Glasgow and return dated 26-10-41, returning on 2 Nov 41. This warrant was signed in the name of W. Dick, Lieut., for Major, Commandant, Cdn Mil Prison and Det Bk.
Q15. Does it bear the stamp of the orderly room?
A15. Yes sir, 26 Oct 41. On the reverse side of the warrant ---

DEFENCE: The document speaks for itself, I submit. It is not necessary for the witness to read it.

EXHIBIT 1 - War Office Rly Warrant No. 97/619077.

Q16. PROSECUTOR: How did that document come into your possession?
A16. It was picked up by a member of the Det Bks from the Southern Rly.

DEFENCE: I suggest this witness should be cautioned that he is not to give evidence he does not know personally. This is only hearsay evidence.

Q17. PROSECUTOR: How did it come into your possession?
A17. I received it from a member of the Det Bks. On receipt of this warrant I examined the rly warrant books which are in possession of the Det Bks and found certain other warrants removed, their numbers being 97/619078, 97/619340 and 97/619341. On the 17 Nov 41 these warrants came into my possession, having been handed to me by the

No. B-26272, Sgt. G.F. LAWTON, Canadian Detention Barracks, tried by Field General Court Martial at WITLEY, Surrey, on the 14th day of January, 1942.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:	Lieut. J.R. Turner,	No 1 CDIRU.
Defending Officer:	Lieut. F.C. Hall,	No 1 CDIRU.

At 1000 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No, sir.

The President and members are duly sworn.

No officers for instruction present.

Q2. Do you object to No. B-66944, Sgt. T. Pyburn, R.Regt.C., acting as shorthand writer?
A2. No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the first charge against you, which you have heard read?
A3. Not Guilty.
Q4. Are you guilty or not guilty of the second charge against you, which you have heard read?
A4. Not Guilty.
Q5. Are you guilty or not guilty of the third charge against you, which you have heard read?
A5. Not Guilty.
Q6. Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6. Not Guilty.
Q7. Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7. Not Guilty.
Q8. Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A8. Not Guilty.
Q9. Are you guilty or not guilty of the seventh charge against you, which you have heard read?
A9. Not Guilty.
Q10. Are you guilty or not guilty of the eighth charge against you, which you have heard read?
A10. Not Guilty.

CHARGE-SHEET

Eighth Charge
Sect 41(5)
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, UTTERING A FORGED DOCUMENT CONTRARY TO SECT. 6(1) OF THE FORGERY ACT 1913.

in that he

At Haslemere, Surrey on 26 Oct 41 uttered a certain forged document purporting to be a railway warrant directed to the Southern Railway Company to convey B-26272 Sgt. Lawton,G. from Haslemere to Glasgow and return free of charge and to be signed by Lieut. W. Dick, knowing the same to be forged and with intent to defraud and thereby obtained a return railway ticket from Haslemere to Glasgow.

Eighth Charge
Sect 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In That he

At Birmingham on 18 Nov 41 was in possession of a document purporting to be a genuine leave pass, well knowing that it was not genuine.

W E Pettett Major

G W Ball

(G.W. Ball) Major
Commandant
Cdn Detention Barracks.

Witley, Surrey
29th December 1941

To be tried by Field General Court Martial

F R Phelan

(F.R. Phelan)Brigadier
Commanding Cdn Reinforcement Units.

Farnborough,Hants
This 8th day of Jan 42.

CHARGE-SHEET

The accused, No. B-26272 Sgt. Lawton, G.F. Cdn Detention Barracks, a soldier of the Canadian Army (Overseas) is charged with when on Active Service:

First Charge — ABSENTING HIMSELF WITHOUT LEAVE

Sect 15(1) — in that he

Army Act — At Witley, Surrey absented himself without leave from 2359 hours 26 Oct 41 until admitted to No.1 Cdn Gen Hospital at 2100 hours 10 Nov 41.

Second Charge — STEALING PUBLIC PROPERTY

Sect 18(4) — in that he

Army Act — At Witley, Surrey on 26 Oct 41 stole seven ration cards, Nos. ZT431613 to ZT431619 inclusive, public property from a steel cabinet in the orderly room of Cdn Detention Barracks.

Third Charge — STEALING PUBLIC PROPERTY

Sect 18(4) — in that he

Army Act — At Witley, Surrey on 26 Oct 41 stole four blank railway warrants, Nos. 97/619077 - 78 and 97/619340 - 1, public property, from a steel cabinet in the orderly room of Cdn Detention Barracks.

Fourth Charge — STEALING PUBLIC PROPERTY

Sect 18(4) — in that he

Army Act — At Witley, Surrey on 26 Oct 41 stole four blank leave pass forms, public property, from the orderly room of Cdn Detention Barracks.

Fifth Charge — COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, FORGERY

Sect 41(5) — in that he

Army Act — At Witley, Surrey on 26 Oct 41, with intent to defraud, forged the name of Lieut. Dick to a railway warrant, No. 97/619077

Sixth Charge — COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, FORGERY

Sect 41(5) — in that he

Army Act — Between 26 Oct 41 and 18 Nov 41, with intent to defraud, forged the name of Capt. Martin to a railway warrant No. 97/619341

W.B. Bichelt Major

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the Fourteenth day of January, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Judge Advocate~~ The shorthand writer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this Fourteenth day of January, 1942.

W R Bethell Major
President of the Court Martial.

C.

* See footnote (b) on page 762 M.M.L. 1929.

~~[illegible]~~

Certificate in case of death sentences

~~[illegible]~~

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

Confirmation.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this 16th day of January 1942.

H.D. Pulan Brigadier,
Confirming Officer.

Promulgated and extracts taken in the case of Sergt Lawton G.H.

(a) (Dated) 19 Jan 1942. (Signed) Grow Bale major.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44729) Wt. 40113—893 200 m 5/40 P. St. G. 6a1

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-26272 SGT. LAWTON, G.F. Cdn Detention Barracks.	First Charge A.A. sec 15(1)	Not Guilty	Guilty	Confirmed J.M. Nelson Brig
	Second Charge A.A. sec 18(4)	Not Guilty	Guilty	
	Third Charge A.A. sec 18(4)	Not Guilty	Guilty	
	Fourth Charge A.A. sec 18(4)	Not Guilty	Not Guilty	
	Fifth Charge A.A. sec 41(5)	Not Guilty	Guilty	
	Sixth Charge A.A. sec 41(5)	Not Guilty	Guilty	
	Seventh Charge A.A. sec 41(5)	Not Guilty	Guilty	
	Eighth Charge A.A. sec 40	Not Guilty	Guilty	
	See charge sheet attached.		TO BE REDUCED TO THE RANKS; AND TO UNDERGO DETENTION FOR ONE (1) YEAR.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.M. Nelson Brigadier (Signed) W.B. Bethell Major

Commanding Cdn Reinforcement Units.
Convening Officer (*e*) *President.*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

B-26272 Sgt. Lawton, G.F. C.D.B.

342E

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 8th day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*[illegible]:—

*(1. [illegible]

*(2. [illegible]

*(3. [illegible])

[illegible]]

PROCEEDINGS REVIEWED.

Gen Strahan Sgt Reviewing Officer (D.O.S.) 8 Mar 42 9 Feb 42

President.

Rank.	Name.	Regiment.
Major	W.E. Bethell	No.1 Cdn Gen Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	J. Brown	2 Cdn Div Inf Reinf Unit
Lieutenant	G.H. Hall	No.1 Cdn Sigs Reinf Unit
Lieutenant	N. Gill	2 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

3422.
Lgt Lawton, P.O.

O. H. M. S.

M. F. B. 270
1000 M 12-40 (8668-49-70)
H.Q. 1772-80-47

LIST OF WITNESSES

In the case of B-44984 Gnr. Ronald LAWSON.

(For the Prosecution)

NONE

(For the Defence)

NONE

LIST OF EXHIBITS

In the case of B-44984 Gnr. Ronald LAWSON.

(For the Prosecution)

"A" A certified true copy of a Declaration of a Court of Inquiry held, In the Field, 13 May 46, showing the accused absent from 0800 hrs 16 April. 1946.

"B" A certificate of Surrender, of the accused, at AMSTERDAM, Holland, at 2300 hrs 25 May 1946.

(For the Defence)

NONE

CERTIFICATE OF ACCUSED

I, B-44984 Gnr. LAWSON, R. hereby acknowledge that I have received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein.

I also request that an Officer be appointed to act as my Defending Officer at my forthcoming Court-Martial.

R. Lawson
(R. LAWSON)

SUMMARY OF EVIDENCE

In the case of B-44984 Gnr. Ronald LAWSON, X-4 list, Royal Canadian Artillery/Light Anti-Aircraft, 2 Canadian Discipline Unit(North West Europe) a soldier of the Canadian Army Overseas:-

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

The following documents were laid before the Officer detailed to take the Summary of Evidence and marked as Exhibits "A" and "B" respectively, pertaining to the accused, and initialled by him for the purpose of identification:-

"A" A certified true copy of a Declaration of a Court of Inquiry held In the Field 13 May 46, showing the accused absent from 0800 hrs 16 Apr 46.

"B" A certificate of Surrender, of the accused, at AMSTERDAM, Holland, at 2300 hrs 25 May 1946.

The accused does not question the documents.

(R.J. Kerfoot)Capt.
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make a statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

Certified that all the provisions of R.P. 4 (c)(d)(e) and (f) have been complied with. Taken by me in the presence and hearing of the accused this 4 day of June 1946, in the Field.

(R.J. Kerfoot)Capt.
Officer detailed to take
Summary of Evidence.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 May 45	Gnr.		AWL 26 days 15 hrs 15 Minutes AA Sec 15(1)	Documentary	28 days Detn	6 Jul 45	Lt/Col VSJ Richmond	FORFTS: (a) 27 days pay FR&I 149(1) 15 days pay FR&I 149(1)(ii) 28 days pay FR&I 149(1)(b)

Released from the 1 Cdn Detn & F.P. Bks on 29 Jul 1945 Sentence Having Expired Remission earned under "Rules for Detention Barracks and Military Prisons" 4 days COMMANDANTS initials.....

CERTIFIED TRUE ENTRY
(Signed) MA Cooke, Capt.
Adjt., 1 Cdn Discipline Centre

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION

(R.J. KERFOOT) Capt.
Camp Commandant
2 Cdn Discipline Unit (NWE)

Exhibit B Hack

B-44984 LAWSON: R.
No. Name

Sqn, Battery, or Company

Corps RCA.-LAA

Date of enlistment 10 Nov 42

GC Badges

Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40/FR&I/15M (5413)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Completed six months service.					
Petawawa	22 Jun 43	Gnr.		AA Sec 15(1) AWL from 0600 hrs 22 Jun 43 to 1900 hrs 28 Jun 43 (Absent 6 days 8 hrs)	BSM Byford,E. L/Bdr.Muir,J.	7 days C.B.	29 Jun 43	Major GA Walker	7 days pay FR&I 149-1-a
Field	1 Sep 43	Gnr.		AA Sec 15(1) AWL from 2200 hrs 1 Sep 43 until 0700 hrs 2 Sep 43. (Absent 9 hrs.	Bdr.Galsworthy, A. Bdr. Donnelly,	Admonished	2 Sep 43	C.E. de Pencier Lt-Col. RCA	Auto forf 1 days pay FR&I 149(1)(a)
Field	29 Jan 45	Gnr.		AA Sec 15(1) AWL from 0900 hrs. 29 Jan 45 until 1600 hrs, 29 Jan 45.(Absent 7 hrs.	Sgt. Fletcher D.M.-Sgt. Franklin, H.R.	7 days C.B.	31 Jan 45	L.E. Baker Major	forf 1 days pay FR&I 149 (1)(a)

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of June 1946

(R.J. KERFOOT) Capt.
Camp Commandant
2 Cdn Discipline Unit (MTE)

Exhibit A
Hack

In Lieu of Army Form B.206(War).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

NUMBER RANK NAME REGIMENT (or as the case may be)

B-44988 .. Gnr.. LAWSON, R..... 2 Cdn. Discipline Unit. (MWE).

1. The following is a fair and true summary of the entries in the Field Conduct sheet of the accused, exclusive of convictions by a Court Martial or a civil court:-

For ..... AA Sec. 15(1).... .....four... Times

For .... Times

For .... Times

For .... Times

Date of first entry in Field Conduct Sheet ....22 June 43.....

Date of last entry in Field Conduct Sheet ....6 July 45.....

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, promotion being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recorded special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

2. [redacted]

3. [redacted]

4. ....0.....days in civil custody, and for .....27.....days in military custody, and for .....0.....days in open arrest, ...28.....days in close arrest; of which .....0.....days were spent in hospital.

5. The present age of the accused is .....23 yrs.....

6. The date of his [redacted] 10 Nov 42....

7. The service which the accused is alleged to have is .....

8. The accused is in possession of:-1939-45 star, Italy star, Fr&Ger. Star, Def. Star, CVSM& Clasp.

(State the military decorations (if any) held by the accused.)

9. [redacted]

INSTRUCTION.-- If any part (or any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Exhibit "B"

Exhibit 2
Hack

CERTIFICATE OF SURRENDER UNDER ARMY ACT SECTION 16(1)(d)

I, Lieut W. M. Arnett (Rank & Name) certify that No D44984

Rank Gnr Name Lawson R of 3 Cdn Transit Camp (Unit)

surrendered himself to No L55219 Rank L/Cpl Name Monkton-Hicks.I.R.

of 10 Cdn Pro Detach HQ CFN (Unit) at Amsterdam Holland (Place)

at 2300 hrs on 25 May 46 (Date) ~~xxxxxxxxxxxxxx~~ absentee without leave)

He was dressed in uniform/~~xxxxxxxxxxxx~~

W.M.Arnett Lieut
(Signature)
Officer Commanding
10 Cdn Provost Detach HQ CFN
(Unit)

Date 27 May 46

NOTES

1. If the surrender was made to an OR, this certificate must be signed personally by his CO.
2. If the surrender was made to an officer, this certificate must be signed either by his CO or that officer.
3. In no circumstances may it be signed by one officer "for" another, or by anyone who does not hold commissioned rank.
4. In no circumstances should place of surrender be described as "In the Field" The actual place of surrender should be stated, or if difficulty is experienced describing the place, the map reference should be given

Exhibit 3
Hack

Hierdoor deel ik U mede, dat uit het huis, ~~vaartuig,~~ bewoond

door Eva Baars Larossen

gelegen 1e Oosterpark straat ~~gracht~~ No. 111 ~~huis,~~ boven,

de ~~het~~ Ophtherie is ~~zijn~~ geweken.

De Geneeskundige,

[signature]

(Datum) [illegible]

S.G.D. No. 1
Plaatsmaker, Amsterdam
1925-3-44-5000

3 CANADIAN TRANSIT CAMP CFN

13 May 46

B 44984 GNR LAWSON, R

Herewith list of kit deficiencies of m/n Soldier.

	QUANTITY	PRICE
Anklets, web, prs	1	0.99
Battledress blouses	2	13.00
Battledress trousers	2	13.10
Beret, khaki	1	1.20
Boots, ankle, w/laces	2	11.64
Drawers, cellular, short, prs	2	0.86
Drawers, wollen, prs	2	2.80
Gloves, knitted, drab, prs	1	0.47
Greatcoat	1	11.31
Jersey Pullover	1	1.79
Shirts, flannel, khaki, w/collar	2	4.06
Shirts, wollen	2	2.40
Shoes, Canvas, prs	1	2.29
Socks, Worsted, prs	4	1.84
Ties, black	1	0.19
Badges, shoulder, prs	3	0.09
Bags, kit	1	1.02
Braces, prs	1	0.32
Brasses, cleaning	1	0.04
Brushes, button, brass	1	0.26
Brushes, Hair	1.	0.34
Brushes, shaving	1	0.37
Brushes, Shoe Polishing	1	0.28
Brushes, Tooth	1	0.11
Caps, comforter	1	0.34
Combs, hair	1	0.04
Dressing, first Field	1	0.24
Discs, red and green, w/cord	1	0.02
Forks, NS Table small	1	0.07
Holdalls	1	0.19
Housewives	1	0.17
Knives, clasp w/lanyard	1	0.88
Knives, table	1	0.15
Patches, distinguishing	3	0.09
Razors, safety, w/blade	1	0.06
Spoons, NS Dessert	1	0.09
Towels hand	2	0.68
Vests, cotton, gym	2	0.82
Badges, cap	1	0.09
Attachment brace	2	0.34
Belts, waist	1	0.65
Bottles, water	1.	0.82
Haversack	1	1.79
Packs, W.E.	1.	1.84
Straps, shoulder H'sack L & R	2	0.64
Tins, Mess rectangular sets	1	0.32
Mugs, drinking, enamel	1	0.17
Capes, anti-gas	1.	2.76
Blanket, 1098	1	3.07
	TOTAL	$87.10
Less 25% for Deprec		21.78
TOTAL CHARGE		65.32

Exhibit 1 Exhibit "A"
HacR

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 13th day of May 1946, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 44984 Gnr LAWSON, R.

DECLARATION

The Court declare that No. B-44984 Gnr LAWSON, R
P.E. 3 Canadian Transit Camp CFN
illegally absented himself without leave 0800 hrs
at In the Field on the 16th day of April 1946
that he is still so absent, and that on the 13 May 46 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
AS PER ATTACHED LIST:			

R.P. Stewart, Capt President

Signed at In the Field W.D. Callaghan, Lieut Member

this 13th day of May 1946 Member

Signature of Commanding Officer (A.S. Todd) (MC) Major

Certified true copy (R.J. Kerfoot) Capt
2 Cdn Discipline Unit

Signature of Officer having custody of original record

N.F.B. 373
A.F.B. 133
2SM—6-41 (750)
H.Q. 1772-38-237

Had

PLEA OF MITIGATION:

I would respectfully point out to the Court that Gnr Lawsons record in the Army is generally good. He has seen his share of action with a Field Regiment, and he has proven himself a man of more than considerable responsibility by the fact that he operated a large club, handling men, money and rations in a manner more than satisfactory to his C.O.

Being a responsible man, his absence comes naturally in the course of events. He was obliged to choose between being absent from the Army and, being absent from the moral and legal responsibility of a financially poor and a critically ill wife. He was not prompted by the desire for a prolonged drunk, promiscuous living, or for engaging himself in Black Market activities, or any of those other elements that characterize so many illegal absences. He was a worried young man with the new responsibility of a bride who, at the time of the commencement of the AWL was in a state of collapse. It is of further interest to his case to notice that just as soon as he has assured himself that his wife was satisfactorily on the mend and that he had provided for her financial welfare, he surrendered himself to recognized authority. What type of man could leave a wife when she was in such a condition, and what kind of man would have left before he did.

I would further point out that Gnr Lawson was morally obliged to remain inside the house until such time as the Quarantine was lifted. Had he left the house prior to 16 May, he would have been guilty of an offence against Dutch Law, or for that matter, any country's law. He would therefore, have committed an offence far more grievious than that of illegal absence from the Army.

I therefore contend that his absence actually commenced on 17 May and finished on 25 May, a total of eight days and that whatever punishment the court decides to award, should be based upon that, coupled with the fact that he has been in close custody for a period of 20 days(13 June)

31 days.

B 44984 Gmr. Lawson R. 2. Hack

The doctor came on May 16 and ordered my wife to remain in bed to make sure the serums and drugs had no after effects. On 22 May I went to Den Haag where I assigned $30 from my pay and drew 70 guilders for my immediate needs. After seeing that my wife would not need me any longer I surrendered myself to 10 Provost Coy on 25 May.

Between 14 Apr and 16 May I looked after my wife and remained in the home. I was not drinking or visiting night clubs or out with other women.

No CROSS EXAMINATION.

Examined By Court During the time the house was in quarantine I was living there and so far as the civilian medical authorities were concerned I was in quarantine with the rest of the family. I did not do anything with regard to notifying the Canadian authorities. I had been taken off draft to go on pass.

The house was put under quarantine between the 1st and 5th of April. It was before I went there.

R.P. 83(6) complied with.

Hack

B 44984 Gnr. Ronald Lawson (RCA/-AA) 2 Cdn
Discipline Unit (NWE) having been duly sworn states:

I am B44984 Gnr Lawson R. I am 23 years of age. I enlisted 10 Nov 42 in the Army. I went to England in June 43. In Sept. 43 I went to North Africa on a special observation course with British Second Army in self propelled gun training. In January I went to Italy. I was in action with 1st and 7th Anti Tank Regs until they disbanded & came to NWE. I also had action in NWE to conclusion of the war. My Regt. was disbanded & I went to 3 A/T where I was manager of the 3 A/T O.R's club. employing 32 Civilians and 4 Canadian soldiers. I handled all the money. I was never criticized for my work. I received papers from the Col. and s/c for the work I had done. I had expted to remain on the Continent for six months from November 45th I went to 3 Transit Camp and was employed as an R.P.,
In March of this year they asked for volunteers for additional service on the Continent and ~~was~~ as far as I know I was accepted. I wished to remain on the Continent to marry a girl I met nine months ago. On 4 Apr 46 I received notice for repatriation to Canada. I obtained a pass ~~to the~~ from the 6th to the 16th of April to go to Amsterdam to marry my fiancée. I was married on April 11. My wife was undergoing treatment for diphtheria and on 14 Apr she collapsed. Conditions in my wife's home were poor. She is 18 years old and is the sole support of her mother (widowed), sister in confinement and two younger sisters. This paper is a document received from the Health Officer authorizing the lifting of the quarantine on my wife's home on May 16, 1946. [Admitted as Exhibit 3]

Hack

The prosecuting officer produces as Exhibit 1 declaration of Court of Inquiry dated 13 May 46 and declaring the accused to have been illegally absent without leave from 0800 hrs 16 Apr 46. and as Exhibit 2 Certificate of Surrender Under Army Reg Section 163(i)(j) and declaring also accused to have to have surrendered himself ~~to at~~ 2300 hrs 25 May 46.

Prosecution closes.

DICAL OFFICERS CERTIFICATE

(RR(Can) Para 357)
(CRMC GL 17%) Hack

I certify that I have this day examined B-44984 (No.)

GNR. LAWSON R. (Rank) (Name) and in my opinion he is

fit to under go trial by Court-Martial.

Station 2 Cdn Discipline Unit (NWE)

Date 24 Jun 46

[signature] (Unit)
Medical Officer

(Unit) 107 A. C.

Hack

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-44984	Gnr.		Ronald	LAWSON(X-4 list RCA-LAA)	2 Cdn Discip line Unit (NWE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Jun 46 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ". Ecln

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ Ecln

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. Ecln

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Ecln

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Ecln

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	H.A.C. ROSE	CIC/2 Cdn Discipline Unit (NWE)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT.	F.M. PRITCHARD	RCAPC/2 Cdn Discipline Unit(NWE)
CAPT.	J.C.P. HARDY	CIC/2 Cdn Discip line Unit (NWE)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

E.L. Griffith-Williams

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 22 Jun 46

(E.L.G. GRIFFITH-WILLIAMS)CBE,DSO,MC.
~~Commanding~~ Comdr. 20 L.of C. Sub-Area.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for outlts and notes for use on trial.)

Hack

CHARGE SHEET

The accused, B-44984 Gnr. Ronald LAWSON, X-4 list, Royal Canadian Artillery/Light Anti-Aircraft, 2 Canadian Discipline Unit (North West Europe), a soldier of the Canadian Army Overseas, is charged with:-

Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, at 0800 hrs 16 April 1946 absented himself without leave until he surrendered himself, at AMSTERDAM, Holland, at 2300 hrs 25 May 1946.
(Absent 39 days 15 hrs)

Colin Foster Lt-Col

IN THE FIELD
20 June 1946

(Colin FOSTER)Lt-Col.
Officer Commanding
2 Cdn Discipline Unit(NWE)

TO BE TRIED BY FIELD GENERAL COURT/MARTIAL.

E L G Griffith-Williams

IN THE FIELD
22 June 1946

(E.L.G. GRIFFITH-WILLIAMS)CBE,DSO,MC.
Brigadier
Commander
20 L.of C. Sub-Area.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans No[5]
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *and* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by ~~using Record Form E on p 3~~.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP* 37(*A*) (*C*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence as the Court relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No wish[1]
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~his~~ (no) opening address.[1]
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s)[2]. The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s)[4].~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I wish to give evidence myself. ~~Do you intend to call witnesses on your behalf? Ans / Are they witnessed as to character only? Ans~~
(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42. *(Notes).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is ~~are~~ recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.[1]
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~
(*1. AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans No wish
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service[1], and certified true copy (~~copies~~) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier ~~having~~ the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.[3]
(*1. MFB* 353 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans Yes through my defending officer[2]
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to retract on oath anything here or previously stated which would affect the amount of punishment. RP* 38(*1*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 5*a*3-5*a*6. *Overseas* 40 309, 2303, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.44984 Gnr Ronald Lawson (x-4 list-RCA-2 Cdn Dist Unit (NWE))

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(c) AA	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ ~~beginning on~~ Hack (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) day

(Sgd) ..... Judge-Advocate, if any. 24 Jun 46 Date awarded. (Sgd) Hack Rose Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(2), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm

Hack Sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding Officer.

Date 24th June 46

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B.44984 Gnr Ronald LAWSON	24 June 1946	A.H.A. Rose Capt. 2 Cdn Dist Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 180 CAS-1-22

RECEIVED JUL 8 1946 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AF A31) 40/P & S/1898 (R14) 4/38B

Convened by Order of Brig E.C.J. Griffith-Williams, CBE, DSO, ADC Comd 20 Ldn Dist dated 22 Jun 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appt.	Full Christian Names.	Surname.	Unit.
B.44984	Gnr	RONALD	LAWSON	x-4 list-RCA 2 Cdn Dist Unit (NWE)

PROCEEDINGS REVIEWED

3 Jul 46 C.H. Tait, Maj

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 24 Jun 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(d). Delete, if not applicable.)

A5. ~~President to accused: Do you object to an interpreter?~~ Ans ~~The Interpreter is sworn.~~ (1) ~~Do you object to a shorthand writer?~~ Ans ~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.A.C. Rose	RE	2 Cdn Dist Unit (NWE)
Member	Captain	F.W. Pritchard	RCAPC	2 Cdn Dist Unit (NWE)
Member	Captain	J.C.P. Hardy	RE	2 Cdn Dist Unit (NWE)
Judge-Advocate				
Prosecutor	Captain	R.J. Herbst	CDC	2 Cdn Dist Unit (NWE)
Defending Offr	Captain	F.V. Carter	RCASC	2 Cdn Dist Unit (NWE)

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 2.)

A8. The accused B.44984 Gnr. Ronald Lawson before arraignment make(s) (no) ~~the~~ plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (OE), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused ~~is~~ arraigned (severally) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.



H.O. 1773-39-1377

THE CASE OF B76378 Pte Marshall LAWSON

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract from No 1 Cdn Reception Depot Part II Order No 182 dated 25 Jul 45 concerning the absence without leave of B76378 Pte Lawson M.
(Marked Exhibit "A")

(b) Certificate in accordance with PC 2797 of 10 Apr 42 dated at London 31 Dec 45 concerning the arrest of B76378 Pte Lawson M.
(Marked Exhibit "B")

(c) Expense Voucher dated 30 Dec 45 concerning expenses incurred in returning B76378 Pte Lawson M. to his Unit.
(Marked Exhibit "C")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

C.M. Lawson
(B76378 Pte Lawson M.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

Signed in the Field C.M. Lawson
(B76378 Pte Lawson M.)

this 2. day of Jan 46

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B76378 Rank Pte Name LAWSON M of No 1 CdnRepat ~~Regiment~~ CEE (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	27 Aug 42	AA Sec 15 (1) AWL	80 days detn £3-2-6 stoppage	26 days remission
FGCM	22 Apr 43	AA Sec 15 (1) AWL	150 days detn	50 days remission
FGCM	5 Oct 43	AA Sec 15 (1) AWL	45 days detn	15 days remission

CEE

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~28~~ 13 day of ~~January~~ FEB 46

C. E. Ennis, Lieut., RCA
Regal Officer
4 Wing 1 Cdn Repat Depot

~~43. The accused has served as a non-commissioned officer continuously, without reduction, to the present date~~ CEE

Date of Promotion

In the rank of CEE years

In the rank of CEE years

~~In the rank of~~ CEE years

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B76378 Rank Pte Name LAWSON M of No 1 CdnRepat ~~Regiment~~ CEE (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	27 Aug 42	AA Sec 15 (1) AWL	80 days detn £3-2-6 stoppage	26 days remission
FGCM	22 Apr 43	AA Sec 15 (1) AWL	150 days detn	50 days remission
FGCM	5 Oct 43	AA Sec 15 (1) AWL	45 days detn	15 days remission

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Signed this ~~28~~ 13 day of ~~January~~ FEB 46

C. E. Ennis, Lieut, RCA
Royal Officer
4 Wing 1 Cdn Repat Depot

~~43. The accused has served as a non-commissioned officer continuously, without reduction, to the present date~~ CEE

Date of Promotion.

In the rank of CEE years.

In the rank of CEE years.

~~In the rank of~~ CEE years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Exhibit "B" /
C.E.C.

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B76378	Pte	LAWSON M	No 1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

~~Within last 12 months~~ C.E.C. * Since Enlistment.

For AA 15 (1) AWL	times	16	times
For AA 19	times	1	times
~~For~~ C.E.C.	times		~~times~~ C.E.C.
~~For~~ C.E.C.	times		~~times~~ C.E.C.
~~For~~ C.E.C.	times		~~times~~ C.E.C.

~~Number of instances of gallantry or distinguished conduct~~ C.E.C.

or

~~There are no entries in the conduct sheets of the accused~~ C.E.C.

2. ~~The accused has not been previously convicted, or~~ C.E.C.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ C.E.C.

~~beginning on the day of~~ C.E.C.

4. The accused has been in confinement, awaiting trial on the present charges, for ~~0~~ nil ~~45~~ days in civil custody, and ~~29~~ 45 days in military custody, making a total of ~~29~~ 45 days, of which 6 days were spent in hospital.

5. The present age of the accused according to his record of service is 33 yrs ~~attestation paper~~ C.E.C.

6. The date of his ~~commission~~ C.E.C. attestation specified in his record of service is 24 Nov 39 ~~attestation paper~~ C.E.C.

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ C.E.C.

8. ~~The accused is entitled to deferred pay or gratuity in respect of service~~ C.E.C.

9. ~~The accused is entitled to reckon service for the purpose of determining his pension, as~~ C.E.C.

10. The accused ~~is in possession of, or entitled to, no military decoration or military award (or~~ C.E.C. is in possession of or entitled to (*state any military decoration or reward*) CVSM & Clasp 24/45, ITALY STAR, DEFENCE

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer (or held the regimental rank of~~ C.E.C.

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated~~ C.E.C. ~~and in his regiment (or corps or department) the rank of dated~~ C.E.C.

W.S.7783/3339 20M. 1/44. P. Ltd. 773-3.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15 (1) AWL - AA 19		28 days F.P. 28 d.p. forf	30 Mar 44		
Field		Pte		AA Sec 15 (1) AWL		14 days F.P. 23 d.p. forf	27 Jun 44		
Field		Pte		AA Sec 15 (1) AWL		1 d.p. forf	30 Jul 44		

CERTIFIED TRUE EXTRACTS FROM ORIGINAL DOCUMENTS (WFM 2) HELD IN MY POSSESSION

(D.C. Bignell) Capt RCA
Records Officer
CMHQ Records

4 Jan 46

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENTS

No. B-76378 Name LAWSON Marshall | Sqn, Battery, or Company | Corps CIC | Date of enlistment 24 Nov 39 | QC Badges | Service or Proficiency Pay 3/17 MFM 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | (AFB 122) 40/P&S/136 (7010) Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15 (1) AWL		7 days C.B. 3 d.p. forf	22 Jan 43		
Field		Pte		AA Sec 15 (1) AWL Granted 50 days remission of sentence and pay		150 days detn 178 d.p. forf	22 Apr 43	FGCM	
Field		Pte		AA Sec 15 (1) AWL		7 days C.B. 4 d.p. forf	6 Aug 43		
Field		Pte		AA Sec 15 (1) AWL		8 d.p. forf	24 Aug 43		
Field		Pte		AA Sec 15 (1) AWL Granted 15 days remission of pay		45 days detn 61 d.p. forf	5 Oct 43	FGCM	65 d.p. total forfeiture

(P19

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15 (1) AWL		7 days C.B. and 28 days detn 12 d.p. forf	31 Mar 41		28 d.p. forf 40 d.p. total
Field		Pte		AA Sec 15 (1) AWL		10 d.p. forf	5 Dec 41		
Field		Pte		AA Sec 15 (1) AWL Sentence commuted to 24 days detention		28 days detn 15 d.p. forf	20 Jan 42		28 d.p. forf 45 d.p. total forf
Field		Pte		AA SEc 15 (1) AWL		28 days detn 8 d.p. forf pay	6 May 42		28 d.p. forf 36 d.p. total forf
Field		Pte		AA Sec 15 (1) AWL Granted remission of 26 days and pay		80 days detn £3-2-6 stopp	27 Aug 42	FGCM	111 d.p. total forfeiture
Field		Pte		AA Sec 15 (1) AWL		21 days F.P. 29 d.p. forf	4 Jan 43		

No. B-76378 Name **LAWSON Marshall** | Sqn, Battery, or Company | Corps **CIC** | Date of enlistment 24 Nov 39 | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7918)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15 (1) AWL (Admonished)		1 d.p. forf	5 Feb 40		
Field		Pte		AA Sec 15 (1) AWL		7 days C.B. 5 d.p. forf	6 Mar 40		
Field		Pte		AA Sec 15 (1) AWL		14 days detn 1 d.p. stopp	30 May 40		14 d.p. forf 15 d.p. total
Field		Pte		AA Sec 15 (1) AWL Granted 9 days remission of sentence and pay		28 days detn 9 d.p. forf	23 Sep 40		28 d.p. forf 37 d.p. total
Field		Pte		AA Sec 15 (1) AWL		14 days detn 14 d.p. forf	22 Nov 40		

I would beg the court's leniency in regard of Lawson as he has spent considerable time as a prisoner, and has served his country well and faithfully.

Plea in mitigation Plea attached at E3

B76378 Pte Lawson M. Ed.

Enlisted 24 Nov 39

England 5 Dec 39 with Tor Scots.

Transferred to 48th Highlanders and went to Italy in Dec 43.

Lawson served with the 48th ~~[illegible]~~ until 19th Sept 1944 when he was taken prisoner on a daylight patrol.

He was at this time in the Scout Platoon which is perhaps the most dangerous job in Infantry.

He escaped from the PW cage on 15 April 45 and met the Americans. He was flown to England and TOS 1 CRD. He was given 14 days leave on the 23rd April until the 8th May 45. After that he was given a number of 48 hour passes, although from this time he was posted as A.W.L.

He was not repatriated as he has a business connection in this country and did not want to go to Canada. His wife and child are in this country.

CROSS-EXAMINED BY THE PROSECUTING OFFICER (CONT'D)

Q. You say you were there for a while and away you would go for a day or so, is that correct?
A. Yes, sir.

Q. In other words you were not there all the time?
A. I was there part of the time.

Q. In other words, you were AWL some of the time?
A. Yes, sir, but not all the time.

Q. Have you ever known men who were AWL to come in and see the Paymaster, fall in at the end of a pay parade and be paid?
A. No, sir.

Q. You did not do that by any chance?
A. No, sir.

Q. Some of the time you were there and some of the time you were not there, and some of the time that you were not there you did not have a pass. Is that right?
A. Yes, sir.

Q. What is the longest period you stayed away without a pass?
A. For five or six days, sir.

Q. How often were parades called in the morning from the period of May to August 1945?
A. There were no morning parades or afternoon parades.

Q. Were you the only one who went away for a day or two without a pass?
A. I don't know about that, sir.

QUESTIONED BY THE COURT

Q. You were living a pretty easy life during the months of May, June, July. In other words, you were there when you felt like it but when you did not feel like it you were not there.
A. Yes, sir.

Q. Then why did you suddenly go absent without leave on 15 August?
A. I just happened to get a little bit of money, so I went away.

Q. And you stayed away until the money was dissipated?
A. Yes, sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE COURT IS CLOSED

FIRST WITNESS FOR THE DEFENCE (CONT'D)

Q. Have you presented it for pay on other occasions?
A. Yes, sir, in May, June, July and August.

Q. Can you give us the dates?
A. 16th May, 13th June, 28th June, 16th July and 15th August.

THE PAY BOOK IS MARKED EXHIBIT 4 BY THE COURT.

Q. What happened when you presented the pay book?
A. When I presented the pay book, entries were made, the pay book was signed and I received the money stated in the pay book.

Q. What were you doing while you were in CRD?
A. I was waiting for a discharge. I had applied for discharge in this country and at that time I filled in a form for discharge in this country. I was told that I would be sent to CITR for fatigues until my discharge came through. We did a lot of moving around and I went from C[redacted] to Malplacquet and Tournay. They seemed to forget all about me.

Q. Did you attend any parades?
A. Yes, sir, on 12th May there was a parade for all the draft going home.

Q. Were you on that parade?
A. Yes, sir.

Q. Was your name called?
A. No, sir. It was just for the men going on draft and as I wasn't going they didn't call my name.

Q. Were there any other parades.
A. I paraded for the Red Cross. All the POWs were coming through there and nobody seemed to know what was going on.

Q. On these various moves, did you move with the company?
A. When we moved to Malplacquet I went to Malplacquet and drew blankets.

Q. How about your kit?
A. We were not given a full kit.

Q. The point I am trying to bring out is how did you move?
A. I reported to Malplacquet.

Q. Were there any further parades when you were in Malplacquet?
A. No, sir.

Q. You were just in the camp, nobody bothered you and you bothered nobody?
A. Yes, sir.

Q. And this continued throughout all the moves of CRD when they moved from one place to another?
A. The way it was they did not seem to miss me. I was away for a couple of days and back again, that is the way it was.

CROSS-EXAMINED BY THE PROSECUTING OFFICER

Q. You say you did not attend any regular parades?
A. No, sir.

Q. Were there any regular parades?
A. No, sir.

TRIAL OF

B.76378 Pte Marshall LAWSON, CIC, 4 (Gen Rft) Wing, 1 Cdn Repatriation Depot.

PROSECUTION

FIRST WITNESS FOR THE PROSECUTION

Lieut C.E. Ennis (the Prosecutor), 1 Cdn Repatriation Depot, sworn, states:-

I hereby produce a certified true extract of Part II Order No 182 issued by No 1 Canadian Reception Depot, which was published on 25 Jul 45 and which declares in the "Absent Without Leave" column:

"A.W.L. from 2359 hrs 8 May 45 STILL ABSENT 2359 hrs 30 May 45 (22nd day)

B-76378 PTE LAWSON M."

This extract is certified to be a true extract by Capt D.C. Bignell, Records Officer CMHQ Records, the officer having custody of the original document.

THE PART II ORDER EXTRACT IS MARKED EXHIBIT 1 BY THE COURT.

I also produce a Certificate in accordance with P.C. 2797 of 10 Apr 42, which shows that the accused was arrested at 0115 hrs on 30 Dec 45.

THE CERTIFICATE IS MARKED EXHIBIT 2 BY THE COURT

I also produce certificate of cost of apprehension, form CMHQ 100:55, in relation to the accused.

THE CERTIFICATE IS MARKED EXHIBIT 3 BY THE COURT

The prosecution rests on the prima facie case which has been established by the Part II Order indicating the commencement of AWL and upon the certificate of apprehension which indicates the conclusion of the AWL. The prosecution does not intend to go beyond the establishing of a prima facie case.

THE PROSECUTION IS CLOSED

DEFENCE

THE DEFENDING OFFICER ADDRESSES THE COURT

The defence wishes to bring forward that Lawson was not AWL until 15 Aug 45 and that during the period between 8 May 45 and 15 Aug 45 he was present at 1 CRD and from there on he was absent. I wish to bring forward this document which is a pay book signed by competent authorities, which shows that at various times during that period Lawson was paid as a member of 1 CRD.

FIRST WITNESS FOR THE DEFENCE

B.76378 Pte Lawson, M., (the accused), CIC, 4 (Gen Rft) Wing, 1 Cdn Repatriation Depot, sworn, states:-

Q. I have just handed you a book, what is it?
A. My pay book.

Q. When did you last produce that document to a Paymaster?
A. On 15 Aug 45 at Tournay Barracks.

Expense Voucher Re-

Ref: KR & O (Can) 539

Exhibit 3

Reg No B 76378 Rank Pte Name Lawson M. Unit 1 C.G.R.U. Can

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit from~~ London from Brighton

Date	Particulars	Amount		
30 Dec 45	Escorts return fare from LONDON To Brighton		7	11
	Prisoners single fare to LONDON From Brighton.		4	
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

K K Lawson Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-35
40/P & S. 483 (6782)

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

Exhibit "B"

I CERTIFY THAT NO. B-76378 Rank Cte, Name Lawson, M.

Unit No. 1 Cdn. Recept. Depot Was arrested at Brighton (place)

At 0115 (Hour) on 30-Dec.45. (Date) and that at the time of his arrest he was wearing (Military uniform or [illegible]). Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of H is Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

(R.W.G. Willimont) CAPT.
[illegible]
No. 6 (Area) Cdn. Provost Coy.

Lon 6on
31-Dec.45.

Exhibit "A"
Exhibit 1
CEW

Last Order
No. 181
25 Jul 45

NO 1 CANADIAN RECEPTION DEPOT
PART II ORDERS
ISSUED BY
LT-COL R.H.F. BACK E.D. (RCAC)

This Order
No. 182
25 Jul 45

: : : : :::: :

OTHER RANKS SECTION "B"

7. ABSENT WITHOUT LEAVE

. A.W.L. from 2359 hrs 8 May 45 STILL ABSENT 2359 hrs 30 May 45 (22nd day)

B-76378 PTE LAWSON M.

"A.W. Kahn Capt"
for (Ronald H. BACK) Lt Col
Officer Commanding
No 1 Cdn Reception Depot

Certified true extract from original document held in my possession

D.C. Bignell
(D.C. Bignell) Capt RCA
Records Officer
CMHQ Records
Officer having custody of original document

SUMMARY OF EVIDENCE

in the case of,

B76378 Pte Marshall LAWSON, CIC, on the strength of No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Extract from No 1 Canadian Reception Depot Part II Order No 182 dated 25 Jul 45, which declares in Section "B", para 7, that B76378 Pte Lawson M. absented himself without leave from 2359 hrs 8 May 45.
(Marked Exhibit "A")

(2) Certificate in accordance with PC 2797 of 10 Apr 42 which is dated at London 31 Dec 45 and signed by Capt R.W.G. Willimont, No 6 (Area) Provost Coy., Cdn Provost Corps, which declares that B76378 Pte Lawson M. was arrested in Brighton at 0115 hrs 30 Dec 45.
(Marked Exhibit "B")

(3) Expense Voucher (Ref: KR&O (Can) 539), dated 30 Dec 45, and signed by the Officer Issuing Railway Warrant and Expense monies, No 6 Area Provost Coy., Cdn Provost Corps, which declares that expenses were incurred in returning B76378 Pte Lawson M. to London from Brighton in the amount of £0-11-11.
(Marked Exhibit "C")

J.P. Hodgins Capt
.....
(J.P.Hodgins) Capt
Officer detailed to take
the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

J.P. Hodgins Capt
.....
(J.P.Hodgins) Capt
Officer detailed to take
the Summary of Evidence

Field,

9 Jan 46

Otb

NO. 3 CDN MIL PRIS & DETN BKS (A)
DISCIP. CENTRE - ALTON

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY THAT THIS DATE I MEDICALLY EXAMINED R 76378 Lawson. W.

AND THAT HE IS FIT TO UNDERGO TRIAL BY COURT MARTIAL

SIGNED AT ALTON

THIS 13 Feb/46.

J.J. Donahoe Capt.
(J.J. Donahoe) Capt. R.C.A.M.C.
Medical Officer
Discip. Centre - Alton
3 Cdn Mil Pris & Detn Bks

Pres.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 76378	Pte		Marshall	LAWSON	CIC, 4 (Gen Rft) Wing, 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~been~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 12 Feb 46 endorsed by me, (~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Lt Col	C.E. Woodrow (Must be named. RP 106.)	HQ CRU

MEMBERS.

Rank.	Name	Unit.
Capt	to be detailed from	1 Cdn Repat D
Lieut	to be detailed from (Named or detailed. RP 106.)	1 Cdn Repat D

~~WAITING MEMBER.~~

Rank.	Name	Unit.
	(Named or detailed, if any. RP 106.)	

~~[illegible]~~

Rank.	Name	Unit.
	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in England (Country.)

K Blackader (Signed personally. RP 105 fn 2.)

(K.G. Blackader)

Brigadier (Rank.)

Dat 12 February, 1946

Commanding Canadian Repatriation Units

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The Accused, B76378 Pte Marshall LAWSON, CIC, on the strength of No 4 (Gen Rft) Wing, No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hrs 8 May 45, until apprehended by the Canadian Provost Corps in Brighton at 0115 hrs 30 Dec 45, thereby incurring expenses in returning him to his Unit in the amount of £0-11-11.

Absent: 235 days, 1 hr, 16 mins.

for B.K. Gordon Lt.

Commanding Officer
No 1 Cdn Repat Depot
(Lorne Scots)
Canadian Army Overseas

Field,

..5..Feb 46

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
12 FEBRUARY, 1946

K.G. Blackader

(K.G.Blackader) Brigadier
Commander
Canadian Repatriation Units

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B), fn 3, para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (any) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) Evidence attached.
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans GIVE EVIDENCE SIR.

Ans NO SIR. ~~Are they witnesses as to character only?~~ Ans ~~.....~~ Evidence attached. Do you intend to call witnesses on your behalf?
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s) of the Schedule.(1) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Defending Officer's plea in mitigation attached
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 544.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.76378 Pte Marshall LAWSON

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 95 days, of which 6 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one (1) year and to be put under stoppages of pay at the amount of 11/11 cost of return to his unit.

(Sgd) Judge-Advocate, if any. 13 FEB 46 Date awarded. (Sgd) C.E. Woodrow President. (RP 45, 50.) 11.00.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 15 Feb 46 (Sgd) N.W. Blackader Brig (K.G. BLACKADER) BRIG COMD CRU Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B76378 Pte M Lawson	18 Feb 46	E.A. Wood Lt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 34-139

CF A96 (In lieu of AF A31) 40-P & S-1698 (40-1)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig K.G. Blackader CBE DSO MC ED Comd CRU dated 12 Feb 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.76378	Pte	Marshall	LAWSON	CIC 4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED
4 Mar 46 C.H. Tait, Maj.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 13 Feb 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as Interpreter? Ans~~ ~~The Interpreter is sworn.~~(1) Do you object to E100409 Sgt O'Neill as Shorthand writer? Ans No SIR The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 22, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. Woodrow ODE ED	HQ, CRU
Member	Capt	E.H LOVE	1 Cdn Repat Dep
Member	Lieut	J.D. ROSE	1 Cdn Repat Dep
~~Judge-Advocate~~			
Prosecutor	LIEUT	C.E. ENNIS	1 CDN REPAT DEP
Defending Offr	LIEUT	A.J. MacDONALD	1 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) ~~a~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5Y-137 Pb. Lawson, Th.



COUNTER NUMBER 17054

HOUR 1205

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR JR

COUNTER NUMBER 77054

HOUR 1205

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR JR

3. The accused is not under sentence at the present time,

[illegible]

4. The accused has been in confinement, awaiting trial on the present charges for No days in Civil Custody,

and 3 days in Military Custody,

Total 3 days.

Of which No days were spent in hospital.

5. The present age of the accused according to his [illegible] is 29 yrs., 8 mths, & 23 dys.

6. The date of his [illegible] attestation specified in his [illegible] attestation paper is 24 Nov., 1939

7. [illegible]

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 8 mos years' service.

9. The accused is entitled to reckon2 yrs.8 moyears' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [illegible]

11. [illegible]

12. [illegible]

13. [illegible]

			Date of Promotion
In the rank of	N/A	years,	
In the rank of	N/A	years,	
In the rank of	N/A	years,	

(Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-76378 Pte. Lawson, Marshall of the (Tor Scot. M.G.) C.T.S.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Nil	Nil	Nil		

(Continued overleaf.

"D" F Fehlmour Major Pres

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B.76378 Pte. Lawson, Ma rshall, of the Toronto Scottish Regiment (M.G.), posted to the Cdn. Trng. School.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Sec. 15 (1) A.A.	3 times	9 times.
For Sec. 10 A.A.	0 times	1 times.
For Sec 11 A.A.	0 times	1 times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N I L

xx

~~There are no entries in the Conduct sheets of the accused.~~

2. ~~[illegible]~~

xx

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. [illegible] W. S. Ltd. [illegible]

Description of Court by which tried, or stated, of Officer dispensing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charge upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of August 1942

Wm Murray Lieut

A/Adjt. Cdn. Training School.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon, Ha nts	12-4-41	Pte.		Sec.15(1)A.A. AWL from 2200-12-4-41. to 2359-16-4-41. Time absent 4 days 1 hour 59 minutes.	Sgt Barrett	d Days C.B.	17-4-41	Capt. J.G. Chapman	Forfeits 4 days pay under FR&I 149
Ewshot	28-11-41.	Pte.		Sec.15(1) A.A. AWL from 1330-28-11-41. to 0835 hrs 4-12-41.	Cpl.Yarich	Forfeiture of 5 days pay.	5-12-41.	Major D. Fletcher	Aut.Forf 6 days pay. FR&I.149(a)
Bordon	23/12/41	Pte.		A.W.L. from 0630 hrs 23/12/41 until 2355 hrs 23/12/41. Total Absence, 17 hrs,25mins.A.A.Sec.15(1)	Cpl O'Shea Cpl Maloney	7 dys. C.B.	24/12/41	Stuart Robertson, Major	
Bordon	5/1/42	Pte.		A.W.L. from 0630 hrs 5-1-42 until 0800 hrs 19-1-41. Total Absence 14 dys, 2 hrs, 30 mins. A.A. Sec.15(1)	Cpl Harris, F.H. Bdr Duley, H.A.	28 dys. det.	20-1-41	Lt.-Col. C.W.Devey	Forfs. 15 dys pay FR&I 149(a)
Bordon		Pte.		Sentence of 28 dys, Detn. awarded 20 Jan.42.,		commuted to 24 dys detn.	13/2/42	Lt.-Col. C.W.. Devey.	
Bordon	28-4-42	Pte.		A.A. Sec.15(1) 7 dys, 14 hrs, 40 mins	L/Cpl Vance	28 dys detn.	6-5-42	Lt-Col.C.W. Devey	Forfs. 8 dys pay

Certified True Copy

W.A.T. Murray
Lieut & Asst Adjt
C.F.B.

E.C. Peckham
Capt.& Adjutant

No. B76378 Name Lawson, M. Sqn., Battery, or Company "A" Corps Tor.Scot.R.(MG) Date of enlistment 24/11/39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 177) 175M—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet 2/3/40 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character G.M. Soper, Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	27/5/40	Pte.		Breaking out of barracks - W.W.L	Cpl Bachar, Sgt Benzies	J.L. 14 days det.	30/5/40	Lt.-Col. Thompson	
				Released from Det. Barracks on 12/6/40					
Chipstead	13/9/40	Pte.		Sec.10A.A. Broke out of Camp	Sgt Clark				
				" 15A.A. 8 days, 6½ hrs.	Pte Wilkes	28 dys. det.	23/9/40	Major Bolsby for C.O.	
Portslade	21/11/40	Pte.		" 11A.A. Fired M.G. against St.Orders	Cpl Bellis	14 dys. det.	22/11/40	Lt.-Col. Christie	
				Released from Det. Barracks on 11/10/40					
Aldershot	26/1/41	Pte.		Absent without Leave - Sec.15A.A.	Sgt Bacham	J. 14 dys CB	27/1/41	J.M. Rutherford, Capt.	
Aldershot	24/3/41	Pte.		Sec. 15 A.W.L. 6 days, 9 hrs.	Cpl Costello	28 dys det.	31/3/41	G.M.S.	Forfeits 7 dys pay

(P.T.O.)

To/
Commandant,
Canadian Training School

1. With reference to my pending trial by Field General Court Martial, I wish that an officer be assigned to act as my defending officer.

2. If Major J.T. Harper, P.P.C.L.I., is available, I wish that he be assigned for this purpose.

M. Lawson
(M. Lawson) Pte.

I hereby admit receipt of a copy of the Summary of Evidence and Charge Sheet in the case against me, at 0930 hours, 26 Aug., 1942, handed to me and explained by Lieut. W.A. Murray.

M. Lawson.
(M. Lawson) Pte.

24-8-42

B 76396 PTE Lawson. M.
reported in at guard room at 2345 hrs
24-8-42 properly dressed & sober.
as NCO. i/c of guard room and knowing he
had been AWOL for some time I placed him
under close arrest

Sgt Vance. W.

SUMMARY OF EVIDENCE "C" Gibbons major

in the case of B.76378 Pte. Lawson, Marshall, Toronto Scottish Regiment (M.G.), posted to the Canadian Training School, taken before Lieut. W.A. Murray, V.R.C., Assistant Adjutant, Canadian Training School, at Bordon, Hants.

25 Aug., 1942

Summary of Evidence taken on Oath by order of the Commandant.

1st Witness B.87823 L/Cpl. Ormandy, O.G., R.C.R., posted to the Canadian Training School, having been duly sworn, states:-

"Sir, at reveille on 27th July, 1942, on waking, I noticed Pte. Lawson's bed empty. On looking around barracks, he could not be found, and I reported him as absent from 0600 hours, 27th July, 1942."

Q.1 "When did you next see the accused?"

A.1 "This morning on Company orders, Sir."

The accused declines to question the witness.

O.G. Ormandy
(O.G. Ormandy) L/Cpl.

2nd Witness C.5479 L/Cpl. Vance, W.A., H. & P.E. Reg't., posted to the Canadian Training School, having been duly sworn, states:-

"I was guard commander last night, 24th Aug., 42., when Pte Lawson reported to me at the guard room at 0045 hours on morning of 25th Aug., 42. I made a written report of the fact (Exhibit "A") that Pte. Lawson had reported in properly dressed and sober, but made the mistake of putting down the time as 2345 hours, 24-8-42., rather than 0045 hours, 25-8-42. I placed him under close arrest in the guard room."

The accused declines to question the witness.

W.A. Vance.
(W.A. Vance) L/Cpl.

The accused was cautioned as follows:--

"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the accused declined to give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

W.A. Murray
(W.A. Murray) Lieut.

5

Cross examination continued. J Gilmour Sergt Pres

I was told I was only getting three days leave as I was going to be given a privileged leave commencing January 4/42 to bring my wife out of Hospital. I had been A.W.L. 17 hours on Dec 23rd. being the day I took my wife to hospital. My priv leave for Jany 4th was not granted. I asked Sgt Summers about it & he told me he had not had enough time to get it ready. So I then took 14 days A.W.L. I later applied for leave & was told that through being in detention I would have to wait three months plus the time I was in the Guard room plus the time I was absent. During the time I was A.W.L. on the charge now before the Court I was visiting my wife eleven days.

R.P. 83(b) complied with
The court is closed to consider sentence

4 J Gibson Major Pres

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT IN THE FIELD ON THE 27 DAY OF 1944

TRIAL OF:- No. B.76378 Pte MARSHALL, Unit TOR SCOTR/RLG)/C.T.S.
LAWSON

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lt. W.A. MURRAY (Unit) ~~R.~~ VICTORIA RIF/C.T.S.
Defending Officer (Name) Maj J.D. HARPER (Unit) PPCLI/C.T.S.
At 1000 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q.1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A.1 - No sir
The President, members ~~and Judge Advocate (if any)~~ are duly sworn.
The following constitute the Court:

President.....Unit. RCA.
Members.....Unit. 1 Pnl Coy. RCASC.
.....Unit. RCR/C.T.S.

The officers under instruction are duly sworn.
~~Q.2 Do you object to.....acting as Judge Advocate?~~
~~The Interpreter is duly sworn.~~
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B(is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
~~Court is cleared to consider the findings. Court re-opened.~~
Name F.W.A. Murray Unit R.H.L.I. C.I.C. sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination.
Above documents read, signed by President and attached to the proceedings.
Q.3 (To accused) - Do you wish to make any statement in mitigation of punishment?
A.3 yes sir
Q.4 Do you wish to give evidence yourself or to call any witnesses as to character?
A.4 I wish to give evidence under oath

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

---

accused duly sworn states - I enlisted in England the 17th of December 1939 and since then I have had four privilege leaves. The last being the 4th of September 1941 - I show the court my pay book which shows my last priv. leave was 4th of September 1941. I see by my pay book I have had 5 priv. leaves & that is correct. Since then I have applied three times for privilege leave which has been turned down every time. The reason given was because I had been in detention. Being married and my wife who resides in England not being in the best of health I wanted to get home see her for a while. Cross examined - my duties were clerk duties. I have three Conduct badges at this time.

"A" Fillmore
Major
Pres.

27 August, 42.

I hereby certify that I have this day examined B.76378 Pte. Lawson, M., and have found him medically fit to undergo trial by Field General Court Martial.

Geo. S. Long

(G.S. Long) Capt., R.C.A.M.C.,
M.O., Canadian Training School.

"B." Major

C H A R G E -- S H E E T

The accused, No. B.76378 Pte. Lawson, Marshall, Toronto Scottish Regiment (M.G.), posted to the Canadian Training School, a soldier of the Canadian Army Overseas, is charged with, when on active service.

Army Act
Sec. 15 (1) Absenting himself without leave

in that he

at Havannah Barracks, Bordon, Hants., absented himself without leave from 0600 hours, on 27th July, 42., until he did return at 0045 hours on 25th August, 42., a total absence of twenty-eight days, nineteen hours and fourty-five mins.

(C.W. Dewar) Colonel, Ld. S.H.,
Commanding, Canadian Training School.

Bordon, Hants.
~~XX~~ August, 42.

26th

To be tried by Field General Court Martial,
Brigadier,
Commanding [illegible] Group, Cdn. Reinf. Units,
Convening Officer

Bordon Hants,
26 Aug 42

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-76378 Pte. Lawson, Marshall, Can. Scot. R.S.I.C.T.S.	FIRST CHARGE, Sec. 15 (1) Army Act. (See Charge Sheet attached).	Guilty	Guilty To undergo detention for 80 days 27/8/42	Finding and Sentence Confirmed

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (A.C.P. ARCHAMBAULT) Brigadier (Signed)
Commanding "F" GROUP, C.P.U. *President.*
Convening Officer (a)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of Aug 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 27th day of August 1942

J. Fortmour
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ____ day of ____ 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 27th day of Aug. 1942

(A.C.P. ARCHAMBAULT) Brigadier,
Confirming Officer.

Promulgated and extracts taken in the case of B76378 Pte. Lawson, Marshall

(a) (Dated) 27th August 42 (Signed) Grand Baker Lt Col
for COMMANDANT, CANADIAN, TRAINING SCHOOL

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[42739] Wt. 46173—983 ... P. St. G. for

F/5-4-10
B-76378 Pte. Lawson, M.
(Tor Scot M.G.) C.T.S. 123 M.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this TWENTY-SIXTH day of August, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "F" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint:~~

~~*(1) Three Officers to form the Court.~~

~~*(2) A Field Officer as President.~~

~~*(3) Three Officers having more than one year's service.~~

~~for the following reasons, namely:~~

PROCEEDINGS REVIEWED

[signature] Reviewing Officer (J.M.) Cmd
4 Sep 42

President.

Rank.	Name.	Regiment.
MAJOR	F.J.GILMOUR,	R.C.A., H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.H.CORNELL,	1 Tpt. Coy., R.C.A.S.C.
CAPTAIN	A.J.A. AYLAN-PARKER, WAITING MEMBER	C.T.S.
LIEUTENANT	E.J.MARKUS,	5 C.C.C., R.C.E.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
(J.P.ARCHAMBAULT)
Commanding "F" GROUP, CDN. REINF. UNITS,
Convening Officer.

123 M.

Pte. LAWSON, M.

O. H. M. S.

M. F. B. 270
1000M-12-40-(8068-59-70)
H.Q. 1772-86-67

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(C). 4C/24

29 Sep 194.3

I, No. B 76378 Pte. Lawson, M., wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of... Capt. Mac. Kenzie.....
if he is available.

B 76378, Sgd. M. Lawson.....

29 Sep 43.

This is to certify that I have received the following Documents, free of charge.

1 Copy of Summary of Evidence
1 Copy of Charge Sheet
1 Copy of List of Witnesses
1 Copy of List of Exhibits.

B.76378 Pte. Lawson. M.....
B 76378 Pte. Lawson, M.

LIST OF WITNESSES

in the case of No. B 76378 Pte. Lawson, M., 4 C.I.R.U.

FOR THE PROSECUTION

1. B 76789 A/L/Cpl. Beaumont, C.E., 4 C.I.R.U.

2. B137810 L/Cpl. Sharp, N.F., 4 C.I.R.U.

FOR THE DEFENCE

N il

LIST OF EXHIBITS

in the case of No. B 76378 Pte. Lawson, M., 4 C.I.R.U.

N I L

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(C). 40/24

29 Sep ..... 1943.

I, No. B.76378 (Rank) Pte. Lawson, M. (Name), wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of... Capt. Mac. Kenzie. ..... if he is available.

B.76378 (Sgd.) M. Lawson .....

29 Sep 43.

This is to certify that I have received the following Documents, free of charge.

1 Copy of Summary of Evidence
1 Copy of Charge Sheet
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B.76378 Pte. Lawson, M.....
B 76378 Pte. Lawson, M.

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in the case of No. B 76378 Pte. Lawson, M., 4 C.I.R.U.

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FOR THE DEFENCE

N I L

LIST OF EXHIBITS

in the case of No. B 76378 Pte. Lawson, M., 4 C.I.R.U.

N I L

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force/Hand unit Hand ..... dated/Hand ..... and in his regiment (or corps) the rank of Hand ..... dated/Hand .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.—

..... Date of promotion.

In the rank of Hand ..... years Hand

In the rank of Hand ..... years Hand

In the rank of Hand ..... years Hand

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B 76378 Rank Pte. Name Lawson, M. of A.C.I.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field 27.8.42	A.A. 15(1)	80 days Detention	26 days Remission
F.G.C.M.	In the Field 22 Apr 43	A.A. 15(1)	150 days Detention	43 days Remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of Oct 43 [signature]

Captain Adjutant, [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

[signature]

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 76378 Pte.		Lawson, M.	4 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 15(1)	5	times	A.A. 15(1)	13 times
For A.A. 10	Nil	times	A.A. 10	1 times
For A.A. 11	1	times	A.A. 11	2 times
~~For~~		~~times~~		~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for xxxxxxxxx beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 8 days in ~~military~~ Air Force custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 24 Nov 39

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon xxxxxx service for the purpose of determining his pension, etc.~~

~~9. The accused is in possession of or entitled to an air force decoration, or air force award or is in possession of or entitled to~~ ~~military~~ ~~military~~ ~~State any air force decoration or record~~ ~~military~~

~~10. If the accused is a warrant officer, The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28/11/41	Pte		Sec 15(1) A.A. A.W.L. from 1330 28/11/41 to 0835 hrs 4/12/41	Cpl Yarrick	Forf. of 5 days pay	5/12/41	Major D. Fletcher	Aut. Forf. 6 days pay F.R.I. 149(a)
Field	23/12/41	Pte		A.W.L. from 0630 hrs 23/12/41 to 2355 hrs 23/12/41. Total absence 17 hrs 25 mins. A.A. Sec. 15(1)	Cpl O'Shea Cpl Maloney	7 days C.B.	24/12/41	Stuart Robertson, Major	
		Pte		Sentence of 28 days det. awarded 20 Jan 42	Commuted to 24 days det. 13/2/42			Lt Col	C.W. Devey
	28/4/42	Pte		A.A. Sec 15(1) 7 days, 14 hrs 40 mins	L/Cpl Vance				Forf 8 days pay E.C. Peckham Capt. & Adjutant
Field	27/7/42	Pte		A.W.L. from 0600/27/7/42 to 0045 hrs 25/8/42. (28 days 18 hrs 45 mins.) A.A. Sec 15(1)	Documentary	80 days det. Confirmed Bdr	27/8/42	F.G.C.M. "F" Grp	Forf 80 days pay F.R.I. 149(1)(b)
									Forf. 2 days pay F.R.I. 149(1)(c)(i)
									Forf. 24 days pay F.R.I. 149(1)(a)
									Total forf. 111 days pay

RELEASED FROM DETENTION BARRACKS, HEDLEY DOWNS 14 Oct 1942 SENTENCED EXPIRED. REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS – 26 DAYS.

Certified True Copy E. C. Peckham
E.C. Peckham, Capt. Inc. & Well'd R.
Adjutant, Canadian Training School

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Mar 43	Pte		A.A. Sec 15(1) A.W.L. 20 days 14 hrs 50 mins		150 days Det.	22 APR 43	F.G.C.M.	Forf 21 days pay F.R.I. 149(1)(a) 150 days pay F.R.I. 149(1)(b) 7 days pay F.R.I. 149(1)(c)(i)
					Released from the Detention Barracks – Field on July 31 1943 Sentence having expired Remission earned under Rules for Detention Barracks and Military Prisons 48 days. Commandant Initials				
Field	1 Aug 43	Pte		A.A. 15(1) W.O.A.S. A.W.L. from 2300 hrs 1 Aug 43 until 2355 hrs 4 Aug 43 (3 days 55 mins)	Documentary	7 days C.B.	6 Aug 43	Lt. Col. U.A. Smith	G.M.C. Dale Capt Forf 4 days pay F.R.I. 149(1)(a)

Sheet Destroyed 24 May 40

Cases of Drunkenness - Nil
Date of Last Entry 2 Mar 40

No. B 76378 Name Lawson, M | Sqn., Battery, or Company | Corps C I C | Date of enlistment 23/11/39 | G.C. Badges | Service or Proficiency Pay 2/9 | M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet 7/2 | No. and date of last drunk 7/2 | Period not reckoning towards freedom from extra fine 7/4 | Sheet No. 1 | Signature O.C. Company, etc. G.M. SOPER, CAPT | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27/5/40	Pte		Breaking out of barracks - A.W.L.	Cpl Barker Sgt Bengies	14 days Det	30/5/40	Lt Col Thompson	
				Released from Det Barracks 4pm 12/6/40					
Field	13/9/40	Pte		Sec 10 AA Protection of Corp	Sgt Clark				
				15 AA 8 days, 6½ hrs.	Pte Wilson	28 days Det	23/9/40	Major Colby	for CO
Field	21/10/40	Pte		" " AA Failed M.G. post at	Cpl Bellis	14 days Det	23/10/40	Lt Col Clarke	
				St Pedro. Released from Det Barracks on 11/10/40					
Field	26/1/41	Pte		absent without leave - Sec 15 AA St Pedro		14 days CB	27/1/41	J. M. Rutherford Capt	
Field	24/3/41	Pte		Sec 15. A.W.L. 5 days. 9 hrs	Cpl Costelle	28 days Det	31/3/41		
Field	12/4/41	Pte		Sec 15(1) AA A.W.L. from 2200 12/4/41 to 2357 16/4/41 (4 days 1 hour 57 mins)	Sgt Barrett	7 days CB	17/4/41	2 M.S. Dept 7 days Capt J. B. Hopper Sheppard Reg. F.R.A.F. 149 (PTO)	

No. B-76378 Name LAWSON, M | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23-12-42	Pte		AA Sec 15(1) - A.W.L. from 2400 hrs 23 Dec 42 to 1300 hrs 31 Dec 42 - Absent 7 days. 13 hrs.	Cpl Medlyn Sgt Bayley	21 days F P No 1 FRAF 149 (1) (a)	4-1-43	C.O. Johnson Major	Fwd 7 days Reg. F.R.A.F. 149 (1) (a)
Field	24 Jan 43	"		1. A.W.L. 2400 hrs 24 Jan to 0920 hrs 25 Jan 43 (1 day 10 hrs) 2 AA Sec 11 - failed to limit fires		7 days C.B. 1st 24 hrs Nil FRAF 149 (2a)	27 Jan 43	Lt Col D.R. Tow	7 days F.R.A.F. 149 (1) (a)
				Certified True Copy G. M. C. Dale (G.M.C. DALE CAPT. A.D.J.T. TCR. SCOT R (MG))		Certified True Copy J. F. Ellis. (J.F. ELLIS) CAPT. C.C. ACOY.			

(PTO)

B-76378

No. Name Lawson M. Sqn., Battery, or Company Corps C.I.C Date of enlistment 24/7/39 G.C. Badges Service or Proficiency Pay n/a

M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Aug 43	Pte		(1) A.A Sec 15(1) A.W.L. from 0610 hrs 21 Aug 43 until 0630 hrs 21 Aug 43 (20 mins)	Sgt Little Cpl Sumner	6 days for of pay	24 Aug 43	Lt. Col. R.J. McPherson	For f. 3 days pay F.R. I 149 (1) (A)
				(2) A.A. Sec 15(2) A.W.L. from 0710 hrs 22 Aug 43 until 0715 hrs 4 Aug 43 (2 days 5 hrs)	Sgt. Little				

Certified True Copy from the Regimental Books and documents in my possession. H.M. Pottecary Capt.

(P.T.O.)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B 76378 Pte. Lawson, M., 2 Canadian Mvision Support Battalion (TSR), on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

B 76789 A/L/Cpl. Beaumont, C.E., 2 Canadian Division Support Battalion (TSR), on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

Sir: I am B 76798 A/L/Cpl. Beaumont, C.E. (TSR) posted to "D" Coy., 4 C.I.R.U., C.A.O. I was Orderly Corporal of "D" Coy. on 19 Sep 43. I called the roll at 0700 hours and the accused B 76378 Pte. Lawson, whom I now recognize, failed to answer his name. I made a thorough search of the Company Lines and found him to be absent and duly reported him as an absentee. I have been continually Orderly Cpl. of "D" Coy. since 19 Sep 43 until to-day and have called the rolls. I next saw the accused at the Detention Barracks, No. 4 C.I.R.U. at about 0745 hours 29 Sep 43. If he had been present at "D" Coy. between the dates mentioned I would have known it.

The accused declines to cross-examine this witness.

C E Beaumont A/L/Cpl
B 76789 A/L/Cpl. Beaumont, C.E.

SECOND WITNESS

For the Prosecution

B137810 L/Cpl. Sharp, N.F., Infantry General List, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

Sir: I was night N.C.O. of "C" Coy., 4 C.I.R.U. on the night of 27 Sep 43. At about 2250 hours on this date B 76378 Pte. Lawson, whom I now recognize, surrendered himself at "C" Coy. Orderly Room, stating he had been A.W.L. I then paraded him to the Detention Barracks.

The accused declines to cross-examine this witness.

N V Sharp 137810
B137810 L/Cpl. Sharp, N.F.

The accused was cautioned as follows:- Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (e), (f) and (g) have been complied with.

Prosecutor in case.
Officer detailed to take Summary.

IN THE FIELD
29 SEPTEMBER 1943

Plea in mitigation of sentence in case of
B 76378 Pte. Marshall Lawson.

Went home to Croydon on Sunday 19 Sept 43 expecting to see his wife and child. He found nobody there. He went around and made enquiries from friends. Found out nothing at first but later learned she had gone to her home in County Galway, Eire. Having learnt this he figured that to stay away any longer would do them harm so he surrendered himself at No 4 C.R.D. I submit that it was family troubles alone that kept this man away at all as is evidenced by (a) his short absence and (b) his voluntary surrender and I appeal to this court to take these things into consideration when considering sentence.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Waterloo East Barracks
ON THE 5 DAY OF Oct. 1943

The accused B76378 Pte. Lawson M. Unit 4 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-
President Lt. Col. D. L. Redman Unit Calg Highrs.
Members Capt. J. F. Sherlock Unit 3. C.I.R.U.
Lieut. D. B. Williams Unit 7. C.I.R.U.

The officers under instruction are duly sworn:-
..... Unit .....
..... Unit .....
Prosecutor Capt. T. G. Blackstock Unit 4. C.I.R.U.
Defending Officer Lieut. D. H. W. Henry Unit 4. C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s), R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces RFB 355, ~~AFB 296~~ and RFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

MM (a) ~~Makes a statement in mitigation of punishment.~~
MM (b) ~~Calls witnesses as to character.~~
MM (c) ~~Calls witnesses in mitigation of punishment.~~
MM (d) Addresses the Court by his Defending Officer. all with

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

[signature]

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B 76378,
Pte LAWSON, M. of 4 Cdn Inf Rft Unit
and in my opinion, he is fit to undergo trial by Court Martial.

Station Field

Date 5 Oct 43 (Sgd.) [illegible] Capt.
(Medical Officer)

(Canadian Reinforcement units Routine Order No. 3, para 27, d/d Jan 42)

CHARGE SHEET

The accused, No. B 76378 Pte. MARSHALL LAWSON, 2 Canadian Division Support Battalion, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Ad Rm 1510

WHILE ON ACTIVE SERVICE, Absenting himself without leave,
in that he
at Aldershot, Hants., absented himself without leave from 0700 hours, 19 September, 1943 until surrendering himself to "C" Coy. Orderly Room, 4 C.I.R.U. at 2250 hours, 27 September, 1943. (Time absent:- 8 days, 15 hours, 50 minutes.)

J H Christie
(J.H. Christie) A/Col.
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
29 SEPTEMBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

E W Haldenby

(E.W. Haldenby) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
2 OCT 1943.

[illegible]

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
	First Charge A.A. Sec.15(1)	Guilty	Guilty	Confirmed 7th Oct. 43 J.A. McIntosh Col. a/cond. "D" Group
B-76378 Pte. LAWSON, Marshall. (2 CDSB) Tor.Scot.R. 4 C.I.R.U.	Sentence To undergo detention for a period of Forty Five (45) days. 5th Oct 1943 [illegible]			
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) C.W. Hardenby Brigadier. (Signed) [illegible]

Commanding "D" Group, C.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of October 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 5th day of Oct 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 7th day of October 1943

J.A. McIntosh Col.
Confirming Officer.

Promulgated and extracts taken in the case of B76378 Pte. Lawson, M.

(a) (Dated) 7 Oct. 1943 (Signed) A.B. Smith Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 60,000 12/42 A.A.E.W.Ltd. Gp.698

B-76378 Pte. LAWSON, Marshall,
2 Canadian Division Support Battalion,
Toronto Scottish Regiment,
4 Cdn Infantry Reinforcement Unit.

Correspondence to be PINNED here.

Army Form A.3. RR-21

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Second day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units. Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint—~~

~~*(1. Three Officers to form the Court;)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-col.	D. L. Redman	Calg. Highrs.

Members

Rank.	Name.	Regiment.
A Captain	to be detailed by C.O.	3 C.I.R.U.
A Lieutenant	to be detailed by C.O.	7 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier.
Commanding "D" Group, Cdn Rft Units.
Convening Officer.

RR-21 (case #2)

PTE LAWSON M.

See M-123 for 1st case
" CC-101 " 2nd "

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ewshot	28-11-41	Pte.		Sec.15(1)A.A. AWL from 1330 28-11-41 to 0835 hrs 4-12-41	Cpl.Yarich	Forf. of 5 dys pay	5-12-41	Major D. Fletcher	Aut.Forf.6 dys pay R&I 149(a)
Bordon	23-12-41	"		A.W.L. from 0630 hrs 23-12-41 to 2355 hrs 23-12-41 Total Absence 17 hrs 25 mins A.A.Sec.15(1)	Cpl.O'Shea Cpl.Malopey	7 dys C.B.	24-12-41	Stuart Robertson,Major	
Bordon		Pte.		Sentence of 28 dys det.awarded on 20 Jan 42		commuted to 24 dys det.	13-2-42	Lt.-col.W.W.Devey	
Bordon	28-4-42	Pte.		A.A.Sec.15(1) 7 dys 14 hrs 40 min	L/C.Vance	28 dys det.	6-5-42	Lt.-col.W.W.Devey Forf.8 dys pay E.G.Peckham Capt. & Adjutant.	
Bordon	27-7-42	Pte.		A.W.L. from 0600 27-7-42 to 0045 hrs 25-8-42.(28 dys 19 hrs 45 mins) A.A.Sec. 15(1)	Documentary	30 dys det.	27-8-42	O.C.C.M.	Forf.30 dys pay R&I 149(1)b.
									Forf.2 dys pay R&I 149 (1)(c)(1)
Released from the detention barrack headley Down on 19 Oct 1942 Sentence Remission earned under rules for detention barracks and military prisons									Forf.29 dys pay R&I 149(1)e
									Total Forf. 111 dys pay
CERTIFIED TRUE COPY				(E.G.Peckham) Capt. Line, & Well'd. R., Adjutant, Canadian Training School					

No. B76378 Name Lawson M. Sqn., Battery, or Company "A" Corps Tor. Scot. R. (MG) Date of enlistment 24-11-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 27756—7-41 (1819-20) H.Q. 1771 [illegible]

Date of last entry in Company Conduct Sheet 2-3-40 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	27-5-540	Pte.		Breaking out of barracks-A.W.L.	Cpl. Bacher. J	14 dys	30-5-40	Lt.-Col. Thompson	
					Sgt. Benzies	det.			
				Released from Det. Barracks	on 12-6-40				
Chinstead	13-9-40	Pte.		Sec. 10A.A. Broke out of Camp	Sgt. Clark	28 dys.	23-9-40	Major Bolsby for C.O.	
				" 15 A.A. 8 dys, 6½ hrs.	Pte. Wilkes	det.			
Portslade	21-11-40	"		" 11 A.A. Fired M.G. against	Cpl. Bellis	14 dys.	22-11-40	Lt.-Col. Christie	
				St. Orders Released from Det. Barracks on 11-10-40 det					
Aldershot	26-1-41	"		Absent without leave-Sec. 15A.A.	Sgt. Bacham. J	14 dys	27-1-41	J.M. Rutherford, Capt.	
						C.B.			
Aldershot	24-3-41	"		Sec. 15 A.W.L. 5 dys, 9 hrs.	Cpl. Costello	28 dys	31-3-41	G.M.S.	For. 7 dys pay.
						det.			
Bordon, Hants.	12-4-41	"		Sec. 15(1)A.A. A.W.L. from 2200	Sgt. Barrett	7 dys.	17-4-41	Capt. J.G. Chapman	Forf. 4 dys pay FR&I 149
				12-4-41 to 2359 16-4-41.		C.B.			
				(4 days 1 hour 59 mins.)					

(P.T.O.)

B76378 Pte. Lawson M. Sheet No. 2

Place	Date of offence	Rank	Cause of distinguishment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 23-12-42		Pte.		A.A.Sec. 15(1) - AWL from 2400 hrs. 23 Dec. to 1300 hrs 31 Dec. 42. - Absent 7 dys 13 hrs	Cpl.McIlwain Sgt.Bayley	21 dys F.P. FR&I 149(1)B	4-1-43	E.G.Johnson Major.	for.8 dys pay FR&I 149(1)A
Field 24 Jan 43		"		1. AWL 2400 hrs 24 Jan to 0930 hrs 25 Jan 43(9 hrs 30 mins) 2. A.A.Sec.11-failed to have pass.		7 days C.B. forf.2 dys pay FR&I-149(2)	27Jan 43	Lt.-Col. D.K.Tow.	for.1 dys FR&I 149(1)a

CERTIFIED TRUE COPY

G.M.C. Dale

(G.M.C.DALE) CAPT.
ADJT.FOR SCOTTR (MG)

CERTIFIED TRUE COPY

H Ellis Capt

(J.F. ELLIS) CAPT.
O.C. A COY.

(Substitute for AFB 296 or MFB 355.

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED:

No. B.76378 Name LAWSON M. Unit TOR SCOTS

Age 34 Married or Single M No. of Dependents 2

DATE OF ATTESTATION 24 Nov. 1939

No. of days in close arrest (To date of Trial)

CIVIL _____ MILITARY 7 HOSPITAL _____

TOTAL 7 DAYS

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS OF RANK, IF ANY:

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM.

(W.G. Johnson), Major.
(Donald K. Tow), Lt. Col.
Comd. - The Tor Scot R (MG)

DATED THIS 22 ~~NOV~~ 1941

Station: In The Field

(To be signed and dated as of date of trial)

SUMMARY OF EVIDENCE

In the case of No. B.76378 Pte. Lawson, M., Tor Scot R (MG) C.A.O.

The Accused is informed of his rights.

The Accused does not demand and the C.O. does not direct that the evidence herein be taken on oath.

FIRST WITNESS No. B.76355 Cpl. Craddock, D.C., "A" Coy, Tor Scot R (MG), states:-

" I am the M.C.O. in charge of the hut in which the accused, whom I recognize, lives. On 24 Mar 43 the accused had a pass till 2400 hrs. I called the roll at 0630 hrs. 25 Mar 43, and the accused did not answer. I reported him absent from 2400 hrs. 24 Mar 43. To my knowledge he has not been in barracks or on duty since that time up till he returned on 14 Apr 43."

Signature D.C. Craddock Cpl
(D.C. Craddock), A/Cpl.

The accused declined to question the above witness.

SECOND WITNESS No. B.75748 Sjt. McEachern, E.E., "B" Coy, Tor Scot R (MG), states:

"I was guard commander on 14 Apr 43. At 1450 hrs. 14 Apr 43, the accused, whom I recognize, reported in as an absentee. He was sober and properly dressed. I placed him under close arrest."

Signature E.E. McEachern Sjt.
(E.E. McEachern), Sjt.

The accused declined to question the above witness.

The accused was cautioned in accordance with R.P. 4(E) and stated.

"I do not wish to make a statement at this time".

Signature M. Lawson
(M. Lawson), Pte.

Taken down by me this 19th day of April, 1943, in the presence and hearing of the accused. Certified that Rule of Procedure 4 complied with.

Field,
19 Apr 43

J.H.H. Depew Lieut.

(J.H.H. Depew), Lieut.
The Tor Scot R (MG) C.A.O.
Officer Detailed to take the Summary of Evidence.

Trial of B76378 Pte Marshall Lawson, 1st Scot R(MG)
held in the field 22 Apr 43
President:- Major H.L. Coombes, RCASC, 2 Cdn Div
members:- Capt R. Blais, 19 Fd Amb RCAMC
Lieut E.H. Smith, 1st Scot R(MG)
Offr under instruction:- Capt W.M. Shaw, HQ, 2 Cdn Div
Prosecutor:- Lieut J.H.H. Depew, 1st Scot R(MG)
Defending officer:- Lt J.G. Bongard, " " "
Court satisfy themselves as to R.P. 22 + 23
Court opened
Convening order read
accused is asked if he objects to Pres or members
and answers "no Sir"
Court + ofcr under instruction duly sworn
medical certificate is presented
accused is arraigned + pleads "guilty" to the charge
R.P. 35(b) complied with
Summary read + marked "G"
accused does not wish to make statement, give
or call character evidence
Prosecutor, duly sworn, presents AFB 296 + MFM6
states they relate to accused (no cross-exam)
accused or def. ofcr. do not wish to address the
court in mitigation
Court closed to consider sentence
Certified a true record of the trial

H.L. Coombes Major
President

MEDICAL CERTIFICATE (K.R. (CAN) 557)

I certify that I have this morning examined No. B 76378 PTE. LAWSON M. of TOR. SCOTS. REG. and in my opinion he is fit to undergo trial by Court Martial.
~~unfit~~

Station - In The Field

DATE 22 APR. 1943

J. Gor. Capt.
MEDICAL OFFICER. RCAMC

H.L. Coombs Major

CHARGE SHEET

The Accused, No. B.76378 Pte. Marshall LAWSON, ofthe Toronto Scottish Regiment (MG), a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 2400 hrs 24 Mar 43 until 1450 hrs 14 Apr 43.

ABSENT - 20 days, 14 hrs. 50 mins.

E. G. Johnson

(E. G. Johnson), Major,
T/Comd - Tor Scot R (MG)
C. A. O.

Field
19 Apr 43

TO BE TRIED BY F.G.C.M.

Field,21 Apr (W.H.Montague)Lieut-col,C,RCASC,2 Cdn Div

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B76378, Pte Marshall LAWSON, Tor Scot R (MG)	Charge Army Act Sec 15(1) (See charge sheet attached)	guilty guilty	To undergo detention for 150 days 22 Apr 43 A.L. Coombs Major	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (W.H. Montague) Lieut-col
Commanding RCASC, 2 Cdn Div
Convening Officer (*c*)

(Signed) A.L. Coombs Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22 day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ H.R.C.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 22 day of April 1943.

A.L. Coombs Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ day of H.R.C. 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 22nd day of April 1943.

Confirming Officer.

(*a*) Promulgated and extracts taken in the case of B76378 Pte Marshall LAWSON, Tor Scot R (MG).

(Dated) 24 Apr 43. (Signed) H.R.C. Cole Capt.
ADJT. THE TORONTO SCOTTISH REGT. (M.G.) C.A. (O)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here.

CC-101

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-first day of April, 19 43

H. L. Coombs
Major

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Army Service Corps, 2 Cdn Div, Cdn Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[illegible]

RECEIVED 25 APR 1943 Legal Branch Cdn. Corps.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H.L.Coombs	R.C.A.S.C.2 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt or Lieut	to be detailed by C.C.Tor Scot R (MG)	Tor Scot R(MG)
Capt or lieut	to be detailed by A.D.M.S.,2 Cdn Div	R.C.A.M.C.
Waiting Member Capt or Lieut	to be detailed by C,RCASC,2 Cdn Div	R.C.A.S.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.H.Montague) Lieut-Col
Commanding R.C.A.S.C.,2 Cdn Div
Convening Officer.

CC-101 (Case #2)

PTE LAWSON M.

See M-123 for 1st case

FORM OF APPLICATION FOR A COURT-MARTIAL

H.Q. C.R.U. Regiment

Station Farnborough Hants Date 23 July 43 19

Application for a Field General Court-Martial

SIR,

I have the honour to submit Two charges, against No. K-52273, Sgt. Lawson, J. B. H.Q. C.R.U. of the Unit under my command, and request you will obtain the sanction of The Commander C.R.U. that a Field General Court-Martial may be assembled for his trial at Farnborough Hants.

The case was investigated by (a) Major R. A. Breithaupt, H.Q. C.R.U., Capt. J. Brown, H.Q. C.R.U., Major, S.A. German, #1 C.A.S.C.R.U.

A Court of Inquiry was held on (b) 24 June 1943 (date) at Farnborough Hants. (Station).

President Major W. B. Nelson, R.C.E. Ranks,
Members Capt. P. E. Peters. C.A.C. names
Lieut. E. J. Anirault, Cdn. Provost Corps. and corps.

The accused is now at H.Q. C.R.U. His general character is (c) good.

I enclose the following documents (d):—

1. One Charge Sheet (~~XXXXXXXX~~ e).
2. Summary of Evidence, original (f) and No copy. copies.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. Correspondence (g).
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer D F Spankie

(D. F. SPANKIE) LT./COL.
A.A. & Q.M.G.
C.R.U.

To: Commander
C.R.U.

MEDICAL OFFICER'S CERTIFICATE

I certify that No K-52273 Sgt. Lawson, J. B. H.Q. C.R.U. Regiment, is* fit to undergo trial by Court-Martial.

S. A. MacDonald Lieut.
Signature of the Medical Officer.
(S.A. MACDONALD) LIEUT.

*Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 2, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 3 and 8 to be sent to the President.
(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

M.F.B. 321
40 P & S. 650

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
~~R~~ E-52773	Sgt.	Lawson, John, Bell	H.Q. C.R.U.

~~1. The following is a fair and true summary of the entries in the~~ Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act Section 47 of the Army Act ~~and dispensations with trial~~ under A.A. 73 are set out in the Schedule ~~annexed to this statement.~~ A.F.A. 73

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. ~~The accused has been in confinement awaiting trial on the present charges, for days in~~ Air Force civil custody, and days in military custody, making a total of days in custody, ~~of which days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 42

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper 27 Sept 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 9 mos. 26 days

8. The accused is entitled to reckon 3 yrs 9 mos 26 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military award ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or award.

10. ~~If the accused is a warrant officer~~ The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

11. ~~(In the case of an officer.)~~ ~~The accused holds in the Royal Canadian Air Force the rank of~~ JB
~~Permanent Force~~ JB
~~unit~~ JB
~~dated~~ ~~, and in his regiment (or corps), the rank of~~ JB
~~dated~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

4 December 1939 Date of promotion.

In the rank of Sgt. Since 4 Dec 39 years.

In the rank of JB years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Of convictions~~ by a court-martial or civil court, of summary awards under ~~Section 47 of the~~ ~~Air Force~~ JB Army Act, and of cases in which trial has been dispensed with of accused. Number Rank

Name JB of Unit ~~Regiment~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		JB		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~23rd~~ 28 ~~Sept~~ day of July 43 J. Brown Captain, Camp Commandant H.Q. Con. Regn. Units.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

[signature]

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R-52773	Sgt.	Lawson, John, Bell	H.Q. C.E.U.

1. ~~The following is a fair and true summary of the entries in the~~ Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Section 47 of the Air Force Act Army Act ~~and dispensations with trial under~~ A.A. 73 A.F.A. 73 ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. ~~The accused has been in confinement awaiting trial on the present charges, for~~ ~~days in~~ civil custody, and ~~days in military~~ Air Force custody, making a total of ~~days in custody,~~ ~~of which~~ ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 42

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 27 Sept 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 9 mos. 26 days

8. The accused is entitled to reckon 3 yrs 9 mos. 26 days for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force reward~~ military (or is in ~~possession of or entitled to~~). ~~State any air force decoration or reward~~ military.

10. ~~If the accused is a warrant officer~~ The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of A/A

M.F.M. 6
(A.F.R. 122)
40/P & S/136 (2637)

No. K.52272 Name Lawson, John Bell | Sqn., Battery, or Company | B.H.Q. Corps C.H. of Canada | Date of enlistment 27.9.39 | G.C. Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. C. Warbuck, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

28 Jul 43

CERTIFIED TRUE COPY of the original document now in my possession.....

J. Brown. Captain
Camp Commandant
H.Q. Cdn. Rein. Units

(P.T.O.)

(2) W-11024 S/Sjt. Carlsen, C., C.W.A.C. H.Q. C.R.U.
(3) W-10161 Sjt. Watson, G., C.W.A.C. H.Q. C.R.U.

List of Exhibits

Exhibit "A" - Stock inventory as of handover on Sat, 12 Jun 43 and Mon 14 Jun 43.

" "B" - Stock inventory and cash onhand as of 12 Jun 43.

" "C" - Stock inventory and cash on hand as of 1200 hrs 14 Jun 43.

" "D" - Recapitulation.

" "E" - Bar hrs.

" "F" - Camp Standing Orders.

" "G" - Statement prepared by the accused when balancing his cash.

" "H" - Rules and Regulations in respect of the said Mess.

d Witness for the Defence (cont'd) **Cross examination**

Q1. At what time were you in the Mess?

A. From 2015 hrs to 2130 or 2145 hrs.

Q2. Were you there in company with S/Sjt Carlsen?

A. Yes.

Q3. Were you in the Ante-Room for the entire period?

A. Yes.

Q4. How many times did you see Sjt Lawson within this period?

A. I only saw him once.

Q5. For how long did you see him then?

A. He just spoke and went back.

Q6. Do you think you had him under observation for a long enough time to determine whether he was under the influence?

A. One can usually tell.

I certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

.....
(S.A. German, Major).

I, K-52773 Sjt. Lawson, J.B. wish/~~do not wish~~ to have an Officer assigned to conduct my defence at my forthcoming trial by Court Martial.

.....
(K-52773 Sjt. Lawson, J.B.)

List of Witnesses for the Prosecution

(1) A-21294 C.S.M. Barrett, B.H. H.Q. C.R.U.
(2) E-37028 Pte Boucher, A. attached H.Q. C.R.U.
(3) C-5685 Gnr. Butcher, W.J. H.Q. C.R.U.
(4) K-57098 AQMS Pelley, D.M. M.T. Sect., H.Q. C.R.U.
(5) K-52761 Sjt. McBride, J.C. att Instrs Pool, H.Q. C.R.U.
(6) D-82130 Sjt. Slipper, T.B. H.Q. C.R.U.
(7) C-40501 C.S.M. Laurie, H., H & P.E. Regt, att H.Q. C.R.U.

LIST OF WITNESSES FOR THE DEFENCE

(1) K-52773 Sjt. Lawson, J.B. Regt'l Funds Board, C.M.H.Q. attached to H.Q. C.R.U.

QMS Pelley, CSM Laurie and myself went to give a statement at the DAPM's office. Sjt Johnson had Sjt McBride in for questioning but did not take a statement from him. It was when we left the office that Sjt McBride said if I knew how much money was missing out of the mess cash box he would go back and get the sum the next morning. He made the statement while very much under the influence of liquor and I add that Sjt Johnson was certainly not sober. Again on Tuesday evening approx 1830 and 1900 hrs at 1 CGRU Sjt McBride told me that he would get some money and make restitution.

Sgt J.B. Lawson

(K-52273 Sjt Lawson, J.B.)

WITNESSES FOR THE DEFENCE

2nd Witness for the Defence

W-11024 S/Sjt. Carlsen, C., C.W.A.C. H.Q. C.R.U.

Q1. Can you tell me of anything unusual which happened in the Sjts Mess on Sunday 13 Jun 43?

A. No.

Q2. Was I sober when I was speaking to you?

A. Yes you were sober.

Cross examination

Q1. At what time were you at the Sjts Mess?

A. 2030 hrs.

Q2. Were you there alone?

A. No I was sitting talking to a few of the members.

Q3. What part of the Mess were you in?

A. In the Ante-Room.

Q4. Did you see Sjt Lawson?

A. Yes in the Ante-Room.

Q5. How long were you there?

A. I left between 2130 and 2145 hrs.

3rd Witness for the Defence

W-10161 Sjt Watson, G., C.W.A.C. H.Q. C.R.U.

Q1. Did you see anything unusual happen in the Mess on the evening of 13 Jun 43?

A. No.

Q2. When I was talking to you would you say I was drunk or sober?

A. You were not drunk.

until a little later 1300 hrs. I again opened at 1630 hrs and closed at 1700 hrs. Opened again at 1800 hrs, stayed open until approx 2315 hours. When I closed the bar SQMS Pelley was behind the bar with me. Sjt McBride then knocked on the door and I allowed him to come in. I was surprised to see him at that time of the night because I hadn't seen him for a long while. He said he wanted to buy a drink so I paid the remark that his money was no good. I poured out two doubles in the one glass which was consumed by Sjt McBride and SQMS Pelley. I did not have a drink myself. I paid for that drink myself. Sjt McBride then bought a drink which he paid for, of which I had no drink. He then told me he was on leave and wanted to know if he could buy a bottle. I told him yes, reason being that that is the only way to buy a bottle out of the mess. It has been the general practice to do this since I first came into the mess over a year ago. I then sold him a bottle of whiskey for 28/ and he said there was not much gin left in that bottle, could he have that too, so I figured there was pretty nearly a 1/3 of a bottle of gin left. I charged him 9/ for that. He paid for both bottles. He then said he wanted a bottle of orange which I gave him and paid for myself. I spent approx £2-10-0 of my own money that week-end in the bar. I then made up my cash (Sjt Lawson hands in statement of his balance on Sat and Sunday, Exhibit "G"). QMS Pelley and Sjt McBride then left the bar by the entrance to the billiard room. I put the wooden bar up to secure the serving window and door through which they went. I also tested to see that the main serving window to the main lounge-room was also secure. I secured the liquor cupboard, turned the lights out, took the cash box with me and locked the door, trying it to make sure it was secure. We then went to the kitchen with the idea of having some tea if it was available. There was nothing of that sort around so Sjt Mc Bride got his suitcase and made a sandwich which he and I ate. I cannot say positivelly how long that had taken as I did not have a watch with me. We left the mess right afterwards and to the best of my knowledge there were none in the mess as I turned out the lights. I wish to state that an officer and S/Sjt Watson were not in the bar after it was closed. QMS Pelley, Sjt McBride and myself walked out to the sidewalk and over towards my room. We stopped approx 40 or 50 yards from the Mess, stood there talking generally, on no particular topic for I would say about one hour. We then proceeded to my room which I would say would be around 0130 hrs. Upon entering my room I went to the inside of my bed, between the wall, opened my bks box and placed the funds in. My reason for doing this was that I considered that the funds of the mess would be safer there than in their customary place in the cupboard. I then came around from behind my bed, sat down, talked with them for a few minutes and Sjt McBride and QMS Pelley left the room. I intended to read which I do every night before going to sleep. I must have fallen asleep immediately. I did not see any drinks being consumed in the room although Sjt McBride wanted me to have one. I told him that I had a lot of work to do the next morning as I was going down to Bordon. In order for anyone to open my barracks box they would have to take the keys out of my hip pocket which were attached to a leather lace and that was attached to a loop in my trousers. The lock to the bks box was not broken the next morning. So in order to gain entry the keys must have been taken off my person and replaced sometime through the night, unbeknown to me. I have a faint recollection of someone covering me up in the night. The next thing I know was that Sjt Slipper informed me that Sjt McBride had had a box which looked like a cash box and stated he had put it into a corner for me. I then went to my bks box, opened it and at the same time as I opened it I saw the cash box which I had replaced in there early in the evening, under my bed. I looked all over the room as I thought he may have hidden the missing money from the box in some spot but nothing turned up. I then got cleaned up, got outside, and on my way out I met CSM Laurie who said "I have some money for you" because we went into the bar last night and took 2 bottles of whiskey". I then asked him who gave him authority to do that. It was then he stated it was Sjt Comba who went into the bar. I also told CSM Laurie to inform CSM Barrett who was Pres of the Mess that someone had stolen £16-10-0 out of the mess funds. I also reported to Sjt Latta at the DAPM's office and then proceeded to the Mess, went into the bar, left the cash box and after a few minutes left the bar leaving the keys with Gnr Butcher. On Tuesday afternoon Sjt Perkins, Sjt Slipper, Sjt Comba,

th Witness for the Prosecution

C.40501 CSM Laurie, H., H & P.E. Regt, att H.Q., C.R.U. having been duly sworn states:

I acknowledge that the Officer taking the Summary has advised me of my rights, namely, that since a charge has been preferred against me arising out of the affairs of the night 13/14 Jun 43 I am not compelled as a witness in this case to give any statement or to answer any question or questions, either an examination or a cross-examination which would tend to incriminate me, either in respect of the charge preferred against me or in any charge or charges which may be subsequently laid. I clearly understand my position and will give the following statement:

I am C-40501 C.S.M. Laurie, H., H.&.P.E. Regiment, attached to H.Q., C.R.U.

In the evening of 13 Jun 43 I went to the Sjts' Mess between 1900 and 2000 hours and remained in the anteroom for approx 1 hour. During that time I saw and observed Sjt Lawson and would say as to his condition that he had had a few drinks, that while he was not drunk, I felt that if I had charge I would have had someone with him in the bar. On leaving the Mess I returned to my quarters in "A" Block and went to bed. I was awakened at approx 0230 hrs by QMS Pelley who wanted me to go on a party but I refused. He departed in 5-10 minutes, returning with Sjt McBride and shortly after we were joined by Sjt Comba and Shanley. Someone made the suggestion that they could get some further drinks whereupon Sjt Comba left the room and in a short time returned and made some remarks to the effect "let's go" and I noticed that he had keys in his hands. It was understood we were to go over to Sjt Comba's room and I got up and got dressed, the others having gone on. I started for Comba's room and met the others coming out of the Mess. We all went together to Comba's room and 2 bottles of whiskey were produced. I cannot say which one of the party produced them but they were set up on a table inside the room.

Cross-examination by the accused.

Q.1. You made the remark that I had had a few drinks, how did you know that?

A.1. It's easy to tell when a man has had a few drinks.

Q .2. Was I not kidding everybody as they came up to the bar?

A.2. Yes, that's what I say, you were feeling very happy.

End of cross-examination by the accused.

H Laurie
.....
(C.40501 CSM Laurie, H.)

The accused soldier was thereupon warned in accordance with R.P. 4(e) and elected to give evidence under oath.

The accused- K.52273 Sjt Lawson, J.B. having been duly sworn states:

I am K.52273 Sjt. Lawson, J.B., Regt'l Funds Board, C.M.H.Q., attached to H.Q., C.R. On 12 Jun 43 I took over the bar from Pte Boucher with the authority of CSM Barrett at 1100 hrs that day. At approx 1145 hrs I opened the bar. I closed the bar shortly after 1300 hrs. I sold a few glasses of beer in the afternoon. I again opened the bar at approx 1645 hrs, closed it at k800 hrs, opened it again at 1900 hrs and closed it shortly after 2300 hrs. I then went to my room. I am satisfied that statements marked as Exhibits "A" & "B", relative to the handover on Saturday are correct. On Sunday I went to the bar at about 0900 hrs, cleaned it up, opened the bar at 1145 hrs, stayed open

4th Witness for the Prosecution

D.82130 Sgt. Slipper, T.B., H.Q., C.R.U., having been duly sworn states:

I am D.82130 Sgt. Slipper, T.B., H.Q., C.R.U. I retired to my quarters in "A" Block between 2400 and 0030 hours on the morning of 17 Jun 43. The room is occupied by S/Sgt LaBelle, the accused, and myself. I cannot be sure of the time but would say approximately 0130 hours to 0200 hours I was awakened by Sgt McBride who had his arms around my neck and was trying to force something in my mouth. I just glenced about the room and noticed Sgt Lawson was lying in his bed withmhis head towards the foot and as far as I can remember he had his uniform on. He was lying very still and gave the appearance of being asleep. Realizing there was a party on and not being desirous of of taking any part in it, I laid down, pulled my blankets over my head and tried to get to sleep. A little later on Sgt McBride again awakened me and talked about some unconsequential matters. Again I laid down and tried to get to sleep and did not pay any attention to time. This disturbance was caused by Sgts Shanley, Comba and McBride who were gathered in the room at Lawson's bedside. I did not pay any attention to them, their conversation was low and I did not hear what was being said. I was later awakened by McBride who was standing in the middle of the room with a black box in his hands. He said "Slip, what shall I do with this, it belongs to John". "Slip" is my nickname. I did not answer, hoping that he would form the opinion that I was asleep but then he brought the box over and placed it on a chair beside my bed stating that there was money in it. I did not recognize the box and paid no particular attention. He took something out of the box which I thought were three £1-0-0 notes and he also showed me what I believed to be a cheque but I did not examine it, which he stated was in the sum of £5-0-0. Again I tried to get to sleep and turned over and pulled the covers over my head. He mentioned something about there being £16-0-0 or £16-10-0 in the box. He then started moving about the room and shortly after called to me and stated that he had put the box in a corner and to be sure to tell Sgt Lawson in the morning. This was the first time I had seen this box and I have no idea of where it had been prior thereto.

Cross-examination by the accused.

Q1. Did you not notify me earlier where the box was placed ?

A. I gave you a nudge earlier and I am not sure whether I told you but I did come back after breakfast to make sure you did know.

Q2. Don't I usually sleep in my bed with my head to the bottom ?

A. Yes, you have done so for a long time.

End of cross-examination by the accused.

Sgt T.B. Slipper
(D.82130 Sgt. Slipper, T.B.)

NM

ly off the bed. His head was towards the foot and the cash box was at the head of the bed. I picked up the cash box, put it on the barracks box, lifted Sjt Lawson who was still fully dressed, placed him properly on the bed and covered him. I picked up the cash box, went over and spoke to Sjt Slipper concerning it and returned to put it in Sjt Lawson's locker but found it to be locked. I then took it and placed it on the bks box in a corner at the head of Lawson's bed. I asked Sjt Slipper to inform Lawson when he awakened in the morning as to where I had put the box. I did not handle the contents or make any examination of the box. I then left the building in company with QMS Pelley and was not again back in the building nor did I see Sjt Lawson for a couple of days. In my opinion Sjt Lawson had been drinking quite heavily some time before but while in my presence he did not take any drink whatsoever except a sip.

Cross-examination by the accused.

Q.1. Would you say I was in such a condition as to be incapable of performing my duties as a soldier?

A.1. No, I wouldn't say you were incapable of that.

End of cross-examination.

K.52761 Sjt McBride, J.C.

I presumed he paid for it but cannot say definitely. AQMS Pelley and I divided this drink and when it was completed I asked for another drink and again I was given the same type of glass with approx the same quantity of whiskey by Sgt Lawson. Again I did not see him pour it out and again I did not pay for it. After this drink was finished I stated that I had had two free rounds and that I wanted to stand a round of drinks. As there were not sufficient whiskey glasses in the bar room, Sgt Lawson and C.S.M. Logan who had come in the meantime went out of the bar in search of glasses but were not successful and came back in the bar-room. Sjt Lawson then took a bottle of whiskey and filled a glass of the type above described full of straight whiskey. On this occasion, no measuring cup was used and it was poured directly from the bottle. I did not pay for this drink and do not know whether anyone else did. QMS Pelley, Sjt Latta and myself made a loving-cup of this glass. Sjt Lawson took only a very small sip. Whenthis drink was finished there were only 4 of us left in the bar. We then went to the kitchen to find some food but were unsuccessful and as I had some cheese, bread and lettuce in my case I went and got these and returned tothe kitchen, made a sandwich which Sjt Lawson and I ate. During the time we were in the bar I had noticed that the cash box was standing on the top of the counter but did not notice Sjt Lawson balancing his cash at any time. After finishing the sandwich Sjt Latta had left by this time, QMS Pelley, Sjt Lawson and I returned to the bar. There QMS Pelley and I each had a drink of rum and a gin and orange but Sjt Lawson refused to have anything todrink. These drinks were poured by myself without a measuring glass and in the presence of Sjt Lawson. I was then desirous of purchasing a bottle of whiskey and Sjt Lawson sold me one for 25/ and I then said that I would take the balance of the gin which remained in the bottle and would amount to approx 1/3 of a bottle. For the bottle of whiskey and that of gin I gave him 30/, a £1-0-0 note and a 10/ note. That was the only money transaction which I saw in respect of any drinks served in the bar while I was there with the exception that I recall I did give Sjt Lawson 2/6d for a ½-beer glass of whiskey.

After the purchase of the whiskey QMS Pelley and I left the bar. I was carrying my bag and a bottle of orange squash, also taken from the bar, and QMS Pelley carried the gin and whiskey. We waited at the entrance to the Mess while Sjt Lawson presumably locked the door of the bar. He joined us, carrying the cash box under his arm and we proceeded in the direction of "A" Block but on the way we stopped in the street for some little time had a general conversation. We then carried on to Sjt Lawson's room in "A" Block, I would approximate the time as being about 0200 hours. On entering the room Sjt Lawson made a sharp right wheel and went between his bed and knelt down in front of a bks box located there. What he did I do not know but in just a few moments he came around his bed and sat down on it and talked with us. Sjt Lawson did not have a drink but QMS Pelley did.

From the time that Sjt Lawson was at his Bks Block until approx 0400 hrs I did not see the cash box. At approx the hour mentioned I returned to Sjt Lawson's room which was the first time I had been there since QMS Pelley and I had left it and the cash box was then lying on the bed but I am positive it was not in exhibition when we left the room before. On leaving Sjt Lawson's room QMS Pelley and I proceeded to a room occupied by CSM Laurie, S/Sjt Spence, Sjt Perkins, and we were joined there by Sjts Combe and Shanley; the former made the suggestion that we get some more liquor from the mess and someone suggested that he could get the keys whereupon Sjts Combe and Shanley left the room and went directly across to Sjt Lawson's room. When the suggestion was made that the keys be obtained and get more whiskey from the Mess QMS Pelley and I raised objections as we did not want to see Lawson get stuck. When the parties insisted on going we followed along and on arrival at the Mess the keys were produced by and the bar opened by Sjt Combe. There were present Sjts Combe and Shanley, QMS Laurie, S/Sjt Spence, QMS Pelley and myself. QMS Pelley and I again took the attitude and insisted that a collection immediately be taken to pay for the whiskey which was being taken, namely two bottles. The money was collected by Sjt Combe. Later the money was handed to me, £1-18-6 and a further 10/ was to be contributed the following morning by S/Sjt Spence.

At approx 0400 hours I returned to Sjt Lawson's room for the purpose of getting my bag and hat which I had left there. I'd had enough of the party and was ready to go home. On entering the room I found that Sjt Lawson was sound asleep and partly on and part-

Q.1 ...

A. He said "I'll go and get the money". I took it to mean the amount of money missing out of the cash box.

Q2. What condition was Sgt McBride in after the interview at the DAPM's office ?

A. I would say that he was highly inebriated.

Q3. What condition was I in ?

A. As sober as you are now, to all appearances.

Q4. When you saw Sgt Johnson with Sgt McBride at the DAPM's office, what condition was Sgt Johnson in ?

A. It would be very hard to say who was inebriated the most between Johnson and McBride.

Q5. What did Sgt Combs say to me in front of yourself and CSM Laurie when I accosted him as to where he got the keys and how did he get in the bar ?

A. He said "I don't remember".

Q6. When I said to him "Who opened the bar" ?

A. He said "I did ".

Q7. What was my condition when we left the bar Sunday night ?

A. I would consider you perfectly capable.

End of cross-examination.

(K.57095 AQMS. Pelley, P.M.)

5th WITNESS for the Prosecution

K.52761 Sgt. McBride, J.C. attached Instrs Pool, H.Q., C.R.U., having been duly sworn states:

I acknowledge that the Officer taking the Summary has advised me of my rights, namely, that since a charge has been preferred against me arising out of the affairs of the night 13/14 Jun, I am not compelled as a witness in this case to give any statement or to answer any question, either an examination or cross-examination which would tend to incriminate me, either in respect of the charge preferred against me or in any charge or charges which may be subsequently laid. I clearly understand my position and will give the following statement.

I am K.52761 Sgt. McBride, J.C., attached to the Instructors' Pool, H.Q., C.R.U. I arrived at the Sgts' Mess at approximately 2345 hours Sunday 13 Jun 43. I am able to fix this time because I had taken the train from Reading at 2230 hours which arrived at North Camp Station at 2350 hours and I would estimate the time from the station to the Mess to be about 10-15 minutes. On arrival I found no one in the anteroom and the bar was closed. I went to the door of the bar and rapped and the door was opened and I found in the bar AQMS Pelley, Sgts Latta and Lawson, S/Sgt Watson and an officer whom I did not know. I asked if I might have a drink and Sgt Lawson said I could and he got me a drink. I did not see him pour this drink but he handed me what I would describe as a half-pint beer glass which was approximately half full of clear whiskey. I can't definitely state the quantity but it was more than a normal double whiskey which is served in the Mess. I offered to pay for this drink but Sgt Lawson refused the money stating that my money was no good in the Mess. ~~I offered money~~

Q1 -
A (Cont'd) in the anteroom and I thought he looked very sick. I offered him a cup of tea but he refused. I told him he looked as if he needed a cup of tea badly. He said "Didn't you hear about it ?" I said "About what ?" "Somebody clipped Johnny £16-10-0 of the bar money". That's the reason I didn't clear the bar out.

Q2. What was my condition ?

A. You were sober when you came in on Monday morning.

End of cross-examination by the accused.

W.J. Butcher
(C.5685 Gnr. Butcher, W.J.)

4th WITNESS for the Prosecution

K.57095 AQMS. Pelley, D.M., M.T. Sect, H.Q., C.R.U. having been duly sworn states:

I acknowledge that the officer taking the Summary has advised me of my rights, namely, that since a charge has been preferred against me arising out the affairs of the night 13/14 Jun 43 I am not compelled as a witness in this case to give any statement or to answer any question or questions, either an examination or a cross-examination which would tend to incriminate me, either in respect of the charge preferred against me or in any charge or charges which may be subsequently laid. I clearly understand my position and will give the following statement.

I am K.57095 AQMS Pelley, D.M., M.T. Section, H.Q., C.R.U. At approximately 2100 hours Sunday evening 13 Jun 43 I went to the Sgts' Mess where I had several drinks and about 2130 hours had some tea which was served according to custom after which I had several more drinks the number I cannot tell you. Just prior to the bar being closed Sgt McBride arrived and he and I, with Sgt Lawson were inside the bar - McBride ordered a drink and Sgt Lawson poured out a drink. I do not really know whether it was whiskey or gin, in a small pewter mug and from that poured it into a glass and handed it to Sgt McBride. The latter passed it to me to have a drink, a sort of a loving-cup, which I did, handed it back to him and he finished it. I cannot say that anymore drinks were had before we left the bar but I do know that Sgt McBride made a purchase of some bottled spirits but I cannot state the amount which he paid nor the quantity procured. While we were in the bar I noticed Sgt Lawson was making up his cash but I paid no particular attention to it because I was talking to Sgt McBride. On closing the bar at approximately 2300 hours to 2315 hours Sgt Lawson, Sgt McBride and myself went to the kitchen in the Mess to see if we could arrange for something to eat. This was not possible so we proceeded outside and walked a short distance, when we stopped and had a general conversation. When we left the Mess Sgt Lawson was carrying a metal box under his arm but I am unable to state whether it was or was not a cash box. We stood talking for something in the neighborhood of half an hour and the three of us proceeded to "A" Block and went to Sgt Lawson's room. Sgt Lawson was in the lead and the door opens to the right. His bed is immediately to the right and behind the door when it is open, and when I entered the room as near as I can recall, he was up at the end of his bed between it and the wall, but what he was doing I cannot say as I was not paying particular attention. Sgt McBride asked Sgt Lawson if he could have a drink but he refused and no bottle and no drink was produced at that time to my knowledge. Sgt Lawson sat down on his bed near the head and we talked for about 10-15 minutes when Sgt McBride and I left him in his room. From the time we left Sgt Lawson's room until Monday morning my mind is a complete blank, and consequently, I am not able to give any evidence or assistance as to the events which took place in that period.

Cross-examination by the accused.

Q1. When we went to the DAPM after the interview with Sgt Johnson, what did Sgt McBride say to the both of us ?

the effect that no credit was to be granted to Members unless with the approval of the President, and also that a sale by bottle was permitted, if there was a surplus, to a member of the Mess who was going on leave. I have followed the above instructions and credit has not been granted except with the approval of the President, and only on one occasion have I sold whiskey to a member by the bottle.

In order to assist in the taking of the evidence of this witness the Officer taking the Summary deems it advisable to use the services of an interpreter, and with the approval of the accused D.91272 L/Sgt. Leveaux, R. J C.A.S.C.R.U., was sworn and the oath administered as per R.F.27.

W.A. Bell
(Major S.A. German, Officer taking Summary)

(The statement continues)... The keys which I handed over to Sgt Lawson numbered three and were on a small key ring. I received the same back in good condition on the Monday.

Cross-examination by the accused.

Q1. To whom did you sell the bottle of whiskey you refer to ?

A. To S/Sgt. Spence.

End of cross-examination.

Armand Boucher
(E.37085 Pte. Boucher, A.)

3rd WITNESS for the Prosecution: C.5685 Gnr. Butcher, W.J., H.Q., C.R.U., having been duly sworn states:

I am C.5685 Gnr. Butcher, W.J., H.Q., C.R.U. and am employed as General Duties man in the Sgts' Mess of H.Q., C.R.U.

I was on duty in the Mess on Monday morning 14 Jun 43. At approx 0630 hours AQMS Pelley and Sgt McBride came into the kitchen and asked me if I had seen a suitcase. I told them to look in the billiard room to which room they went, and I accompanied them. AQMS Pelley offered me a drink which I refused. I did not see the bottle so cannot say whether or not it was spirits or beer or what, but I noticed something concealed in his tunic which from the outline appeared to be a bottle, about the size of a whiskey bottle. The suitcase was not found and they left. At approximately 0900 hours Sgt Lawson whom I now recognise came to the Mess, unlocked and entered the bar. Very shortly after Sgts Couba and Latta entered the room and they too went to the bar door. At this time I was cleaning up tables in the Mess anteroom. They were there about 10 minutes and came away each with a drink of scotch and a small glass of beer. In a few minutes Sgt Lawson came out of the bar, locked the door, handed me the keys and asked me to clean the bar out. The keys remained in my possession until approximately 1100 hours when Pte Boucher arrived and I handed them over to him. I did not enter the bar at any time during the interval between the departure of Sgt Lawson and the arrival of Pte Boucher. Sgt McBride's appearance indicated to me that he had been drinking and AQMS Pelley was very much under the influence when I saw them. When Sgt Lawson entered the Mess I noticed he was carrying a box under his arm which I recognised as being the cash box. He took it into the bar with him but I can't say whether or not he took it out when he departed as I did not pay any particular attention.

Cross-examination by the accused.

Q1. Why did you not clean out the bar as I told you ?

A. After you left on Monday Sgt Couba was sitting at a table

These, when the bar is closed, can be securely locked.

I produce as Exhibit "F" a copy of Camp Standing Orders for H.Q., C.R.U. issued by the Commander, Brigadier F.H. Phelan, D.S.O., M.C., V.D. dated 1 Mar 42 and particularly refer to paragraph 13 thereof which in part reads "no spirits or malted beverages will be consumed in rooms". This Order has not to my knowledge been repealed, altered or amended.

I have no personal knowledge of what took place on the night 13/14 Jun 43.

With respect to the matter of credit, on checking the monies on hand on Monday 14 Jun 43 I found that there were chits in the amount of £6-5-4 and, since credit was not to be extended, I ordered that the chits be chashed by the Members.

Cross-examination by the accused.

Q1. Is it not true that chits have been used previous to that ?

A. Not to my knowledge, except in the case of a dance when no credit could be allowed.

Q2. I have myself on previous occasions given chits.

A. I wouldn't say that it has not been done, but not to my knowledge.

Q3. Do you think that the serving door of the bar is sufficiently secured when the bar is closed ? I mean the large serving window.

A. As far as I know it is; there are two bolts, one on each end of the window.

Q4. Is not the serving window leading to the billiard room secured by a piece of wood ?

A. There is a piece of wood cut to hold the window in position, the door otherwise is locked.

End of cross-examination by the accused.

.....
(A.21394 C.S.M. Barrett, J.R.)

2nd WITNESS for the Prosecution

E.37028 Pte. Boucher, A. attached to H.Q., C.R.U. having been duly sworn states:

I am E.37028 Pte. Boucher, A. attached to H.Q., C.R.U. and since 28 May 43 I have been employed as Mess Caterer in the Sgts' Mess of that H.Q.

I was granted a week-end pass from noon Saturday 12 Jun 43 to noon Monday 14 Jun 43. On the instruction of CMS Barrett the accused, Sgt Lawson was to take over the canteen and accordingly on Saturday morning an inventory was taken of the stocks and of the cash on hand and I handed over to Sgt Lawson at approximately 1100 hours that morning. The stock on hand and the cash is as set out in Exhibits "A" and "B". This inventory was taken and prepared by me in the presence and assistance of Sgt Lawson who checked the same.

On Monday 14 Jun 43 on my return to the Mess I was given the keys to the bar by Gnr. Butcher who is employed as Gen Duties man in the Mess.

I then went to the bar and checked the cash which I found in the cash box which I found locked in the cup-board in its customary place. I then checked the stock and noticed that something was wrong because the amount of money did not correspond with the amount of stock which had been disposed of. I reported the matter to CSM Barrett and with him prepared statements, copies of which I identify as being Exhibits "A" and "C". A recapitulation was prepared which I recognise as being Exhibit "D" which shows a deficit of £29-17-9. My instructions which were received from Sgt Virtue from whom I took over the Mess were to

There, when the bar is closed, can be securely locked.

H.Q., I produce as Exhibit "A" a copy of Camp Standing Orders for
M.C., V.E. issued by the Commander, Brigadier F.A. Phelan, D.S.O.,
17/14 Jun 43. and particularly refer to paragraph 11 thereof which in part reads "no spirits or malted beverages will be consumed in rooms". This Order has not to my knowledge been repealed, altered or amended.

With respect to the matter of credit, on checking the monies on hand on Monday 14 Jun 43 I found that there were quite a number of £'s, s, d, and, since one did not to be extended, I ordered that the chits be checked by the Members.

Cross-examination by the accused.

Q1. Is it not true that chits have been used previous to that ?

A. Not to my knowledge, except in the case of a dance when 10/- credit could be allowed.

Q2. I have myself on previous occasions given chits.

A. I wouldn't say that it has not been done, but not to my knowledge.

Q3. Do you think that the serving door of the bar is sufficiently secured when the bar is closed ? I mean the large serving window.

A. As far as I know it is; there are two bolts, one on each end of the window.

Q4. Is not the serving window leading to the billiard room secured by a piece of wood ?

A. There is a piece of wood to hold the window in position, the door underside is locked.

End of cross-examination by the accused.

A.Capt. C.S.M. Barrett, S.S.C.

E.17006 Pte. Saucier, A. attached to H.Q., C.S.C. having been duly sworn stated:

I am E.17006 Pte. Saucier, A. attached to H.Q., C.S.C. and since 16 May 43 I have been employed as Mess Steward in the Sgts' Mess of that H.Q.

I am in charge of the canteen and accordingly on Saturday 12 Jun 43 Monday 14th Jun 43. On the instruction of CMS Barrett the accused, Sgt Lawson was to take over this canteen and accordingly on Saturday noon Sgt Lawson was taken over at 4.00 p.m. by the accused, and myself assisted by Sgt Lawson at 4.00 p.m. on Saturday 12 Jun 43 and myself, we checked the stock in hand and ascertained that everything was correct. This inventory was signed by Sgt Lawson who checked the same. I was given the keys in the bar by Sgt. Lawson and then left the canteen at 4.00 p.m. on Saturday. The stock in hand at 4.00 p.m. is as set out in Exhibit "A" on Monday 14 Jun 43 I returned to the Mess that morning at 8.30 a.m. and checked the stock in hand which is as set out in Exhibit "A" I then went to the bar and checked the cash which I found in the keys in the bar. I found locked in the cash-board in its customary place. I then went to the bar end and noticed that something was wrong because I found that the cash-board had been moved from its customary place. I then went to the bar end and noticed that the cash-board had been moved from its customary place. I found locked in the cash-board in its customary place. I then went to the bar end and noticed that something was wrong because I found

SUMMARY OF EVIDENCE

in the case of

K.52277 Sgt. Lawson, J.E., Regimental Funds Board, C.M.H.Q., attached to H.Q. Cdn Reinforcement Units, a soldier of the Canadian Army Overseas.

The A.A. & Q.M.G., Headquarters, Cdn Reinforcement Units, Lt-col. D.F. Spankie, directs that the evidence be taken on oath.

1st WITNESS for the Prosecution — A.21294 C.S.M. (W.O.II) Barrett, B.H., H.Q., Cdn Rft Units, having been duly sworn states.

I am A.21294 C.S.M. Barrett, B.H., Camp Sergeant-Major of H.Q., C.R.U. and at the time of the affair in question I was President of the Sergeants' Mess of the said Headquarters.

On Saturday 12 Jun 43 E.77022 Pte. Boucher, A. who had been employed and was still employed as Sgts' Mess Caterer was going on a 48-hour pass. I, as the President of the Sgts' Mess, detailed the accused to take charge of the canteen, of the stocks on hand, of the sales, of the petty cash and any and all proceeds of sales and generally the supervision of the canteen. Pte Boucher left at approximately 1100 hours of that date and Sgt Lawson assumed control. I did not pay any particular attention to the conduct of the affairs and it was not until Monday morning 14 Jun 43 when I learned that some of the monies had disappeared. I as soon as possible interviewed the accused who advised that a sum of approximately £16-10-0 of the Mess Funds had been stolen from the cash box which he had taken to his quarters for security.

After the return to the Mess of Pte Boucher I made an investigation respecting the stock of spirits and the amount of cash which had been turned over to the accused on Saturday. I also checked the stock on hand on Monday which was the amount turned back to the Caterer and I now produce a statement in respect to the same. I also produce a copy of the statment which was prepared at my instructions which covers all stocks in trade, cash on hand, values, as of Saturday 12 Jun 43 and Monday 14 Jun 43. These statements when prepared were submitted to the Treasurer and Caterer of the Mess who, after checking, signed them as correct along with myself. I produce a recapitulation for the period of approximately 1200 hrs Saturday 12 Jun 43 to 1200 hours Monday 14 Jun 43, showing a deficit of £29-17-9. It is pointed out that since the time this statement was prepared the sum of £1-0-0 has been received so that the deficit is now £28-17-9, as shown on the charge sheet.

Since the affairs were in a confused state it was not possible to ascertain how much of the stock had been sold by the glass and how much by the bottle, and in order to make a fair estimate the spirits were treated as being sold by the bottle at a profit of 5/ per bottle.

Exhibit "A" Statement as to Stock Inventory of spirits and soft drinks handed over on Saturday 12 Jun 43 and Monday 14 Jun 43; Exhibit "B" Copy of complete stock inventory and cash on hand as of 1200 hrs 12 Jun 43; Exhibit "C" copy of complete stock inventory and cash on hand as of 1200 hours 14 Jun 43; Exhibit "D" recapitulation showing deficit.

I produce a statement Exhibit "E" showing the hours at which the bar is to open for business, both on week days and on week-ends. These hours are fixed by the Mess Committee, are posted in conspicuous places in the Mess, and should be known to all Members.

In respect to the question of credit, no credit is allowed to any member or members as laid down in Rules and Regulations governing the Mess. These Rules and Regulations are contained in the Minutes.

It has been the practice for the Mess Caterer to keep the cash box and funds in a cupboard, secured by a padlock and built into the bar-room proper. This bar has three doors, one leads into the hall of the Mess, one leads to the Kitchen, and double-doors leading outside of the building.

20. (contd) LEAVE

e. Correct address must be given when applying for leave; Camp Office must be notified of any change of address.

f. All ranks on leave requiring medical treatment must report to or notify the nearest Military Hospital or Military Medical Officer; he will then notify the office granting his leave of the nature of treatment with the least possible delay. Camp Commandant will then in turn be notified for purpose of records.

g. Cancellation of pass and disciplinary measures may be taken by Provost Corps for non-observance of dress regulations failure to pay compliments, improper behavior, etc.

21. TRANSPORT

a. Transport Officer is responsible for transport and duties of drivers, and for all matters appertaining to Garages, M.T buildings and Car Park. He is also responsible for return of salvage parts and oil.

b. Fire buckets will not be used as containers for Waste Oil and use of mattress coir by motor mechanics for repair work is prohibited.

c. A bi-monthly inspection of all vehicles etc. on charge to the Unit is held: and that entries on A.B 412 and A.B 165 are complete or corrected is also the responsibility of the Transport Officer. (This also applies to numbers of vehicles and tools.

d. Improper use of W.D Vehicles will automatically be treated as serious and in all probability will result in trial by F.G.C.M.

e. Work tickets must be signed and properly filled out before leaving Car Park.

22. VENEREAL DISEASE.

a. Any soldier who has become exposed to the possibility of infection will at once report to the nearest medical centre for prophylactic treatment. b. Failure to comply with this order will result in [illegible] plus Hospital & STOPPAGES OF PAY.

c. Any soldier [illegible] this disease must report to Orderly Corporal for sick parade. Failure to comply with this order will meet with disciplinary action.

23. WASTE

It is essential that no waste occurs in regard to :-

a. Electric lights (left burning when non-essential.)
b. Water taps (not turned off).
c. Slack coal (not used to best advantage)
d. Burned out bulbs or brass end of bulb returned to G.M. Stores or credit or exchange.

24. STANDING ORDERS.

These Orders to be read out on Parade every three months. All sub-units or other personnel attached to this H.Q for Quarters must read and conform to these Orders.

JB/WEG

.....
(J. BROWN) Captain,
A/Camp Commandant and G.M
H.Q., Cdn. Reinf. Unitd

20. (contd) LEAVE

e. Correct address must be given when applying for leave; Camp Office must be notified of any change of address.

f. All ranks on leave requiring medical treatment must report to or notify the nearest Military Hospital or Military Medical Officer; he will then notify the office granting his leave of the nature of treatment with the least possible delay. Camp Commandant will then in turn be notified for purpose of records.

g. Cancellation of pass and disciplinary measures may be taken by Provost Corps for non-observance of dress regulations failure to pay compliments, improper behavior, etc.

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d. Improper use of W.D Vehicles will automatically be treated as serious and in all probability will result in trial by F.G.C.M.

22. e. Work tickets must be signed and properly filled out before leaving Car Park.

VENEREAL DISEASE.

a. Any soldier who has become exposed to the possibility of infection will at once report to the nearest medical centre for prophylactic treatment. Failure to comply with this order will result in many days of anxiety, plus Hospital.

STOPPAGES OF PAY.

b. Any soldier having this disease must report to Orderly Corporal for sick parade. Failure to comply with this order will meet with disciplinary action.

23. WASTE

It is essential that no waste occurs in regard to :-

a. Electric lights (left burning when non-essential.)
b. Water taps (not turned off).
c. Slack coal (not used to best advantage)
d. Burned out bulbs or brass end of bulb returned to Q.M. Stores or credit or exchange.

24. STANDING ORDERS.

These Orders to be read out on Parade every three months. All sub-units or other personnel attached to this H.Q for Quarters must read and conform to these Orders.

JB/WMG

.....
(J.BROWN) Captain,
A/Camp Commandant and Q.M
H.Q., Cdn. Reinf. Units

18. Q.M.STORES

a. All other ranks must report to Q.M.Stores on first arrival at this H.Q., also on his leaving the Unit; soldier will not receive a clearance from Q.M.Stores until he has returned all his bedding etc., furnished temporarily by Stores.

b. N.C.O i/c Officers' Mess will be responsible for Officers' Servants and kitchen staff complying with this order.

c. Clothing exchanges on Monday and Wednesday of each week

d. Boot repairs Monday , or not later than 1800 hrs Tuesday of each week.

e. Bolster covers, 1st and 15th of each month: Senior N.C.O of each room will be responsible for changing same.

f. Cleaning materials - Wednesday of each week : this applies to all messes in regard to supply of soda, soap, rags, toilet paper.

g. Soap coupons to O.R's will be issued at time of Pay Parade and will be initialled for by recipient.

h. Soap Coupons will be issued in bulk for Officers by Q.M to Mess Secretary and signature will be received for same; each individual officer will sign Mess Secretary's Ledger, on receipt of his coupons.

i. On account of Ledger Records, Clothing coupons for Officers and W.O's 1 will have to be drawn personally from Q.M.

j. All other ranks going on leave or to Hospital will hand in their extra kit and bedding to Stores. When a soldier is too sick to do this, the N.C.O i/c room will see that this is attended to.

19. SICK PARADES

a. All personnel wanting to see the M.O will have their names entered on the Sick Report; they will be paraded by Orderly Corporal at 0830 hrs. to the M.O. Orderly Corporal will remain with the parade until handed Sick Report by M.O, and will turn in report to Unit Orderly Room.

b. Incoming personnel whether returning from leave, joining the Unit from Hospital, or under any other circumstances will report to the M.O on the first Sick Parade immediately after their arrival. They shall also be paraded to Dental Centre.

c. Personnel excused duty by the M.O will not leave the Barrack area, neither will they enter Wet Canteens unless granted proper permission.

20. LEAVE

a. Personnel below the rank of Sgt. will not be absent from their respective areas after 2200 hrs without a pass, unless on duty.

b. All other ranks who leave he barrack area during working or parade hours and on Sunday between Reveille and dismissal of Church Parade will obtain a pass before doing so.

c. Soldiers on pass will be responsible for their return at time stated on pass, and on returning from late pass will proceed to their beds in a quiet manner.

d. Leave is always subject to restrictions as imposed by Higher Authority.

To Page 6.

15. MESSES

a. Officers Mess.

All Officers upon arrival will immediately acquaint themselves with the rules and regulations of the Mess.

b. Sergeants Mess.

All W.O's and Sgts. upon arrival will immediately acquaint themselves with the rules and regulations of the mess.
The management of the Mess will be conducted in accordance with K.R Cans., and Rules for the management of Mess and Institutes, by a committee of a President and two members, a secretary and a treasurer, appointed subject to the approval of the Commanding Officer.

c. Mens Mess

This Mess comes strictly under the supervision of the Cpl. Cook, who is responsible to the Messing Officer for the cleanliness and general appearance of the Kitchens and for all feeding and cooking arrangements.
Other ranks must acquaint themselves with rules and regulations of the Mess in regard to meal hours and care of utensils etc.
A committee of five, including a secretary, will be elected, one from each department, for the purpose of meeting at least once a month to place forward any improvements or correction of any faults in regards to Mens' Messing, etc.
Minutes of this meeting will be posted on Order Boards.
Messing Officer will act as H/President of this Committee.

d. A definite charge is placed against the Unit for all containers and sacks, therefore for credit purposes these must be returned to Stores, not thrown out, burned or given to Swill Contractor.

e. N.C.O i/c Mess will submit to Q.M on Thursday of each week a nominal Roll of Officers and Other Ranks attached to Mess; this procedure will also be carried out by Sgts' Mess.

f. N.C.O i/c Mess shall supervise duties of Officers' Servants, that the rooms, quarters, hallways and rear areas are kept in clean condition

g. Ashes, Salvage etc. will be handled as per Part 1 Orders, under supervision of N.C.O i/c Mess, who will also supervise Fire Hazards, Frost Precautions, Blackout and the non-essential burning of Electric Lights, and that water taps are turned off.

h. All surplus stores must be placed in one storage space for inventory check and to prevent loss of same.

i. Sanitary rules as posted in Cook House must be adhered to.

j. These rules apply equally to Officers' and Sgts' Messes.

16. MILITARY PHONES.

All ranks are forbidden to use Military Telephones for private use.

17. PRECAUTIONS AGAINST FIRES.

a. All fire fighting equipment including water, fire and sand buckets, axes hand, gloves, shovels etc. will be kept in its proper place and on no account used for any other purpose than that designated.

b. Fire Hazards consist of - Matches, cigarettes, cigar butts, pipe heels not being extinguished before being thrown away; open fires being left unguarded; accumulation of grease around kitchens; paint and oily rags left around Garages and buildings.

c. Cubby Holes and Storage Rooms should be inspected at least twice weekly to ensure of waste paper and other inflammable materials being removed.

To Page 5.

7.(contd) DISCIPLINE.

to soldiers from time to time.

b.Gambling in any form is forbidden in Barracks or in the NAAFI.

c.Compliments will be paid by all other ranks to Officers, who will in turn see that salutes are properly returned.

d.All Staff cars displaying Commander's flag will be saluted.

8. DRESS.

a.Other ranks will be properly dressed for parades as ordered.

b.Other ranks when walking out will wear battle dress, anklets; Respirators A/g will be worn over the right shoulder.

c.No neck ties will be worn and tunics will be fastened at the neck. Caps will be worn at correct angle.

d.Haircut will be of military style.

e.Steel helmets will not be carried when walking out unless on pass over 24 hours and then carried on left shoulder.

9. ELECTRICAL FIXTURES & BULBS.

The removal of electric light bulbs from the Ablution and Wash rooms, hallways etc., is prohibited.

10. FIRE PREVENTION.

Fire prevention and action to take in case of fire will be issued under separate cover and attached to these Orders.

11. FROST PRECAUTIONS.

Frost Precautions as laid down by Aldershot Area Command will be attached to these Orders.

12. GUARDS & SENTRIES.

The Orders for Guards & Sentries will be strictly adhered to.

13. LIQUOR IN CAMP.

No Officer or soldier will bring into the Barrack area any spirituous or malt liquor for personal consumption. Such commodities will be purchased through licensed establishments, i.e messes, canteens and Institutes.
No spirits or malted beverage will be consumed in rooms.

14. MAIL

a.Outgoing Mail for Canada will be posted at Unit Post Office, marked "CANADIAN ARMY OVERSEAS" and stamped with Unit Stamp.

b.Only Canadian mail is postage free.

c.From Canada, mail for troops in U.K should be addressed:-

No. A-20000 Pte J.Smith,
H.Q - C.R.U
C.A.O
Base P.O Canada.

d. Mail posted in U.K should be addressed similarly, substituting for the final line - Base P.O England.

e. No place name (i.e Limwood Junction, Claythire) should be mentioned.

To Page 4.

2. (cc td). BARRACK ROOMS

j. Medical authorities claim that blanco is bad for the eyes, therefore no blancoing of equipment will be allowed in Barrack or Ablution rooms.

k. Drying of clothes and equipment must be done in the drying rooms provided for that purpose and on no account near stoves, fires or over radiators.

l. Cupboards where available shall not be used for accumulation of waste articles, but kept in a clean and orderly manner.

m. The waste of more hot water than sufficient to do needs is unnecessary; acquire the habit of cleaning out the wash basin after use - this also applies to showers and bath-tubs.

n. Cleanliness of the W.C seat and pan helps towards health and comfort, also creating a minimum of work for the duty men. A toilet out of order should be reported to the Camp Commandant immediately. When a shortage of toilet paper occurs, newspaper cut down to the size of 4½ in. by 6 in. will be found quite satisfactory and will avoid plumbing trouble and more so, much inconvenience.

3. BARRACK STORES

No Barrack Stores, including damaged pieces, furniture or fixtures can be removed from any room or building without first receiving the sanction of Camp Commandant or his representative. Inventories will not be changed except on signature of Q.M.

4. BATH PARADES.

Bath Parades are essential for some personnel who fail to utilize the facilities provided them; to ensure of regularity of bath parades, a register will be kept in each hut or room for signature and anyone found making a false entry will be dealt with.

5. BLACKOUT REGULATIONS.

Blackout regulations must be strictly adhered to. All blackouts must be removed daily, and in unoccupied buildings or offices must they at no time be left in place over windows. (Fire Precautions C.A.R.O).

6. BOUNDS.

The following are "out-of-bounds" to other ranks except on duty:-

a. Unit Headquarters Administrative Buildings.
b. All Officers' Quarters.
c. All Officers' Mess Buildings.
d. All unoccupied buildings.
e. Quartermaster Stores.
f. Kitchens and adjacent rooms.

After duty hours and until 2200 hrs., Farnborough, Ash Vale and Aldershot areas will be considered within bounds. Any soldier proceeding beyond these bounds must be in possession of a valid pass.

7. DISCIPLINE

Sections 4 to 44 of the Army Act will be read and explained

To Page 3.

Ex F

CAMP STANDING ORDERS
For H.Q., Cdn. Reinforcement Units
by
Brigadier F. R. Phelan, D.S.O., M.C., V.D
Commanding, Canadian Reinforcement Units.

1 March 42.

1. ARMS & AMMUNITION - SAFETY PRECAUTIONS.

a. On every occasion when troops parade with rifles, each rifle will be inspected, not only with a view to its cleanliness, but also to ascertain that no unauthorized live or blank ammunition is in the barrel or magazine.

b. No ammunition will be in possession of other ranks except when on duty. Officers or N.C.O's who receive same will be responsible for collecting same when personnel have completed tour of duty. If the ammunition has been expended, a report will be submitted to Camp Commandant.

c. After Range Practice, and before leaving the range, all loose rounds will be collected and weapons inspected, for ammunition.

d. Unauthorized firearms are prohibited in the area.

2. BARRACK ROOMS

a. The Senior N.C.O or O.R in barrack room or hut will be responsible for discipline, cleanliness and will check on absentees of their barrack room or hut.

b. The absentee report will be presented to the Camp Commandant's office by 0900 hrs. daily.

c. Room Orderlies will be responsible for the general cleanliness of rooms; huts will be policed and ready for inspection by 0930 hrs. weekdays and by 1030 hrs. Sundays and holidays. Servants quarters will be ready for inspection daily at 1030 hrs. Unless excused by reason of late duties, all beds will be laid out as per adopted plan. A uniform method of hanging on walls clothing and equipment will be adopted with the facilities afforded by the room or hut.

d. Anti-Gas Capes will be kept unrolled and hung up on the wall, except when used for parade.

e. Floors will be cleaned by means of water with a weak solution of creosole, using a squeegee, this to be done at least twice weekly, the other days using brushes sweeping with wet sawdust or waste tea leaves, if available.

f. Rooms will be aired, weather permitting, at least one hour during the forenoon and one hour in the afternoon.

g. Refuse will not be thrown on the floors nor placed in sand, fire or water buckets. The practice of throwing cigarette ends in buckets must cease. When stoves or open grates are used, ashes must be removed as often as required to keep the enclosure clean. Ashes under normal circumstances should not be dumped around huts or grounds, but placed in containers issued for that purpose. Tin cans, waste paper, other salvage and ashes must for disposal purposes be kept in separate containers.

h. Blankets will be shaken out in the air twice a week. N.C.O or Senior man in charge of room should supervise this.

i. All damages or lost articles of Barrack Stores and R.E fixtures have to be paid for, all ranks will be governed accordingly for prevention of destruction and unauthorized removal of these stores and fixtures.

To Page -2-

CAMP STANDING ORDERS
For H.Q., Cdn. Reinforcement Units
by
Brigadier F. R. Phelan, D.S.O., M.C., V.D
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To Page -2-

Minutes of a "Special Meeting"
held at Sgts' Mess CBU
on the 29th Oct, 41.

A special Meeting was called for the approval of the proposed Rules and Regulations governing the Mess.

The Rules and Regulations, as previously drawn up by the members of the Committee, were unanimously adopted with minor amendments.

Rules and Regulations having been adopted, the Meeting was adjourned by the President.

(Sgd) W.A.RICE
Secretary & Treasurer, Sgts' Mess
H.Q. Canadian Base Units.

(Sgd) ROBERT V. CARPENTER PRES

(SGD) M.B.
DA & QMG

Certified true copy of p 9 of Book of Minutes of HQ CRU Sgts' Mess. Exhibit 5.

2 May 44

(W P Taylor) Major
JAG Rev 1
Canadian Military Headquarters

FROM SATURDAY NOON 12 JUNE 43 TO MONDAY NOON 14 JUNE 43

Ex D

SPIRITS SOLD

14 Bottles Whisky @ 1-10-0		
4 Bottles Rum @ 1-18-0	£21-0-0	
1 Bottles Gin @ 1- 7- 0	7-12-0	
	1- 7-0	
	£29-19-0	

BEER SOLD

1 Barrel of 18 Gals. @ 1/ per Pt.	£ 7- 4-0	
48 Bottles (Pint) at 1/2	5-16-0	
48 Bottles (½ Pt) at 1/0	2- 8-0	
	£15- 8-0	
Less 5% waste	18-6	
	£11-15-6	

PEPSI COLA SOLD

34 Bottles @ 3½d	
	£ 0- 7-0

SPIRITS---------- £29-19-0
BEER---------- 11-15-6
SOFT DRINKS---------- 0- 7-0

£42- 1-6

Cash in hand at turn over
Spirits, Beer & Soft Drinks purporting to be sold £13-19-7
42- 1-6
Money in Cash Box £56- 0-1

56- 0-6

DEFICIT

£29-17-0

The above statement is certified to be correct, to the best of our knowledge.

Sgts Mess, H.Q. C.R.U.

President:- (B.M. Barrett) CSM

Treasurer:- (A.F. Short) Sgt

Caterer:- (A. Boucher) Pte.

certified true copy

Ex 4

STOCK ON HAND - MONDAY JUNE 14/43.

SPIRITS

Whiskey 9 Bottles - 1/2 @ single
Rum 1 Bottle - 1/4 @ single
Gin nil

(30 singles @ Bottle)

BEER

Bottles Pint NIL
Bottles @ Pint NIL
1 Barrel (9 gals) @ 1/ Pt.

CIGARETTES

1000 Majors @ 20 for 1/6
150 Weights @ 20 for 1/1
380 Tenner @ 20 for 1/1

SOAP

12 Boxes Oxydol @ 7d
8 Face Soaps (Palmolive) @ 3½d
8 Fade Soaps (Lux) @ 3½d

Cash on hand Monday June 14/1943. £ 26- 2- 4

---

4 doz Pepsi Cola @ 3½d a bottle

CERTIFIED CORRECT

Sgt's Mess, H.Q., C.R.U.

President:- (B.H. Darrett) CSM
Treasurer:- (A. . Short) Sgt
Caterer:- (A. Boucher) Pte

certified true copy

EXHIBIT C

Bar Hours

Mon - Fri	Sat	SUN
1145 - 1300	1145- 1300	1145 - 1300
1645 - 1800	1630- 1800	1630 - 1800
1930 - 2300	1930- 2300	1930 - 2300

E"E"

FROM SATURDAY NOON 12 JUNE 43 to MONDAY NOON 14 JUNE 43

SPIRITS SOLD

14 Bottles Whiskey	@ £1-10-0	£21-0-0
4 Bottles Rum	@ 1-18-0	7-12-0
1 Bottle Gin	@ 1- 7-0	1-7-0
		£29-19-0

BEER SOLD

1 Barrel of 18 gals. @ 1/ per pint	
48 Bottles (Pint) at 1/2	£ 7- 4-0
48 Bottles (½ Pt) at 1/0	2 16 0
	2 8 0
	£12- 8-0
Less 5% Waste	12-6
	£11- 15-6

PEPSI-COLA SOLD

24 Bottles @ 3½

£0 - 7 - 0

SPIRITS-	£29-19-0
BEER-	11-15-6
SOFT DRINKS-	0 - 7-0
	£42-.1 - 6

Cash on hand at turn over
Spirits, Beer and Soft Drinks purporting to be sold £13 - 18 - 7

Money in cash box	42	1	6
	255	0	1
DEFICIT	26	2	4
	£29	- 17	- 9

The above statement is certified to be correct, to the best of our knowledge.

Sgts. Mess, H.Q., C.R.U.

President:- (B.H. Barnett) CSM
Treasurer:- (A.W. Short) Sgt
Caterer:- (A. Bouvher) Pte

CERTIFIED TRUE COPY

[signature]

"D"

STOCK ON HAND - MONDAY JUNE 14 - 43

Whiskey	9 Bottles	- 1/2 @ single	SPIRITS
Rum	1 Bottle	- 1/4 @ single	
Gin	Nil		

(30 singles @ bottle)

- -

Bottles	Pint	Nil	BEER
Bottles	Pint	Nil	

1 Barrel (9 Gals) @ 1/ Pint

- -

1000 Majors	@ 20 for 1/6	CIGARETTES
150 Weights	@ 20 for 1/1	
380 Tenner	@ 20 for 1/1	

- -

12 Boxes of Oxydol	@ 7d	SOAP
8 Face Soaps (Palmolive)	@ 3½d	
5 Face Soaps (Lux)	@ 3½d	

- -

Cash on hand Monday June 14/1943 £26-2-4

- -

4 dozen Pepsi-Cola @ 3½d a bottle

- -

CERTIFIED CORRECT

Sgts Mess, H.Q., C.R.U.

President:- (B.H. Barret) CSM
Treasurer:- (A.W. Short) Sgt
Caterer:- (A. Boucher) Pte

CERTIFIED TRUE COPY

[signature]

Ex "C"
[signature]

STOCK ON HAND - SATURDAY JUNE 12th, 1943.

Whiskey	23 Bottles	- 1/2 @ single	SPIRITS
Rum	5 Bottles	- 1/4 @ single	
Gin	1 Bottle	- 1/2 @ single	
	(30 singles @ bottle)		

- -

48 Bottles (Pint)	- @ 1/2 Pint	BEER
48 Bottles (½ Pint)	- @ 1/ Pint	
1 Barrel (18 Gal)	- @ 1/ Pint	
1 Barrel (9 gal)	- @ 1/ Pint	

- -

1000 Majors @ 20 for 1/6		CIGARETTES
150 Weights @ 20 for 1/1		
380 Tenner @ 20, for 1/1		

- -

12 boxes of Oxydol	@ 7d	SOAPS
8 Face Soaps (Palmolive)	@ 3½d	
5 Face Soaps (Lux)	@ 3½d	

- -

Cash on hand Saturday June 12 - 43 - £13-18-7

- -

6 dozen Pepsi-Cola @ 3½d a bottle

- -

CERTIFIED CORRECT

President	(B.H. Barret)	CSM
Treasurer	(A.W. Short)	Sgt
Sgts. Mess, H.Q., C.R.U. Caterer	(A. Boucher)	Pte.

CERTIFIED TRUE COPY

W. Dr. Lerman Enaj

Ex "B"

STOCK ON HAND - SATURDAY JUNE 12th, 1943.

EX B

EX 2.

SPIRITS

Whisky	23 Bottles	- 1/2 @ single.
RUM	5 Bottles	- 1/4 @ single.
Gin	1 Bottle	- 1/2 single

(30 Singles @ bottle)

BEER

48 Bottles (Pint)	- @ 1/2 pt.
48 Bottles (½Pt)	- @ 1/- Pt.
1 Barrel (18 Gal)	- @ 1/- pt.
1 Barrel (9 Gals)	- @ 1/- pt.

CIGARETTES

1000 Majors	@ 20 for 1/6
150 Weights	@ 20 for 1/1
380 Tenner	@ 20 for 1/1

SOAPS

12 Boxes Oxydol	@ 7d
8 Face Soaps (Palmolive)	@ 3½d
5 Face Soaps (lux)	@ 3½d

Cash on hand Saturday June 12-43 - £13-18-7

6 Doz Pepsi Cola @ 3½d a bottle

CERTIFIED CORRECT

	President (B.H. Barrett) CSM
Sgts Mess, H.Q., C.R.U.	Treasurer:- (A.V. Short) Sgt
	Caterer (A. Boucher) Pte.

certified true copy.

EXHIBIT "A"

SGTS MESS HEADQUARTERS CANADIAN REINFORCEMENT UNITS.

Stock on Hand Saturday June 12th, turned over to Sgt Lawson. from Pre Boucher, A.

Whisky	23
Rum	5
Gin	1
Total	29

Beer: Pints	48 bottles
Half Pints	48 bottles
Draft Beer	½ barrel 18 gals.
Firkin.	9 gals.

Pepsi Cola 6 doz.

EX 1

Stock on hand Monday June 14th

Whisky	9
Rum	1
Gin	0
Total	10

Beer Pints	None
Half Pints	None
Draft	None
Firkin	9 gals.

Pepsi Cola 4 doz.

certified true copy

SGTS MESS HEADQUARTERS CANADIAN REINFORCEMENT UNITS

Stock on hand Saturday June 12th, turned over to Sgt Lawson from Pte Boucher, A.

Whiskey	23
Rum	5
Gin	1
Total	29

Beer: pints	48 Bottles
Half Pints	48 Bottles
Draft Beer	½ Barrel 18 Gals.
Firkin	9 Gals

Pepsi Cola 6 doz.

Stock on hand Monday June 14th

Whiskey	9
Rum	1
Gin	0
Total	10

Beer Pints	None
Half Pints	None
Draft	None
Firkin	9 Gals.

Pepsi Cola 4 doz

Ex "A"

CERTIFIED TRUE COPY

regulations of the Mess regarding them.

I ask the Court, is it reasonable that one who has the responsibility and the charge of possibly £100-0-0 worth of cash and stock in trade, not to take off an inventory at the end of his tour of duty, and not to balance his cash against that inventory, but on the contrary to walk out of the Mess and hand the keys to a general duty man. That is not misjudgment, nor is it misjudgment in permitting members behind the bar to have access to the bar.

THE COURT IS CLOSED TO CONSIDER ITS FINDING:

Why it finds the accused not guilty on the 1st charge and that with respect to 2nd charge

THE COURT IS REOPENED AND ANNOUNCES THAT IT CANNOT ANNOUNCE ITS FINDING, BECAUSE ITS FINDING IS ONLY VALID WHEN CONFIRMED

THE PROSECUTOR PRODUCES MFB 355 and MFM 6 IN CONNECTION WITH THE ACCUSED.

RP 46 (b) IS COMPLIED WITH

THE ACCUSED DECLINES TO MAKE A STATEMENT IN MITIGATION:

CAO RO 3262 is complied with

THE COURT IS CLOSED TO CONSIDER THE SENTENCE:

PROCEEDINGS IN OPEN COURT ARE CONCLUDED:

[illegible] 28 Oct

PROSECUTOR: "Chits are not negotiable sir. I am looking from the point of view of cash outside of negotiable instruments which they would have to forge. I am saying that there was only £5-0-0 difference on each night, and yet the accused decided to take it home for the difference of £5-0-0."

Again he admits that he slept all through the blitz in London. Then why didn't he take more caution. They had no difficulty without his knowledge of taking the keys from him. Why didn't he go one step further. If he had left his keys on his box it would have been simple for anyone to take them up and open the box. But knowing himself to be a very sound sleeper, he still leaves the keys in his pocket, which I submit amounts to the same thing. Again I say that while that was an error of judgment, he has still to account for it. He stopped too, which I consider to be negligence, while carrying that cash box under his arm. Anything could have happened then.

There is also this feature -- I submit that these funds were taken to his room and placed in the Barrack box, he admits this in his own evidence. It was placed in their in view of two members of the Mess who accompanied him to his quarters. Now the idea developed during the course of the party that the keys could be obtained. Is it not possible that they could obtain the whiskey with any less degree of concealment than they could have removed the cash box from the cupboard if it had been there. I submit that it would have been much more difficult to remove it from the cupboard in the bar, than it would have been to remove it from the barrack box, where there was no one present to witness the act.

I don't base my whole argument or the whole Prosecution on the £16-10-0. I cannot say that I do not feel that Sgt. Lawson is to a certain extent an unfortunate victim of circumstances on the night of this party, or of circumstances which resulted from this party. But I do state that there was that degree of Negligence required under Section 40 of the A.A., and on the point of Conduct to the Prejudice of Good Order and Military Discipline or Neglect to the Prejudice of Good Order and Military Discipline, it has to be Conduct or Negligence as established by custom, and not necessarily as laid down by present day orders and routine. What has been the custom and the practice throughout the Army over the years; and it is on that custom and that practice that the A.A. present day regulations are based. We have then K.R. Can. which lends a certain degree of balance to the A.A.

Summarizing sir, I do not propose to deal with all these witnesses separately. The Court has listened today and has had the opportunity to study them individually. I do however submit this. The accused has been negligent in, A, permitting persons or members of the Mess to enter the bar after hours, during the time when he is balancing off his cash, having the cash box, which he has not denied, open and accessible to these persons; B, permitting those members to pour themselves drinks, not using standard measure or any measure whatsoever --

DEFENDING OFFICER: "That is in dispute."

PROSECUTOR CONTINUES: "Then let us say it is in dispute and for the Court to decide, but I would draw your attention to the fact that the accused's evidence in that connection was taken up in rebuttal with this witness who repeated his original statement." -- "Sir, I am basing my argument on the evidence adduced. The Sgt. himself says that a drink was poured for Sgt. McBride and that he told him his money was no good, but has he told this Court today that he put in the money for the drinks. Before that night he stated that he -- over the weekend he paid £2-10-0 --

THE PRESIDENT: "I don't think that the accused admitted that he allowed Sgt. McBride to pour drinks."

PROSECUTOR CONTINUES: "Now, there is the evidence pro and con, and again it is up to the Court to decide. He did make a sale of one bottle of whiskey and a part bottle of gin to Sgt. McBride, and Sgt. McBride says he paid £1-10-0 for it. The accused says 37 shillings. Now, I submit that 30 shillings, if you accept the word of Sgt. McBride, was not a correct price for it. That a sale of gin on a direct estimate basis of a portion of a bottle was not a correct sale. Regarding the chits, you have the rules and

his knowledge or consent, removed the cash and the stock. They gentlemen are the ones who should be called upon to account for the cash and the stock, and not the accused. Nor was the accused so negligent that he lost the stock and money -- far from it. That negligence gentlemen must be shown to be either wilful or culpable, and not gentlemen merely the result of forgetfulness, error, misjudgment or inadvertence. The law requires only that he take reasonble care, and I submit Mr. President that he has taken much more, and is not required to pay for the mischievous or malicious acts of others, which were committed unknown to him. As you have seen gentlemen, the accused far from being wilful or culpable in negligence, has shown himself to be a man who took more than the reasonable precautions. I submit gentlemen, that there is no evidence on which to convict the accused on the charges before the Court.

CLOSING ADDRESS BY THE PROSECUTOR:

"I would ask the Court to recall my remarks of this afternoon and in addition thereto, I would ask the Court to take into consideration the following points.

As my learned friend is dealing with the loss of £16-10-0 in cash. Assuming the correctness of his contentions and accepting his arguments, he has still offered no explanation to the Court, for the difference of £14-7-9. It was the opinion of the accused in the witness box, that this represents stock which was removed from the bar on that evening, but the figures are not offered in evidence. We have against the evidence of the accused, the evidence of the participants of the party that night, that there were only two bottles of whiskey removed that night, at a fair value of £3-0-0, there is still the difference to account for. The accused himself has admitted the disappearance of a bottle of rum in a manner in which he cannot account for, but certainly if it was possible to remove it in the way he suggested, then it was not only a matter of negligence, but culpable negligence in making it possible. It is not suggested that the bottle was removed on Sunday night, because it was removed prior to that on his own admission. How much was removed in the same manner we do not know.

The accused suggests that all the balance disappeared that night of 13-th and 14th of June. That I submit is impossible for him to suggest or hope to prove in view of the evidence which has been given before you. Had he made a proper statement and one which he as a member of the Regtl. Funds Board advocates, had he made up that statement at the close of business on Saturday night, there would be something to produce to the Court today. Yet the accused asks the Court to believe that the sales amounted to £6-8-1. It is quite clear that the accused did not check his stock against cash receipts. It might well be that on Saturday night had he checked, there would have been a discrepancy there. Since he has not answered that question, I submit that he cannot answer that question. I submit that is not any error of judgment at all, but because of his particular duties and particular training in civilian life, that the accused is in the position that he should exert a greater degree of care and accuracy. He is not a stranger to this sort of thing. He has been assisting and advising this particular Mess Secretary and the Committee. He has admitted that they had not installed the books and sustem which he and the Regtl. Funds Board advocate, yet is that any excuse for him to say now, "I just followed the old procedure", one which he agrees was wrong. Even for two days you can take off an inventory, even though you have not the inventory sheets.

Now, the question arises, "Why didn't he take these funds to his barrack room on Saturday night?". He states that he took them on Sunday night because there was a considerably larger amount, yet looking at his own figures on Saturday he had £22-4-8 and on Sunday he had £41-12-4. That amount of Sunday was composed only of £23-0-0 in cash, as compared with £18-0-0 on Saturday. The balance were chits and unnegotiable instruments.

THE PRESIDENT: "Do you say £18-0-0?"

PROSECUTOR: "On Sunday night he had in cash £17-10-0 in bills and £5-0-0 in silver roughly, which amounts to £22-10-0 in cash."

THE PRESIDENT: "How about chits?"

entered the bar as well as his barrack box and the cash box. In addition the Prosecution must show that the negligence was wilful and culpable, and not just merely the result of forgetfulness or error in judgment or inadvertence. That is, his negligence must be deliberate and with full intent, before a conviction can be registered against the accused.

Now, gentlemen, turning to the evidence we see that the accused was ordered to act as bartender, a job for which he had no particular qualifications, in so far as the sale of drinks was concerned, in which capacity he had never acted before, yet the President of the Mess Committee must have had confidence in him, otherwise he would not have detailed the accused for this job. The bar itself appears to have the one door -- the serving door -- which was improperly secured by two small brass bolts which themselves give the impression of having been previously forced. It would have apparently been a simple matter for anyone to gain entry to the Mess and then to the bar through this second means of entry which I have mentioned. A Conscientious man like the accused, particularly a new man on the job, realizing this, would naturally take further steps towards the security of this box, like taking the cash box to his bedroom and keeping it locked up there, as was done in this case. After all he had no reason whatsoever, to suspect the other members who slept in his quarters.

As to the accused's condition while performing his duties, we have the evidence of S/Sgt. Watson, S/Sgt. Carlson and Sgt. Watson, that the accused was quite sober as late as 2245 hrs on the night of the 13th of June. Sgt. Perkins who is a teetotaller and consequently well able to judge, testifies that he was quite sober. From the hours of 2200 and 2300 S/Sgt. Watson who was also present until closing time says that he was sober. Now, the evidence of CQMS Pelley shows that the accused refused drinks offered to him later, in the accused's room. Even Sgt. McBride admits this. So that I submit gentlemen that it appears as though the accused was not drunk at any time on the 13th of June or on the morning of the 14th of June, and consequently quite capable of carrying out his duties, through the whole of his tour of duty.

Then, after the closing of the bar at 2300 hrs. the accused apparently carried the cash box to his room and locked it in his iron bound barrack box, he having knowledge which is corroborated that the bar had previously been entered at some time, and bearing in mind the rather flimsy construction of the cupboard in which the cash box was ordinarily kept. Now, the accused locked the cash box in that iron bound barrack box, which was at the head of his bed between the bed and the wall. This I submit, was a doubly safe measure, since the key of the bar and barrack box were on a leather thong which was attached to the belt of the accused's battle dress. The accused slept apparently in his battle dress, and as I have pointed out before, he had no reason whatsoever to suspect any member of the Mess of robbing him of these keys. Now, there were present in the room at this time, Sgt. McBride and CQMS Pelley. Apparently Sgt. Slipper was asleep in the corner of the room. After 10 or 15 minutes conversation with the accused, Sgt. McBride and CQMS Pelley moved on to the room occupied by CSM Laurie, Sgt. Perkins and S/Sgt. Spence, where they were joined by Sgt. Comba and Sgt. Shanley. As to what happened next, the evidence is that someone made the suggestion that they could get some more drinks, Sgt. Comba, whereupon he left the room and returned and made some remarks such as, "Let's go" and the evidence is that there were some keys in his hand. The fact that Sgt. Comba had the keys is also born out on the evidence of Sgt. Perkins. As to what happened in the accused's room when Comba went to get the keys, Sgt. Slipper said he saw one of the party with the cash box in his hands, and that he saw him with money and cheques in his hands amounting approximately to the missing money. Now, bearing in mind gentlemen, that the evidence shows that the accused was not asleep while this was happening, and that the accused is being charged with being unable to account for money which it has been shown was removed from the cash box by other men or man unknown to the accused. There is no evidence that the accused surrendered the cash box.

Now, CSM Laurie got dressed and left his quarters, and saw Sgt. Comba and Sgt. Shanley come out of the Mess, and the whiskey was produced. S/Sgt. Spence has further stated on oath that further liquor and beer were produced. There gentlemen is a picture, there is the basis of the charge against the accused today. The accused has locked up his stock and cash, apparently securely for the night, and he has then gone to sleep. Other persons unknown to him without

Q.808 You went to Sgt. Comba's room to consume whiskey, is that right?
A.808 Yes, sir.
Q.809 How many bottles of whiskey did you see produced in that room?
A.809 To be sure sir, two.
Q.810 It is suggested by the evidence today, that there were in the neighborhood of from 5 to 7 bottles removed from the bar that night and consumed. What do you say as to that?
A.810 I didn't see them.
Q.811 You were with the party from the time it left 'A' block until it broke up at a later time in Sgt. Comba's room, is that correct?
A.811 No, sir, they were still there when I left sir.
Q.812 Was there any discussion of any more being produced?
A.812 No, sir.
Q.813 Who had the keys at that time, when you left there -- do you know?
A.813 I believe the man that opened the bar sir.
Q.814 Who was that?
A.814 Sgt. Comba sir,
Q.815 Was he in possession of the keys when you left the party?
A.815 To the best of my knowledge sir.
Q.816 Now, did you see Sgt. Lawson the accused during the evening of Sunday, 13th of June, 1943?
A.816 Yes, sir. I saw him early in the evening, at approximately, it would be after 7 and before 9, in between there.
Q.817 Sgt. Lawson has stated that on that evening he was not under the influence of liquor. What would you say as to that statement?
A.817 Well, I wouldn't say he was under the influence, but I would say he had a few drinks. But he was not under the influence of liquor.
Q.818 But what would you say as to his capabilities of handling the job which he was performing that night? In your opinion was he capable?
A.818 As I say, I was only in there a short time, and not paying too much attention to him, but I should think that he should have had some help in there.
Q.819 Would you tell the Court why you think that he should have had some help?
A.819 Well, just from his actions, you can tell when a man has had a drink.
Q.820 A drink or drinks?
A.820 Well, it is just guess work on my part. I would say he had a few drinks and he seemed as though he was feeling pretty good.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.821 Would you say that Sgt. Lawson was incapable of carrying out his duties?
A.821 I wouldn't say that.
Q.822 When you left the bar in the hours of the morning, did you see anybody lock the door.
A.822 Well, sir, I was not in the bar then.

(In the opinion of the Court, it is not necessary to comply with RP 83 (b) in connection with this witness.)

PROSECUTOR: "That is the rebuttal sir."

CLOSING ADDRESS BY THE DEFENDING OFFICER:

"Mr. President and Gentlemen, I made certain submissions earlier in the day, and as I pointed out then the accused is charged with Neglect to the Prejudice of Good Order and Military Discipline, in that he did so negligently perform his duties that he did lose stock and money to the amount of £28-17-9, and a charge in the alternative under the same Section that as a result of negligence he was unable to account for the sum of £28-17-9.

Now gentlemen, as I pointed out previously in the day, Negligence under Section 40 must be as follows (reads the paragraph in the Note at the foot of page 458 and 1st paragraph at the top of page 459, of M.M.L.). Now I ask you gentlemen, how the actions of certain NCOs in practically stealing stock and breaking into this cash box, as well as breaking into the bar and removing certain whiskeys and beer possibly, so reflects on the accused as to fairly show that he was guilty of negligence to the Prejudice of Good Order and Military Discipline.

It amounts in a word to this: The accused was asleep and they robbed him and

Q.791 (con'd) ber that situation?
A.791 No, sir, I didn't return to Sgt. Lawson's room from the time I left it with Sgt-Major Pelley.
Q.792 Until you went back at 0400 hrs. or thereabouts.
A.792 That's right sir.
Q.793 You will recall that in your evidence in chief, you told of the drinks which you had in the bar after your arrival on the evening, that is on the evening of Sunday, 13th of June, 1943. Do you recall what you said?
A.793 Yes, sir.
Q.794 Sgt. Lawson has stated in his evidence that only one drink was served, or was it 2 drinks were served, and they were served by himself?
A.794 There were 3 drinks served sir, by Sgt. Lawson.
Q.795 Sgt. Lawson has stated that after leaving the bar and going to the kitchen, that you did not again return to the bar?
A.795 We returned to the back bar of the Sgts' Mess, after we had been in the kitchen.
Q.796 And he has denied that you served yourself with any drinks, and that he did not serve you with a full glass of whiskey at all, what do you say as to that?
A.796 Sgt. Lawson served us with a full half beer glass of whiskey, which was shared as sort of a loving cup.
Q.797 And as to your helping yourselves, he states that if you did that, it was not done with his authority, what do you say as to that?
A.797 I poured out 2 drinks of rum, Sgt. Lawson stated that he didn't want any more to drink, and told us to go ahead and have a drink.
Q.798 Now, with regard to the missing money, it has been stated here Sgt., that on Tuesday at the time of the Meeting in the office of Sgt. Johnson, which is located at CRU in the DAPMs Branch, that you stated that you would get the money the next morning -- what do you say as to that?
A.798 I have no recollection whatsoever of making such a statement.
Q.799 It is stated that on a subsequent occasion, you indicated that you would get the money -- do you recall any occasion on which you made any such undertaking, or made any such statement?
A.799 I cannot recall any such occasion or statement.
Q.800 You purchased a bottle of whiskey, and a portion of a bottle of gin, from Sgt. Lawson, for which you have told us you paid him the sum of 30 shillings. Sgt. Lawson states in his evidence that you paid him 28 shillings for the bottle of whiskey and9 shillings for the gin, making a total of 37 shillings -- what do you say as to that?
A.800 I paid Sgt. Lawson 30 shillings -- a one pound note and a 10 shilling note.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.801 When you left the bar on the morning of the 14th of June, did you see the bar being locked by anyone?
A.801 No, sir.
Q.802 Are you aware that it was open?
A.802 I wouldn't know whether the bar door was open or closed, when we left the bar?
A.803 You didn't see it locked?
A.803 No, sir.

(In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness.)

SECOND WITNESS IN REBUTTAL: C-40501 CSM Laurie, H., E & PE Regt., attached to H.Q. CRU, being duly sworn ~~XXXXXX~~ is examined by:

THE PROSECUTOR:

Q.804 On the evening of the 13th - 14th of June this year, you in company with other Members of the Sgts' Mess, H.Q. CRU, went to the Sgts' Mess and some whiskey was removed from the bar, is that correct?
A.804 Yes, sir.
Q.805 How much whiskey was removed?
A.805 I don't know sir.
Q.806 You didn't see?
A.806 No, sir.
Q.807 Do you know who entered the bar?
A.807 I didn't at the time but I have found out since.

DEFENDING OFFICER: "That is the Defende sir."

PROSECUTOR: "I propose calling two witnesses in rebuttal, purely as to the number of bottles removed from the Mes that night. Does the Court wish that evidence."

THE PRESIDENT: "I think we may as well have that evidence. Also if you have McBride convenient, there are certain statemenst which have been made about him, and we may as well see what he has to say."

THE PROSECUTOR PROCEEDS TO CALL WITNESSES IN REBUTTAL:

FIRST WITNESS IN REBUTTAL: K-52761 Sgt. McBride, J.C., Seaforth of Canada, on the strength of H.Q. CRU, being recalled is examined by:

THE PROSECUTOR:

THE PRESIDENT: "You are still under oath Sgt."

Q.772 Sgt. McBride, on the night in question, when you were, in company with others in the Sgts. Bar, H.Q. CRU, how many bottles of whiskey or spirits were removed?
A.772 Two bottles to the best of my knowledge sir.
Q.773 It has been suggested here to night, that there were a greater number, possibly 5, 6 or 7 bottles removed -- what do you say as to that?
A.773 If there were more than two bottles removed from the Mess, I do not know anything about them.
Q.774 After removing two bottles from the bar, you went to Sgt. Comba's room?
A.774 Yes, sir.
Q.775 In company with other persons?
A.775 Yes, sir.
Q.776 And when you left the party did the others leave at the same time?
A.776 Yes, sir, the party was breaking up or had broken up when I left.
Q.777 Now, did you see who produced the keys for the bar that evening?
A.777 Yes, sir, Sgt. Comba.
Q.778 Do you know how Sgt. Comba came into possession of these keys?
A.778 I do not.
Q.779 When did you first see him in possession of the keys?
A.779 When he was at the padlock of the Sgts' Mess.
Q.780 Which padlock?
A.780 At the door of the Sgts' Mess there is a lock on the door, and Sgt. Comba was opening the door.
Q.781 That is the entrance into the bar?
A.781 Yes, sir.
Q.782 Then, did you see him or did you see anyone else, open the cupboard in which the spirits were kept?
A.782 No, sir.
Q.783 You don't know who opened that cupboard? Did you see the person who produced the spirits?
A.783 No, sir.
Q.784 Did you hear any conversation in 'A' block prior to your going to the Mess about obtaining keys?
A.784 Yes, sir, I heard someone say, 'I know where to get the keys'.
Q.785 Do you know who that someone was?
A.785 I could not identify him sir.
Q.786 Anything further said as to where they could get these keys?
A.786 Yes, it seems to me he said, "I know where to get the keys."
Q.787 But he didn't indicate where?
A.787 No, he didn't indicate where he could get them.
Q.788 After the bar was opened and the whiskey obtained, do you know who locked the bar?
A.788 No, sir, I don't.
Q.789 Do you know where the keys went to?
A.789 No, sir.
Q.790 After the whiskey was obtained from the bar, did you again that night see the keys?
A.790 No, sir, I didn't see the keys again that night.
Q.791 It has been stated here that you accompanied Sgt. Comba and Shanley to Sgt. Lawson's room, and were at the side of his bed, do you remem-

A.752 In my case the answer would be, 'No, sir.'
Q.753 Would it be possible for a lot to happen in 3/4 of an hour?
A.753 I wouldn't know sir.

(In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness).

SIXTH WITNESS FOR THE DEFENCE

B-73782 Sgt. Perkins, J.D.P. 48th Highlanders of Canada, on the strength of H.Q. CRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.754 Sgt. Perkins, do you recognise the accused?
A.754 Yes, sir.
Q.755 Did you see the accused on the night of the 13th of June, which was a Sunday night?
A.755 Yes, sir.
Q.756 Were you speaking to the accused?
A.756 Yes, sir.
Q.757 Are you aware that the accused had been drinking heavily on that night?
A.757 I would not say heavily sir. I talked to him for a few minutes and I wouldn't say he had been drinking heavily at all. We were talking about things he couldn't have been interested in if he had been drinking heavily.
Q.758 Would you say he was sober and capable of looking after his duties?
A.758 Yes, sir.
Q.759 Do you drink yourself?
A.759 I am almost a teetotaller sir.
Q.760 What room did you occupy over the 13th and 14th of June?
A.760 The room next to Queen's Avenue in 'A' block.
Q.761 Who else was living in that room?
A.761 Pte. Taft, Sgt-Major Laurie and then there was a vacant bed, then there was S/Sgt. Spence, and then in the next corner on the same side was Sgt-Major Pelley.
Q.762 Did you see anyone during that night or morning, with any keys?
A.762 I didn't see the keys, but I heard two men talking. There were two men, one of whom mentioned the keys. At that time I didn't know these two men by name, but I found out later that their names was Conban and Shanley, but at the time I didn't know who they were.

THE PRESIDENT: "Were you in bed?"
A.763 Yes, sir.

Q.764 Did you hear them only?
A.764 No, sir, I saw them as well.
Q.765 In what room did you see them?
A.765 In the room I was sleeping in.

THE PRESIDENT: "How do you know they were Comba and Shanley."
A.766 I got to know them afterwards.

Q.767 Could you see them plainly at night?
A.767 Yes, sir, the lights were on.
Q.768 And you saw them in the light, did you?
A.768 Yes, sir. I didn't know them by name then. One in the party said, "I know where the keys are -- I can get the keys."
Q.769 Do you know which one that was?
A.769 At the time I didn't know them by name, but I knew which side Comba was standing on, and the other, Shanley, was on the opposite side to him. Now after definitely learning who was who later, I know who was the one who said this.
Q.770 Who was it that made this remark?
A.770 Sgt. Comba.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.771 You are positive that it was Sgt. Comba who made this remark?
A.771 Yes, sir.

(In the opinion of the Court it is not necessary to comply with R.P. 83 (b) in connection with this witness.)

A.737 Well, he was quite sober when I was talking to him.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.738 At what time was that Sgt?
A.738 That would be around 8/30.
Q.739 And did you have conversation with him, or just more or less pass the time of day?
A.739 That was it -- just for a moment or two.
Q.740 And you think you could say that, in the short period you decide whether the accused was under the influence of liquor?
A.740 He didn't seem to be when I was talking to him.

(In the opinion of the Court, it is not necessary to comply with RP 83 (b) in connection with this witness.)

FIFTH WITNESS FOR THE DEFENCE

B-26198 S/Sgt. Watson, F.T., RCE, on the strength of H.Q. CRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.741 S/Sgt. Watson, are you a member of the Sgts'. Mess, H.Q. CRU?
A.741 I am sir.
Q.742 Do you know the accused?
A.742 Yes, sir, very well.
Q.743 Did you see the accused on the night of the 13th of June, Sunday night?
A.743 Now sir, that date means nothing to me, but if you mean the night of the big schemozzle, I did.
Q.744 Where did you see him?
A.744 Behind the bar sir.
Q.745 Were you speaking to him?
A.745 I was sir.
Q.746 Was he under the influence of liquor?
A.746 May I put it my way sir? He had been drinking, but he was definitely in command of his faculties. I owed Sgt. Lawson one pound, and I had undertaken to pay it to him before 11 o'clock on that evening, and as I had undertaken to do so I was there to pay it as arranged. I have had some odd experiences with gentlemen who have had something to drink, and I was not of the opinion that he was in such a condition that he might later be of the opinion that I did not pay him. Its clear in my mind that Johnny Lawson said, "Well, well, here's old Watson in person. He keeps his word and here he is on the dot." I made some reply and then I paid him the pound.
Q.747 Was Sgt. Lawson incapable of carrying out his duties of bartender?
A.747 He was definitely not incapable sir. As I have said before, I would not have paid him the pound if I thought he was under the influence. He had something to drink, but he knew what he was doing.
Q.748 At what time did you last see Sgt. Lawson?
A.748 Somewhere between 20 to and 1/4 to 11. I left then to go to the Sgts'. Mess of the Army School of P.T. because I prefer the particular brand of Scotch ale which they serve at that Mess.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.749 There might be some question in the mind of the Court Staff, that you are fixing this date by reason of a schemozzle -- can you fix it in a more definite manner?
A.749 The date means nothing to me excepting that on the following day following the evening in question, S/Sgt. Spence came to me in my office and said, "Have you heard the news? Somebody robbed Sgt. Lawson of a considerable amount of money." and I said, "That's the first I have heard of it, but send Johnny to see me."
Q.750 And you say that you saw Sgt. Lawson on the night in question, between 10:30 and 1/4 to eleven.
A.750 Yes, sir.
Q.751 And do you agree, that a lot can happen between 10/30 and 1/4 to eleven, and 11:30 or 11:45 if one starts drinking?
A.751 Well, sir, I am not an expert on matters of that kind.
Q.752 From experience, let's put the question that way.
THE PRESIDENT: "It has not been shown that S/Sgt. Watson is an expert in this connection."

Q.714 At what time did the party break up in Comba's room?
A.714 I don't know sir.
Q.715 Did you leave the party by yourself or in company with others?
A.715 I left ehe party by myself.
Q.716 And when you left, was the party still carrying on?
A.716 Yes, sir.

(In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness)

THIRD WITNESS FOR THE DEFENCE. W-11024 S/Sgt. Carlson, C., CWAC, on the strength of H.Q. CRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.717 Do you recognize the accused?
A.717 Yes, sir.
Q.718 Who is he?
A.718 Johney Lawson.
Q.719 Did you see the accused on Sunday, the 13th of June, 1943?
A.719 Yes, sir, I did.
Q.720 At what time?
A.720 At around 8:30.
Q.721 Where did you see him?
A.721 In the ante-room of the Sgts' Mess.
Q.722 How long were you there?
A.722 From 8:30 to approximately 1/4 to 10.
Q.723 Did you speak to Sgt. Lawson?
A.723 He spoke to us.
Q.724 You were engaged in conversation for some time, is that correct?
A.724 Yes, sir.
Q.725 Was he under the influence of liquor?
A.725 No.
Q.726 Up to what time were you in the Mess again?
A.726 to about 1/4 to 10.
Q.727 Are you sure that Sgt. Lawson was not under the influence of liquor at any time while you were in the room up to 1/4 to 10?
A.727 I only saw Sgt. Lawson once -- I didn't speak to him after that.
Q.728 When you did see him, was he under the influence of liquor?
A.728 You mean the first time I saw him. He passed by me once, but I only spoke to him once.
Q.729 When you did pay any attention to him, was he under the influence of liquor?
A.729 The first time, when I spoke to him, he was not as far as I am concerned.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.730 Do I understand that when you did see the accused, it was just more or less to pass the time of day? I mean you didn't actually have any conversation with him?
A.730 Only for a few minutes or so.
Q.731 Do you think that would be sufficient time to decide whether a man was under the influence or not?
A.731 I think so sir.

FOURTH WITNESS FOR THE DEFENCE W-10161 Sgt. Watson, G., CWAC, on the strength of H.Q. CRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.732 Do you recognize the accused?
A.732 Yes, sir.
Q.733 Did you see the accused on Sunday night, the 13th of June?
A.733 Yes, sir.
Q.734 Where?
A.734 In the Sgts'. Mess, H.Q. CRU.
Q.735 How long were you in this Mess?
A.735 From fifteen or twenty after eight to around 9:30 or 1/4 to ten.
Q.736 Did you speak to the accused there at that time?
A.736 Yes, sir.
Q.737 Was he under the influence of liquor.

Q.692 How many bottles were produced in your room?
A.692 There was one bottle on the table. I don't say that there were not two on the table, but I remember one.
Q.693 And what kind of liquor was it?
A.693 I am afraid I couldn't say that sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.694 Did you see anybody else with the keys?
A.694 No, sir, I didn't.
Q.695 Now, when you returned to your room to consume the liquor which you had taken from the bar, you say there were only two bottles?
A.695 No, sir, I don't say that -- I say I saw one bottle on the table.
Q.696 So you only saw, as far as you can remember, one bottle.
A.696 Yes, sir, but there may have been two sir.

(In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness).

SECOND WITNESS FOR THE DEFENCE

D-24030 S/Sgt. Spence, J.H. No. 1 CGRU, attached to H.Q. CRU, being duly sworn is examined by the:

DEFENDING OFFICER:

Q.697 S/Sgt. Spence, did you at any time on the night of the 13th - 14th of June, see Sgt. Comba with any keys?
A.697 Yes, sir.
Q.698 Did you recognize the keys?
A.698 I did not recognize the keys.
Q.699 Did you see him use the keys?
A.699 Yes, sir.
Q.700 What did he use them for?
A.700 He used the keys to open the door leading into the bar in the Sgts' Mess.
Q.701 Did he use the keys further?
A.701 He used the keys or a key to open the cupboard in the Mess, where the spirits were kept.
Q.702 Did you return to Sgt. Comba's room?
A.702 Yes, sir.
Q.703 Was there any liquor in the room?
A.703 Yes, sir.
Q.704 Do you remember what liquor was in the room?
A.704 To the best of my knowledge there were two bottles of Black & White whiskey, a partial bottle of rum and a small quantity of beer.
Q.705 Did you see any or all of those being removed from the bar?
A.705 I was present when the two bottles of whiskey were removed.
Q.706 And the rum or the beer, did you see them in the room when you entered?
A.706 I didn't notice them sir.
Q.707 When were they produced?
A.707 The first knowledge I had of the rum was when somebody offered me a drink, which I presumed to be Scotch, but as soon as I tasted it I made the remark, "that is rum."

CROSS-EXAMINED BY THE PROSECUTOR:

Q.708 Staff, it is suggested that instead of 2 bottles of whiskey there were a number in excess of that taken.
A.708 No, sir, there were no more than that while I was present.
Q.709 And when you proceeded from 'A' block to the Sgts' Mess, how many bottles of whiskey were then removed from the bar?
A.709 Two bottles.
Q.710 And then you adjourned to Sgt. Comba's room?
A.710 Yes, sir.
Q.711 And these two bottles were consumed there?
A.711 I don't know that they were totally consumed.
Q.712 Where were the keys when you were partaking of the beverages in Sgt. Comba's room?
A.712 I have no idea sir.
Q.713 Do you know who locked the bar after the two bottles were removed?
A.713 No, sir.

PROSECUTOR: "I submit sir, that I can show as to whether or not he made a different statement under oath, as to credibility."

Q.676 Now you do not recall where the keys came from, or how they came into your possession?
A.676 I do not.
Q.677 You do recall entering the Mess, entering the bar and opening the liquor cupboard.
A.677 I do not recall entering the bar, but I recall entering the liquor cupboard.
Q.678 Do you recall removing anything from the liquor cabinet or cupboard?
A.678 No, actually I don't.
Q.679 Do you recall anyone of your party who was in the bar, taking anything from the liquor cupboard?
A.679 No, but I remember of seeing the two bottles on the stand of the top of the cupboard itself.
Q.680 Two bottles of what?
A.680 Of whiskey.
Q.681 You opened the cupboard.
A.681 Yes, sir, I opened the cupboard.
Q.682 And then did you leave the cupboard?
A.682 I really don't know -- I might have put the two bottles up there. I don't remember doing it.
Q.683 Were there more than 2 bottles removed from that cupboard?
A.683 I couldn't answer that. I remember two bottles sir.
Q.684 Sgt., for you to open that cupboard, would you have to sort of stoop down?
A.684 Yes, sir.
Q.685 You remember that distinctly -- opening that cupboard.
A.685 Yes, sir.
Q.686 Now, after you opened those doors, can you not remember equally distinctly what you did?
A.686 No, sir.
Q.687 Well, you saw two bottles on top of the cupboard?
A.687 Might I explain that previous statement as to why that one point should stick in my mind. This might also clear something up as to the opening of the bar doors and the bar itself. The lock on the cupboard is a padlock, and to open it you must pick it up in your left hand and insert the key with your right hand. I remember having an awful lot of difficulty in getting that key into the lock which I was holding in my hand. Now to go back further than that, if I had had the keys in my possession prior to opening that cupboard and did open the bar as I have been accused of doing, if I had so much difficulty getting the key into a padlock which I could hold in my hand and remember as a result of that difficulty, why could I not remember having an equal or greater amount of difficulty opening the yale lock on the door of the bar itself, which I couldn't hold in my hand, and which I could only fumble the key around with xxx my right hand. Also, although I cannot say for certain, I presume the lights in the Mess were out at that time of the morning, and I would have to fumble quite a lot I feel, to get the key into the lock of the door.
Q.688 How often have you been in the bar -- actually in the bar -- since this occasion?
A.688 I have never been in the bar since that occasion. I have no duties in the Mess at all, or nothing to bring me into that bar.

PROSECUTOR: "I submit to the Court sir, that there is a few recollections of opening that lock because of its peculiar type, but as soon as the lock is opened there is a loss of memory of everything else because of previous indulgence, and yet not having seen the lock since that night he can describe it to the Court."

A.689 When that supboard is opened sir, or I should say that cupboard end of it opened, prior to the bar itself being opened, and as they sold liquor after that night up until such time as the A & Q put a stop to the sale of liquor, our bar could be opened and you could see in to the cupboard. When you ordered a drink you could see the cupboard and the padlock.
Q.690 Do you recall going back to your room Sgt. Comba?
A.690 I remember being in my room.
Q.691 For the purpose for which you had collected these drinks.
A.691 Yes, sir.

Q.653 You might explain to the Court that statement, because a few moments ago you told us that you and Sgt. Shanley finished the bottle of rum in your room, you decided to get some more drinks and you started out for 'A' block and went directly to Sgt. Lawson's room.
A.653 Quite true, but I didn't know where the room was.
Q.654 You got there.
A.654 I got there, yes.
Q.655 You remember being at the bedside, seeing Sgt. Lawson there asleep, you admit that you made no effort to awaken him?
A.655 To my knowledge, no.
Q.656 Nor anybody else present?
A.656 No, sir.
Q.657 Then how did you come into the possession of the keys?
A.657 Now just one minute -- am I accused of having the keys? Is there an accusation that I have had the keys?

THE PRESIDENT: " Yes, there is, in the evidence."

A.658 I will admit I had the keys -- I am not arguing that I did or did not have them. I admit having them on their evidence. I have no recollection of having them in 'A' block.
Q.659 You remember right up to the point of being at the side of the bed?
A.659 In company with Sgt. Shanley and Sgt. McBride, who was in the room when we arrived.
Q.660 And from then on you cannot remember what happened?
A.660 In 'A' block, no.
Q.661 Can you explain why you cannot, in the crucial moment so to speak?
A.661 Well, there was nothing possibly outstanding happened that would temporarily sober me up and make me realize what was going on.
Q.662 Do you suggest that you were pretty drunk at that moment, when you arrived in his room?
A.662 I will say I drank a lot. I don't know what my condition was.
Q.663 You were in the room for some few moments?
A.663 Yes, sir.
Q.664 You have every recollection up to a point, now why is it that it suddenly shuts off?
A.664 I don't remember going down to Sgt. Lawson's room.
Q.665 You stated you did?
A.665 I don't remember getting there. I don't remember going into the building, into 'A' block, nor I don't remember passing through.
Q.666 Your plans were to go to 'A' block.
A.666 Yes, sir, quite true.
Q.667 And now you say you don't remember getting there?
A.667 I am not saying I did not -- I might say I travelled from here to Aldershot and back before I got there, but I have no recollection of it.
Q.668 I am going to read the statement of Sgt. McBride at the Summary of Evidence. (reads the third paragraph on page 6 of the Summary of Evidence)
A.668 Yes, sir.
Q.669 Do you recall any part of that?
A.669 I recall being in the bar.
Q.670 Do you recall opening the bar?
A.670 No, sir.
Q.671 Do you recall opening the cupboard in which the spirits were?
A.671 Yes, sir, I do.

THE PRESIDENT: "With what?"
A.672 With the keys.
THE PRESIDENT: "Where did you get the keys?"
A.673 I do not know, but I recall opening the cupboard with the keys, but I don't know where the keys came from.
Q.674 Well then Sgt., do you remember collecting the money?
A.674 I don't actually recollect collecting the money sir. I remember something about it being collected, but not the actual collection of it.
Q.675 Do you recall the Court of Inquiry which was held to investigate this situation?
A.675 Yes, sir. I do.

THE PRESIDENT: "We can't allow any evidence of that."

Q.637 And with others that you did enter the bar, and from the bar certain whiskeys were removed. Now its been said here today, that the keys to the bar were produced by you.
A.637 Produced by me.
Q.638 Yes produced by you -- now can you explain how you came into possession of these keys?
A.638 No, sir I can't explain that to the Court. If there is definite proof that I produced the keys -- as to if I did or not, I really don't know, I cannot recall.

PROSECUTOR: "I ask permission to proceed with the questioning of the witness, on the basis that possibly he is adverse, or hostile or reluctant."

THE PRESIDENT: "I grant that application."

Q.639 Do you say that witnesses who make the statement that these keys were in your possession, that you produced them in 'A' Block, and that prior to the production of the keys you said, "We will get some more to drink. I know where the keys are. He is out cold." Will you say these witnesses are not telling the truth?
A.639 No, I can't.
Q.640 Now Sgt. Comba, how can you recall going to Sgt. Lawson's room for the specific purpose of obtaining more liquor or something with which to carry on your drinking -- you remember going to the room, you remember who was there and yet suddenly everything drops off and you don't remember a thing?
A.640 Yes, sir, at the time this happened was sometime after midnight, and I don't know but I don't presume that the night itself was awfully bright. Walking down from my room to 'A' block, we were going through darkness, and in the condition I was in I wouldn't be able to see much anyway, and coming from the darkness into the brilliantly lighted room as I presumed that was, naturally it would stick in my memory. At least that is the only reason I can give to account for having only that particular thing stick there.
Q.641 Is not the reaction from coming from the darkness into the light, that you are blinded momentarily or for a few moments?
A.641 I am not speaking of the blindness itself, I am saying that the act of coming from the dark into a lighted room would stick in my memory for that one reason as it may have given me a momentary shock. If you come into a room suddenly from the dark you get a momentary shock.
Q.642 And after your shock you observed that Sgt. Lawson was lying on his bed and that he was asleep, that you had come there for the specific purpose of obtaining more beverages, and you made no effort to awaken him?
A.642 One thing there sir, is that I have no recollection of leaving that room.
Q.643 I am speaking of when you first came in?
A.643 No, I have no recollection of trying to wake Sgt. Lawson either.
Q.644 Now, you agree that you went there to get More Beverages?
A.644 I do.
Q.645 When you found Sgt. Lawson asleep on the bed and you had to obtain these keys, wasn't the logical thing to do, to awaken him and ask his permission?
A.645 Yes, sir.
Q.646 And from then on you don't remember?
A.646 I have no recollection from then on.
Q.647 Can you explain that?
A.647 No, sir, excepting what I have given.
Q.648 That you were in a lighted room and remember for a few minutes of being there.
A.648 Yes, sir, I am trying to explain now, if my other explanation is reasonable enough, then it is reasonable that once the initial shock wore off I would lapse into my original condition.
Q.649 What was that?
A.649 I was high.
Q.650 It wasn't so high that you could not formulate a plan to get drinks?
A.650 I don't think there was a plan.
Q.651 There was a plan to go to the room of Sgt. Lawson in 'A' block.
A.651 Might I --
Q.652 You could find his room.
A.652 I had never been in 'A' block in my life, nor did I know where he slept, nor did I know where any of the instructors slept until Monday, when I found out what had been going on the night before.

Q.608 With whom were you drinking?
A.608 That would be hard to say -- they were coming and going all evening. So as to say any ody in particular, there was no one in my mind that I could remember.
Q.609 You are sure of that.
A.609 Yes, sir.
Q.610 Were you drinking with Sgt. Shanley that evening?
A.610 I was, later.
Q.611 Did you with Sgt. Shanley adjourn to your room?
A.611 Yes, sir.
Q.612 What did you drink in your room?
A.612 A bottle of rum.
Q.613 And where did that come from?
A.613 Sgt. Shanley had it.
Q.614 Do you know where he acquired it?
A.614 I don't -- all I know is that he said he had a bottle of rum and he wanted to know if I would have a drink, and we did.
Q.615 You finished the bottle of rum.
A.615 Yes, sir.
Q.616 And after you finished the rum, where did you go?
A.616 Down to the Mess caterers room, I think it is called, down in 'A' block.
Q.617 And where is your room located?
A.617 At the very back of the Mess -- its part of the Mess building .
Q.618 Would you indicate on this board, where it is?
A.618 Right here sir.
Q.619 Would you put an X there please. Now from that room you you proceeded to A block.
A.619 Yes, sir.
Q.620 And did you have any reason to go 'A' block?
A.620 Yes, sir.
Q.621 What was the reason?
A.621 I went down there with the expectation that I could get the Mess caterer to furnish us with a few more bottles of whiskey.
Q.622 And who was the Mess Caterer you had in mind?
A.622 Sgt. Lawson.
Q.623 Did you go to his room?
A.623 Yes, sir, I believe we did.
Q.624 Did you see Sgt. Lawson?
A.624 Yes, sir, on the bed, he was lying on his back.
Q.625 In bed.
A.625 Yes, sir, on the bed.
Q.626 And the condition of his dress was what?
A.626 To the best of my knowledge he was fully dressed, whether or not he had his boots on I do not know for sure.
Q.627 What was the position of his head on the bed?
A.627 It was just on the bed -- I don't remember.
Q.628 At the head or at the foot? What was the position of his body on the bed?
A.628 I don't know which is the head or the foot of that bed. I don't know which is supposed to be the head of the bed and the foot.
Q.629 Were you alone?
A.629 No, sir, I had Sgt. Shanley with me.
Q.630 Was Sgt. McBride with you at that time?
A.630 I believe he was in the room at the time we came in.
Q.631 And was Sgt. Lawson sleeping?
A.631 Well, he certainly made no response or gave any sign of redognition as to us being in the room.
Q.632 And what efforts did you make as to awakening him?
A.632 There was no effort made at all that I can recall to awake him?
Q.633 Did you ask him for the keys to the Mess?
A.633 No, sir.
Q.634 Did you endeavour to have any conversation with Sgt. Lawson?
A.634 To my knowledge no.
Q.635 Did any one of the 3 of you?
A.635 I don't think I could actually answer that -- I don't know. My only recollection of being in there is of seeing Sgt. Lawson on the bed with the three of us in the room -- That is Sgt. McBride, Sgt. Shanley and myself.
Q.636 Now, its been stated here that -- you did return with others to the Sgts Mess?
A.636 Yes, sir.

Q.593 Let's put it this way then. You took on a job a portion of which you didn't agree with and was against all your principles, and yet you followed through in the same way.
A.593 Yes, it was the only thing I could do under the circumstances.
Q.594 And you agree then that it was not followed out in accordance with the Rules for the management of Messes and Canteens?
A.594 I won't say it was.
Q.595 On that weekend or during that weekend, you didn't follow the Rules for the Management of Messes and Canteens? -- Did you on that weekend follow the Rules for the Management of Messes and Canteens? Is it possible for you to say 'Yes or No'?
A.595 No, I followed the system that they were operating on when it was taken over.
Q.596 That is when you took over?
A.596 Yes, sir.

RE/EXAMINED BY THE DEFENDING OFFICER:

Q.597 Did you have any reason to suspect any member of the Mess would remove keys from your person?
A.597 No, sir, I did not.

EXAMINED BY THE PRESIDENT:

Q.598 Where did you put the cash box on Saturday night?
A.598 I left the cash box right in there sir.
Q.599 In the cupboard in the bar?
A.599 Yes, sir.
Q.600 Would you care to say why you did that on Saturday night, and not on Sunday night?
A.600 Yes, sir, because I had more cash then sir. When I did that I was taking the precautions because I come in contact with this sort of thing in Messes quite frequently, and I see many xx cases where funds are missing and so on, and I figured the best way to take care of the situation was to take the temptation away. After all I cannot possibly protect myself from thieves in my sleep sir.

(In the opinion of the Court xxx xxx it is not necessary to comply with RP 83 (b) in connection with this witness)

(By the consent of both Counsel, in view of the statement made by the last witness, Sgt. Comba is called for the Prosecution)

EIGHTH WITNESS FOR THE PROSECUTION

Sgt. Comba, on the strength of H.Q. C.R.U. being duly sworn is examined by:

THE PROSECUTOR:

Q.601 You, I understand were in the Sgts. Mess of H.Q. C.R.U. on the evening of the 13th - 14th of June, 1943?
A.601 If that is Sunday evening, yes, sir.
Q.602 And are you acquainted with Sgt. Lawson, the accused?
A.602 Yes, sir.
Q.603 Was he on duty in the bar that evening?
A.603 Yes, sir.
Q.604 And how much time did you spend in the Mess?
A.604 I spent the evening in the Mess, from the time I had my dinner until the Bar closed.
Q.605 And what time approximately was that?
A.605 Actually I couldn't give a definite time that it closed, because I do not carry a watch, and I could only say it was sometime between 11 and 12 o'clock.
Q.606 Will you tell the Court what your activities were during the latter part of the evening?
A.606 Nothing but drinking sir.
Q.607 In the Mess?
A.607 In the Mess itself sir until it closed.

CONTINUATION OF CROSS-EXAMINATION BY THE PROSECUTOR:

Q.575 Then following that up, do you feel that the funds were more secure in your room?
A.575 Yes, sir I still feel that way, because I believe that where I had locked the funds was a safer place than xxxx where they were locked in the Mess.
Q.576 For what reason?
A.576 For the reason that the Mess had been broken into to my knowledge before.
Q.577 Can you tell from any of the exhibits, what your sales were on Saturday?
A.577 28-6-1.
Q.578 How do you compute that -- purely from deduction of the cash received and the cash on hand when you closed the bar Saturday night.
A.578 Yes, sir.
Q.579 And not by any inventory of stock. So that it is possible you could have sold 30 pounds worth of stock?

THE PRESIDENT: "And somebody stole the money?"

A.579 No, sir, for the simple reason that everything I sold was paid for over the bar and nobody was in the bar and nobody had access to the cash or the stock.
Q.580 Why did they have access on Sunday more than on Saturday?
A.580 Because the keys were taken out of my pocket and they illegally entered the bar.
Q.581 You have no statement to back that up.
A.581 My statement to back that up is what has come to me by --
Q.582 I mean you have no inventories to offset or prove your cash balance?
A.582 Not definitely, to prove my cash balances I have -- that proves it, right there.
Q.583 Your inventory of stock.
A.583 No, to prove my cash balance sir.
Q.584 You did not take an inventory, you received so much in cash on Saturday, and you say the difference is your sales for the day.
A.584 May I show you how they operated there before sir?
Q.585 Let us stick to that particular day.
A.585 I have explained everything except the way they operated before --
Q.586 You have stated in your evidence, that they did not properly operate there before, and that they are not properly operating now.
A.586 Yes, sir, because I have told them over and over again that they have to have a daily operating sheet and put this stuff in the bar. How they record their daily sales is, that they had so much money in the morning and so much more at night, and that is the way they operate.
Q.587 And you have been trying to have them install a proper practice for some time.
A.587 Yes, sir, but you can't install it in a day.
Q.588 How long prior to your taking over the bar, or this particular position, had you been sort of assisting?
A.588 For months sir, and I advised them -- in fact I took over months ago certain stock sheets on which I told them exactly what to do, and it was never done by the Mess.
Q.589 Can you explain to the Court, why you didn't follow that practice yourself when you were in command?
A.589 It was impossible sir. In order to follow a practice like that, you would have to take stock, you have to have something to work on, you have to know how much went into the bar and the selling price, and you must have the proper records prepared and ready to go into practice.
Q.590 You didn't take stock?
A.590 I took over the amount of stock on hand, from the caterer Pte. Boucher, but it was not taken over according to price, it was taken over by units.

THE PRESIDENT: "You would have to get all the prices."
A.591 Yes, sir.

PROSECUTOR: "I agree sir, but in order to make the days sales up, or to account for a period of 48 hours, a stock taking should have been instituted, irrespective of whether its taken for a price or not."

Q.592 You say you took it over by units.
A.592 May I state that the stock is never checked only at the end of the month, and that is the only time they make a record of any stock.

Q.567 And the key for your barrack box was on the same leash?
A.567 Yes, sir, it was on the same leash.
Q.568 And you feel that if they could remove the keys that easily and return them to the same position, that the funds were safer in your barrack box than they would have been in the Canteen cupboard?
A.568 Yes, I do figure they were safer sir.

THE PRESIDENT: "I think the witness might show us how these keys are fastened?"
A.569 Well, I take this off here and tie that and pull the keys inside here.

Q.570 They would have to untie a knot wouldn't they?
A.570 Yes, sir.
Q.571 Now then, this would involve Sgt., practically accusing some member of the Mess of taking the keys off?
A.571 Yes, sir.
Q.572 Is there anyone person whom you think did it?
A.572 From the information which I have heard and on the Court of inquiry and also brought out at the evidence at the Summary of Evidence, it is brought to my notice sir definitely that Sgt. Comba is the person responsible for taking the keys off my person. How I corroborate that is by S/Sgt Spence who will say that he saw him with the keys, and he made the remark that he knew where to get the keys?
Q.573 And you believe that it was Sgt. Comba who took the keys from your person.
A.573 Yes, sir.

THE PRESIDENT: "I think the Court should exercise its right under RP 86 to ask the Prosecutor to call Sgt. Comba, because it is our duty without taking sides to get out the evidence. According to the theory of the defence of the accused, his theory is only consistent with the Court finding that some one or other of the members of the Mess, actually and improperly took the keys off the person of the accused, which is a heavy responsibility for the Court, and I think we should have therefore, the evidence of Sgt. Comba."

PROSECUTOR: "Do you wish to call him a witness for the Prosecution sir? I understand he is being called by the defence."

THE PRESIDENT: "So long as he is called before the end."

DEFENDING OFFICER: "I believe the Prosecution should have called him."

THE PRESIDENT: "I believe you should call him."

THE PROSECUTOR: "As a Prosecution witness."

THE PRESIDENT: "Yes."

PROSECUTOR: "Alright sir, the only point about that sir, is the sum of £16-0-0 event assuming that there is still a difference of 14 odd pounds."

THE PRESIDENT: "One key opened the box with the £14-10-0 and the other key opened the bar where the bottles were stored."

PROSECUTOR: "I will call Sgt. Comba in rebuttal if necessary. If you wish him to be called next as a Defence witness, or later as a Prosecution witness, I don't mind sir."

THE PRESIDENT: "I think we should let the defence finish their case, unless the Defending Officer objects."

DEFENDING OFFICER: "I think he should be called next sir."

THE PRESIDENT: "All parties agree on that then. And the taking of the keys from your pocket Sgt. -- do you normally sleep so soundly that persons can take keys from you and come back and put the keys back, without there being any likelihood of your awakening?"
A.574 Yes, sir, I imagine so, because when I was stationed in London in 1940, I used to sleep through the Blitz, and it never bothered me.

A-547 (con'd) dition would never have existed.
Q.548 The question of your returning to your room that night Sgt., I believe you said that Sgt. McBride and Sgt-Major Pelley left you and it was then your intention to read for a while?
A.548 Yes, sir, that's right.
Q.549 Did you take up your position to read in the accustomed manner?
A.549 Yes, sir.
Q.550 Would you describe that to the Court please?
A.550 I just laid down on top of the bed with my clothes on, because they were running around. The foremost thing in my mind was that I didn't want anybody to interfere with the cash box in there, because I know that a Mess caterer is responsible for all stock and money in the bar are his ~~xxx~~ responsibility.
Q.551 That is your interpretation of it?
A.551 Yes, sir, that to is the interpretation of the Regtl. Funds Board.
Q.552 I disagree with you and I say that the Mess Committees will provide some means by which public funds will be kept, and that if a Mess Committee provides such accommodation then it is your duty to keep all funds in such accommodation.
A.552 Under the circumstances, I do not think so, because i know to my knowledge that the place has been broken into once since I have been here, and I think I took the precautions to --
Q.553 That is not the question. Is it not a fact that the Regimental Funds Board, as well as other branches in authority, direct that security be provided for public funds, Mess funds and so on?
A.553 Yes, sir.
Q.554 And you think that it is up to any individual to walk in and decide for himself, whether or not it is secure?
A.554 Yes, sir, I do, if I am responsible I think I would be more secure.
Q.555 Would you as a banker, feel that you were more secure in taking the money from the bank home and putting it under your pillow at night, and not leaving it in the bank vault?
A.555 No, sir, but there is no safe provided here. The place where I took the money out of is a place which has been broken into before.
Q.556 Would you feel that you were doing right as a banker, in taking home public trust funds and keeping them at home? Banks have been broken into too and safes blown open and that sort of thing -- would you do it in civil life?
A.556 I don't see --
Q.557 I am asking you a question in order to get an answer, and not for the purpose of an argument?
A.557 No, we have a strong safe which cannot be broken into.
Q.558 But there have been occasions when safes have been broken into. Safes in banks have been broken into?
A.558 Yes, they are covered with insurance and this Mess is not.
Q.559 There is no insurance?
A.559 No, sir.

THE PRESIDENT: "Do you know if there is a surplus in this Mess?"
A.560 Yes, sir, about roughly $90-0-0, I think.
THE PRESIDENT: "Does that surplus still exist at this moment?"
A.561 I don't know what the surplus is now, but it is around $90-0-0 I think, or $87-0-0.

Q.562 That surplus would be reduced by this loss?
A.562 Yes, it will be sir.
Q.563 Sgt. Lawson, you have already shown to the Court where you carried the keys?
A.563 Yes, sir.
Q.564 Now, what is your explanation if any, or your conclusion as to how these keys came into the possession of some other member or members of the Mess without your authority?
A.564 I think they were taken off my person sir -- in fact I am sure they were taken off my person while I was asleep.
Q.565 Did you find them in the morning?
A.565 Yes, sir, in the same place.
Q.566 Sgt. can you explain how they would have taken from your person these keys, without your knowledge, when you were asleep?
A.566 Quite easily, because when I lie asleep I lie usually on my face, and in my sleep I think it would be quite an easy proposition.

Q.531 As a member of the Regimental Funds Board, setting up these books and so on, and you walk into a Mess to make an inspection and you find that a Mess caterer had not for two days taken an inventory, and for two days had not balanced off stock as against cash on hand and receipts, what would your report to your superior be?
A.531 Sir, I could make a report on this Mess right now.
Q.532 That is not the question -- any Mess I am referring to -- I suggest to you that there would be a blitz?
A.532 Not until I had found out what the reason was.
Q.533 Is it not an established practice, and in the rules for the management of Messes, Institutions and Canteens as advocated by your branch, that there will be proper books kept and a running daily inventory against cash and sales and so on.
A.533 It is not laid down.
Q.534 Is that not what you advocate?
A.534 Yes, sir.
Q.535 And is it not laid down that all Messes will follow that Pamphlet governing the rules for the management of Messes, Routine Orders and K.R. Can?
A.535 It is only followed in theory actually.
Q.536 But it is laid down in orders that Messes will in so far as possible adhere to them.
A.536 Yes, sir.
Q.537 And where you set up a Mess and the necessary books, would you also set up a daily inventory?
A.537 Sometimes its done weekly.
Q-538 What is the practice in this mess?
A.538 The practice in this Mess is -- they have never done anything I told them that they should do. I told them that they should operate on a daily basis.
Q.539 That is what you did advocate and had been trying to get done in this Mess, and yet when you are Mess caterer you do not do it yourself?
A.539 It is impossible to do it, the way they have been operating their Mess.
Q.540 Why was it impossible for you to take off an inventory when your tour of duty was finished?
A.540 At that time of day I was tired.
Q.541 You knew you were going to Borden the next morning.
A.541 Yes, sir, I intended to have enough time to do that, but on account of trying to find this money I didn't have enough time to do it.
A.542 And you think it was right to turn these keys over to a Private or a Gunner, with all these discrepancies and not take an inventory?
A.542 As that was before I was directed by my Officer to get there by a certain time, I considered by handing the keys to Butcher who was not implicated I was doing the proper thing, because I knew that he was in bed the night before, and then I had instructed Sgt-Major Laurie to tell Sgt-Major Barrett.
Q.543 You took no inventory when you were on duty, however I am not going to dwell on that further. Sgt. you have heard one witness here today and there will be a number of others called who were in the affair of that night.
A.543 Yes, sir.
Q.544 Who were in the Sgts. Mess, and all of whom will go into the witness box and state under oath that only two bottles of whiskey were removed. Now then, are you going to say that they are not telling the truth?
A.544 Yes, sir.
Q.545 And that instead of two bottles being removed, there were in the neighborhood of 7 bottles.
A.545 Yes, sir.
Q.546 And the reason for that -- why do you say that they are all wrong, and that they are not telling the truth?
A.546 For the simple reason that I am positive of what I sold.
Q.547 But you are only guessing on that?
A.547 Yes, sir, I sold approximately 12 bottles of liquor and yet there is 19 bottles to be accounted for and I can't account for 7 bottles of liquor, and under the circumstances I don't think that I would have had anything to answer for at all, had they not taken the keys out of my pockets. Everything that was sold there the money for it went into the till, and if they had not illegally entered the bar this com-

Q.510 Now Sgt., this recapitulation shows that for the stock in trade, which was disposed of during your tour of duty, had cash been received you would have received the sum of £42-1-6.

A.510 Actually more than that, wouldn't I.

Q.511 And that amount of £42-1-6 which you should have received, plus the £13-18-7 which was handed to you in cash on Saturday, would have given you a grand total of £56-0-1.

A.511 Yes, sir.

Q.512 Now the total of cash, cheques and chits according to your own figures which you had on Sunday night at the closing of the bar, was £41-12-4, which still when deducted from the £56-0-1 leaves the amount of £14-7-9 to be accounted for.

A.512 Yes, sir.

Q.513 Now, can you account for that?

A.513 Well, the only way I can account for that sir, is by people having access to the bar, I have no way of accounting for the difference.

Q.514 People having access to the bar, and people having the opportunity of pouring their own drinks?

A.514 Not with my authority sir.

Q.515 You were present in the bar when drinks were poured by members of the Mess.

A.515 No, sir, that is not true.

Q.516 Do you recall on Sunday, you missed a bottle of rum for which you couldn't account?

A.516 Yes, sir.

Q.517 Have you traced that yet?

A.517 No, sir.

Q.518 Have you any explanation why that should be missing, when you are the only person in possession of the keys, other than the Camp Commandant?

A.518 No, sir, the only way I can see that mighthave been missing, was by means of the door from the reading room into the bar.

Q.519 How could anyone enter through there, when you are the only person in possession of the key?

A.519 They could if I hadn't put that bar up on the serving door.

Q.520 What was that answer, if you had, or if you had not?

A.520 If I had not sir.

Q.521 Are you suggesting that someone climbed through the window?

A.521 They wouldn't have to sir. They could just lean through the window, lean over, and take ~~them~~ the bolt off the door.

Q.522 Did I understand you to say that you didn't put that bar up?

A.522 It wasn't up -- it is down quite frequently.

Q.523 I am asking you as to that specific occasion -- you admit that you cannot account for that, through people going into the bar when I was not present, which was after I closed the bar on Sunday night.

A.523 I cannot account for that, through a period of 48 hours.

Q.524 Your deduction is, that they took more than 2 bottles

A.524 Yes, sir.

Q.525 But what have you to show the Court that there were more than two bottles taken or tosubstantiate your suspicion? You didn't take an inventory, did you?

A.525 I did not take an inventory.

Q.526 You did not take an inventory?

A.526 No, sir, but I know by the handling of a lot of currency and my past experience, and I think I realized how much I had taken out. I think I realized how many bottles I had sold.

Q.527 Now Sgt. Lawson, do you honestly think as a banker, and as an accountant and as a member of the Regtl. Funds Board, setting up systems and so on, that that is a good practice. You are in charge and you take no inventory of stock -- you strike no balance for either day you are in control, and on Monday morning you came at 9 o'clock or thereabouts and you don't take an inventory, you return the cash box and leave it in there and you leave the keys of the bar in the charge of a fatigue man?

A.527 Well, sir, can I elaborate on my answer to that?

Q.528 Well, do you think that's sound business?

A.528 Well now, under the circumstances yes. My reason for giving the keys to Butcher was that I didn't know how many Sgts. were implicated.

Q.529 But you did give the keys to Butcher.

A.529 Yes, sir, to Butcher.

Q.530 Now, do you think that in view of what had happened, that it was better to give the keys to a Private employed as a fatigue man?

A.530 The reason I did that was that I was instructed to go down to No. 3 P/W Coy, and when I went to the Mess the car was waiting to take me do

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A.508 (con'd) tory and showed me how much cash I was supposed to turn over to him, and it coincided with what I had left at the bar in the morning. The following day Sgt-Major Barrett called a meeting of the Mess Committee and myself, S/Sgt. Watson. It was then payday, and he detailed S/Sgt. Scott to see that all the chits were paid as soon as the respective Sgts. got paid. This was done. After that meeting I then went over and got paid. I came back and ran into Sgt. McBride who was walking around in his shirt sleeves without a hat on at about 1530 hrs. I cautioned him then as to what he had done with the money and he then made a statement such as this, "I think you will find that money under a hat on top of some of these lockers." He then made the remark that whatever the shortage was, he would make it up. We then went over to the D.A.P.M.s office.

Q.509 What was his condition?

A.509 He was very tight sir, at that time. He was interviewed by Sgt. Johnson, which apparently did not bare any fruit, as I considered that Sgt. Johnson was not then capable of taking a statement sir. At any rate Sgt. Johnson then came out and asked me to talk to Sgt. McBride. Sgt. McBride then made several unintelligible remarks, but he later reiterated his statement that he would get the money the next morning. That was Tuesday. I then came outside with Sgt. McBride and QMS Pelley and in the presence of both of us he then said again, "I will get the money tomorrow morning for you." I then went back into the DAPMs office and didn't see Sgt. McBride or Sgt. Johnson for I should say half an hour. On account of Sgt. McBride making these remarks to me, I considered it would be a good idea to know where he was, so I took him up to 1 CGRU between 6 and 7 o'clock that evening. I loaned him £1-0-0 and then I loaned him a second pound, which he paid back about two weeks later. While up at 1 CGRU he said, II'll go in there and get some money, which I took to mean that he may have had some money there, and that they may have been some of the funds which I was responsible for, but we waited for him for several minutes and afterwards we were unable to find him. I again went up there the next day about noon with QMS Pelley.

Q.510 Up to where?

A.510 Up to 1 CGRU sir. They informed us, the Sgt. we were speaking to, that Sgt. McBride had got out of bed at about 7 o'clock that morning, and that he had not been seen since. They also stated at that ~~pxix~~ particular time that he was AWL and that he owed 1 Sgt. £2-0-0 and another one £3-0-0. They also stated that he tried to get paid the day before, which was Tuesday, and that the Paymaster refused to pay him on account of his condition. That was the last I saw of Sgt. McBride until the date of the Court of Inquiry.

Q.511 Did you pay any of your own money into the till in the bar?

A.511 Yes, sir, £2-10-0.

Q.512 During the whole weekend?

A.512 Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.513 Why did you pay £2-10-0 into the till?

A.513 At several times people were in there, and they didn't have any money, and I said, "I'll buy you one."

Q.504 Did you have one with them?

A.504 I had an occasional drink sir.

Q.505 How many did you have on Sunday?

A.505 About 7 or 8 drinks altogether.

Q.506 How many of these did you have in the evening?

A.506 Well, I would imagine most of them were in the evening. I didn't keep track of them sir. They would say, "Have a drink with me", and I might have one.

Q.507 You have had an opportunity of examining Exhibits 2 and 3.

A.507 Yes, sir.

Q.508 You admit those as being correct?

A.508 Yes, sir.

Q.509 Then, do you admit the correctness of Exhibit 4, which is the re-capitulation?

A.509 Yes, sir.

barrack box, opened it up and found that the cash box had been taken out of there. I glanced around under my bed and the box was there. The first thing I did was to open it up and count the money or what was left of it. I determined then that there had been £16-10-0 taken out of the box.

Q.501 Did you balance the books that night before you left the bar?

A.501 Well sir, the system of operation in the bar there, does not permit you to actually balance.

Q.502 Do you recognize this?

A.502 Yes, sir, that's my Saturday nights statement. This here is what I had on Saturday night, and this is what I had on Sunday night.

THE PRESIDENT: "Does that show the balance in the cash box when you closed the bar on Sunday night?"

A.503 Here it is, with what Boucher gave me sir.

THE PRESIDENT: "Did you, when you balanced up Sunday night, take a check of the money, or do you know how much money you had in the cash box?"

A.504 Yes, sir, this amount here sir £18-10-0.

THE PRESIDENT: "Inclusive of cheques?"

A.505 No, sir, just cash. Then there was a ceque endorsed by Sgt. Harrington for £2-10-0, which cheque has been covered. This cheque was in the cash box when I looked in it on Monday morning. There was also a cheque of the Canadian Pacific Express Company for £10-0-0 endorsed by S/Sgt. Scott. This also was in the cash box when I looked in it on Monday morning. Chits to the extent of £6-8-4, were in the cash box when I looked in it on Monday morning, and silver for £5-4-0 was also in the cash box.

THE PRESIDENT: "And how about the notes?"

A.506 There was a one pound note also in the box when I checked it on Monday morning. There was £17-10-0 in notes in the box when I balanced it on Sunday night. The money I got for the sale of the bottle of whiskey and the 1/3 bottle of gin namely 37 shillings was in silver. It was put in the box and is included in the total above given of £5-4-0. This left the box short in notes of £16-10-0, which was in the box when I brought it to my room, but was not in the box when I looked in it in the morning.

Q.507 What were the cheques again?

A.507 They were for £2-10-0 endorsed by Sgt. Harrington and £10-0-0 drawn on the Canadian Pacific Express Company, and endorsed by S/Sgt. Scott. When I opened the box on Monday morning there was a shortage of £16-10-0. In my evidence, can I tell what Sgt. Slipper told me? -- I then looked all over the room, and thought maybe his intentions were to hide the money in there, so that the others could not get it, but after checking over every possible place where it could be, nothing was revealed. I then came out of my room.

THE PRESIDENT: "Did you look for your keys at that time?"

A.508 Yes, sir, my keys were on me. My keys are on a leather thong, where I also had the keys for the Mess. The thong was attached to this loop of my battle trousers, which I had worn all day. I came out of my room and got shaved, and on my way over to the Mess Sgt-Major Laurie came over towards me and said, "I have £1-18-0 for you." I said, "What for?" and he said, "We went into the bar last night and took 2 bottles of liquor". I then asked him who gave him the authority to do that, "Well" he said, "Sgt. Comba got the keys and got the liquor." I then instructed him to inform Sgt-Major Pelley who was then President of the Mess, of the shortage. I also went over and contacted Sgt. Latta of the D.A.P.M.s office and told him that someone had stolen some money and that I suspected Sgt McBride, as Sgt. Slipper stated that he saw him with the box. I then went over to the Mess and looked around, and as I had not taken stock the night before, I could not determine how much they had taken of the stock, but I knew I had sold approximately 12 bottles of whiskey, rum and gin, which would leave a shortage to my way of reckoning of about 7 bottles. There was also some beer left in a large 18 gallon barrell. That was empty. I then handed the keys of the bar to Pte. Butcher, whom I considered very honest and under the circumstances he was the best man to give the keys to. I then proceeded to Bordem to the 3rd Cdn. Gen. Pioneer Coy, and set up a set of books for the Sgts. Mess there. I came back that evening at about 6:30 or 1830 hrs, and asked Boucher what the score was and he told me about he and Sgt-Major Barrett taking the inven-

Q.494 When did you open and close the bar in the evening?
A.494 I reopened the bar at 1900 hrs and closed shortly after 2300 hrs, and went to my room.
Q.495 You are now speaking of Saturday night.
A.495 Yes, sir, that is on Saturday night I was referring to.
Q.496 Just continue then to tell us what happened?
A.496 I got up the next morning and went to the bar, cleaned it up and I opened it at about 1/4 to 12. I stayed open to a little after one. I reopened again between half past 4 and 5 o'clock and closed at 1800 hrs. and opened the bar again at 1900 hrs and closed shortly after 11 o'clock.
Q.497 Are you sure you opened on that occasion at 1900 hrs.?
A.497 Yes, sir, at 7 o'clock. When I closed the bar A/CQMS Pelley said he was going home so I asked him to come into the bar and wait until I made my cash up and then I would go home with him. Whilst doing this Sgt. McBride knocked at the door and I let him in. I was surprised to see him as I had not seen him in quite a while. He then stated that he was going on leave and he wanted to know if he could by a drink. I said, "Yes", but jokingly I said his money was no good. I paid for the drink myself for Sgt. McBride and Sgt-Major Pelley. I used the measure to pour these drinks, and as there was a shortage of glasses I poured these two doubles into one glass. I repeated the same thing again and Sgt. McBride paid for that round. I didn't have a drink either time myself. Sgt. McBride then asked if he could buy a bottle, and under the circumstances I considered it quite in order, as it has been the practice in the men when anyone is going on leave that they would be permitted to purchase a bottle for that purpose, if there is a sufficient surplus in the bar. He then asked me what about gin, and there was about 1/3 of a bottle of gin in the bar at that time. I said, "Well that will cost you about 9 shillings", so he said, "That's alright". So he paid me 28 shillings for the whiskey and 9 shillings for the gin. I then said, "We may be able to get something to eat outside", because they had a lunch that night in the Mess. So I let Sgt-Major Pelley and Sgt McBride out the door leading to the billiard room. I secured the door leading to the billiard room and bolted the serving window. I tried the front serving door leading into the main part of the Mess, took the cash box with me, turned the lights of, shut the door and tried it to see if it was locked, and went out to the kitchen. There is a yale lock on that door. I considered that I was taking the precautions to see that the thing which occurred afterwards could not occur, by taking the money out of the bar and taking it to my barrack room and putting it in my barrack box. We then went to the kitchen and there was no tea available. Sgt. McBride took his suitcase and made a sandwich from eats which he had in it, whch he and I ate. We then left the Mess and turned the lights out, and to the best of my knowledge there was no one left in the Mess. We went outside towards 'A' block where I stay. We talked of things in general for approximately I would say, between half an hour and an hour, I have no way of definitely determining the time as I have no watch. I then went to my room with this box still in my possession. As soon as I got into my room I went to my barrack box and locked the cash box of the Mess in there, and I then came around to my bed and sat down.

THE PRESIDENT: "What sort of box is this?"
A.498 The barrack box in my room I would consider a very strong and hard box for anybody to get into, excepting by breaking the lock.

Q.499 Is that box metal bound?
A.499 Yes, sir, it is a metal bound box. I then sat down and spoke to CQMS Pelley and Sgt. McBride for a few minutes, and at this stage of the game I realised then that they were both getting very noisy, doing halts and so forth on the floor. Sgt. McBride at that time suggested that I take a drink, and I told him I didn't want anything to drink as I had to go to Borden the next day and had a lot of work to do. I then laid down, smoked a cigarette and Sgt. McBride and QMS Pelley left the room.
Q.500 Have you always slept with your feet to the head of the bed? Or have you always slept with your head to the foot of the bed?
A.500 Yes, sir, that's the way I sleep. My reason for doing that sir, is in order to read by the light. I have to turn around in the bed so that the light shines over my shoulder. I went to sleep then, and I have no further recollection of what transpired in my room until the next morning, when Sgt. Slipper advised me that he had seen Sgt. McBride with a money box and that he had put it in a corner for me. I then started directly for my

if anything happened to the cash box when it was in the cupboard, it would not be the fault of the Mess Steward, but having removed it, and not taking advantage of the security which they provide, and from your observations of the mess itself today, you will note access by means of hammers or saws or jimmeys and so on, might be made, in other words that it might be broken into; but that then would not have been the responsibility of the accused, because his stock was correct and the funds correct, and then the Mess Committee would have to answer for its insecurity.

You may accept the story of the accused that he put the cash box into his barrack box, but there is no evidence before this Court as to the type of barrack box which this is. If its an ordinary barrack box, you could pick up the box and carry it away. Someone had access to the keys of the bar and the cash box was removed from his barrack box, and there was the sum of £16-10-0 or so missing in the morning.

My friend in his address to the Court has stated that we are pleading the case on inadmissible evidence. He makes no specific charges, and I cannot answer that charge other than to say that I submit that there has been no evidence put forth today that was inadmissible, and if it was it should have been objected to at the time.

No matter how careful a man tries to be, he is still subject to accounting for anything that has been placed in his charge, and if he cannot account for it, it is laid down in Military law, and all other law, that he is the person to answer for any deficiencies. If he cannot answer for them, it is either because of some negligence or because of theft, and we are not alleging theft -- we are saying that there has been negligence. He permitted people to pour their own drinks, without using measuring cups; he himself poured a full half pint glass of whiskey without using a measuring cup; he took the cash box to his own quarters rather than lodging it in its proper place in the Mess, and in view of all the evidence, I feel that we have presented a prima facie case."

DEFENDING OFFICER: "Sir, in addition to my address, I should like to refer you to the note at the foot of page 458 and the top of page 459 of MML" (reads the paragraph in the Note at the foot of page 458 and the 1st paragraph at the top of page 459 of MML)

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION:

THE COURT IS REOPENED AND ANNOUNCES THAT IT DISALLOWS THE SUBMISSION OF THE DEFENDING OFFICER:

RP 40 FN 2 is COMPLIED WITH BY THE PRESIDENT AND THE ACCUSED ELECTS TO GIVE EVIDENCE ON OATH:

D E F E N C E

FIRST WITNESS FOR THE DEFENCE — The accused, K-52273 Sgt. Lawson, J.E. Regtl. Funds Board, CMHQ, attached to H.Q. CRU having been duly sworn is examined:

BY THE DEFENDING OFFICER:

Q.490 Did you occupy any special position in the Mess, on the 12th to 14th of June, this year?
A.490 Yes, sir.
Q.491 What was that position?
A.491 Of being the caterer.
Q.492 Would you tell the Court just what happened during your tour of duty as a caterer?
A.492 Between half past ten and twelve o'clock on the 12th of June, I took over from Pte. Bowmer the cater. I checked the stock and the money and corroborated the figures which he had on a slip of paper. He then handed me the keys and I locked the bar up and went back to the office. I opened the bar at about 12 o'clock and closed it a little after one and opened it again at 1645 hrs. and closed about 1800 hrs.
Q.493 Did you close according to a given schedule?
A.493 I closed according to the hours which I more or less knew were correct.

I would point out that this is entirely erroneous. Sgt. McBride is charged with drunkenness, and as I understand it the other charges were charges of drinking in quarters.

As to the question of TORT, I submit that the case cited for your consideration today, cannot be in any way applicable to the case in hand. That is a case of straight Tort and this is entirely a different case. There is a higher degree of care to be exercised by a person in that position. It is not alleged, nor do I attempt to allege at any time, nor do I wish to be considered at any time to suggest, that the accused was the originator of a chain of events which lead up to this. I do not suggest that at all, nor am I attempting to prove it. What has been proven to you today sir is this: The accused is one on the strength of the Regimental Funds Board, CMHQ and employed by this Headquarters. The personnel of that branch are trained to inspect and see that the various rules for the management of messes and institutions as laid down pamphlet form and K.R.Can are instituted in all Messes and that they are observed, on an accounting basis or a banking basis, that being his business. True that not only applies to funds in that Mess, but also it applies to stock in trade on the shelf, he being the one detailed to see that these rules are carried out, should be above all persons particularly careful, and one who should be able to account at any time he is called upon to do so. That is the nature of the system they are teaching, that is the job he goes out to inspect, and yet this case shows what he has permitted while he is in control.

There is sufficient evidence before this Court to put the accused on his defence, and show where the cash and the stock is. I am not questioning the integrity of the accused, and I think it was an unfortunate incident. These MCOs had a party and this particular MCO was the custodian, and he therefore must account for this money and these goods. Even assuming that his own figures are correct, and that there was £16-10-0 missing, I venture to say that there is still a balance to be accounted for, and that it cannot be accounted for now.

Now, the Sgt-Major placed the accused in charge, and while in charge for a period of 48 hours there is a deficiency. On Sunday there is evidence that he had a few drinks. If I remember correctly in his statement he admitted that he had a few drinks, and there was one witness today who says he was feeling pretty good. On reviewing his statement, you will see sir, that the bar was open at a time that was not in accordance with the hours as laid on. But getting on to Sunday evening, he did something sir which I suggest as a banker, as an accountant, as a member of the Regimental Funds Board, he should have known better than to do, and that is to have people in the bar after hours, having drinks in their, and what is most important of all, with the cash box available to any one of them, and then too leaving the bar and going to the kitchen and returning again and permitting members of the Mess to pour their own drinks. You will note in the accused's statement sir on reading it that a bottle of whiskey and a portion of a bottle of gin were sold. You will note from the evidence of Sgt. McBride, that he paid 30 shillings for the whiskey and the gin. Now the cost price of the whiskey we might accept at 23 shillings, and at that rate he accepts 5 shillings for 1/4 bottle of gin from McBride. I am suggesting at this moment that he may have had the best of intentions, but forgot to carry them out.

At any event, some drinks were served and there is no evidence that any money went into the cash box for them. Then the accused takes the cash box along with him and taked it to his quarters. I do not question at all his integrity again. I think possibly he was perfectly honest in feeling that if he had that box at the head of his bed it would be safer, but let's look at what happened. He went to sleep after his own admission that he had enough to drink, and I submit -- with no denial from the accused -- that he went so soundly to sleep that persons or a person were able to go through his pockets and obtain the keys to the cash box, the mess, and so on, and obtain whiskey and lock up the bar and return the keys to his clothing without his having any knowledge of it whatsoever. I suggest that possibly there is some question of his condition at the time of his returning to his quarters, which is not consistent with that of a man carrying his responsibilities. Particularly I would say, in having an amount of money right beside his bed.

Now, rightly or wrongly the box was taken to his room, but assuming that his intentions were of the best sir, which the Prosecution does not contest, the Mess Committee have seen fit to provide him with a cupboard and a cash box with sufficient locks to give security for the Mess Funds and for the spirits. Now

"Mr. President, and members of the Court; the Prosecution has stated that their case is closed. At this stage of the proceedings I feel it my duty to move that the charges against my client be dismissed under the ordinary law which is too well known to you Mr. President to require explanation -- the Prosecution has failed to make out even a prima facie case against the accused. It is unnecessary for me to point out that the ordinary rules of British justice apply in trials by FGCM, that the accused is presumed to be innocent until he is proven guilty by cogent and admissible evidence beyond a reasonable doubt.

The matter under consideration is that a senior NCO is charged with so negligently handling money and goods entrusted to his care, that the same have been lost and that he is not able to account for them when asked to do so. From the evidence it must be clear to the Court at this point that as a result of the matters complained of, numerous NCOs and WOs have been charged and found guilty of drunkenness. I feel it my duty to underline the point at this stage that that offence, is not one alleged against my client.

The evidence adduced, if anything, paints a clear picture, etched in a bold fashion that Sgt. Lawson rather than being a person incapable of carrying out the duties entrusted to him, exercised that degree of care and caution which one might reasonably expect from a Canadian of Scotch descent whose civilian occupation is that of Bank Auditor. If later in these proceedings it becomes necessary to do so, I propose to call his superiors to give evidence that he has for a considerable period of time carried out in the Army, with a considerable degree of skill and application the duties of an auditor with the Regimental Funds Board.

We are faced here with a charge laid under the provisions of Sec. 40 of the A.A. I need not labour to the Court that the degree of negligence which it is the duty of the Prosecution to prove, in cases of this nature is considerably greater than that which is sufficient in a civil suit based on a failure to account. Owing to the exigencies of the War, I have not with me a volume with which the Court is entirely familiar -- Kenney on Torts -- I will not therefore be able to cite chapter and verse, but I will venture to put forward a proposition of law which is set out in this legal tome. -- The case where the unwise stevedore unwisely used a defective sling to load a cargo ship filled with explosives. The load was too great -- the sling broke -- a case dropped -- steel met steel -- a spark ensued and as a natural result the ship ceased to exist. I challenge the Prosecutor to point out to the Court, one scintilla of evidence which brings home to Sgt. Lawson one single negligent act or omission which makes him responsible for setting into motion a chain of events, which have resulted in the loss of money and liquor, the subject of this inquiry today.

I submit respectfully, that Sgt. Lawson on the evidence adduced, is shown to have exercised that degree of care in the handling of other people's property, which one might reasonably expect from a Bank Auditor and a responsible NCO. To come to the point Mr. President, I contend that Sgt. Lawson is not the unwise stevedore who with poor judgment used a defective sling to load a cargo ship filled with explosives, with the inevitable result, and therefore the Prosecutor having failed to prove him to be guilty of conduct of this nature, the crown has failed in the basic essential of a charge, to make out a prima facie case against the accused standing for judgment at the bar of this Court.

I therefore with some considerable vehemence, press for consideration of a motion that this charge be dismissed because that basic and fundamental requisite of Prosecution has not been proven by cogent and admissible evidence. I will venture before closing, to bring to the attention of the Court, that Sgt. Lawson is like many of us here -- not a professional soldier, but a civilian temporarilly engaged in a necessary task of eliminating the NAZI creed and all its evils. I need not labour to you gentlemen, the high degree of integrity and and trustworthiness which a bank expects from an auditor. That is the occupation to which my client expects to return after this temporary interlude as a civilian soldier. Let us not without due care send him from this Court stamped as the unwise virgin who did not have oil for her lamp, or the drunken stupid custodian who handed the keys of the treasury to Ali Baba and the forty thieves."

THE PROSECUTOR REPLIES TO THE SUBMISSION:

(W) "Firstly my friend has suggested in his address, that you are called upon to accept the evidence of some Senior NCOs who have been convicted of drunkenness.

Q.475 Was Sgt. McBride drunk when he awakened you?
A.475 Well, as to his state of sobriety, I couldn't say that he was drunk or otherwise.
Q.476 Did he say anything to you when you awakened?
A.476 Yes, sir, he did. What he said I am not sure, but they were not important things, just some light talk.
Q.477 You could not say that he was drunk or had been drinking?
A.477 I certainly say whether he was drunk or not sir, he was in a cheerful frame of mind.
Q.478 Sgt. Lawson was lying with his feet to the head of the bed -- is that his usual posture when sleeping?
A.478 Well, to the best of my knowledge he had slept that way for a long time.
Q.479 Do you think he was sleeping as he normally did, or that he was so inebriated that he was doing it that way?
A.479 I couldn't say sir. I just took one look.
Q.480 Did you see either Sgt. Comba or Sgt. McBride near the barrack box in the corner?
A.480 As to being near the barrack boxI couldn't say.
Q.481 Did you see them near to Sgt. Lawson's bed?
A.481 Yes, sir.

THE PRESIDENT: "Sgt. McBride was it?"

A.482 Sgt. McBride, Sgt. Comba and Sgt. Shanley.
Q.483 When Sgt. McBride showed you the money, did you see inside the box as well?
A.483 No, sir.
Q.484 Do you think that there might have been money in there which you did not see?
A.484 There might have been, and there might not have been sir.
Q.485 This paper which you saw in the form of a cheque, was it a money order or an ordinary cheque?
A.485 I couldn't say sir.
Q.486 Did you see Sgt. McBride place the money in the box?
A.486 That I can't answer definitely -- to the best of my knowledge he did sir.
Q.487 Did he count this money actually in front of you, or just hold up a roll of paper money?
A.487 He may have counted it sir, but I was not paying a great deal of attention. I could not say that he didn't count it actually.
Q.488 You didn't see him replace the cash box in the barrack box?
A.488 No, sir.
Q.489 Did he mention any total sum he had?
A.489 Yes, sir, he said either £16-0-0 or £16-10-0 sir.

(In the opinion of the Court it is not necessary tocomply with RP 83 (b) in connection with this witness).

THE PROSECUTOR: "Sir, I was the officer detailed to take the Summary of evidence in this case, and I propose to submit in evidence, the evidence given under oath by the accused at the time of the Summary, after being properly warned."

SEVENTH WITNESS FOR THE PROSECUTION

Major S.A.German, No. 1 RCASCRU, an officer of the Canadian Army Overseas, being duly sworn states as follows:

I state sir, that the accused K-52773 Sgt. Lawson, J.B., was duly warned by me in accordance with Rs P. 4 (e), by which he was told that he did not have to say anything, to make any statement or to give evidence under oath, but that if he elected so to do, that anything which he might say would be taken down in writing and used against him in evidence at his trial. He appeared to understand this warning and gave evidence under oath. This evidence is contained on page 8, page 9 and page 10 of the Summary, of which the Court has a copy. (In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness

THE PROSECUTOR: "That is the case for the Prosecution sir."

THE PROSECUTION IS CLOSED:

THE DEFENDING OFFICER MAKES THE FOLLOWING SUBMISSION:

Q.452 What time did you retire that night?
A.452 Sometime between 2400 hrs and 0030 hrs.
Q.453 Were you disturbed during the night?
A.453 Yes, sir, at sometime around 0130 hrs or 0200 hrs, I was awakened by Sgt. McBride.
Q.454 Did you pay much attention to your room mates?
A.454 I had a glimpse of the room sir.
Q.455 Did you see Sgt. Lawson?
A.455 Yes, sir.
Q.456 Where was he?
A.456 He was laying on his bed sir.
Q.457 In what position?
A.457 With his head to the foot of the bed sir.
Q.458 Was he dressed or undressed?
A.458 He was dressed.
Q.459 I am referring now, to battle dress?
A.459 I am presuming it was his battle dress -- he had clothes on anyway.
Q.460 Was he asleep or awake?
A.460 To the best of my knowledge he was asleep.
Q.461 You were awakened, and rolled over and went back to sleep, and later on were you disturbed again by Sgt. McBride, and at what time?
A.461 Of the time I am not sure, but it was sometime later.
Q.462 And what did you notice then?
A.462 Sgt. McBride was standing in the centre of the room, with a box in his hand.
Q.463 I produce to you exhibit No. 7 -- would that be the box you refer to?
A.463 It might be sir, I wouldn't say definitely.
Q.464 Was it a box xx similar to that?
A.464 Well, it was the same shape sir.
Q.465 And what do you say as to the top of it?
A.465 I can't say anything about the top of it.
Q.466 And you say Sgt. McBride was standing in the centre of the room, with a box in his hand?
A.466 Yes, sir.
Q.467 And did he make any comment?
A.467 Yes, sir, he called me and said, "Slip, what shall I do with this? It belongs to Johney." meaning Sgt. Lawson.
Q.468 Then what happened?
A.468 He brought it over to me, and placed it on the chair beside my bed. He must have carried it over -- I didn't see him carry it over because I put my head under the blankets, but then next I saw it was on the chair beside me, or beside the bed.
Q.469 Then what happened?
A.469 Then he insisted on showing me what was in it?
Q.470 Would you show the Court how he showed you what was in it? Let's assume that is the chair.
A.470 To the best of my knowledge, the top comes off like this. Assuming this is my bed here, I am lying on my right side slightly below the level of the chair. He had 3 one pound notes, in something like this manner, and to the best of my knowledge he took what I thought to be a cheque for £5-0-0 out of the box with the other hand.
Q.471 Now, as I understand it, you cannot say that it was a cheque, but it was a piece of paper in the form of a cheque, and he remarked that it was for the sum of £5-0-0?
A.471 Yes, sir, to the best of my knowledge.
Q.472 Then what happened?
A.472 Then I xxxx tried to get rid of him by going back to sleep, but he called me again sir, and told me that he was putting the box in the corner of the room, which corner I am not sure of, but by listening to the movements I thought it was in the corner opposite to where I slept.
Q.473 Did he give you any instructions as to what you were to do in the morning?
A.473 Yes, sir, he said to be sure and tell John, meaning Sgt. Lawson, that he had put the box in the corner.
Q.474 He asked that you tell Sgt. Lawson, that he had put the box in the corner?
A.474 Yes, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

A.429(con'd) be stuck for it.
Q.430 And I understand that as a result of your objection, a collection or subscription was taken up?
A.430 Yes, sir, £1-18-6 was collected that night. S/Sgt. Spence was to put in another 10 shillings after he got paid later on in the day.
Q.431 And the money was collected by whom?
A.431 By Sgt. Comba who handed it over to me and later on I in turn handed it over to CSM Laurie before I left to go to No. 1 CGRU.
Q.432 Now regarding the whiskey, you have said that you got two bottles of whiskey -- of what brand?
A.432 I don't remember sir.
Q.433 Were they full bottles do you remember?
A.433 I couldn't even tell you that sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.434 These free drinks which you had, did not the accused by so many words or actions state that he was paying for them?
A.434 Yes, sir, he did.
Q.435 And the only time you saw the accused take a drink, was the sup which he took on the second round.
A.435 Yes, sir.
Q.436 When you made up this loving cup of the full glass?
A.436 He touched it to his lips, but how much he took I couldn't say sir.
Q.437 Were you going on leave or were you returning from leave?
A.437 Well, I was returning from weekend leave, and I was off duty at my unit because I had a bad foot and knee.
Q.438 To all intents and purposes you were not carrying out duties?
A.438 No, sir, I was not.
Q.439 How much did you pay for the bottle of whiskey?
A.439 25 shillings for the whiskey and 5 shillings for the balance of the bottle of gin.
Q.440 You are sure that you didn't pay more than that?
A.440 I am quite sure.
Q.441 How much gin was there in the bottle?
A.441 I would say about 1/4 of a bottle sir.
Q.442 Who made the suggestion to get the liquor from the mess, after you had gone back to your quarters?
A.442 It must have been Sgt. Comba or Sgt. Shanley sir, because neither Sgt-Major ~~Xxxx~~ Pelley or myself made such a suggestion. We had whiskey.
Q.443 I am assuming that you are admitting that you went into the Mess for the second time?
A.443 Yes, sir.
Q.444 You say two bottles were taken -- who took these two bottles?
A.444 I don't know who picked them up sir.
Q.445 You didn't see them picked up.
A.445 No, sir.
Q.446 When did you first notice that there were two bottles?

THE PRESIDENT: "I think that you had better leave that alone".

(In the opinion of the Court is is not necessary to comply with RP 83 (b) in connection with this witness)

SIXTH WITNESS FOR THE PROSECUTION: D-82130 Sgt. Slipper, T.B., RHLI, at present on the strength of No. 1 NETD, being duly sworn is examined by:

THE PROSECUTOR:

Q.447 On the night of the 13th -- 14th of June, were you in your room in 'A' Block at HQ CRU,
A.447 Yes, sir.
Q.448 And your room mates were S/Sgt. Labelle and Sgt. Lawson?
A.448 Yes, sir.
Q.449 And do you see Sgt. Lawson here today?
A.449 Yes, sir.
Q.450 And you recognize him as your room mate?
A.450 Yes, sir.
Q.451 You, I understand, returned to your unit at approximately sometime between 1500 and 1830 hrs, from leave.
A.451 Yes, sir.

Q.408 Did you see the cash box when you stepped outside?
A.408 When we left the Mess, Sgt. Lawson was carrying the cash box under his left arm.
Q.409 And for how long did you have this talk on the street?
A.409 I could not say sir, because we didn't pay any attention at the time.
Q.410 After this conversation, you moved on into Sgt. Lawson's room in 'A' block, the 3 of you.
A.410 Yes, sir.
Q.411 What did you note Sgt. Lawson to do if anything, in the room?
A.411 As soon as Sgt. Lawson entered the room, I entered the room first and proceeded to Sgt. Slippers bed, and as soon as Sgt. Lawson entered the room, he made a rightturn and moved between the wall and his bed, bending down to where his barrack box was. He went down on his knees in front of his barrack box.
Q.412 Did you have any evidence of the cash box after you got into the room?
A.412 I didn't pay much attention to the cash box sir. I was joshing Sgt. Pelley about the way Sgt. Lawson made a left turn.
Q.413 Then I understand, you had a conversation over about 5 or 10 minutes with Sgt. Lawson?
A.413 Yes, sir, Sgt. Lawson had come around and sat on his bed.
Q.414 And then when you left the room, was Sgt. Lawson sitting or lying on his bed?
Q.414 Sgt. Lawson was lying on his bed, his head was towards the foot of his bed.
Q.415 And his feet where?
A.415 His ~~eff~~ feet were towards the pillow.
Q.416 Was he awake or asleep?
A.416 He was asleep
A.417 How long was this after you entered the room approximately?
A.417 Ten to 15 minutes.
Q.418 He had laid down and gone to sleep?
A.418 Well, I couldn't swear for sure that he was asleep or not. He had his eyes closed when we walked out at any rate.
Q.419 When did you next return to Sgt. Lawson's room?
A.419 I had left my case in Sgt. Lawson's room, and I returned at approximately 4 o'clock or 4:30 to pick up the case.
Q.420 And did you see Sgt. Lawson then?
A.420 Sgt. Lawson was still on his bed. He was half on the bed and half off it, with one arm flung over the side.
Q.421 And was he awake or asleep?
A.421 He was asleep.
Q.422 Did you make any effort to awaken him?
A.422 You mean did I shake him to wake him up?
Q.423 Did you take any steps to awaken him, or to improve his position?
A.423 Yes, sir, I picked Sgt. Lawson up in my arms, turned him around, put his head on the pillow and covered him with a blanket.
Q.424 And did he awaken?
A.424 No, sir.
Q.425 Or roused at all when you handled him?
A.425 No, sir, he didn't.
Q.426 Now, you had not been in the room between the time you first went into the room and the time you went back for your bag?
A.426 No, sir, I hadn't been back.
Q.427 Did you, in the interval return to the mess at all?
A.427 When do you mean?
A.428 That is, after you left Sgt. Lawson in his room, and the time of your return at 4 o'clock when you went back for your bag, did you go down to the Sergeants' Mess?
A.428 Yes, sir.
Q.429 And what happened when you went to the Sgts. Mess?
A.429 We returned to the Sgts. Mess, myself, Sgt-Major Pelley, Sgt. Comba, Sgt. Shanley, CSM Laurie and S/Sgt. Spence. Sgt. Comba had obtained the keys to the Sgts. Mess from somewhere, and opened the door of the Mess. I in company with those I have mentioned, went inside to get two bottles of whiskey. Prior to going back to the Mess and while in the Mess, Sgt-Major Pelley and myself put up objections to obtaining whiskey that way and Sgt-Major Pelley made the statement that the whiskey would be paid for, and that Johnny Lawson would not

Q.379 And you then proceeded to the kitchen?
A.379 Yes, sir.
Q.380 And on the question of something to eat, if I may be permitted to lead you, the party had bread and cheese?
A.380 Yes, sir.
Q.381 And what happened after that?
A.381 We proceeded back to the bar?
Q.382 Who is 'we'?
A.382 Sgt. Lawson, CQMS Pelley and myself.
Q.383 Sgt. Latta had since left.
A.383 Yes, sir.
Q.384 And what happened in the bar on this occasion?
A.384 There was some conversation about having another drink, so I poured out a drink of rum for myself and Sgt Major Pelley, Sgt. Lawson saying that he didn't want a drink as he had had enough.
Q.385 You poured two drinks of rum for SQMS PELLEY and yourself?
A.385 Yes, sir.
Q.386 Did you use a measuring glass?
A.386 No, sir, I took two of these half pint beer glasses and poured approximately 3/4 of an inch of rum in each of them.
Q.387 Was Sgt. Lawson present?
A.387 Yes, sir, standing at the end of the bar.
Q.388 Did you have any more to drink after than drink of rum?
A.388 Yes, sir, a drink of gin.
A.389 That is CQMS Pelley and yourself.
A.389 Yes, sir, Sgt. Lawson again refused.
Q.390 Who poured that drink?
A.390 I did.
Q.391 Didyou use a measuring glass?
A.391 No, sir, I poured directly from the bottle into the glass, using the same two glasses.
Q.392 Approximately how much gin did you pour?
A.392 I don't remember sir.
Q.393 Did any money change hands?
A.393 No money changed hands for these drinks.
Q.394 Did you have any more drinks after the gin?
A.394 Not there, but the conversation came up as to whether we would have another drink and Sgt. Lawson said he could sell me a bottle for 25 shillings.
Q.395 Did you buy a bottle?
A.395 I bought a bottle for 25 shillings?
Q.396 What was it?
A.396 A bottle of whiskey.
Q.397 A full bottle.
A.397 Yes, sir.
Q.398 Did you make any other purchase?
A.398 Yes, sir, there was about 1/4 of a bottle of gin left, so I gave Sgt. Lawson 30 shillings for the balance of the gin and the whiskey.
Q.399 You purchased a full bottle of whiskey and 1/4 of a bottle of gin for 30 shillings?
A.399 Yes, sir.
Q.400 Did you have any further drinks after the purchase of the bottles in the bar?
A.400 No, sir, not in the bar.
Q.401 Where was the cash box while you were having these drinks?
A.401 I didn't pay much attention.
Q.402 Now, I will lead you along a bit, if my friend has no objections. You all left the bar then, and the Mess.
A.402 Yes, sir.
Q.403 And you went out on Queen's avenue towards 'A' block?
A.403 Yes, sir.
Q.404 And the three of you stopped on the street and had a conversation.
A.404 Yes, sir.
Q.405 At about what time of the morning, would you say you left the Mess?
A.405 I couldn't give you the exact time sir.
Q.406 Well, approximately what time -- you say you arrived at approximately 2345 hrs -- how long were you there altogether?
A.406 About an hour or possibly longer.
Q.407 At about 1/4 to 1 or 1 o'clock you left then?
A.407 Yes, sir.

A-355 (con'd) whiskey. I offered to pay for the drink and Sgt. Lawson told me to put my money away, that my money was no good.
Q.356 What do you mean xx by a small beer glass?
A.356 That would be a half pint beer glass.
Q.357 Was it straight whiskey, or whiskey and soda or what?
A.357 It was straight whiskey sir, as you get it today.
Q.358 Did you see Sgt. Lawson pour that drink?
A.358 No, sir, I wouldn't say that I definitely remember that I saw Sgt. Lawson pouring that drink.
Q.359 What would you estimate the quantity of whiskey to be in that glass in terms of single drinks -- one, two, three or what?
A.359 I wouldn't be able to estimate that sir.

THE PRESIDENT: "He has already said half a pint."

A.360 Yes, sir, that was the size of the glass. Because of the size of this drink, it was a little bit too much for one time, so I shared the drink with CQMS Pelley, who took half and I took the other half. I then got into some conversation with Sgt. Latta in regards to persons who had been picked up for careless talk. Then Sgt. Lawson, after this conversation with Sgt. Latta, Sgt. Lawson served me with another drink of the same proportions as the first one, approximately.
Q.361 Did you or anyone else pay for that?
A.361 No, sir, I didn't pay for that drink. I imagine Sgt. Lawson paid for it.
Q.362 Did you drink that yourself?
A.362 Yes, sir.
Q.363 Did Sgt. Lawson have any drinks up to this time?
A;363 I didn't see Sgt. Lawson have a drink.
Q.364 At this point, what was Sgt. Lawson's condition, would you express an opinion on that?
A.364 It was my opinion that Sgt. Lawson had been drinking.
Q.365 Now, when you finished that drink, did you have another one?
A.365 Yes, sir, there was some more conversation and due to the fact that I had had two drinks, I told Sgt. Lawson, "I have had two drinks with you Johney, and it is my turn to buy one," and offered to buy a drink for the party, who were standing around.
Q.366 And did you have that drink?
A.366 Yes, sir.
Q.367 Did each of you have a drink?
A.367 No, sir, the drink was not served up that way.
Q.368 Why?
A.368 Because most of the whiskey glasses in the bar were broken. Sgt. Lawson and CSM Logan left the bar and went out in search of whiskey glasses. They were gone a few minutes when Sgt. Lawson came back by himself and said he couldn't find any glasses to set up a round of drinks, so he took the same half pint beer glas and filled it up.
Q.369 Did he fill it full?
A.369 Yes, sir.
Q.370 Did he use a measuring cup to do so?
A.370 No, sir, he emptied the bottle into the glass.
A.371 Did you pay for this drink?
A.371 I held my silver money out to Sgt. Lawson to take what he wanted for the drink and he took 40-2-6.
Q.372 And that is all.
A.372 Yes, sir.
Q.373 Now, who drank this glass of whiskey?
A.373 This glass of whiskey was drank by CQMS Pelley, Sgt. Latta, Sgt. Lawson touched the glass with his lips and myself.
Q.374 Did Sgt. Lawson make any comment about only touching the glass to his lips?
A.374 No, sir, but I watched him do it.
Q.375 Did you have any further drinks in the bar just then?
A.375 Not right then, no, sir.
Q.376 What did you do next?
A.376 We left the bar -- all of us left the bar and proceeded to the kitchen.
Q.377 Did you see the cash box in evidence in the kitchen?
A.377 When we left the bar the cash box was on the counter of the bar.
Q.378 And did it stay there as far as you know?
A.378 As far as I know it did.

Q.340 Sgt. McBride, I understand that on Sunday evening, on the 13th - 14th of June, you were in the Sergeants' Mess, H.Q. CRU.
A.340 Yes, sir.
Q.341 At what time did you arrive in the Mess?
A.341 I arrived at the Mess at approximately 2345 hrs, sir.
Q.342 And how do you fix that time?
A.342 Because of the fact that I was returning from weekend pass from Reading, and I took the 10:30 train at Reading to North Camp. This train arrives at North Camp at 1130 hrs, and it takes 15 minutes to get to the Mess?
Q.343 You proceeded directly from the station to the Mess.
A.343 Yes, sir.
Q.344 Did you find the bar opened when you arrived at the Mess?
A.344 I saw a light from the street sir, and I found that the window of the bar into the ente-room was closed, but the door in the bar from the bar to the billiard room was open.
Q.345 Did you have to rap on the door.
A.345 Yes, sir.
Q.346 To refresh your mind now, do you remember giving evidence, at the Summary of evidence in this case?
A.346 Yes, sir.
Q.347 And you stated at that time, "I went to the door of the bar and rapped and the door was opened -- ", did you mean that the door was opened by someone or that it was already open?
A.347 The door just swung open sir.
Q.348 Who did you find in the bar, if any one?
A.348 Sgt. Lawson, A/SQMS Pelley, Sgt. Latta, S/Sgt. Watson, and an officer whom I could not identify, but recognized him to be an officer from the pips on his shoulders.
Q.349 Did you at that time, or at any time see the cash box in evidence?
A.349 Not at the time I entered the bar.
Q.350 Did you at any time during your stay in the bar?
A.350 Yes, sir, I saw the Sergeants' Mess cash box on the bar, where the bottles and drinks were served from.
Q.351 Do you recognize this box? (produces exhibit 7 to the witness)
A.351 It is my opinion that that is the cash box in the Sergeants' Mess.
Q.352 And it was on top of the cupboard in open view, and accessible to anyone in the room.
A.352 Yes, sir.
Q.353 Now, will you tell the Court as briefly as you can, what happened after that -- what different events?
A.353 As I am on 3 charges myself, in order to tell the story, I would make some statements that might incriminate me.

THE PRESIDENT: "I proposed at this moment to advise the witness that he xx is not compelled to answer any questions which might tend to incriminate him, but I see that through the advise of his counsel or otherwise he has realized this himself. That is to say any question which in the opinion of the Court might have a tendency to expose him to any charge, penalty or forfeiture, or to any Military punishment. That is not compellent. However there might be some questions that you could answer."

PROSECUTOR: "Sir, I might point out for your information, that the witness is charged with drunkenness on Tuesday -- I shan't ask any question that will bring that in. Secondly he is charged with drinking in quarters on the 13th - 14th of June -- I shan't ask him anything about that; and thirdly with handling funds without authority. Now, I don't propose to ask any questions that will incriminate him?

Q.354 On being admitted to the bar and while in there, did you have any drinks?
A.354 I would ask you sir, that you stop me if I am saying anything that might incriminate me.

THE PRESIDENT: "Yes, I shall do that."

A.355 On entering the Sgts. Mess bar that night, I contacted CQMS Pelley and inquired where Sgt. Virtue had gone, and was informed by someone that Sgt. Virtue was no longer the caterer of the Sgts. Mess, and had been sent to METD and that Sgt. Lawson was carrying on with the duties of the caterer. I asked Sgt. Lawson if I could get a drink, and he said, "Yes". Sgt. Lawson poured me out a drink approximately half a small beer glass of

Q.322 Was he sitting on his bed when you left the room?
A.322 Of that I am not sure.
Q.323 Did you see Sgt. Lawson again that night?
A.323 No, sir.
Q.324 At the time of the taking of the Summary of Evidence, you told me that after leaving ~~her~~ that room, you had no further recollection of the events of the balance of the evening -- is that still correct?
A.324 Yes, sir.

CROSS--EXAMINED BY THE DEFENDING OFFICER:

Q.325 On the Sunday night, did you go inside the bar before the main serving window was pulled down, or before the bar was closed?
A.325 No, sir.
Q.326 It was after that.
A.326 Yes, sir.
Q.327 Did you go inside the bar after it was to all intents and purposes closed, or did you go inside the bar after it was actually closed?
A.327 I went inside after it was closed.
Q.328 When did you go in?
A.328 Well, it was like this, when the bar was closed, Sgt. Lawson said, "It won't take me a a minute to make up my cash and I will walk down to the billets with you." That was after it was closed.
Q.329 And Sgt. McBride, did he arrive much after the actual closing of the bar?
A.329 Not very much after. I couldn't say the exact time.
Q.330 You saw Sgt. Lawson making up his books, balancing accounts or making up his cash, in some way while you were inside the bar.
A.330 Yes, sir.
Q.331 What was the condition of Sgt. McBride when he came into the bar?
A.331 To all appearances, Sgt. McBride seemed to have been drinking.
Q.332 When Sgt. Lawson poured a drink, did he use a measuring glass?
A.332 Yes, sir.
Q.333 Now, between the time when he left the bar and went to the kitchen, and went to his quarters in 'A' block, did Sgt. Lawson leave the cash box very far out of his reach?
A.333 I think he had it under his arm all the time sir.
Q.334 You say that when you entered the room -- at least the accused's quarters, he turned to his right and went to the head of his bed, is that correct?
A.334 Yes, sir.
Q.334 Did he bend over and make any motions as if opening a box or trunk?
A.334 Well, I didn't even know if he had a box sir, but he was leaning over.
Q.335 I understand that there was a meeting of the persons involved, at the office of the D.A.P.M. HQ CRU.
A.335 Yes, sir.
Q.336 And that among others, Sgt. McBride was present at this meeting.
A.336 Yes, sir.
Q.337 At that time, did Sgt. McBride say ~~xxxx~~ anything regarding money?
A.337 Sgt. McBride said, "I will go andget this money or that money." At any rate he said, "I will go and get money".
Q.338 Did Sgt. Comba say anything at that time regarding the keys?
A.338 Yes, sir, Sgt. Comba in the presence of Sgt. Lawson on the sidewalk, between our block and 'B' block on that day, when Sgt. Lawson asked him, "Who had the keys?" and he answered, "I had the keys." Sgt. Lawson then asked, "Where did you get them?" and he said, "I don't know."
Q.339 Did Sgt. Lawson ask Comba if he opened the bar at any time?
A.339 Yes, sir.
Q.340 And what did Comba say?
A.340 He said yes, sir.

(In the opinion of the Court, it is not necessary to comply with RP 83 (b) in connection with this witness).

FIFTH WITNESS FOR THE PROSECUTION

K-52761 Sgt. McBride, J.C., Seaforth of Canada, attached to Instrs. Pool, HQ CRU, being duly sworn is examined by:

THE PROSECUTOR:

Q.298 And after Sgt. McBride entered, was the cash box still in the open?
A.298 Sgt. Lawson was making up his cash, or at least that is what I presume he was doing and actually I was not paying much attention to him. As a matter of fact I was doing more talking to McBride than I was to Lawson.
Q.299 And you say that there was only one drink, a loving cup, which you had before you left the bar.
A.299 That is all I can recollect any how.
Q.300 What was Sgt. Lawson's condition -- would you give an opinion as to his condition?
A.300 I would say that Sgt. Lawson was perfectly capable at that time.
Q.301 How lonw were you in the bar?
A.301 I would say roughly, possibly 20 minutes.
Q.302 Altogether.
A.302 Possibly 20 minutes to half an hour. I don't think it could possibly be longer than that.
Q.303 Did you all wait at the bar together?
A.303 Yes, sir.
Q.304 Do you know what happened to the cash box when you left the bar?
A.304 Sgt. Lawson had the cash box under his arm.
Q.305 And where did you go on leaving the bar?
A.305 We went out to the kitchen.
Q.306 For what purpose?
A.306 Sgt. Lawson said he was working hard all day, and he wondered if he could get a cup of tea, so that we all went out to the kitchen.
Q.307 And did you have some food, or do you remember that?
A.307 Yes, sir.
Q.308 Then where did you go from the kitchen?
A.308 We came out of the Mess, and we stood outside for some considerable time.
Q.309 The three of you.
A.309 Yes, sir.
Q.310 Did Sgt. Lawson have his cash box with him still?
A.310 He had it when he left the room, yes, sir.
Q.311 And you stood talking for some considerable time you say -- for approximately how long?
A.311 Possibly half to 3/4 of an hour.
Q.312 And then where did you go?
A.312 We went down to 'A' block, Sgt. Lawson's room.
Q.313 All three of you.
A.313 Yes, sir.
Q.314 Did you enter his room?
A.314 Yes, sir.
Q.315 And what happened when you entered his room?
A.315 As we entered, Sgt. Lawson went in first, and the door to his room opens to the right, which almost obliterates his bed; it does actually as you are going in. I went in next and I couldn't see where he had gone, and I finally looked to the right and he was between the wall and his bed which is parallel with the wall, and he was up at the head of the bed.
Q.316 Did you see what he was doing there?
A.316 I don't know what he was doing actually. He was up at the head of his bed stooping down.
Q.317 Did you see the cash box again after you entered the room?
A.317 No, sir.
Q.318 How long were you in the room then, in Sgt. Lawson's room that is?
A.318 Probably 5, 8 or 10 minutes.
Q.319 Can you tell me who else was in the room besides Sgt. McBride and yourself, or did you notice?
A.319 I noticed there were two other beds in the room there, but I don't know who occupied them.
Q.320 During the period from 5 to 10 minutes, when you were in Sgt. Lawson's room, what happened or what did you do?
A.320 I was more or less fooling around -- my recollection is that we were getting into a goose step in the German style or something of that nature.
Q.321 Where was Sgt. Lawson?
A.321 He was sitting on the end of his bed.

Q.273 At what time was that?
A.273 That was just as he was closing the bar.
Q.274 And you I take it, went into the bar with him?
A.274 Yes, sir.
Q.275 And the serving windows and the doors entering into the bar were closed.
A.275 Yes, sir.
Q.276 Leaving the two of you in the bar?
A.276 Yes, sir.
Q.277 And while in there how many drinks did you have if any?
A.277 The only drinks I had in the bar, was the drink from a glass, there was two double whiskeys put in it, and these were the only ones I can recollect.
Q.278 And was that when you were in there alone?
A.278 No, sir, that was later.
Q.279 Well, I was referring to while you and Sgt. Lawson were alone, did you have any drinks?
A.279 Not that I recollect sir.
Q.280 And while you were in there with Sgt. Lawson, did you see the cash box?
A.280 Yes, sir.
Q.281 And where was it?
A.281 To my recollection it was on the left hand side of the bar, that would be from the bar much as your table is situated there sir, and if the partition was on his side, the box would be on his left.
Q.282 Are you acquainted with the cupboard xxxx in which they store the spirits?
A.282 No, sir.
Q.283 Was it on a shelf or on a table?
A.283 To my recollection it seemed on the top of the table.
Q.284 At any rate it was out in the open?
A.284 Yes, sir.
Q.285 Did you see Sgt. McBride that evening?
A.285 Yes, sir.
Q.286 At approximately what time did he arrive?
A.286 He joined us in the bar very shortly after Sgt. Lawson closed the bar. The exact time I couldn't xxx state.
Q.287 And whowas in the bar when he arrived?
A.287 Sgt. Lawson and myself?
Q.288 And was the door entering the bar locked?
A.288 Yes, sir.
Q.289 I believe that Sgt. McBride knocked on the door.
A.289 Yes, sir.
Q.290 Who admitted Sgt. McBride?
A.290 Sgt. Lawson.
Q.291 And after he entered the bar what happened?
A.291 After he entered the bar, I think Sgt. Lawson said, 'Good evening' of course, and McBride stated that he was going on leave and he asked Sgt. Lawson to sell him a bottle of whiskey. I was not paying much attention to the conversation, but I know there was a bottle of whiskey sold and some money paid, and I believe 3/4 of a bottle of gin or half a bottle of gin was sold.
Q.292 Was the half bottle of gin sold by Lawson to McBride?
A.292 Yes, sir.
Q.293 Then didyou have any drinks in the bar?
A.293 Yes, sir, Sgt. McBride ordered 2 double whiskeys. Sgt. Lawson poured them out in a long mug and put them into a glass, and Sgt. McBride passed it to me more or less as a lovers cup, and I drank a portion of it and I passed the rest to Sgt. Mcbride and he drank the rest of it.
Q.294 Did you have any drinks after that?
A.294 I have no recollection of having any more drinks.
Q.295 Did Sgt. Lawson have any of the loving cup with you?
A.295 No, sir, he didn't have any of it. Sgt. McBride finished the remainder of the drink in the glass.
Q.296 Did you see anyone else have any drinks in there after you had finished this loving cup?
A.296 No, sir.
Q.297 You didn't see anyone, or you don't recollect, which?
A.297 I didn't see anybody sir.

Q.245 And Sgt. McBride?
A.245 Well, Sgt. McBride, you could tell he was drinking, but he wasn't as drunk as Sgt-Major Pelley was.
Q.246 You also say you saw Sgt. Comba and Sgt. Latta having drinks?
A.246 Yes, sir.
Q.247 Did you see them go into the bar and get the drinks?
A.247 Well, they were at the bar there sir.
Q.248 Did you see them actually go into the bar?
A.248 Yes, sir.
Q.249 Did you see them go into the kitchen at any time?
A.249 No, sir, they weren't in the kitchen.
Q.250 Did Sgt. Lawson tell you, why he was giving you the keys?
A.250 Yes, sir, he asked me if I would clean up the bar.
Q.251 Was anything further said? Did he tell you he had to go to Borden?
A.251 Not as far as I can remember sir -- no, sir.
Q.252 What condition was Sgt. Lawson in?
A.252 He was sober.
Q.253 It was apparent that he was sober -- it was apparent that he was sober and that the others were drunk?
A.253 Who sir.
Q.254 Sgt. Major Pelley, Sgt. McBride, Sgt. Comba and Sgt. Latta.
A.254 Sgt. Comba wasn't drunk sir.
Q.255 Was Sgt. Major Pelley intoxicated?
A.255 Yes, sir.
Q.256 Was Sgt. McBride intoxicated?
A.256 I wouldn't say that, but you could see he had some drink in him. But he wasn't drunk sir.
Q.257 Was Sgt. Comba drunk?
A.257 No, sir.
Q.258 Do you think he had been drinking that morning?
A.258 Well, I wouldn't say that.
Q.259 In your opinion had Sgt. Latta been drinking?
A.259 No, sir, not to my knowledge.
Q.260 To your knowledge, has the bar ever been broken into, or any of the doors or windows forced?
A.260 I believe at one time it was forced.
Q.261 Were you there?
A.261 Y es, sir.
Q.262 Working in the Mess?
A.262 Yes, sir.
Q.263 How long ago is that?
A.263 I couldn't say sir.
Q.264 What part was broken into?
A.264 The back door was broken into, where you go out to the parade ground.

(In the opinion of the Court it is not necessary to comply with RP 83 (b) in connection with this witness)

FOURTH WITNESS FOR THE PROSECUTION

K-57098 A/CQMS Pelley, D.M., DM Section, H.Q. CRU, being duly sworn is examined by:

THE PROSECUTOR:

Q.265 You are a member of the Sgts. Mess, H.Q. CRU?
A.265 Yes, sir.
Q.266 And you were in the Mess on Sunday evening, the 13th of June, 1943?
A.266 Yes, sir.
Q.267 During the course of the evening, you with some friends xx had a few drinks, I believe?
A.267 Yes, sir.
Q.268 Who was in charge of the bar that night?
A.268 Sgt. Lawson.
Q.269 Do you recognize Sgt. Lawson as being here today?
A.269 Yes, sir.
Q.270 Did Sgt. Lawson join you in any drinks during the evening?
A.270 I cannot say that he did, no sir.
Q.271 What time did he close the bar that evening?
A.271 Shortly after 11 o'clock.
Q.272 And after he closed the bar, were you in the bar with him or with anybody else?
A.272 Yes, sir.

Q.215 Did he have anything with him when he came in there?
A.215 He had a box under his arm sir.
Q.216 Can you identify that box?
A.216 Well, it was similar to this one sir, but I couldn't say its the one.
(Exhibit 7 produced to the witness)
Q.217 Did he take that box into the bar with him?
A.217 Yes, sir.
Q.218 Did anyone else go into the Mess during the time Sgt. Lawson was there?
A.218 Yes, sir, Sgt. Comba and Sgt. Latta.
Q.219 Where did they go?
A.219 Up to the bar there sir.
Q.220 Did you see what went on?
A.220 I was cleaning off the tables and I seen them going away with a scotch and a small beer in the glass.
Q.221 You saw whom?
A.221 Sgt. Comba and Sgt. Latta, coming away a a small beer and a scotch each.
Q.222 Did you see who served them with that whiskey and beer?
A.222 No, sir.
Q.223 Did you see what Sgt. Lawson was doing in the bar?
A.223 No, sir.
Q.224 And how long was Sgt. Lawson there?
A.224 Around about 10 or 15 minutes.
Q.225 What happened then?
A.225 Sgt. Lawson came out and asked me if I would clean up the bar and he handed me the keys.
Q.226 Did you notice whether or not he had locked the door to the bar?
A.226 No, sir, I didn't notice.
Q.227 How many keys did he hand you?
A.227 There were 2 keys or 3 keys on the ring sir.
Q.228 Do you know what they were for?
A.228 One of them was for the bar door.
Q.229 But you didn't examine the door to see whether it was locked or not?
A.229 No, sir.
Q.230 He gave you these keys and instructed you to clean out the bar?
A.230 Yes, sir.
Q.231 Then what happened?
A.231 Then he went out.
Q.232 He went out.
A.232 Yes, sir.
Q.233 Where were Sgts. Comba and Latta at that time?
A.233 They were sitting in the ante-room at the table.
Q.234 Continuing their drink.
A.234 Yes, sir.
Q.235 How long did you have these keys?
A.235 I would say around a little over an hour.
Q.236 What did you do with them?
A.236 Private Boucher came in and I handed the keys over to him.
Q.237 Did you enter the bar at any time that morning?
A.237 No, sir.
Q.238 Were you in the custom of receiving the keys for the bar?
A.238 No, sir, I was not.
Q.239 How long have you been employed there?
A.239 Around 16 months sir.
Q.240 Have you ever before been given the keys for any purpose?
A.240 No, sir.
Q.241 When you saw Sgt. Lawson the next time -- or when did you next see him?
A.241 I never seen him no more until the next day I think it was.
Q.242 You didn't see him again until the next day.
A.242 No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.243 When you were working in the kitchen, did you see anybody go into the kitchen, with a liquor bottle on their person?
A.243 Yes, sir, I couldn't swear, who who I saw with the bottle, but they were Sgt. Major Pelley and also Sgt. McBride.
Q.244 What condition were they in?
A.244 Sgt. Major Pelley I would say was awful drunk.

Q.195 What does this paper show? (Exhibit 1 produced to the witness).
A.195 It shows the accounting of the stock on hand when I counted My stock on Monday morning.
Q.196 Did the account of money which you found in the cash box, correspond with the stock in trade which apparently had been sold during the weekend?
A.196 I didn't have enough money to make up for the stock which seemed to have been sold.
Q.197 What does this paper show? (Exhibit 2 produced to the witness).
A.197 This is a statement of the ten line, of the stock I had on hand when I went on weekend. It is correct.
Q.198 Who prepared the figures for that statement?
A.198 Sgt. Major Bennett. I checked and showed these figures to Sgt. Major Bennet and he check them with me against the stock and the money. Sgt. Major Bennett was satisfied that this was a correct statement.
Q.199 What is this statement? (Exhibit 3 produced to the witness).
A.199 It is a correct statement of the stock on hand on Monday, 14 th of June. Sgt. Major Bennett prepared it.
Q.200 Who was with Sgt. Major Bennett when he prepared this statement or obtained the figures?
A.200 The Camp Commandant. Sgt. Major Bennett and I took this statement to the Camp Commandant, who said it was correct.
Q.201 And what is this statement? (Exhibit 4 produced to the witness) Is that statement correct?
A.201 Yes, sir, it is correct. The prices shown there are the prices at which the items were generally sold.
Q.202 Was the sale to a member of the mess by bottle permitted -- that is speaking of private?
A.202 I believed that I was entitled to sell a bottle of whiskey if somebody wanted it, and that the price would be the usual retail price.
Q.203 What were your instructions as Mess caterer, in regard to the granting of credit to members of the Mess?
A.203 I had no right to give credit to anybody.
Q.204 Did you find any chits in the cash box on your return on Monday?
A.204 I did find them and made ~~xx~~ a list of them.
Q.205 Where did you keep your cash box and cash customarily in that Mess?
A.205 I always left the box in the cupboard in the bar.

CROSS-EXAMINATION BY THE PROSECUTING OFFICER.

Q.206 Was the accused present when the accounting was taken on Monday morning?
A.206 No, he was not.

(In the opinion of the Court, it is unnecessary to comply with R.P. 93 (b) in connection with this witness).

PRIOR WITNESS C-9668 Cpl Petelen, W.J. RCC CSM, being duly sworn is examined by FOR THE PROSECUTION.

EXAMINATION.

Q.207 You are C-9668 Cpl. Petelen, W.J., R.C. CSM.
A.207 Yes, sir.
Q.208 And you are employed as Convent Duty and in the Corps. Most of that R.C.
A.208 Yes, sir.
Q.209 And on the morning of Monday 14 Jun 43, were you on duty in the Mess?
A.209 Yes, sir, I was.
Q.210 What time did you start your duties?
A.210 At about 1/2 past six sir.
Q.211 And during that morning did you see Sgt. Lamont
A.211 Yes, sir.
Q.212 Do you recognize Sgt. Lamont
A.212 Yes, sir, I do.
Q.213 At what time in the morning did you see Sgt. Lamont
A.213 At about 7/8 to 8 sir.
Q.214 Where did you see Sgt. Lamont
A.214 He came in through the ante-room and came into the bar sir.

[illegible]

Q.172 Andyou were granted a 48 hour weekend pass for the period from Saturday 12th of June 43, until Monday morning, 14th of June 43.
A.172 Yes, sir.
Q.173 Who relieved you or assumed your duties in charge of the Canteen, while you were away on that leave?
A.173 Sgt. Lawson.
Q.174 And when did Sgt. Lawson assume those duties?
A.174 At 1030 Saturday morning sir.
Q.175 And what action did you take on Saturday morning in respect to handing over the stock and so on to Sgt. Lawson? What did you do when you handed over ~~the~~ to Sgt. Lawson -- did you take account of the beer, the whiskey and the money, and did you put the result of that account down on paper?
A.176 We did take a count and we did put it on paper.
Q.177 Would you recognize the paper if it were shown to you ~~know~~?
A.177 I believe I would.
Q.178 I produce to the witness, exhibit No. 1. Do you recognize that paper?
A.178 I am content that this document represents the count taken at that time -- that is on the Saturday morning of the hand over, Sgt. Lawson and myself alone being present.
Q.179 I produce also to the witness Exhibit 2. How much cash was handed to Sgt. Lawson on the hand over?
A.179 I truly gave to Sgt. Lawson £13-18-7.
Q.180 Did Sgt. Lawson count this cash in the presence of the witness, when it was handed over?
A.180 Sgt. Lawson counted the money over and satisfied himself that the amount I have stated was there.
Q.181 Did you then deliver the keys to Sgt. Lawson?
A.181 At that time I delivered to Sgt. Lawson the keys to the bar, and the keys to the box where money is kept.
Q.182 How many keys in all?
A.182 He had 3 keys. One key was to open the bar, one key was to open the stock room or catering room and the third key was for the little cupboard where we keep the cash box. All the keys were given to Sgt. Lawson.
Q.183 What is this box I show you?
A.183 This is the cash box ordinarily used in the bar, and it is kept in the bar generally at all times.

(Exhibit No. 7 -- Cash box identified as above by the witness)

Q.184 Is that the box you delivered to Sgt. Lawson?
A.184 That is the box.
Q.185 Now then, at what time did you return on Monday, 14 June?
A.185 15 minutes to 11 on Monday morning sir.
Q.186 When did you see Sgt. Lawson on Monday?
A.186 Between 7:30 to 11 o'clock that night. I don't remember for certain when.
Q.187 From whom did you receive the keys that you had delivered to Sgt. Lawson?
A.187 I received the keys from Gunner Butcher.
Q.188 Who is Gunner Butcher and how is he employed?
A.188 He works in the Sergeants' Mess. He is a waiter. I received the keys from Butcher and I thought that Sgt. Lawson might be out on business, and left the keys with Butcher to give to me.
Q.189 At what time did you receive these keys from Gunner Butcher?
A.189 At 1/4 to 11 in the morning.
Q.190 Will you tell the Court what you did after you received those keys?
A.190 I opened the door and I counted the money.
Q.191 Which door?
A.191 I opened the door opening from the Mess room and went into the little cupboard and counted the money which was there in the box.
Q.192 Where was the box?
A.192 In the cupboard.
Q.193 At what time did you start to count the money?
A.193 Immediately sir.
Q.194 After you counted the money, did you check the stock? Did you make any record?
A.194 I took down a record on paper.

M

A.157 (cont'd) won't swear on that, but I believe that they are available. I am nearly certain but I can't swear to it.

(A 1030 HRS THE COURT ADJOURNED UNTIL 1350 HRS.

CONTINUATION OF THE PROSECUTION EXAMINATION OF THE ACCUSED.

Q.158 What is the instruction, custom or practice within the Mess, in regard to the sale of bottles of spirits to members?

A.158 The bottles as far as I know sir, I know that the members going on leave have been able to purchase a bottle. Whether it came from the stock or was purchased for that particular member I cannot say, but I know that members going on leave have gotten bottles to take with them.

CONTINUATION OF CROSS-EXAMINATION OF THE DEFENDING OFFICER.

Q.159 In returning to the cupboard in which the mess bar was ordinarily kept within the bar, am I correct in saying that the doors to this cupboard were secured by a clasp which clasp was locked with a padlock, is that correct?

A.159 Yes, sir.

Q.160 These clasps which held the doors closed with the padlock; these clasps were secured with 2 small screws.

A.160 There are these screws, I don't know what else they are.

Q.161 They are in the bar, holding it on the side of the doors so as that the cupboard could be opened by removing these clasps. If you removed the clasps the padlock would fall off.

A.161 You would have to take screws out sir.

Q.162 If you removed say the padlock would fall off.

A.162 Yes, sir, if you took the 2 screws off, it would be useless.

Q.163 And any small person could perform that task?

A.163 Well, any person driver, yes, sir.

Q.164 Is there two doors of this bar were constructed of ply wood, as some light wood, which could be easily forced by a man or woman.

A.164 Which door are you referring to?

Q.165 I was referring particularly to this door of the cupboard -- each side has a door composed of light wood.

A.165 They are made of plywood, but I wouldn't say of what kind of wood they are made.

Q.166 They could be easily split with a hard axe.

A.166 I would imagine so, sir.

RE-EXAMINED BY THE PROSECUTION.

Q.167 My learned friend has referred to the removal of the screws from the bars. Would that have to be done if the padlock applied, is it possible to have access to the hasps of those screws to remove them.

A.167 To the best of my knowledge, those are inaccessible -- like you referring to the bars.

Q.168 Yes, where the bars is bolted over.

A.168 I don't think it holds over sir.

(In the opinion of the court it is unnecessary to comply with R.P. 87 (b) in connection with this witness)

EDWARD WILLIAM [illegible] Mne, Bowden, A., attached to H.Q. CCG, having been duly sworn [illegible] to examined by [illegible]

The accused when asked should that he had no objection to Staff Sergeant Watson being present as interpreter

THE PROSECUTION.

Q.169 Number D-57008 Mne, Bowden, A., attached to H.Q. CCG.

A.169 Yes, sir.

Q.170 And you are employed as Mess Caterer to the Sergeants' Mess of that H.Q.

A.170 Yes, sir.

Q.171 And you have been employed in that position since approximately 20th of May.

A.171 Yes, sir.

A.133 No, I wouldn't say that. I have seen people at times come in and rap on the door, but I wouldn't say they were getting served or anything like that.

Q.134 Have you ever been served with a drink yourself after 0300 hrs there?

A.134 No, sir, not that I can remember, unless there was a dance or a new years party or something like that.

Q.135 On all occasions the bar was not opened after 0300 hrs?

A.135 Not to my knowledge.

Q.136 Well, on the occasion of a dance it was open after 0300 hrs?

A.136 If there was permission?

Q.137 Permission has been given for the bar to be open after 0300 hrs?

A.137 Permission has been given for dances.

Q.138 Is Sunday a sort of Special occasion in the Sergeants' Mess?

A.138 I think so. Every other Sunday is visitor Sunday. On such Sundays we are allowed to take lady friends in there for a meal.

Q.139 So that being a special occasion, there would be occasion to have the bar open a few minutes longer.

A.139 I wouldn't say that, no, sir.

Q.140 You say that you received £3-0-0 after the 13th of June.

A.140 I didn't receive it.

Q.141 Do you know that one Point was received?

A.141 Yes, sir.

Q.142 From whom was that received?

A.142 I don't know sir.

Q.143 Now, referring to this diagram of the Mess -- there are certain windows to the bar are there not?

A.143 Yes, sir, there are two windows -- do you mean glass windows or slat windows?

Q.144 Glass windows?

A.144 Yes, sir, there are two.

Q.145 So that entry could not be made to the bar without breaking them?

A.145 No, sir, there are steel bars there too.

Q.146 How many serving windows are there?

A.146 Two sir.

Q.147 Would you describe these serving windows? Are they the rolling type you roll down?

A.147 They just slide down in an ordinary window door, except that they are made of wood.

Q.148 Is the wood very sturdy?

A.148 Yes, I would say an inch and a half. I wouldn't say that they are solid right through -- but they look that thick.

Q.149 What is the method of securing them?

A.149 The big bar had a bolt on each end of it, and slides out and slides into the frame.

Q.150 Is it a large sort from bolt or --

A.150 It's a small brass bolt.

Q.151 And do those brass bolts fit squarely to the best of your knowledge?

A.151 Well now --

Q.152 Would it be possible for a strong man to push the window up?

A.152 If they had a bar they could pry it up I believe -- they've got one.

Q.153 Is it possible to get into the bar without much difficulty.

A.153 If they wanted to go to the trouble of it. There is no place perfect, that if a man wanted to go to the trouble that he couldn't get into.

Q.154 Now would you say that a man was more careful -- bearing in mind that you have said that a man could force that window if he wanted to go to the trouble -- would you say that a man was more careful to take cash, cheques and chits to his own room and lock them up where he would have an eye on them? Would you say he was more careful doing that than just leaving them in the Mess?

A.154 I would rather not answer that question sir -- that's not for my judgment.

Q.155 The cupboard in the bar in which the moneys were, but ordinarily, that was a wooden cupboard?

A.155 Yes, sir.

Q.156 And I presume there were two doors on the front with 2 small hinges, one overlapping the other.

A.156 Yes, sir.

Q.157 Now, those doors could be removed by removing the screws of the hinges, is that correct?

A.157 I don't believe they can sir. I believe the hinges are invisible. I

Q.115 You say that a person wanting to know the contents of Exhibit 5, would have to ask the Secretary of the Mess for ~~xxxxx~~ this book, is that correct?
A.115 Yes, sir.
Q.116 Have you yourself ever read the contents of Page 9, prior to the inquiries which had taken place as a consequence of what happened on the night on which these charges are based?
A.116 I don't believe I have sir.
Q.117 In other words you didn't know what was on page 9.
A.117 I wouldn't say that, because I have glance through the book.
Q.118 You have never read the contents of page 9?
A.118 Not to pay particular attention to it.
Q.119 In other words you didn't know that the rules and regulations had been unanimously adopted with minor amendments.
A.119 That book was a long time before my time here sir. I only looked over it as a reference.
Q.120 After the happenings in question?
A.120 Not necessarily.
Q.121 The answer will have to be yes or no.

PROSECUTOR: "I object to that sir."

Q.122 Can you say definitely that you were aware that the rules and regulations, had been adopted by this Mess. In other words that you had definite proof such as reading the minutes of the meeting adopting, I am referring to Exhibit 6, when I say the 'rules and regulations'.
A.122 Yes, sir.
Q.123 You knew that prior to the inquiries?
A.123 Yes, sir, I knew that a set of rules had been adopted by the original Mess.
Q.124 You didn't know what rules though. You didn't know exactly that they were these rules?
A.124 As a matter of fact a copy of the rules is right in the book.
Q.125 Then you read page 9.
A.125 Yes, sir, you will find in there a draft of that same order, that is brought up to date under the H.Q. CBU Mess.
Q.126 And you yourself, while President of the Mess now all these rules and regulations, as you would be called upon to do, being the President of the Mess, and that they had been adopted by the Mess.
A.126 I wouldn't say I had them at my finger tips, but that copy was there if I had to study any of them in particular.
Q.127 Did you study any of them?
A.127 I didn't make a study of them, no.
Q.128 Were you aware that these bar hours had been adopted at any meeting of the Mess?
A.128 No, not during my presence here. Not during my term of office. No, I wouldn't say that exactly, because I couldn't remember that being brought up at any meeting. I have been here a year. This was brought in and voted on prior to my being attached.
Q.129 You just imagined as it were, that the bar should close at 2300 hrs.
A.129 Any mess as a rule has a time when the bar is opened and closed. You never imagine anything. You have to look and find out. There was a bar caterer when I first went there, and he just recently left. He was an acting unpaid Sgt, and he was put in there for the purpose of opening and closing the bar at proper hours. There were hours posted on the side of the bar, and they were taken down the the bar was decorated.
Q.130 To the best of your knowledge, these hours have never been fixed at a mess committee meeting.
A.130 That's not a fair question sir, because they might have been fixed before I went there.
Q.131 You have just said that you were more or less familiar with the contents of the Minute Book. You looked in the minute book and read it.
A.131 I say that you were quite free to look in that book if you wished.
Q.132 In other words, you are not quite definite of these bar hours being adopted by the Mess Committee as binding.
A.132 No, I wouldn't say I was quite certain, no.
Q.133 Are you aware that at times other than when Sgt. Lawson was serving as bartender, that the Bar remained open a few minutes after the hour of 2300?

MY

Q.94 What type of lock?
A.94 I believe it is a yale, but I am not sure. It is a padlock anyway.
Q.95 Now, what has been the custom in regard to the Mess caterer in securing this cash box and the petty cash box to which you have referred?
A.95 To the best of my knowledge the cash was kept in the cupboard, and the door locked, until such time as it was required.
Q.96 How many sets of keys were there to the box?
A.96 I believe there were two sets.
Q.97 In the possession of whom?
A.97 Bombay had one and the other one was in the possession of the Camp Commandant.
Q.98 In your opinion, is the security offered by that cupboard, the doors and the lock, sufficient for the storing of your spirits, your Canteen stocks and receipts or cash?
A.98 Yes, sir.
Q.99 What is this document I produce to you?
A.99 It is a copy of the bar hours as laid down in rules and regulations. Now I wouldn't say it is the rules and regulations, but I would say it agreed on by the committee.
Q.100 These are the bar hours of what?
A.100 As agreed on by the committee.
Q.101 Are they incorporated in the minutes?
A.101 I couldn't answer to that sir.
Q.102 This is the one which you produced at the Court of Inquiry, is it?
A.102 Yes, sir.

CROSS-EXAMINED BY MAJOR BOSWELL, COUNSEL.

Q.103 Sgt. Major Bennett, you detailed the sergeant to act as bartender, is that correct?
A.103 Yes, sir.
Q.104 Had you ever done this before?
A.104 No, sir, there had never been an occasion to.
Q.105 Mr. Bowles had never gone on leave before?
A.105 Not during my term of function.
Q.106 Now, why did you pick Sgt. Lawson to be bartender. You are aware that he is an auditor in civilian life. Why did you pick him to be bartender?
A.106 There was two reasons, or perhaps just one. He advised in keeping books, and he knew how there should be kept, and another thing he was quite willing to take on the job, which was something you don't very often find.
Q.107 In other words you just chose him because he was perhaps the most suitable man in the Mess to take over Mr. Bowles's job.
A.107 Yes, sir, that is quite true sir.
Q.108 Have you ever given a gift yourself to the Mess?
A.108 No, except I will say -- there was a meeting of the Committee and I believe it was in connection with the house night, and the Committee agreed that for that night only, there would be a credit of 10 shillings per mess member, and accordingly there were books made up of cards amounting to 10 shillings, and on that night I gave mine for 10 shillings only.
Q.109 Are you aware that any other member of the Mess ever tendered a gift which was accepted?
A.109 Not to my knowledge -- I wouldn't say that it mayn't have though.
Q.110 In other words it may have been done?
A.110 Yes quite possible.
Q.111 And you think it probably has been done.
A.111 I wouldn't like to say that sir.
Q.112 How long have you been Mess President?
A.112 I am not Mess President now -- I was for probably 3 months.
Q.113 During that time did you ever see this Minute Book, Exhibit No. 29
A.113 After the meetings, I was, sir.
Q.114 Was it in a place where it would be accessible to all members of the Mess without undue inconvenience?
A.114 If they asked for it it would be produced sir. The Mess Secretary is in charge of that book with he is Secretary of the Committee. At the present time I think it is S/Ldr. Labelle. The Secretary at the time was one of the C.W.A.C. personnel, Lt. Bates.

My

Q.70 When was that decorating done -- how long ago?
A.70 I would say about 2 months ago sir.
Q.71 Was Sgt. Lawson a member of the Mess at that time?
A.71 Yes, sir.
Q.72 Sgt. Lawson is a member of the Regimental Funds Board, CMHQ, attached to H.Q. CRU.
A.72 Yes, sir.
Q.73 Did he have any duties in connection with the Sgts. Mess, prior to this?
A.73 No, sir, he had no actual duty, but in his work from his own office, it is his duty to instruct whoever is in charge of the Mess books, to keep them properly. He has no job however, as far as the books are concerned. He acts in an advisory capacity from his own office.
Q.74 You have already stated that on Monday, the 14th of June, you found that he had extended credit to members of the Mess to the extend of the sum of £6-0-0 odd.
A.74 Yes, sir.

(At this point the Prosecutor draws the Courts attention to a sketch on a blackboard which he has prepared, showing the layout of the Sergeants' Mess. The defending officer agreed that it was satisfactory)

Q.75 I refer you to the diagram representing the layout of the various rooms in the Sergeants' Mess. I refer you to that space indicated as the bar or Canteen. It is indicated that there is an entrance into the bar, by a single door from the Mess Hall.
A.75 Yes, sir.
Q.76 Is it possible to secure that door?
A.76 Yes, sir.
Q.77 By what means?
A.77 By means of a yale lock.
Q.78 There is indicated in the sketch, a serving window into the Mess ante-room.
A.78 Yes, sir.
Q.79 That window is approximately what size?
A.79 About 6 feet across roughly.
Q.80 Andhow does it open?
A.80 It slides up.
Q.81 Is it possible to secure that window?
A.81 Yes, sir, there is a bolt on each end of the window that goes into the frame work.
Q.82 And included on the diagram is a door ~~xxxxx~~ through which entrance must be had, to enter a small vestibule from the bar, and in that door is a small serving window?
A.83 Yes, sir.
Q.84 Can that serving window be secured?
A.84 Yes, sir, it is secured by a piece of wood cut to fit over the handle of the door, and the wood fits in there and secures the windows.
Q.85 So that they could not be moved up and down.
A.85 That's right sir.
Q.86 Now, when the door is closed, can it be secured itself?
A.86 Yes, sir, there is a lock on it. I believe there is a yale lock on it, but I am not sure.
Q.87 Now, leading from the bar to the out of doors, it is indicated that there is a pair of double doors, is that correct?
A.87 Yes, sir.
Q.88 Now when these are closed can they be secured?
A.88 Yes, sir, by a bolt on each door, top and bottom, also a large lock on the door itself, and it is secured by a door lock, a large Berry lock.
Q.89 Now, is there a serving shelf indicated in that bar on this plan?
A.89 Yes, sir.
Q.90 What is that?
A.90 What you are talking about is the top of the cupboard right here. (witness indicates on diagram location of the storage cupboard).
Q.91 Now, is that cupboard as shown on thiuplan, used for storage purposes?
A.91 Yes, sir, we put the stock that is immediately in the bar, in the way of whiskey and spirits and a cash box and also a petty cash box, in there.
Q.92 Of what is that cupboard constructed?
A.92 It is constructed of wood sir.
Q.93 Can it be secured?
A.93 It can be secured by a bolt on the [illegible], but the door that closes is on the outside. This one here is the one with a lock on it you see.

Q.-53 In the 18 gallon barrel, which at one shilling per pint would bring £7-4-0. On the total cost of the beer, there was a credit of £0-12-6, being 5% for wastage, made in Exhibit 4.

A.-53 Yes, sir.

Q.-54 Exhibit 3 indicates that there were sold during that period, 2 dozen bottles of Pepsi-Cola at a value of 3½ per bottle, and Exhibit 4 shows that the receipt for same should have been £0-7-0, is that correct?

A.54 Yes, sir.

Q.55 The next entry on Exhibit No. 4, is the grand total of £42-1-6, which represents the moneys which should have been received into the bar, for the sales of the stock of ~~xxxxxxx~~ beer and soft drinks, sold at regular prices, and whiskey at cost price plus a nominal profit, is that correct?

A.55 That is right sir.

Q.56 What is the custom of the Mess, in respect of the charging to the caterer of the stock -- is it charged to him at cost price or at Mess retail price?

Q.56 Mess retail price sir.

Q.57 Now, on Exhibit 4, the money in the cash box on Monday, 14 Jun 43, was £26-2-4, is that correct?

A.57 Yes, sir.

Q.58 And the recapitulation there shows a deficit of £29-17-9, as between sales and the money which he had on hand?

A.58 Yes, sir, that is right.

Q.59 Now, on the charge the amount of money specified is £28-17-9, which is £1-0-0 less; can you account for that?

A.59 Yes, sir, after this was made up there was £1-0-0 recovered sir from a member of the Mess and it was given to the Camp Commandant, and he entered it as being £1-0-0 less and it was then put in the cash box.

Q.60 So, that I suggest to you that had whiskey been charged on the basis of retail sale by single drinks, that the amount received would have been £34-5-0.

A.60 That's right sir.

Q.61 So that the basis of your figures here -- the ~~xxxx~~ accused is allowed a credit of roughly £4-6-0, or would give the accused the benefit of £4-6-0.

A.61 Yes, sir, that's right.

Q.62 As president of the Mess, can you identify this book which I produce to you?

A.62 Yes, sir, this book is the Minute Book of the Sgt's. Mess. H.Q. CRU, the first meeting commencing on 13 October, 1941.

(Exhibit 5 Minute Book of Sgt's. Mess. H.Q. CRU)

Q.63 And does this report minutes of the different meetings?

A.63 Yes, sir.

Q.64 I refer you to page 9 of Exhibit No. 5. These are the minutes of the meeting held on what date?

A.64 The 29th of October, 1941.

Q.65 Now what is this document I produce to you?

A.65 This is a document -- or these are the rules and regulations of the Sgts. Mess, of the old Canadian base Unit. The name has been changed but the Mess has been carried on.

Q.66 Are these the regulations set forth on page 9 of Exhibit 5?

A.66 Yes, sir.

Q.67 Are these the rules and regulations presently obtaining in this Sgt's. Mess?

A.67 Yes, sir.

Q.68 I would like to bring to the Court's attention Paragraph 6, sub-paragraph 4 of this document (reads the section in question). You have heard me read a particular paragraph. Has it been amended or in any way altered to your knowledge?

A.68 No, sir.

Q.69 And with regard to these rules and regulations, they were passed at a regularly constituted meeting as indicated by the minutes, and how were they published?

A.69 They were posted in the Mess sir. They had been hanging on the wall, on the partition which is sort of a folding door, and the mess has been recently decorated, and all notices were taken down, and to the best of my knowledge they have not been replaced.

(Exhibit 6, Rules & Regulations of the Sgts. Mess, H.Q. CRU)

Q-35 Can you tell me the cost of a bottle of whiskey as you paid for it?
A-35 Twenty five shillings for the bottle and one and two by the drink. For the average bottle, we only pay 25 shillings for whiskey. At times we get the old bottle which costs a bit more.
Q-36 In arriving at this figure Sgt. Major, on what was your average taken, the cost of a bottle of whiskey?
A-36 Yes, sir, of 25 shillings.
Q-37 Plus 5 shillings, so that you were charging 30 shillings for the bottle?
A-37 Yes, sir, that is on the whiskey, rum is purchased by the large jug.
Q-38 That would be £21-0-0.
A-38 Yes, sir.
Q-39 Now referring to exhibits 2 and 3 again, on Saturday there were 48 pints of beer and on Monday none.
A-39 Yes, sir.
Q-40 At a selling price of 1 and 2 per pint.
A-40 Yes, sir. Regarding the rum sir, I can't state definitely on that, because we buy the rum by the stone jar and then put it in the bottles ourselves.

PROSECUTION: There is a slight change to be made here sir; the whiskey is ~~XXXX~~ twenty five and 6 and the gin twenty five and three. Rum is purchased in bulk, and they sell individual bottles. The jar of rum costs £20-10-0.

Q-41 Can you identify this document?
A-41 This is a statement showing how the sum of £29-17-9, the sum mentioned in the charge sheet was arrived at. This statement shows that.

(Exhibit 4, Statement showing how the sum of £29-17-9 was computed)

Q-42 By whom was that prepared?
A-42 That was prepared by Member, myself and Sgt. Short. We checked it together and then signed it.
Q-43 This was signed by yourself and Member, after ~~that~~ you had personally prepared it together, and personally checked it against cost prices, stock on hand, cash on hand and so on.
A-43 Yes, sir. With respect to whiskey, a profit of 5 shillings per bottle was added. With respect to the rum a profit of 3 shillings per bottle was added, with respect to the gin, the cost of the bottle was 25 shillings and a profit of 5 shillings was added to bring it to £1-7-0.
Q-44 Now we shall deal with the beer. Exhibit 2 shows the beer handed over on Saturday 12th of June?
A-44 Right sir.
Q-45 Exhibit 3 shows the beer as found by you on checking the ~~inventory~~ on Monday 14 Jun 43.
A-45 Yes, sir.
Q-46 Comparing the two, there were 48 pint bottles sold.
A-46 Yes, sir.
Q-47 On looking at Exhibit 4, these bottles are charged at 1 shilling and twopence, a total of £2-16-0.
A-47 Right sir.
Q-48 Now, there were 48 half bottle sold over the weekend at one shilling a pint.
A-48 Well sir, I think there one shilling a half pint.
Q-49 In accordance with Exhibit 4, receipts should have been £2-8-0.
A-49 With regard to the 48 half pint bottles, these were sold at a shilling a half pint. The word ~~half~~, or rather exhibit 2 should read at one shilling a half pint.
Q-50 Now then dealing with the barrel, comparing exhibits 2 and 3, it appears therefrom that 1 barrel of 18 gallons of beer was sold during that period. Is that correct?
A-50 Yes, sir, that is correct.
Q-51 And as shown on exhibit 4, one barrel of 18 gallons at a selling price of 1 shilling per pint, should have netted £7-4-0.
A-51 Yes, sir.
Q-52 How many pints are there in a barrel?
A-52 144 sir.

(M.

Q-16 After you were satisfied by personal check, you signed this statement?
A-16 Yes, sir.

(Exhibit 2, statement showing stock on hand, cash on hand as handed over to the accused on Saturday, 12 Jun 43)

Q-17 In connection with Exhibit 2, there are certain prices set forth as against stock -- what are those prices?
A-17 Whiskey sir. This was just showing the price of a single drink of whiskey, sold over the bar. In other words we were charging 1 shilling and twopence for a single drink, and one and four for a single drink of rum, and one and two for a single of gin.
Q-18 Then, can you tell me as President of the Mess, what the profit would be on a bottle of whiskey sold at these prices over the bar?
A-18 At these prices sir, ten shillings.
Q-19 Can you tell me in respect to a bottle of rum?
A-19 Approximately -- it would be less, around seven or eight shillings sir. These drinks are of such a size that between 30 and 32 are obtained from each bottle.
Q-20 Then, what is this statement I produce to you Sgt.-Major?
A-20 This is the statement of the stock on hand when Boucher returned for duty on Monday at approximately 1100 hrs, on 14 Jun 43.
A-21 By whom was that statement prepared?
A-21 By him sir, in my presence -- that is by Pte. Boucher. He was in the bar and he had these complaints that so much was missing so I stayed and checked it with him. I also checked the money. I cannot remember the denominations of the money. I know there was one cheque for £30-0-0 on the Canadian Pacific, and another cheque for £2-0-0 on the Westminster Bank.
Q-22 What else did you find in the cash box?
A-22 Chits to the amount of £6-8-4 as near as I can recollect. These had been signed by the members for various amounts, but that was the total as near as I can remember. I ordered those to be paid then because the rules are that there is to be no credit. They were paid immediately, and the total amount is shown separately on this statement.
Q-23 Now, this statement was prepared by yourself and Private Boucher?
A-23 Yes, sir.

(Exhibit 3, Statement showing the stock on hand on the morning of 14 Jun 43, when Pte. Boucher returned from leave)

Q-24 Now, comparing exhibits 2 and 3, fourteen bottles of whiskey were used during the period from sometime on the morning of Saturday, June 12, until approximately 1100 hrs, Monday, June 14th.
A-24 Right, sir.
Q-25 Which would represent a total received if sold by the drinks of --
A-25 Possible 36 shillings per bottle. In that neighborhood sir.
Q-26 Fourteen bottles at 35 shillings each, would bring receipts of £24-10-0?
A-26 Yes, sir.
Q-27 Now, again referring to exhibits 2 and 3, there is a difference of 4 bottles of rum. That I presume represents sales over the bar for the period before mentioned.
A-27 Yes, sir.
Q-28 Which would contain the same number of drinks and the same price per drink in this case would be one and four.
A-28 Yes, sir.
Q-29 That would be £8-0-0
A-29 Yes, sir.
Q-30 Again referring to these exhibits 2 and 3, there is a difference of 1 bottle of gin?
A-30 Yes, sir.
Q-31 Presumably sold over the bar during that period?
A-31 Yes, sir.
Q-32 Containing the same number of drinks at one and two, that would be 31 shillings would it not?
A-32 Yes, sir.
Q-33 So that the receipts from the sale of spirits would total £34-5-0.
A-33 Yes, sir.
Q-34 Now, in computing the amount as set forth in the charge sheet against the accused of £28-17-9, the spirits sold consisting of 19 bottles, were considered at cost plus 5 shillings?
A-34 Yes, sir.

(M)

PROSECUTOR: "With the permission of the Court and my learned friend, I would ask slightly leading questions to shorten matters up."

THE COURT: "Yes, until we meet with anything that may be objectd to.".

DEFENDING OFFICER: "Yes, that is quite alright."

Q.1 You are A-21294 CSM Barret, B.H. on the strength of H.Q. CBU?
A.1 Yes, sir.
Q.2 And on the 12, 13th and 14th of June, were you President of the Mess Committee of the Sergeant's Mess, H.Q. CBU?
A.2 Yes, sir.
Q.3 Are you acquainted with the accused, Sgt. Lawson?
A.3 Yes, sir.
Q.4 Will you tell the Court in your own words what occurred on these particular days?
A.4 Sir, on Saturday, I think it was the 12th of June, our mess caterer or the man acting in that capacity was granted a 48 hour pass. I detailed Sgt. Lawson to take charge of the bar or the canteen in the Sgts. Mess, in his absence. That was on Saturday.
Q.5 What is the name of the Sgt. caterer?
A.5 He is not a Sgt. he is a Pte. sir. Pte. Boucher. Then on Monday morning at approximately 1030 hrs. CSM Laurie came to me and said --
Q.6 Don't tell us what he said to you.
A.6 I am leading up to the fact that that is the way I got the information. CSM Laurie told me that Sgt. Lawson had lost £16-10-0 by theft and he had reported it to the DAPM's office. I tried to get in touch with Sgt. Lawson sir, to find out the particulars, but he was out, and I didn't see him until 8:30 that evening. I asked him about it and he told me that he had lost that much by theft, and he said Sgt. McBride had taken it. In order to get more detail to lay the charge, I tried to get Sgt. Lawson to give me all his information. He later said that he found out something that happened, or that Sgt. Slipper had some information. He got Sgt. Slipper, and then all of us, Sgt. Slipper, Sgt. ~~Lawson~~ Lawson, S/Sgt Watson, S/Sgt. Scott and myself held a small conference to find out what the story was. Sgt. Lawson did the questioning. After hearing Sgt. Slipper's and Sgt. Lawson's story, I found out that there was a lot of people involved in the thing, and I made a report to the Camp Commandant. According to his instructions I checked the money and the stock that was in the Mess or in the bar on Monday, when Boucher came back at approximately 11:00 o'clock, or in that neighborhood.
Q-7 Was that on the 14th of June?
A-7 Yes, sir.
Q-8 You checked the stock, and the cash on han d, as of what date?
A-8 As it was then sir, on Monday morning.
Q-9 Did you make any check from records or otherwise, of the stock on hand, cash, etc, which had been handed over to the Sgt, that is Sgt. Lawson, on Saturday, the 12th of June.
A-9 Yes, sir, I got that from Pte. Boucher, who had turned the stock over to Sgt. Lawson.
Q-10 What is this?
A-10 This is a report from Boucher, as to the stock turned over to Sgt. Lawson on Saturday. This shows the stock on hand and I checked it with Pte. Boucher on Monday.

(Exhibit A, Statement showing the stock in trade, on hand, as handed over to the accused on Saturday, 12 Jun 43, and the stock in trade as turned over to the regular Mess steward on Monday, 14 Jun 43)

Q-11 Now, I produce to you another statement Sgt.-Major, and ask you to explain or identify that?
A-11 This is the stock on hand when Boucher turned this over to Sgt. Lawson sir. This is a record of the stock he had when he turned it over.
Q-12 That has been signed by you as President of the Mess, by S/Sgt. Short as treasurer and by Pte. Boucher as caterer.
A-12 That's right sir.
Q-13 And that is a statement as of Saturday, 12 Jun 43?
A-13 Yes, sir.
Q-14 Showing all stock in trade and cash on hand as handed over to Sgt. Lawson, the accused.
A-14 Yes, sir.
Q-15 And this statement, by whom was it prepared?
A-15 By Pte. Boucher sir, and checked by Short and myself before we signed it.

PROCEEDINGS of a Field General Court Martial, Held at Farnborough, Hants, on Wednesday, 28th July, 1943.

TRIAL OF: K-52773, Sergeant JOHN BELL LAWSON, on the strength of Regimental Funds Board, CMHQ, attached to H.Q. CRU.

PRESIDENT: Lt-Col. D.L. Redman, V.D. H.Q. CRU.

MEMBERS: Major F.J. Isbister, 1 CSRU.
Capt. J.P. King-Wilson, 1 RCASCRU.

SHORTHAND WRITER: B-85000 A/Sgt. Sheedy, J.S. H.Q. CRU.

PROSECUTOR: Major S.A. German, Barrister-at-law, 1 RCASCRU.
DEFENDING OFFICER: Lieut. B. Rich, Barrister-at-law, 4 CIRU.

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1. The Order Convening the Court, the charge sheet and the Summary of Evidence are laid before the Court.

2. RP 22 and RP 23 are complied with.

3. The accused is brought before the Court, and the Order Convening the Court is read in his presence and hearing. Upon being asked whether he objects to being trisk by the President or by any of the officers named in the Convening Order the accused answers, "No, sir."

4. The President and Members are duly sworn.

5. The accused is asked whether he objects to A/Sgt. Sheedy being sworn as shorthand writer, and he answers, "No, sir".

6. The shorthand writer is sworn.

7. The Medical certificate is produced, signed by the President and annexed to the Proceedings.

8. The accused is arraigned on each charge in the above mentioned charge sheet. The accused pleads "Not Guilty" to the 1st and 2nd charge.

9. RP 39 (a) is Complied with and the accused answers "No, sir", which is recorded by the President.

10. The Prosecutor makes an opening address.

PROSECUTOR: "Unless you wish, I do not propose to make any lengthy address appearing to outline the circumstances, but in order to assist the Court I do propose to make a diagram of the layout of the Sergeant's Mess, which will be of assistance I believe, in the evidence which follows. Then I propose to show to the Court that in the absence of the regular Mess steward who went on 48 hour pass, the accused, who is the representative of the Regimental Funds Board and had assisted in the setting up and the operation of the Mess books, was appointed to take charge. On the night of Sunday, the 13th of June, I propose to show that he, the accused, did not observe Mess hours as laid down. That during the evening of the 13th, he seemed under the influence, that on opening the bar that evening, he permitted members of the Mess to come within the bar with him, at the time he was handling funds, which were exposed. I further propose to show that instead of using the means provided by the Mess Committee for the security or safety of funds and stocks, he took, rightly or wrongly for the Court to decide, the funds of the Mess which he had on hand that night, to his room. It was during the night some time that some of the funds disappeared. I further propose showing that because of his condition, it was possible for members of the Mess to obtain access to the bar and obtain two bottles of spirits which were in his custody.

That briefly outlines the situation, unless we contend that he was negligent and lost some of the stock and money during the whole term, and that he was unable to account for these funds and stock.

FIRST WITNESS FOR THE PROSECUTION: A-21294, C.S.M. Barrett, E.H., on the strength of H.Q. CRU, having been duly sworn is examined:

BY THE PROSECUTOR:

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. K 52273 Sgt. Lawson
(rank) (name)
of Seaforths of Canada
CMHQ att. HQ CRU and in my opinion he is fit to undergo
~~xxxxx~~
trial by Court Martial.

Station In the Field

Date 28 Jul 43

Sgd. D A MacDonald Lt
Seaforths
(Medical Officer)

CHARGE SHEET

The accused, K-52[illegible]73, Sergeant Lawson John, Ball, Benforth of Canada, on strength of Regimental Funds Board, C.M.H. . ., and attached to Headquarters, Canadian Reinforcement Units, a soldier of the Canadian Army Overseas, is charged with : -

FIRST CHARGE WHILST ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD
A.A. Sec 40 ORDER AND MILITARY DISCIPLINE

in that he,

At Farnborough, Hants on the night of 13th/14th June, 1943, when as N.C.O. in charge of the Canteen, Headquarters, Canadian Reinforcement Units, Sergeant's Mess, so negligently performed his duties that he did lose stock and money to the amount of Twenty-eight pounds, seventeen shillings and nine-pence (£28.17.9)

ALTERNATIVE CHARGE WHILST ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD
A.A. Sec 40 ORDER AND MILITARY DISCIPLINE

in that he

At Farnborough Hants on the night of 13th/14th June 1943, he, as N.C.O. in charge of the Canteen, Headquarters, Canadian Reinforcement Units, Sergeants' Mess, so negligently performed his duties as to be unable to account for the sum of Twenty-eight pounds, seventeen shillings and nine-pence (£28.17.9)

.....Lt. Col.
23 Jul 43 A.A. & Q.M.G. Cdn Inf Units.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

26 Jul 43 .....
(J.H.Roberts)Maj-Gen.,
Comd, Cdn Inf Units

K-52273 Sgt Lawson, John Bell
H.Q. C.R.U.

PP-131.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-SIXTH day of JULY, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

Omit where Convening Officer is a Commanding Officer or [illegible] of Field Rank.

*Omit if not applicable.

Reviewing Officer (AGC)

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL	D.L. REDMAN, V.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A MAJOR	FROM	1 C.S.R.U.
A CAPTAIN	FROM	1 C.A.S.C.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be installed by him.

*Signed (J.H. Roberts) Maj-Gen.,
Commanding Cdn Rft Units.
Convening Officer.

PP 131
SGT. LAWSON J.B.

SUPPLEMENTARY SHEET

No C 73690 Name LAWSON Harry | Sqn, Battery or Company 'D' | Corps CIC | Date of enlistment 27 OCT 44 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						"B" "MMWS"			
					No entries of supplementary.				
						"P.F. BORDEN" Capt. A/Adjutent The Perth Regt.			

(PTO

Substitute for AFB 296
or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED.

No. C 73690 Rank Private Name Howard LAWSON Unit Perth R.

Age 21 Married of Single Single No of Dependents Nil

Date of Attestation 27 Oct 42.

Number of days in close arrest awaiting trial 18

Civil Nil Military Nil Hospital Nil TOTAL 18

Dates of appointments, promotions, etc (if any)

NIL

Decorations C.V.S.M. and Clasp.

In the Field

Date 20 Oct 44.

"P.F. BORDEN" Capt.
(Officer i/c Regtl Books)

The Perth Regiment C A (CMF)
(Unit)

Note: Certified true copy of MFM 6 must accompany this form.

"B" "WLWS"

1st WIT DEF

The acsd, duly sworn states:-
Was moving with Pl to RUBICON when ordered to dig in. Had almost finished my trench when we were shelled. I left & got into a German dug out where I found Pte GOSSE. We talked for few mins & fell asleep. Awoke next morning couple of hrs after dawn. Looked for Pl & could not find. After going frwd some 1000x we could not find coy so tried to find Ech. We met Pte Gabriel of Sp Coy & asked where Ech Was. He directed us to S. GUISTINA.

111.

when arrived there could not find Ech. Then went back to place where A Ech had been & could not find it. Then ret'd to S.GUISTINA & asked Provost he directed us up rd towards river. We met an offr who directed us & we reported to Capt Baker. Dugout about 100x frd.
XXM:- That day had marched approx 5 miles. We had been told that would be staying couple of hours. Coy comd told us this when addressed the Pl. Had been there about 1 hr when I went to dugout. Dugout not indicated by anyone as a place to go. While in dugout did notice Pl once in a while. Fell asleep about 2 hr after getting to dugout. Knew Pl would be there couple of Hrs. I cannot wake according to clock. First woke 2 to 3 hrs after dawn. My equip was left by our slit trenches. It was gone in morning. I had no weapon of any kind. Shelling hvy enough to bother traffic going across river.
RE-EXAM: Day before marched about same distance, up quite early day in question.
COURT:- Went into dugout it was close to supper about 5 oclock. Went into sleep around 6. Did not have supper. River a couple of miles from where dug in. Have been in sec about 1 sec. In Regt over a year. Have been in Italian campaign. Knew sec must stay in area designated by sec comd & should only leave with permission.
R.P. 83(B) complied with.
DEF CLOSED.

PROS - No closing address.
DEF OFFR IN CLOSING:- No intent to avoid service. Dugout only look off rd - 100x from sec - possibly in Pl area. No one went to dugout looking for man. Had marched 5 miles day before, up early & another 5 mi march so quite tired & readily fell asleep. Next morning

IV.

went frwd 1000x. Would immed have gone back if wanted to avoid front line. Spent remainder of time, looking for Ech. When found out reported. Showes tried to get to unit. Considering ground covered the 4 dys is accounted for.
J.A. SUMS UP:- Functions of court, credibility of witnesses, no reg'd, presumption of innocence, burden of pros'n, reasonable doubt, desertion AA 36 & RP 44(D).

DEF OFFR IN MITIGATION :/
Came to Italy with Regt. Previous clean record.

"W.M.W. SHAW" Capt.

1st WIT Pros'n

A38390 CPL.FRASER J F Perth R. duly sworn states:-
Recog. Pte Lawson, he is acsd (pointing).
Pl was proceeding to RUBICON, ordered to stop & dig in. There about one hour. Pl ordered to move on. Sgt reported to me, I I looked around & could not find him. I searched area. About 1500 hrs 27 Sep when ordered to dig in. I was sec ldr. acsd not in my sec. I searched immediate area along rd & adjacent fields.
XXM:- Looked around Pl area which was along the rd. Looked around close about 25x from rd. If had been 50x away I would not see him. The Sgt did go over to a ho.
RE-EXAM:- I was alone when searching. Rd made left turn & Pl along ther.
COURT:- Were proceeding to take up a pos'n. On 27 Sep stayed in ho that night & moved to fwd pos'n next day. Pl knew going fwd. Do not remember if shelling (none close) when digging in. A few came over while there but they were not exceptionally close. were dug in a ditch - shells NOT close enough to necessitate moving to another area for safety. We were with D Coy. C Coy was behind us. Were a reserve Coy at the time. I have 4 Sec - Acsd in 5 sec. 5 Sec Cpl. did check sec. I merely made additional check. Cpl. Perron was 5 secldr, he was a casualty.
R.P. 83(B) complied with.

2nd WIT Pros'n.

A 56956 Pte CHARRON E J Perth R duly sworn, states:-
As proceeding to RUBICON we dug in. About 20 mins before pulled out I saw the acsd(pointing). When came to leave I called to him & then went to ho about 150x away & to x rds about 30x beyond ho & did not see acsd again until came out of line. On On 27 Sep. We were going fwd following the regt

---

ahead of us. Were not in frwd pos'n. There were a few shells, not many, came over. Did not see acsd leave. Next saw around 2 or 3 Oct.
XXM:- In same sec as acsd. I was acting 2 i/c I shouted as well as searching these 2 definite points.
RE-EXAM:- Nil
COURT:- Dug in in a ditch near X rds, could not find acsd when moved off so went to X rds & ho. If had been there should have heard my shouts. Remainder of my sec in immed. vicinity of where I was.
At digging in was a bit of shelling. One or two came close but not real close. Normal to dig in anyway. Shells not close enough to cause moving for safety. Think we had passed thru our own gun lines.
R.P. 83(B) complied with.

3rd WIT Pros'n.

Capt PJF BAKER. Perth R duly sworn, states:-
On 2 Oct 44 was OC A Ech. That date at 1444 hrs acsd & another soldier reported to me in A Ech. Asked where came from & found that came from front so placed them in custody.
XXM:- nil
COURT:- Nil
R.P. 83(B) complied with.
PROS'N CLOSED.

Continued next page.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. C- 73690
LAWSON H of The Perth Regt and in my opinion
he is fit to undergo trial by court-martial.

Station Field

Date 21 Oct 44

"J MARGOLIS" Capt.
(Medical Officer)
The Perth Regt C A

"WMWS"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 73690	Pte		Howard	LAWSON	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 19 Oct 44 endorsed by me, (~~the Deputy Judge Advocate~~), "To be tried by Field General Court-Martial". "ISJ"

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. ~~I hereby convene a Field General Court Martial to try the said person(s), and to consist of the officers appointed~~ I hereby convene a FGCM to try said person~~s~~ & to consist of the Offrs appointed or detailed hereunder.

4. ~~Should the number of officers detailed hereunder be unable to attend, or should a Fd Offr be required for the prosecution or defence of another prisoner, I direct that the Court may consist of such officers as may be detailed in their place by the Officer Commanding~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G R Duncan		I R C

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	N C Root		Perth
Capt	H M McLeod		C B H

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D M Smith		FL Fus

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	W M H SHAW		HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

"Ian S. Johnston"
(I S Johnston) (Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Date 19 Oct 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (To Item of AFA3) 40-F & S/1697 (4691)

(*See overleaf for oaths and notes for use on trial.*)

"WMS" "GRD"

CHARGE SHEET

The accused, G. 73690 Private Howard LAWSON, The Perth Regiment, C.A. , a soldier of the Canadian Army C.A.(CMF), is charged with.

CHARGE
Section 12(1)(a) Army Act.

WHILE ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he did

In the Field, While moving up to a position in the front line, near the RUBICON RIVER, absent himself without leave from his Platoon from approx 1800 hrs 27 September 1944 until he reported to 'A' Echelon at 1444 hours 2 October 1944., with intent to avoid front line service.

Total Absence 4 days, 22 hrs, 44 mins.

In the Field

6 Oct 44

"W.W. REID"
(W.W. REID) Lt-col
Comd Perth Regt.

To be tried by Fd Gen Court Martial.

Field
19 Oct 44

"Ian S. Johnston"
(I S Johnston) Brig.
Comd 11 Cdn Inf Bde.

"WLWS" "GRD"

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the "WAIVED" charge(s), and allowed on the charge(s), and that, accordingly, the ~~trial~~ will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give evidence. Do you intend to call witnesses on your behalf? Ans. No Sir ~~Are they witnesses as to character only? Ans.~~ "WAIVED"

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the counsel is found Not Guilty of all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2).~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(2)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes thru def offr (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 73690 Pte Howard LAWSON Perth R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT Guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~The record under section 164 "WLMS"~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.) (1)

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two years.

(Sgd) "HMW SHAW" Capt. 21 Oct 44 (Sgd) "George R. Duncan" Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court.

~~I have given the accused the opportunity of petitioning against the finding~~ "IS J"

(1. AA 57A. Delete if not used.)

Date 27 Oct 44 (Sgd) "Ian S. Johnston" Brig.

Commanding 11 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C73690 Pte LAWSON H	1 NOV 44	"P.F. BORDEN" Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assent from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*B*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on such charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 66(*A*), (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 27(*b*) 2. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP* 27(*b*). 2. *RP* 37(2) *fn* 6. 3. *RP* 25(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.

5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*E*). *If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 46-70

CERTIFIED TRUE COPY

(D.M. Owen) Capt.
Cdn Sec GHQ 2 Ech - AAI

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFA3) 40/P & S/1608 (4030) 4/38B

Convened by Order of Brig I S Johnston DSO ED Comd 11 Cdn Inf Bde dated 19 Oct 44
24 Nov 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 73690	Pte		Howard	LAWSON	Perth R.

Proceedings Reviewed
W.P. Dawson Major
Dy JAG
for Deputy JAG 2 Ech AAI.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 21 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ "NWMS"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ~~XXXX

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 73690 Pte Howard LAWSON Perth R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT Guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn e.)

~~The accused while undergoing~~ "WLOWS" ~~has expressed no wish to give evidence.~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two years.

(Sgd) "WSW SHAW" Capt. Judge-Advocate, if any. — 21 Oct 44 Date awarded. — (Sgd) "George R. Duncan" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court.

~~[Inform that the accused is not guilty, or (delete) remain (not) suitable for service.]~~ "ISJ" (1. AA 57A. Delete if not used.)

(Sgd) "Ian S. Johnston" Brig.

Date 27 Oct 44 — Commanding 11 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C73690 Pte LAWSON H	1 NOV 44	"P.F. BORDEN" Capt.

~~ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED~~

RECORDED AT [illegible] AS 160 46-70

CPA96 (To lieu of APA31 40/P At 8/1608 (40050) 4/38B

CERTIFIED TRUE COPY (D.M. Owen) Capt. Cdn Sec GHQ

FIELD GENERAL COURT-MARTIAL

Convened by Order of Comdll Cdn Inf Bde dated 19 Oct 44

2+ [illegible] Brig I S Johnston DSO ED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 208, 228, 230.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 73690	Pte	Howard	LAWSON	Perth R.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 21 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is cleared.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Crimes do NOT include all relevant fmln ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the President that accused is not fit to undergo trial by court-martial and that the trial should be postponed.~~ "WLOWS"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~XXXXXXXXXX~~ "WLOWS" as interpreter? ~~XXXXXXXXX

4G-70.

Pte. Lawson. H.

Third Witness

Capt P J F Baker, HQ Coy Comd, The Perth Regiment C A having been duly sworn, states:

"On 29 May 44 at approx 1800 hrs Pte Lawson was turned over to me in "A" Ech area, by 5 Div Provost. They stated, in his presence, that they had picked him up a few minutes previously in a position about 400 yds in rear of the unit "A" Ech area."

The accused declines to cross examine this witness.

(P J F Baker) Capt.

F G C M

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence."

"The accused declines to make a statement".

Howard Lawson

F G C M

C 73690 Pte Howard LAWSON
The Perth Regiment C A

(a) LIST OF WITNESSES FOR THE PROSECUTION

C 79206 A/Sgt Tupling, A R	The Perth Regt C A 5 Cdn Armd Div C M P
A 116461 A/L/Cpl Wood, J E	The Perth Regt C A 5 Cdn Armd Div C M P
Capt P J F Baker	The Perth Regt C A 5 Cdn Armd Div C M P

F G C M

C 73690 Pte Howard LAWSON
The Perth Regiment C A

(b) LIST OF WITNESSES FOR THE DEFENCE
N I L

F G C M

C 73690 Pte Howard LAWSON
The Perth Regiment C A

I do/~~do not~~ desire the convening officer to detail an officer to represent me at my trial by FIELD GENERAL COURT-MARTIAL.

I request the services of LIEUT N C HIGH if he is available.

Howard Lawson
(C 73690 Pte Lawson H).

In the Field
16 JUN 44

WITNESS

I certify that R P 4 has been complied with.

Taken before me in the field in the presence and hearing of the accused this 17th day of June 1944.

(P J Parker) Capt
The Perth Regiment C A

SUMMARY OF EVIDENCE

R P 4

Perth Regt C A

17 JUN 44

Summary of Evidence in the case of C 73690 Pte Howard LAWSON, The Perth Regiment, is charged with:

1. WHEN ON ACTIVE SERVICE, MISREPRESENTING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE AA SEC 5(7).

2. WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. AA SEC 15(1).(Alternative).

R P 4 F

The Commanding Officer directs that all evidence be taken on oath.

First Witness

C 79206 A/Sgt Tupling, A R., The Perth Regiment C A having been duly sworn states:

"I am C 79206 A/Sgt Tupling, A R, Pl Sgt., 'D' Coy The Perth Regiment C A.

On 27 May 44 at 1000 hrs I was at the front of the Pl. we had stopped moving ahead. The fellows were taking the opportunity to fill their water bottles at a nearby spring. Pte Currin from the pl following ours brought Pte Lawson's 38 set to me. He said he had found it beside the path. I reported to Capt Ridge and he told me to give the set to another man and to try and find Pte Lawson. I detailed L/Cpl Woods, J E to try and locate Pte Lawson. I didn't see Pte Lawson again until we came out of the line."

The accused declines to cross examine this witness.

A R Tupling
(C 79206 A/Sgt Tupling, A R)

Second Witness

A 116461 A/-/Cpl Wood J E., The Perth Regiment C A having been duly sworn, states:

"I am A 116461 A/-/Cpl Wood J E., The Perth Regt C A

A/Sgt Tupling went past me with a 38 set. He told me to search for Pte Lawson. I started to do so but the pl moved off so I had to go along. I didn't see Pte Lawson again until we came out of the line."

The accused declines to cross examine this witness.

Wood J E
(A116461 A/L/Cpl Wood, J E)

WMWS

MFM 6
(AFB 122)
40/PAS/136 (3438)

No C.73690 Name LAWSON H. Sqn, Battery, or Company D Corps C.I.C. Date of enlistment 27-10-42 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc L.W. Hargreaves Capt for OC 3 Ord. Depot Coy Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Entries Nil Date Jan 20 1943					

Certified True Copy of Original Document
in my possession as custodian of Regimental
Documents

(P.J.F. Baker) Capt., Mgt.

"B"

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of June 1944.

[illegible] Capt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

ARMY FORM B 216.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
2 73690	Pte	Howard LAWSON	Perth

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry, etc., or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness need not be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	NIL times	NIL times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct X

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~as follows~~

~~The accused~~ by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20 yrs 1 mos

6. The date of his ~~attestation~~ attestation specified in his ~~attestation paper~~ record of service is 24 Oct 1942

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 7 mos

8. The accused is entitled to deferred pay or gratuity in respect of 1yr 7 mos service.

9. The accused is entitled to reckon 1 yr 7 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). CVSM & Clasp

11. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.)~~ ~~The accused holds in the army the rank of and in his regiment (or corps or department) the rank of~~

(Pamph) W.13602/144 125,000 6/42 A.A.G.W.Ltd Gp.698

"A"
Armours

"crap" - did intend to return to pl. did not report I was leaving for "crap" - no pl sgt there at time - Cpl Tupling there by his sec. think L/C Wood there but did not report to him - do not generally tell NCO - usual practice - never checked up for this - my offr was LOB at time - Cpl Tupling was in comd of pl.

R. P. 83 (B) complied with.

Defence closed.

Pros Offr. my opinion that tps including Pte Lawson knew they were going into action - accd has ~~no~~ one of most responsible jobs in pl.

Def Offr - accd had been sent out once before for nerves - had been in line six months previously - went as far as he was able

JA - defines fact finding - credibility of witnesses - burden of proof - reasonable doubt - cowardice - AWL

Plea in mitigation - Nil.

W M W Shaw
Capt

Prosecution closed.

Defense - accd. Pte Lawson. Perth Regt.
duly sworn states:
" had been out of line for three days due to nerves caused by shelling.
Cross-Examination - Capt Ridge sent me out of line - examined by MO - at that time not fit for duty for 4 days - three days out of line - examined by MO about hr after leaving front on previous occasion - did not leave pl on 27 May - left when we started to cross hire - stayed by spring - left on roadway by spring - remained there for the day - proceeded to go back to A Ech because had lost contact with coy - did not hear CSM call my name - had no idea it was going to be a long halt.
Re-Exam - was in action on Ortona front - was on one fighting patrol - had never been charged with a charge of this kind
Court - sgt would not have been able to find me - was about 200+ over the ridge - was there about 15 minutes - was carrying 38 set that morning - left it with pl - ~~pl left~~ came back to where pl had been later in afternoon - had gone to have a "crap" - radio had been picked up - looked for it - had slight idea where pl had abs. - went towards river to look for them after I came back - do not know of any pls or coys following - had been looking for A Ech when pro picked me up - two days later - wandered around looking for it - hadn't eaten - nerves pretty bad - intended to go along as far as I could - had been to rec 5 or 6 days previous - did not tell anyone where I was going - always told to go fair distance away from where people have to live - nerves went bad when I went for

[illegible]

enemy doing some shelling - shelling in coy area - was about 10 o'clock in morning. - had been heavy shelling in coy area before we came up road - about ½ hr before. my duties are to look after mortar - only 4 men in pl HQ at time.

R.P. 83(B) complied with.

3rd Witness, Capt P. J. F. Baker. Perth R. duly sworn states -

"In charge of A Ech when unit in action - recognize accd as Pte Lawson - saw accd brought up by pro to A Ech - questioned where he had been picked up - accd picked up about 400' behind our area - accd said nothing at time - accd in B Coy - bn at time were about 4 or 5 miles ahead.

No Cross Exam -

Court - bn in action at time - do not know whether unit had crossed Liri River - regt left rear area on 17 May + went forward and had casualties from then on -

R.P. 83(B) complied with

4th Witness A11473 CSM HA Wright - Perth R duly sworn states -

"know + recognize accd as Pte Lawson - at approx 1000 hrs ~~C~~ it was ~~repot~~ reported to me - as a result went into valley + looked for accd - hollered three times for him + no answer - coy moving off + went back - were moving to Ceprano - coy was approx 1 or 1½ miles from Liri River - searched area of spring where men had gone to fill water bottles - accd in 17 pl - had to go through 17 pl area - pl there at time - 1 38 set in pl - accd responsible for it - had nothing further to do with pl that day - went to his pl on morning of 28 May - accd not present.

No Exam - R.P. 83(B) complied with.

Opening Address - Nil.

First Witness C 79206 A/Sgt Tupling, AR - Perth R
duly sworn states -

"On 27 May 44 regt or coy had halted and fellows filling water bottles - a pte from pl following me brought accd's 38 set to me - when set brought to me reported to Capt Ridge - detailed L/C Wood to find accd - did not see accd again until we came out of line - were approaching Liri River - at time we had to make detour due to stoppage on road - were moving up - accd batman [illegible] handling 38 set - could not identify set.

No Cross - Examination

Sq - recognize accd as Pte Lawson - were moving to Liri River - were about 1¼ to 1½ miles from river - accd in my platoon - I am new to pl - had not started crossing Liri - no enemy activity in our vicinity - accd would be at pl HQ - had been heavy shelling not more than half hour before - received 38 set about 1000 hrs

Court - shelling in coy area -

R.P. 83(B) complied with.

2nd Witness, A116461 L/Cpl J.E. Wood - Perth R duly sworn states:

"recognize accd as Pte Lawson - on 27 May 44 Sgt Tupling passed me with 38 set and to find Pte Lawson - fell in with coy - saw him next when we came to rest area about three days later -

No XX am -

Court - 138 set in pl - batman operate it - was L/C then - accd in my sec then - was on mortars - 3 men in sec - work together in action - had been broken off along road - possible accd could have been behind toy when it moved off - were also along road - about 100° from river -

WMWS

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA9)
40/FAA/1697 (D968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 73690	Pte		Howard	LAWSON	Perth R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has (beenxxxx committed the offence(s) set forth in the Charge Sheet(x) attached and on (date) 19 Jun 44 endorsed by me, (or by the undersigned acting for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. xxxx

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day.

I certify that I have this morning examined No. C.73690

Rank Pte Name LAWSON

and in my opinion he is fit/~~[illegible]~~ to undergo trial by Court Martial.

Station in the field

Date 21 Jun 44

[illegible]
(medical Officer).

[illegible]

The following is the correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day.

I certify that I have this morning examined No. C.7[illegible]690

Rank..... Pte ..... Name. LAWSON .....

and in my opinion he is fit/~~[illegible]~~ to undergo trial by Court Martial.

Station.. [illegible] .....

Date.. 21 Jun 44 .....

..... [illegible] .....
(medical Officer).

CHARGE SHEET

The accused C 73690 Pte Howard LAWSON, The Perth Regiment C A a soldier of the Canadian Army (CMF) is charged with:

First Charge
Sec 5(7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE

in that he

RP 83 - WMWS

'LIRI' In the Field on 27 May 44, during a crossing of the [redacted] River, and when under enemy's fire, fell out of Pl. HQ. and worked his way back in rear of Bn "A" Ech Area.

Second Charge
Sec 15(1)
Army Act
(Alternative)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from The Perth Regiment C A from 1000 hrs 27 May 44 until 1800 hrs 29 May 44. Total absence 2 days, 8 hrs.

M W Andrew Major

(M W Andrew) Major
A/Comd Perth R

In the Field

17 Jun 44

To be tried by Field General Court Martial

M C Bell Maj Bde Maj
For. (T E Snow) Brig
Comd 11 Cdn Inf Bde

In the Field
19 Jun 44

WMWS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

...D FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No, sir.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. give evidence. Do you intend to call witnesses on your behalf? Ans. No, sir. Are they witnesses as to character only? Ans.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No, sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No, sir.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 73690 Pte Howard LAWSON, Perth R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Not guilty	
2nd	Not guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Awaiting~~ present under sentence for ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer FP for 90 days and to forfeit 90 days pay

(Sgd) W.M.W. Shaw Capt — 21 June 44 — (Sgd) W. Minshull Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761; KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
I confirm the findings and sentence of the Court

~~I have withheld the record for the submission to Higher Authority with further advice~~ (1)
(1. AA 57A. Delete if not used.)

Date 22 Jun 44 (Sgd) E Snow A/Brig
Commanding 11 C/B Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused: C 73690 Pte Howard Lawson — Date: 26 Jun 44 — Signature of Offr: [illegible] Capt a/adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD

RECEIVED 7 AUG 1944 JAG BRANCH CMHQ

R 1080 AT CMHQ IN AB 160 777-55

CPA86 (1st Rev of AP43) 40/P & S/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier T E Snow Comd 11 Cdn Inf Bde dated 19 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 46, 74, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 162, 182; and KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 73690	Pte		Howard	LAWSON	Perth

PROCEEDINGS REVIEWED 10 Aug 44 — 7 JUL 1944 — JCSC — REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 21 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~now~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~now~~ brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~now~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~an interpreter?~~ Ans ~~No, Sir~~
~~The Interpreter is sworn~~(1) Do you object to ~~A/Sjt~~ as shorthand writer? Ans No, Sir
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, Sir.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	WH Minshull	PL Fus
Member	Capt	HL Hendrie	2i RC
Member	Capt	DM Chisholm	CB Highrs
Judge-Advocate	Capt	WMW Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	CH Swartz	Perth R
Defending Offr	Capt	WJ Ridge	Perth R

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~re-assembles~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

TTT-55.

Pte, Lawson, H.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D138338 Rank PTE Name Frank Francis LAWSON of HPER Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		4788		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day of Feb 45

[signature] CAPT & ADJT /HPER
Officer having custody of original records.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of . . . years,

In the rank of . . . years

In the rank of . . . years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M38338	PTE	Frank Francis LAWSON	HPER

1. The following is a fair and true summary of the entries in the Field GEB conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

TEMPORARY SHEET

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The summary herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months. *Since Enlistment.

For ..... times ..... times.

For ..... times ..... times.

For ..... times ..... times.

For ..... times ..... times.

For ..... times ..... times.

GEB

or

There are no entries in the conduct sheets of the accused. TEMPORARY SHEET

2. GEB

GEB

GEB

3. The accused is not under sentence at the present time, or GEB

GEB

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 42 days in military custody, making a total of 42 days, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years 4 mths 7 days GEB

6. The date of his attestation specified in his record of service is 16 Dec 42 GEB

7. GEB

8. GEB

9. GEB

10. The accused is in possession of, or GEB

GEB CVSM & Clasp

11. GEB

GEB

12. GEB

GEB

Exhibit "B" J.C.

TEMPORARY SHEET

MFM 6 (AFB 122) 40/P&S/136 (3436)

No D138338 Name Lawson, F F Sqn, Battery, or Company Corps CIC Date of enlistment 16 Dec 42 GC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy [signature] Capt & Adjutant 17 Feb 45 Date Officer having custody of original records.					

Exhibit C

(P70)

STATEMENT OF THE PRESIDENT
in the case of
D188338 Pte Frank Francis Lawson HYER

-oOOo-

This case was tried by FGCM on 7 Mar 45. At trial the prosecutor produced to the Court the Exhibits annexed to the Summary of Evidence and the same were considered by the Court and found correct.

Subsequently one of these exhibits, namely the Certificate of Apprehension, under Sec 163 (1)(j) of the Army Act was lost. A search was made but neither the original or a copy of the same could be found.

Therefore, I certify that a proper certificate of apprehension was produced to the Court at trial, which certificate stated that the accused was apprehended at Florence, Italy at 2300 hrs 28 Jan 45.

J. Counsell President
FGCM

Extract from HPER Pt II Orders No 98 dated 20 Oct 44
Para 7 c which reads as follows:

"AWL from 0800 hrs 10 Oct 44 still absent 0800 hrs
11 Oct 44 (1st day)

D136336 Pte Lawson, F F

Certified True Extract [signature] Capt & Adjt
Officer having custody of Original
Records.

Exhibit "A" to the
Summary of Evidence

J.C.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused, this 17th day of February 1945.

In the field
17th February 1945.

F. H. Beaumont Lieut.
Officer taking Summary
of Evidence

Summary of Evidence in the case of D.138338 Pte. Lawson, F.F., of "D" Coy, H. & P.E. Regt. a soldier of The Canadian Army placed on Active Service Overseas, C.M.F.

By order of the Commanding Officer this summary of Evidence is taken on oath.

1st Witness Capt. G.E. Baldwin Adjutant, H. & P.E. Regt. having been duly sworn states:

I am Capt. G.E. Baldwin Adjt., H. & P.E. Regt. I present an extract from Pt. II Orders Hast. & P.E. Regt. Order No. 98 dated 20th of October 1944 Para 7 (e) referring to the accused, which is read to the accused marked exhibit "A" and attached to the Summary.

I also present certificate under sec. 163 (i)(4)(A) of the Army Act referring to the accused, which is read to the accused, marked exhibit "B" and attached to the Summary.

G.E. Baldwin Capt.

The accused was asked if he wished to cross examine the witness and he declined to do so.

The accused was cautioned "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement or to give evidence.

Ex. "A" J.C.

Summary of Evidence in the case of D136336 Pte Lawson, F F of "D" Coy, HPER, a soldier of the Canadian Army placed on Active Service Overseas, CMF.

By order of the Commanding Officer this Summary of Evidence is taken on oath.

1st Witness for the Prosecution

Capt G E Baldwin, Adjutant, HPER, having been duly sworn states:

I am Capt GE Baldwin, Adjt, HPER. I present an extract from Pt II Orders, HPER Order No 96 dated 20 th of October 1944 para 7 (e) referring to the accused, which is read to the accused marked Exhibit "A" and attached to the Summary.

I also present certificate under Sec 163 (i)(j) of the Army Act referring to the accused, which is read to the accused, marked exhibit "B" and attached to the Summary.

G/E Baldwin

The accused was asked if he wished to cross examine the witness and he declined to do so.

The accused was cautioned "Do you wish to make any statement or to give evidence upon oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make any statement or to give evidence.

Certified that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused, this 17th day of February 1945.

"In the Field"
17 Feb 45

D D Beaumont

(D D Beaumont)Lieut
Officer taking Summary of Evidence.

A plea of mitigation in the case of Pte Frank Francis Lawson, D Coy, H.P.C. Regt.

I feel that consideration should be given the accused in that his record, while in action with the Unit, was always quite good.

He joined the Unit at the Sangro River in Nov. 1943 and was allocated to a Rifle Coy. where he performed his duties without question and to the best of his ability. In March 1944 he volunteered for the newly formed Scout Platoon and did his work as in the past.

He was wounded while in action in the Liri Valley, was evacuated to hospital and returned to the Unit while it was at rest in Oct. 1944.

I also feel that it should be pointed out that he has had no previous A.W.L. charges against him while in Italy, and ~~has~~ in this instance did not go A.W.L. while the Unit was in the line.

Respectfully submitted

D. McKennedy, Lieut
H.P.C. Regt.

Exhibit "D"

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No. [illegible]
Rank. Pte. Name. Lawson J.T. of [illegible]
and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.
Station. Field
Date. May 7/15

J. Kirby Capt
(Medical Officer)

CFA95 (In Ben of AFA8)
40/P&S/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 138338	private		Frank Francis	LAWSON	HPER

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 6 MAR 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.R.O. Counsell, DSO	48 Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	F.B. Kane	HPER
Lt.	J.D. Grant	48 Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	P.V. Alexander	HPER

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy
(Country.)

Date 6 MAR 45

J D B Smith
(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Commanding (J D B Smith) Brigadier
1 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

J.G.

CHARGE SHEET

The accused, M38338 Pte Frank Francis LAWSON, the Hastings and Prince Edward Regiment, a soldier of the Canadian Army Overseas (CMF) on Active Service, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

Army Act Sec 15 (1)

In that he,

In the field, did absent himself without leave from 0800 hrs 10 Oct 44 until surrendering himself to CM Police at Florence at 0900 hrs 24 Jan 45

TIME ABSENT - 106 days 1 hr.

"In the Field"
17 Feb 45

(G A Ross) Major
A/Comd
The Hastings and Prince Edward Regiment
CMF

To be tried by Field General Court Martial.

(J D B Smith) Brigadier
Comd 1 Cdn Inf Bde

In the Field
6 Feb 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ~~6~~ 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~read over~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial therein proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 92 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Written Plea of Mitigation marked Ex "D" (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119A(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 138338 Pte. Lawson F.F. Hast. P.E.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec. 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He cannot under sentence for~~ ~~beginning on same~~ (1) No.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 42 days, of which 0 days were spent in hospital.(1) No.

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

2 years detention

~~(Sgd)~~ ~~Judge Advocate, if any.~~ 7 Mar. 45 (Sgd) Konnedy Maj. No.

Date awarded. President. (RP 45, 58.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP (20)(F), MML p 790.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP (20)(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 10 Apr 45 (Sgd) D.B. Smith (J D B Smith) Brigadier

Commanding Cond 1 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

D 138338 Pte Lawson F.F. 11 April 1945 H.E. Malcolm Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 7 MAY 1945 JAG BRANCH A.H.Q.

RECORDED AT CMHQ IN AB 160 5G-3.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (2004)

Convened by Order of Brigadier J.D.B. Smith Comd 1 Cdn Inf Bde dated 6 MAR 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 138338	PROCEEDINGS REVIEWED	Frank Francis	LAWSON	H.P.E.R.

REVIEWING OFFICER, JAG BRANCH, A.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 7 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. No.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for instrs and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3) No.

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1030 hours trial commences. No.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) No.

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President (or accused): Do you object to as interpreter? Ans~~

~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~ No.

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	J.R.D. Connell DSO.	48th Highrs of Can.
Member	Capt.	F.B. Kane	H.P.E.R.
Member	Lieut.	J.D. Grant	48th Highrs of Can.
Judge-Advocate			
Prosecutor	Lieut.	D.B. Beaumont	Hast. P.E.R.
Defending Offr	Lieut.	D.H. Kennedy	Hast. P.E.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D 138338 Pte Lawson F.F. before arraignment make(s) (no) (~~a~~) plea. No. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. No.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B. No.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5 H-3.

Pte. Lawson J. H

B.84495 LAWSON, E.J.

No / Name | Sqn, Battery or Company | R.C.A.S.C. Corps | Date of enlistment 19 Sep 39 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet 25 Apr 41 | No and date of last drunk N11 | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	-			Second sheet destroyed on completion of two years service without entries			25 Apr 43		
Field	-			AWARDED THE CANADIAN VOLUNTARY SERVICE MEDAL AND CLASP w.e.f. 15 Jan 44					

Exhibit Z

CERTIFIED TRUE COPY

.....Adj't.....

35 Cdn Army Tps Comp Coy RCASC

MEMBER OF CONVICTIONS [illegible] CONSIDERATION OF CANAL COURT

Description of Court by which tried	Date and Place of trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the [illegible] custody, are correct to the best of my knowledge and belief.

Signed this [illegible] 1945

D H Echoldt Capt

Adjt
35 Cdn Army Tps Comp Coy RCASC

Exhibit "Y"
JoL

In lieu of AFO 796 (Sh

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Court-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
B.84495	SGT	LAWSON, E.J.	35 Cdn A Tnk Compoite Coy

NOTE-The Field Conduct Sheet is to be produced in Court with this but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given in the most serious offence.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For N/A N/A Days

For _____ _____ Days

For _____ _____ Days

For _____ _____ Days

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court-martial or a civil court are not set out in the Schedule overleaf.

Strike out if not applicable

~~3. The accused at the present time is under sentence for _____ imprisonment on the _____ day of _____~~

4. The accused has been awaiting trial on the present charges for nil days in civil custody and for 37 days in military custody, of which nil days in open arrest, 37 days in close arrest, of which nil days were spent in hospital.

5. The unexpired period of his enrolment is 28

6. The date of his attestation is 19 Sep 39

7. The period of his service which is allowed to count with a view to discharge is 5 yrs 150 days

State the military decorations (if any) held by accused.

Canadian Volteer Service Medal & Clasp

SGT 9 Sep 44

A Sup P operates rather similarly to a BSD. A Comp Coy operates between a BSD and a Sup P. Load lists originate at BSD.

The strength of "B" Coy was 1 offr and 60 ORs, plus one-half RDI , that is, 15 ORs. Therefore, there was up to 75 men in "B" Coy. There was 1 MT Sgt, namely, Lawson, 1 Adm L/Sgt, namely, Hyde, 1 HQ Cpl, 5 Pl Cpls and 6 L/Cpls for each Sec. Circumstances may make it necessary for the Adm L/Sgt to take a run.

R.P. 83(B) has been complied with.

Second Witness for the Defence

No. M-53329, Sgt Hancock, H.R., No. 1 SIS, First Cdn Army, being duly sworn, is examined by the Defending Officer:-

I met the accused in January 45 at 35 Cdn Army Tps Comp Coy during the investigation herein. He was of very great assistance to us. It was very largely due to him that we obtained most valuable and essential information. He gave us every assistance and did not try to cover up anything. His manner was very straight forward.

The Prosecutor declines to cross-examine.

R.P. 83(B) has been complied with.

E - 1 In the Case of B-84495 Sgt E.J.Lawson, 35 Cdn Army Tps Comp Coy RCASC

First Witness for the Defence

Major D.B.Morrison, OC 35 Cdn Army Tps Comp Coy, RCASC, being duly sworn, is examined by the Defending Officer:-

I am the CO of the accused. I have known the accused from 5 May 40 when he came to my unit. I knew him all the time I was with the supply column, that is, until 1 Jan 42. He was my Orderly Room clerk at 1 Echn. I then left the supply column and again met him when 35 Cdn Army Tps Comp Coy was formed on 17 Jan 43. After that he came to the unit and has been with us ever since. During the time he has been with me and up until now his work and conduct has been satistory in every respect.

The Prosecutor declines to cross-examine.

Examined by the Court:

The WE of my unit is:-
HQ Tpt Coy;
3 Tpt Pl;
1 Comp Coy;
2 RDIs; and
1 Workshop.

The Comp Platoon is designed to feed 15,000 tps. In the case of the Army the situation is abnormal due to constant changes and movements and scattered tps. Therefore, it is necessary to form more than 1 Supply Coy. We never have operating less than 2 and sometimes 3. We were operating Supply Coys in Ghent, Antwerp and Tilberg. Ration strength was approx 100,000. Bulk rations come from Army Railhead. We draw in bulk. Tpt has to be dispersed. It is not possible to have tpt pls in 1 spot. The Pl which looked after Ghent was based at Wettern. Another Pl was based at Kontich, between the supply point in Antwerp and the BSD. Another Pl was based on Boom and supplied Tilberg and was on the route between Tilberg and BSD. Each Pl operated independently under subaltern. Each Pl had a Tpt Sgt and an Adm L/Sgt and consisted of 75 men and 40 lorries. It was not possible for the subaltern to take each convoy. Therefore, Sgts, L/Sgts and Cpls must be used.

The Supply Point makes out the 3716 which is taken to the BSD which issues to the convoy bulk rations. There are as many as 30 different items. When dvr arrives at BSD he is issued with a load list. His job is to check on his vehicle the number of cases and items issued by the checker at BSD. The dvr keeps a copy of the load list. At Sup P he turns this over to the NCO i/c of the Sec who checks off the load as unloaded. Any shortages or overages are reported to OIC Sup P.

We have no control over the dealings which the men make with the BSD. We can control the situation at the Sup P. All was in order at our Sup P. Three to four million rations per month were issued.

441

I do not remember exactly how much I gave him but I think it was around 5,000 francs.

E J Lawson Capt.

Witnessed by Cpl R. J. Quail. #1 S.I.S., HQ., 1 Cdn Army.

Ex. "C" in Case of B84495
Sgt. Lawson, E.J.
[illegible]
Off. Labs Seizure of Evidence

2 Feb. 45

B. 84495 Sgt. Lawson. E.J.
35 First Cdn Army Tps. Comp. Coy
R.C.A.S.C.

I have been cautioned by Sgt Carrier. J.E. that I need not say anything unless I wish to do so, but that anything I do say may be taken down in writing and may be given in evidence.

E J Lawson Sgt.

Further to my previous statement regarding the 20 cases of margarine which I obtained from 62 B.S.D. at the beginning of November 1944, I wish to add the following. One day, Sgt. McGill of Composite Platoon approached me and stated he was making a deal in rations, this took place at 62 B.S.D. He asked me if I had a spare and whether I could get rid of some stuff. I spoke to Cpl. Jarvis who was in a truck and so I told McGill "OK." So a few days later I had a spare lorry driven by Cpl. Jarvis. On arrival at 62 B.S.D. I saw Sgt. McGill and he told me that he was going to make arrangements. When he came back he told me to see the S/Sergeant, who I have already identified. So I saw the S/Sergeant and got the 20 cases of margarine and later disposed of these as explained in my previous statement. As well as the 1000 francs which I gave to the S/Sgt. at 62 B.S.D. I also gave Sgt McGill a sum of money for his share in the deal.

V

and not the middle of September 44 as previously stated.

The reason I have made this second Statement is because since 10 Jan 45 I have checked up as I promised Capt Morrison of the RCMPs. I would do and as a result of the check I found a few things I had forgotten and a few dates that were not correct.

I have read the above Statement and it is true.

20 Jan 45.

E. Lawson Sgt

Statement taken by Sgt. J.R. Carrere, No 1 S.I.S. First Cdn. Army H.Q.

WITNESS: H.R. Hancock, Sgt. No 1 S.I.S. H.Q. FIRST CDN ARMY

I have never received 10,000 francs from either Cpl. Raw or Pte Morrow. Just about two weeks before Christmas Cpl. Raw asked me to let him have a lorry as he had a friend at Compiegne Platoon who wanted to sell some stuff. I told him he could take a truck from his own section and Cpl. Raw informed me that he was going to take Pte Morrow. Cpl. Raw then told me that on his return he would give me 3,000 or 4,000 francs and I was to give some to Hyde. On his return Cpl Raw gave me 4,000 frs and I gave 2,000 frs to Sgt. Hyde and later told Raw that I had done this.

On Thursday evening 18 Jan. 1945, when Sgt. Hyde was down at the Platoon he approached me after I had noticed him speaking to other men involved in this affair, and said: "Ernie, will you help me in this business, you say I'm the admin Sergeant and that I only went on the supply run once every three or four weeks, as I'm going to play this for double or nothing." At that time I just said: "O.K." and walked away into the Orderly room.

For some time after the platoon moved to Leonard Sgt. Hyde took the supply run, once and sometimes twice a week, for example the week 10 to 17 Dec. 1944, Sgt Hyde took the supply 3 times, on 11, 14 and 17th Dec. 44,

I now wish to amend the following facts which I made in my first statement on 10 Jan. 1945. I took over "B" transport Platoon with effect 1 November 1944

E Feeney Cpl

as previously agreed as I had to give the S/Sergeant at 62 B.S.D. 10 000 francs of this money. In the presence of Cpl. Jarvis in the platoon orderly room I placed this 10000 francs in a brown envelope and later I gave this envelope to the S/Sergeant at 62 B.S.D. I could identify both the Sergeant and S/Sergeant concerned.

Shortly after my platoon moved up to St Leonard at the beginning of December 1944, I had a number of lorries at 58 B.S.D. on supply duties. After we came out of the B.S.D. to marshalling area, Ptes Brian and Edworthy approached me and asked for a lorry to take some stuff that they had to Wetteren. At first I refused. During the course of conversation, one of these men said: "What's the matter, are you chicken shit? If Sgt Hyde can send a lorry why can't you?" It was the first time that I knew that stuff had gone down to Wetteren. I then consented and told them they could use Pte Ramage's lorry which was empty. Pte Ramage knew that his lorry would be used to dispose of rations in Wetteren as I told him Edworthy and Brian would fix him up and I believe they did so. Later Edworthy gave me 1000 francs. Brian gave me some money but I don't remember how much. I had no army rations of my own on that load.

Sometime after the middle of December 1944, when I was in charge of the detail at 58 B.S.D. Pte LeCerf and I bought 8 cases of cheese from a checker. I could identify this checker. I had no money but paid 4,000 francs to the checker which Pte LeCerf had given me to buy it with. The next day on a Sunday Pte LeCerf came to my room accompanied by Sgt. Hyde and in his presence paid me 9,000 francs for my share. I then paid 5,000 francs to Hyde as I owed him this amount.

E J Lawson Sgt

I could identify this R.A.S.C. checker. I was to get a share from Cpl. Rau but this load was seized by the police.

At the beginning of November 1944, while I was stationed in Wetteren and our platoon was drawing supplies from 62 B.S.D. not far from Boom. One day a Staff-Sergeant and a Sergeant of the RASC at 62 B.S.D. asked me if I could get them a Canadian battle dress and a leather jerkin each. I told them I'd see what I could do. They said they'd fix us up. About 2 or 3 days later I gave the Sergeant a battle dress (blouse + trousers) and a leather jerkin. The sergeant then asked me if I had an extra truck on the detail and I told him that I had not but the first time I did I would let him know. Within the next two or three days, I got Cpl Jarvis to drive a Quickshee truck to 62 B.S.D. and there I saw the S/Sergeant who was i/c. of loading. He was the same N.C.O. who had previously asked me for a uniform. I mentioned to him that I had already given a battle dress and a jerkin to the Sergeant and would try to get the same for him in a few days. He then said that it would all right, he'd give us some stuff but they wanted a cut. We then had 20 cases of margarine placed on Cpl. Jarvis lorry. This was also loaded with some Bags of Pulse for which there was a 10% issue voucher made out - this was a legitimate load. I know that these 20 cases of margarine were left in the truck in the platoon lines for 2 or 3 days, at which time it was disposed of and Cpl. Jarvis gave me 20,000 francs.

Exh. "B" in case of
B84495 Sgt. Lawson. E.J. 20 Jan. 45
W. Whitney Capt
Offr. det. to Later Summary
of Evidence

Statement of:

B. 84495 Sgt. LAWSON. E. J.
35 Cdn. Army Tps. Comp. Coy.
R.C.A.S.C. "B." Platoon.

I have been cautioned by Sgt. J. R. Carriere, that I need not say anything unless I wish to do so, but that anything I do say may be taken down in writing and may be given in evidence

E. J. Lawson Sgt.

On 7 Jan. 45, I was in charge of Supply detail at 58 B.S.D. at Tilburg. We just had enough vehicles for the draw but later I found that there would be no bread draw and so there would be extra lorries. As L/Cpl. Owens was going to Wetteren to pick up Sgt. Hyde, he agreed to take the buckshee load. Previously Cpl. Rau and I had agreed to change a watch owned by Cpl Rau and some money for some buckshee supplies. The watch was a wrist watch about the size of a 2 shillings piece, black leather strap, black face, read sweep second hand, luminous dial. I saw the checker i/c of Coffee with Cpl. Rau and he offered two cases of coffee which Rau accepted for the watch. I saw Rau give him the watch and could identify this man. I then in company of Cpl. Rau saw the checker on cheese and we made a deal with him. He agreed to give Rau some cases of cheese but I don't know how many cases Rau got.

E. J. Lawson Sgt.

Exh. "B" in case of
B84495 Sgt. Lawson. E.J.
W. Huber Capt
Offr. det. Water Seminar
of Evidence

Statement of: 20 Jan. 45

B. 84495 Sgt. LAWSON. E.J.
35 Cdn. Army Tps. Comp. Coy.
R.C.A.S.C. - "B." Platoon.

I have been cautioned by Sgt. J.R. Carriere, that I need not say anything unless I wish to do so, but that anything I do say may be taken down in writing and may be given in evidence

E. Lawson Sgt.

On 7 Jan. 45, I was in charge of Supply detail at 58 B.S.D. at Tilburg. We just had enough vehicles for the draw but later I found that there would be no bread draw and so there would be extra lorries. As L/Cpl. Owens was going to Wetteren to pick up Sgt. Hyde, he agreed to take the buckshee load. Previously Cpl. Rau and I had agreed to change a watch owned by Cpl Rau and some money for some buckshee supplies. The watch was a wrist watch about the size of a 2 shillings piece, black leather strap, black face, red sweep second hand, luminous dial. I saw the checker i/c of Coffee with Cpl Rau and he offered two cases of coffee which Rau accepted for the watch. I saw Rau give him the watch and could identify this man. I then in company of Cpl. Rau saw the checker on cheese and we made a deal with him. He agreed to give Rau some cases of cheese but I don't know how many cases Rau got.

E. Lawson Sgt.

Continuation of Statement of:-

B-844485 Sgt. Lawson, R. J.

that were on the Sunday detail were again checked by the Checker at B.S.D. At this time he still did not identify the man, but said to Lieut Milligan, "Do you really want me to identify the man, Sir." Lieut Milligan said, "Yes". There was an identification parade held at about 1630 hrs. Sunday, 9 Jan 45. of the Complete Platoon. I do not know the result of this Parade as I was in Hotten.

On Monday, 8 Jan 45, the Checker at B.S.D. informed Lieut Milligan and my self that the man who obtained the 27 cases of margarine was wearing a blonde moustache at the time. Together with the Checker Lieut Milligan and I questioned Pte. Brian as we knew Brian had previous to this worn a blonde moustache, but had shaved it off. Brian said, he had shaved it off two or three days ago, and denied all knowledge of the 27 cases of margarine. The Checker at this time said Brian was not the man.

During the time I was stationed in Hotten I sold a case of English issue cigarettes containing 15,000 cigarettes, five cases of Chese & ten cases of margarine. To a man who lives in Hotten. I do not know this man's name, but I know where he lives and am willing to point out his home in Hotten. I have reason to believe this man to be a big man in this business because he always asked me to get large amounts for him. Anything up to approximately 200,000 fcs. On one occasion

Continuation of Statement of:-

B-84495 Sgt Lawson, E. J.

that were on the Sunday Detail were again checked by the Checker ~~from~~ at B.S.D. At this time he still did not identify the man, but said to Lieut Milligan, "Do you really want me to identify the man, Sir." Lieut Milligan said, 'Yes'. There was an identification parade held at about 1630 hrs. Tuesday, 9 Jan 45. of the Complete Platoon. I do not know the result of this Parade as I was in Western.

On Monday, 8 Jan 45, the Checker at B.S.D. informed Lieut Milligan and myself that the man who obtained the 27 cases of margarine was wearing a blonde moustache at the time. Together with the Checker Lieut Milligan and I questioned Pte. Brian as we knew Brian had previous to this worn a blonde moustache, but had shaved it off. Brian said he had shaved it off two or three days ago, and denied all knowledge of the 27 cases of margarine. The Checker at this time said Brian was not the man.

During the time I was stationed in Western I sold a case of English issue cigarettes, containing 15,000 cigarettes, - six cases of cheese, ten cases of margarine, to a man who lives in Western. I do not know this man's name, but I know where he lives and am willing to point out his home in Western. I have reason to believe this man to be a big man in this business because he always asked me to get large amounts for him, anything up to approximately 200,000 fcs. On no occasion

pick up Sgt. Hyde, and as the roads were bad we figured they would be in later that day. Upon return from detail on Monday, Sgt. Hyde had returned, but not Cpl. Owen. The Officer and I talked it over and it was arranged for myself and Sgt Hyde to come to Wetten to see if we could find any trace of him. At this time I found that Cpl. Masters was with Owen. Sgt. Hyde and I left for Wetten about 2 p.m. Tuesday, 9 Jan 1945, arriving about 4 p.m. I was arrested whilst endeavouring to find L/Cpl. Owen. Sgt. Hyde and my driver, Pte Pigeon, were not with me at the time as they were in another part of Wetten looking for Owen.

To my knowledge Owen had on his lorry, ~~two~~ cases of Coffee and ~~10~~ 15 cases of Cheese. Cpl. Rau and Pte Brummett, R.B., bought this stuff from the B.S.D. I now know that there was also 27 cases of margarine on his lorry, which I believe belonged to Pte Brian. I believe this because on Sunday, 7 Jan 45, the Officer from B.S.D. showed me a Form 108 (issue of voucher) and asked me if I knew the signature on same. On looking at the signature I told him I did not know it. This Officer then told me about 27 cases of margarine having been stolen by means of a forged 108 issue voucher, and he suspected that it was one of my men, and the checker claimed he could identify the man. I immediately took the Officer and the checker to my platoon lines where we interviewed the men that were on detail that day. At that time the checker would not or could not identify the man. The next morning, Monday, 8 Jan 45, all men

E Lawson

Continuation of Statement of:-

B- 844 95 Sgt. Lawson, E. J.

These four loads were brought to Wetterm by Pte's, Brian, Edworthy, Morrow and L/Cpl. Owen. Each man taking one load.

On the 4 Jan 1945, I went to Brussels on a 48 hour pass. I returned to Platoon on Saturday, 6 Jan 1945, at 1745 hours. I was told at that time by Lieut Nelligan that Sgt. Hyde and L/Cpl. Link, my clerk, had gone to Wetterm on 24 hour pass. I enquired as to how they got there and he told me his 'Batman' had driven them to the main highway where they were going to 'hitch ~~to~~ hike' down. Later that evening I found out that Pte Morrow had gone to Wetterm with his lorry. On the Sunday, 7 Jan 1945 I was in charge of the Detail to B.S.D. at Tilberg. We just enough lorrys for the draw, but on arrival I was informed there would be no bread draw that day. That left three spare vehicles, of which one was L/Cpl. Owen's. Cpl. Rae made a deal with the Checker at the B.S.D., for two cases of Coffee and with another checker for 10 cases of cheese. From this he was going to give me some money as he said some of the men in his Section had given him the money for which he paid the Checkers at B.S.D. and he would have to cut them in. As Cpl. Owen was proceeding to Wetterm to pick up Sgt Hyde, Cpl. Rae placed these ~~to~~ items on his lorry and Owen was going to dispose of them.

On Monday, 8 Jan 1945 Owen had no returned and I told Lieut Nelligan about him going to

what was going on. As I became further into the picture of things I came to the conclusion that it was either play along with the Officer and the men or lead a very unhappy life in the Platoon.

After this I sold small amounts of Rations myself, two or three cases of foodstuffs, but never amounting to anything big. I obtained these cases of foodstuffs at ~~[illegible]~~ 62 B.S.D., stationed near Boom on the main Antwerp Brussels Road, by buying them from the checkers. About this time, 12 Nov 44 I proceeded to England on compassionate leave. On my return approximately two weeks later I found a new Officer in charge of the Platoon, a Lieut Milligan; who I had previously known and was very glad to see; as I knew him to be a very honest man and a good officer. From this time I had hopes of the Platoon being straightened out and getting back to normal.

The Platoon moved from Wetteren to St. Leonards two or three weeks before Xmas and for the first few days everything seemed to go along fine. I had decided at this time that as far as the Platoon and Rations were concerned Wetteren was finished. Shortly after this one of the men, I can't remember who it was, came to me and asked if he could take a load of Rations to Wetteren. I said "No." He replied, "Why can't I if other fellows do." He mentioned one of the men in particular who had been on the detail the previous day under Sgt. Hyde, but I can't remember who it actually was. In the end I allowed him to go. From that time to now I would say that I know of four lorrys that have come to Wetteren with foodstuffs.

Thursday

Exhibit "A" to Summary of Evidence in Case of B 84495 Sgt Lawson. E.J.
E.W. Price Capt
Offr. det. to take Summary of Evidence

Statement of:

B-84495 Sgt. Lawson, C.P.
35 Cdn Army Tps. Comp. Coy. R.C.H.S.C.
'Transport Sergeant' B Platoon.

I have been cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence.

E J Lawson Sgt.

About the middle of September, 1944 I took over duties as Transport Sergeant of 'B' Platoon. Prior to this I was with the H.Q. of my Unit. At the time of going to 'B' Platoon, they were stationed in Wetteren. Before proceeding to 'B' Platoon the O.C. of the Unit instructed me try and straighten things out in 'B' Platoon, as they were in a bad way insofar as Rations being missing, and he believed the Rations were being sold.

On arrival at 'B' Platoon I had a talk with Sgt. Fox, whose place I was taking, Fox having been promoted to C.Q.M.S. Fox ~~told me~~ said "I feel sorry for you as things are in a bad way and I couldn't do anything with the men, as the officer wouldn't back me up." At a later date I found out how the Platoon was operating in all ways including the Rations that were being sold. The men would go direct to the officer, Lieut Bessonette, and ask him for a vehicle to dispose of articles of foodstuffs they had obtained from the B.A.D. The men should have come to me in all matters of transport, but I believe they were afraid I would find out too much about

Statement of:

Exhibit "C" in Case of
B-84495 Sgt Lawson E.J. 2 Feb 45

B-84495 Sgt Lawson E.J.
35 Cdn Army Tps Comp Coy
RCASC - "B" Platoon.

"E.S. Bull" Capt
Offr det to take Summary of Evidence

I have been cautioned by Sgt Carriere J.R. that I need not say anything unless I wish to do so, but that anything I do say may be taken down in writing and may be given in evidence.

"E.J. Lawson" Sgt.

Further to my previous statement regarding the 20 cases of margerine which I ontained from 62 B.S.D. at the beginning of November 1944, I wish to add the following. One day, Sgt McGill of Composite Platoon approached me and stated he was making a deal in rations, this took place at 62 B.S.D. He asked me if I had a spare and whether I could get rid of some stuff. I spoke to Cpl Jarvis who was in a truck and so I told McGill "OK". So a few days later I had a spare lorry driven by Cpl Jarvis. On arrival at 62 B.S.D. I say Sgt McGill and he told me that he was going to make arrangements. When he came back he told me to see the S/Sgt who I have already identified. So I saw the S/Sergeant and got the 20 cases of margerine and later disposed of these as explained in my previous statement. As well as the 10000 francs which I gave to the S/Sgt at 62 B.S.D. I also gave Sgt McGill a sum of money for his share in the deal.

I do not remember exactly now much I gave him but I think it was around 5000 francs.

"E.J. Lawson" Sgt.

Witnessed by Cpl A.J. Quail, #1 S.I.S HQ 1 Cdn Army.

ontinuation of Statement of B-84495 Sgt Lawson E.J. "B" Platoon, 5 Cdn Army Comp Coy RCASC.

o my room accompanied by Sgt Hyde and in his presence paid me ,000 francs for my share. I then paid 5000 francs to Hyde as I owed him this amount.

I have never received 10,000 francs from either Cpl Rau or Pte Morrow but about two weeks before Christmas ~~xxiserrx~~ Cpl Rau asked me to let him have a lorry as he had a friend at Composite Platoon who wanted to sell some stuff. I told him he could take a truck from his own section and Cpl Rau informed me that he was going to take Pte Morrow. Cpl Rau then told me that on his return he would give me 3000 or 4000 francs and I was to give some to Hyde. On his return Cpl Rau gave me 4000 frs and I gave 2000 francs to Sgt Hyde and later told Rau that I had done this.

On Thursday evening 18 Jan 1945, when Sgt Hyde was down at the Platoon he approached me after I had noticed him speaking to other men involved in this affair, and said: "Ernie, will you help me in this business, you say I'm the admin Sergeant and that I only went on the Supply run once every three or four weeks, as I'm going to play this for double or nothing." At that time I just said: "O.K." and walked away into the Orderly room.

For some time after the platoon moved to St Leonard Sgt Hyde took the supply run, once and sometimes twice a week, for example the week 10 to 17 Dec 1944, Sgt Hyde took the Supply 3 times, on 11, 14 and 17 Dec 1944.

I now wish to amend the following facts which I made in my first statement on 10 Jan 1945. I took over "B" transport Platoon with effect 1 November 1944 and not the middle of September 44 as previously stated.

The reason I have made this second statement is because since 10 Jan 45 I have checked up as I promised Capt Morrison of RCAFs, I would do and as a result of the check I found a few things I had forgotten and a few dates that were not correct.

I have read the above statement and it is true.

20 Jan 45.

"E.J. Lawson" Sgt

Statement taken by Sgt J.R. Carriere, No. 1 S.I.S. First Cdn Army H.Q.

Witness: "H.R. Hancock" Sgt
No. 1 S.I.S. HQ First Cdn Army.

Exhibit "B" in the case of
B-84495 Sgt Lawson E.J.-20 Jan 45

Statement of:

B-84495 Sgt Lawson E.J.
35 Cdn Army Tps Comp Coy
RCASC - "B" Platoon.

(E.B. Bull) Capt
Offr detailed to take the
Summary of Evidence

I have been cautioned by Sgt J.R. Carriere, that I need not say anything unless I wish to do so, but that anything I do say may be taken down in writing and may be given in evidence.

"E.J. Lawson" Sgt.

On 7 Jan 45, I was in charge of Supply detail at 58 B.S.D. at Tilberg. We just had enough vehicles fot the draw but later I found that there would be no bread draw and so there would be extra lorries. As L/Cpl Owens was going to Wetteren to pick up Sgt Hyde, he agreed to take the buckshee load. Previously Cpl Rau and I had agreed to change a watch owned by Cpl Rau and some money for some buckshee supplies. The watch was a wrist watch about the size of a 2 shilling piece, black leather strap, black face, red sweep second hand, luminous dial. I saw the checker i/c of Coffee with Cpl Rau and he offered two cases of coffee which Rau accepted for the watch. I saw Rau give him the watch and could identify this man. I then in company of Cpl Rau saw the checker on cheese and we made a deal with him. He agreed to give Rau some cases of cheese but I don't know how many cases Rau got. I could identify this RASC checker. I was to get a share from Cpl Rau but this load was seized by the police.

At the beginning of November 1944, while I was stationed in Wetteren and our platoon was drawing supplies from 62 B.S.D. not far from Boom. One day a Staff-Sergeant and a Sergeant of the RASC at 62 B.S.D asked me if I could get them a Canadian battle dress (blouse and trousers) and a leather jerkin. The sergeant then asked me if I had an extra truck on the detail and I told him that I had not but the first time I did I would let him know. Within the next two or three days, I got Cpl Jarvis to drive a buckshee truck to 62 B.S.D. and there I saw the S/Sergeant who was i/c of loading he was the same NCO who had previously asked me for a uniform. I mentioned to him that I had already given a battle dress and a Jerkin to the Sergeant and would try to get the same for him in a few days. He then said that it would be all right, he'd give us some stuff but they wanted a cut. We then had 20 cases of margerine placed on Cpl Jarvis lorry. This was also loaded with some bags of Pulse for which there was a 108 issue voucher made out--this was a legitimate load. I know that these 20 cases of margerine were left in the truck in the platoon lines for 2 or 3 days, at which time it was disposed of and Cpl Jarvis gave me 20,000 francs as previously agreed as I had to give the S/Sergeant at 62 B.S.D. 10000 francs of this money. In the presence of Cpl Jarvis in the platoon orderly room I placed this 10000 francs in a brown envelope and later I gave this envelope to the S/Sergeant at 62 B.S.D. I could identify both the Sergeant and S/Sergeant concerned.

Shortly after my platoon moved up to St Leonard at the beginning of December 1944, I had a number of lorries at 58 BSD on supply duties. After we came out of the BSD to marshalling area Ptes Brian and Edworthy approached me and asked for a lorry to take some stuff that they had to Wetteren. At first I refused. During the course of conversation, one of these men said: "What's the matter, are you chicken shit? If Sgt Hyde can send a lorry why can't you?" It was the first time that I knew that stuff had gone down to Wetteren. I then consented and told them they could use Pte Ramage's lorry which was empty. Pte Ramage knew that his lorry would be used to dispose of rations in Wetteren as I told him Edworthy and Brian would fix him up and believe they did so. Later Edworthy gave me 1000 francs. Brian gave me some money but I don't remember how much. I had no army rations of my own on that load.

Some time after the middle of December 1944, when I was in charge of the detail at 58 B.S.D. Pte LeCerf and I bought 8 cases of cheese from a checker. I could identify this checker. I had no money but paid 4000 francs to the checker which Pte LeCerf had given me to buy it with. The next day on a Sunday Pte LeCerf came

Continuation of Statement of:
B-84495 Sgt Lawson E.J.

That left three spare vehicles; of which one was L/Cpl Owen's. Cpl Rau made a deal with the checker at the BSD for two cases of Coffee and with another checker for 10 cases of cheese. From this he was going to give me some money as he said some of the men in his Section had given him the money for which he paid the checkers at BSD. and he would have to cut them in. As Cpl Owen was proceeding to Wetteren to pick up Sgt Hyde, Cpl Rau placed these items on his lorry, and Owen was going to dispose of them.

On Monday, 8 Jan 1945, Owen had not returned and I told Lieut Nelligan about him going to pick up Sgt Hyde, and as the roads were bad figured they would be in later that day. Upon return from detail on Monday, Sgt Hyde had returned but not Cpl Owen. The Officer and I talked it over and it was arranged for myself and Sgt Hyde to come to Wetteren to see if we could find any trace of him. At this time I found that L/Cpl Masters was with Owen. Sgt Hyde and I left for Wetteren about 2 p.m. Tuesday, 9 Jan 1945, arriving about 4 p.m. I was arrested whilst endeavouring to find L/Cpl Owen. Sgt Hyde and my driver, Pte Pigeon, were not with me at the time as they were in another part of Wetteren looking for Owen.

To my knowledge Owen had on his lorry, two cases of Coffee and 15 cases of cheese. Cpl Rau and Pte Brummitt, R.B., bought this stuff from the BSD. I know now that there was also 27 cases of margerine on his lorry, which I believe belonged to Pte Brian. I believe this because on Sunday, 7 Jan 45, the Officer from BSD showed me a Form 108 (issue boucher) and asked me if I knew the signature on same. On looking at the signature I told him I did not know it. This Officer then told me about 27 cases of margerine having been stolen by means of a forged 108 issue voucher, and he suspected that it was one of my men, and the checker claimed he could identify the man. I immediately took the officer and the checker to my Platoon lines, where we interviewed the men that were on detail that day. At that time the checker would not or couldnot identify the man. The next morning, Monday, 8 Jan 45, all men that were on the Sunday detail were again checked by the checker at BSD. At this time he still did not identify the man, but said to Lieut Nelligan, "Do you really want me to identify the man, Sir". Lieut Nelligan said, "Yes". There was an identification parade held at about 1630 hrs Tuesday 9 Jan 45 of the complete platoon. I do not know the result of this parade as I was in Wetteren.

On Monday, 8 Jan 45 the checker at BSD informed Lieut Nelliggan and myself that the man who obtained the 27 cases of margerine was wearing a blonde moustache at the time. Together with the checker Lieut Nelligan and I questioned Pte Brian as we knew Brian had previous to this worn a blonde moustache, but had shaved it off. Brian said he had shaved it off two or three days ago, and denied all knowledge of the 27 cases of margerine. The checker at this time said Brian was not the man.

During the time I was stationed in Wetteren I sold a case of English issue cigarettes, containing 15000 cigarettes, five cases of cheese and ten cases of margerine, to a man who lives in Wetteren. I do not know this man's name, but I know where he lives and am willing to point out his home in Wetteren. I have reason to believe this man to be a big man in thisbusiness because he always asked me to get large amounts for him, anything up to approximately 200,000 frs. On no occasion did I ever sell him a large amount of stuff, only that which I have already stated. I received 2200 frs per case of margerine, one franc per cigarette, and 2500 frs per case of cheese.

On two or three occasions I had talks with QMS Fox about the situation in the Platoon and without going to the OC about it, all I figured I could do was play along with the officer and the men and hope for the best. If I had gone to the OC I am sure certain people would have seen to it that my left would not have been very pleasant during my stay in 35 Comp Coy. I have read over this statement and it is true.

"E.J. Lawson" Sgt B-84495.

Statement taken down in writing and signature witnessed by R Sutherst, Sgt. No. 1 Special Investigation Section 1st Cdn Army
10 Jan 1945 Witnessed by Capt J.D. Morrison Officer i/c
Smetlede No. 1 Cdn S.I.S. 101230A

Exhibit "A" to Summary of
Evidence in case of B-84495
Sgt Lawson E.J.

Statement of:
B-84495 Sgt Lawson E.J.
35 Cdn Army Tps Comp Coy RCASC
Transport Sergeant "B" Platoon

(E.B. Bull) Capt
Offr detailed to take
the Summary of Evidence

I have been cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence.

"E.J. Lawson" Sgt.

About the middle of September, 1944 I took over duties as Transport Sergeant of "B" Platoon. Prior to this I was with H.Q. of my Unit. At the time of going to "B" Platoon, they were stationed in Wetteren. Before proceeding to "B" Platoon the OC of the Unit instructed me to try and straighten things out in "B" Platoon, as they were in a bad way insofar as Rations being missing and he believed the Rations were being sold.

On arrival at "B" Platoon I had a talk with Sgt Fox, whose place I was taking, Fox having been promoted to CQMS. Fox said "I feel sorry for you as things are in a bad way and I couldn't do anything with the men, as the officer wouldn't back me up." At a later date I found out how the Platoon was operating in all ways including the Rations that were being sold. The men would go direct to the Officer Lieut Bessonette, and ask him for a vehicle to dispose of articles of food stuffs they had obtained from the BSD. The men should have come to me in all matters of transport, but I believe they were afraid I would find out too much about what was going on. As I became further into the picture of things, I came to the conclusion that it was either play along with the officer and the men or lead a very unhappy life in the Platoon.

After this I sold small amounts of Rations myself, two or three cases of food stuffs, but never amounting to anything big. I obtained these cases of foodstuffs at 62 BSD, stationed near Boom on the main Antwerp Brussels Road, by buying them from the checkers. About this time, 12 Nov 44, I proceeded to England on compassionate leave. On my return approximately two weeks later I found a new officer in charge of the Platoon, a Lieut Nelligan, who I had previously known and was very glad to see; as I knew him to be a very honest man and a good ~~knitter~~ officer. From this time I had hopes of the Platoon being straightened out and getting back to normal.

The Platoon moved from Wetteren to St Leonards two or three weeks before Xmas and for the first few days everything seemed to go along fine. I had decided at this time that as far as the Platoon and Rations were concerned Wetteren was finished. Shortly after this one of the men, I can't remember who it was, came to me and asked if he could take a load of Rations to Wetteren. I said "No". He replied, "Why can't I if other fellows do". He mentioned one of the men in particular who had been on the detail the previous day under Sgt Hyde, but I can't remember who it actually was. In the end I allowed him to go. From that time to now I would say that I know of four lorry's that have come to Wetteren with food-stuffs. These four loads were brought to Wetteren by Pte's Brian Edworthy, Morrow and L/Cpl Owen. Each man taking one load.

On the 4 Jan 1945, I went to Brussels on a 48 hour pass. I returned to Platoon on Saturday, 6 Jan 1945, at 1745 hours. I was told at that time by Lieut Nelligan that Sgt Hyde and L/Cpl Link, my clerk, had gone to Wetteren on 24 hour pass. I enquired as to how they got there and he told me his "Batman" had driven them to the main highway where they were going to "hitch hike" down. Later that evening I found out that Pte Morrowhad gone to Wetteren with his lorry. On the Sunday, 7 Jan 1945, I was in charge of the detail to BSD, at Tilberg. We just enough lorrys for the draw, but on arrival I was informed there would be no bread draw that day.

The Accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to say anything at this time.

E Lawson

The accused does not call any witnesses.

I certify that that the foregoing Summary of Evidence consisting of 1 pages, was taken down in my presence and in the presence of the accused and that RP 4 (C) (D),(E) and (F) have been complied with.

In the Field
6 & 8 Feb 45.

(E.S. Bull) Capt
The Seaforth Highrs
Officer detailed to take the summary of evidence.

No. L-104366 Pte Morrow R.E. # 10 Section "B" Platoon
35 Cdn Army Tps Comp Coy RCASC duly sworn states:

TENTH WITNESS

No. M-50109 Pte (L/Cpl) Owen R.J. 7 Section "B" Platoon 35 Cdn Army Tps Comp Coy RCASC duly sworn states:

I know the accused Sgt Lawson he is MT Sgt of "B" Platoon.

On the morning of the 7 Jan 45 I was on the supply convoy and as we were about to leave the platoon lines I was handed a note which stated that I would pick up Sgt Hyde at WETTEREN at 3 a.m. Sgt Lawson was in the cab with me as I read the note. He asked to see the note after I read it. I gave it to him and he said, seeing as you are going down to WETTEREN you may as well as be the "Buck Shee" lorry. I said all right. When we arrived at BSD he told me to pull my vehicle to the side and let the rest of the convoy go past, which I did. Sgt Lawson then got out of the lorry and started to line the remainder of the vehicles up to go in and draw supplies. About ½ of an hour later he came back to me and told me that he had 10 cases of cheese and 2 cases of coffee coming out on Pte Brummitt R.S.'s lorry. He then told me to take him around to his girl friends place where I took him and left him. Before we went to his girl friends he told me where to park my vehicle and the other vehicles when they came out with "Buck Shee" stuff on would pull up on the side and change the loads over. "Buck Shee" stuff is generally known as Government property over and above that which you are supposed to have. He told me that after everyone was finished I would come around to his girl friends place and would pick him up and take him down to the DID at HERENTALS. After the loads had been put on my lorry I went up to pick up the accused and take him to DID HERENTALS where I left him. I then left for WETTEREN in order to try to dispose of the "Buck Shee" load. On the way down I was arrested. On the way down from his girl friends place to the DID I asked him what the prices were for his "Buck Shee" stuff. He told me 3000 Belgian francs per case for cheese and 6000 Belg francs for a case of coffee. After I agreed to be the "Buck Shee" driver the accused told me I would get 10 percent of the load.

CROSS-EXAMINED BY THE ACCUSED.

Q. On the way down to the DID was anything said of any other number of men being in on the 10 cases of cheese and 2 cases of coffee?

A. I remember Sgt Lawson saying that the load of cheese and coffee would be split 4 ways, but as to the names I can't remember.

Q. To your knowledge, did I know anything regarding 27 cases of margerine which were on that vehicle?

A. No.

Q. You were in "B" Platoon at the time I took over.

A. Yes.

Q. To your knowledge was any of this going on prior to the time that I took over.

A. Yes. On a very small scale.

M50109 L/Cpl Owen R.J.
Witness.

NINTH WITNESS

No. B-95013 Cpl Rau F #9 Section "B" Platoon 35 Cdn Army Comp Coy RCASC duly sworn states:

I know the accused Sgt Lawson, he is "B" Platoon Sgt.

On 7 Jan 45 Sgt Lawson and I had a conversation while in BRUSSELS. We were all broke but I had some money left back in camp and he said he would have to make a big kill on the next draw. He said that he would make sure that he would be on the next draw Sunday, that is the next day. We came back from leave on Saturday night at 6 p.m. on 6 Jan 45. In view of information I received I told Sgt Lawson that he should not detail a man to go to WETTEREN or to take anything down because one man there had been caught. On Sunday 7 Jan 45 the accused asked me how much money I had. I said I had a little. He then asked me if I had my wrist watch and I said I had it with me. Then he left me and went away. Later I went up to a shed and Sgt Lawson saw me and called me over and said "I have just made a contact for 10 cases of cheese and it would cost 300 francs a case and he made a deal for 10 cases." He told me to make sure it was loaded on the lorry not telling me which lorry. Sgt Lawson told me to give the money to a man in the shed. I gave the checker in the shed 4000 francs.

Afterwards Sgt Lawson called me over to anotner shed and said he had made a contact for coffee for my wrist watch. After this I went into the office where I saw a checker, a British soldier, and after some conversation gave him the wristwatch for 2 cases of coffee. When I handed the wrist watch over, the accused was present and could hear the checker say that he would give 2 cases of coffee for the watch. The arrangement I had made with the accused was that he was to use the wrist watch for dealing down at the BSD and I was to get 1300 francs.

CROSS-EXAMINED BY THE ACCUSED:

Q. While in BRUSSELS did you not agree that we would use your watch and you could get the money in your section to purchase items at BSD and that the money would be split.

A. It was arranged that I could get some money at the Section for him also including the wrist watch, yes.

Q. On Sunday night when you and I were in the cafe opposite the barracks, did you not say to me, "We will split this between us as there isn't very much" and I said "alright" That will make approximately 15000 each.

A. I don't remember him saying that.

Q. Was it not the usual habit to just detail this lorry or was a man asked to drive the lorry?

A. I don't know about that, but you detailed me once to drive the lorry.

Q. The day that I detailed you to drive this lorry. Was that a "Buck Shee" lorry or was it a lorry with a proper load and a 106 which was delivered to 103 DID.

A. The load I was detailed to drive was delivered to 103 DID.

B 95013 Cpl. Rau F.

Witness.

EIGHTH WITNESS

No. M-103306 Pte Le Cerf H.G. #8 Section "B" Platoon 35 Cdn Army Tps Comp Coy RCASC, duly sworn states:

I know the accused Sgt Lawson, he is the MT Sgt of "B" Platoon.

In the month of December 1944 I was asked by Sgt Lawson if I would drive the "Buck Shee" lorry. It was common knowledge that who ever drove the "Buck Shee" lorry was to dispose of any Government rations which were placed on the lorry by anyone in the unit. I agreed. Between the accused and myself we purchased 8 cases of cheese from 58 BSD from the checker. I was not present at the time of purchase but the accused asked me for money to purchase the stores and I gave him 2000 francs. The accused then went back into the building and very shortly afterwards 8 cases of cheese were placed on my vehicle. The accused then said these 8 cases were what he had purchased for the 2000 francs. The cheese was Government property and had the usual Government markings. Afterwards I left with the truck and the cheese and I sold it in WESTREM to a civilian. I can't recall the amount of money I received but I think it was approximately 3000 belgian francs per case. When I came back to the lines I gave Sgt Lawson half of the money I had received for the 8 cases of cheese. I told him the money was for the cheese which was placed on my lorry the day before. Sgt Hyde was present when I gave the money to Sgt Lawson.

CROSS-EXAMINED BY THE ACCUSED:

Q. This cheese was purchased jointly between us?

A. That is right.

Q. When you paid me on Sunday morning, did I give any of this money to anybody else in your presence?

A. Yes. Sgt Hyde.

M103306 Pte H.G. Le Cerf
Witness

SEVENTH WITNESS

No. B-80900 Cpl Jarvis W.G. No. 9 Platoon, 35 CdnnArmy Tps Comp Coy RCASC, CdnnArmy Overseas, duly sworn states:

I am a member of 35 Cdn Army Tps Comp Coy RCASC Cdn Army Overseas "B" Platoon. I know the accused Sgt Lawson. He is Tpt Sgt "B" Platoon. The accused functions as Tpt Sgt are to detail the drivers of vehicles for which every job is necessary and to instruct drivers and detail where to go and when. As far as I can recollect the accused took over this job during Oct or Nov 1944.

I am a Cpl in charge of # 9 Section and I receive instructions for my Section from the Tpt Sgt, Sgt Lawson. I have held this position since May 1944. During the latter part of Oct or beginning of Nov I drove to 62 BSD in a vehicle. At the BSD I had a conversation with the accused and we discussed the possibility of procuring some "Buck Shee" rations. "Buck Shee" rations are what is generally known as rations for which there is no 108, and for which there is no authority to draw from the depot.

On the following morning I had another conversation with the accused who asked me if I would like to drive a "Buck Shee" vehicle to BSD the following day. The "Buck Shee" vehicle is an extra vehicle laid on, if available, by the accused or platoon officer in order to carry any overflow of supplies. I agreed to drive the vehicle. Between 1 Nov and 5 Nov 44 I drove the "Buck Shee" vehicle to 62 BSD. At the BSD 20 cases of margerine were loaded on my vehicle. These cases were not marked on the 108 and therefore were not unloaded at the BPP where properly issued rations are unloaded. As the cases were being loaded on the vehicle, the accused told me that they were "Buck Shee" rations and to take them back to the platoon lines. These rations were the regular government rations. I took the rations back as instructed and they remained in the vehicle in the lines for 3 days. Some time within the 3 days the accused asked me if I had contacted any buyer. I told him I had. On the third evening, I with Pte MacInnis J.R. and Pte Olson A.B. unloaded the rations into a jeep trailer and we took them to a house a short distance outside WETTEREN where we sold the 20 cases to a civilian known as "The Gangster". A short time after, the gangster paid me 35,000 Belg francs. I returned to the platoon orderly room and gave the accused, Sgt Lawson, the 35,000 francs. He gave me 15000 francs, and of the balance I saw him put some in an envelope. I don't know what he did with the rest.

CROSS-EXAMINED BY THE ACCUSED:

Q. When we were at BSD did anyone approach you and I to talk about this certain deal with rations?

A. I don't remember.

Q. When we arranged the deal we spoke about, did I not say to you that a certain party had arranged the deal and wanted us to dispose of it?

A. Yes.

Q. On the night in the orderly room when the money was split did I not tell you the amount that went in the envelope and who it was going to?

A. Yes.

W.G. Jarvis
Witness

SIXTH
WITNESS

No. S/84732 S/Sgt Beckitt C, of 63 DID. duly sworn states:

I am S/Sgt Beckett,C. Storeman in 62 BSD which was issuing rations from approximately 1 Sep to 3rd week in December to 35 Cdn Army Tps Comp Coy RCASC. I recognize the accused here present but I am not sure of his name.

I can not remember the date, but some time in the beginning of Nov 44 The accused spoke to me on the morning we were issuing rations and said that he had a lorry that he could use to put on some rations if I had them to spare, so we loaded 20 cases of margerine on this Cdn lorry driven by a Cpl whose name I do not know. There was also 19 bags of Pulse which were a legitimate load and were a proper part of the issue and a proper 108 was made out. The 20 cases of margerine were not entered on the 108. The 20 cases were Government property. It was arranged that this would be disposed of and that a cut in the proceeds of the sale would be to me. I had no authority to dispose of these rations. At a later date 3 or 4 days I was handed an envelope by a Sgt, I am not sure whether or not he was the accused, which contained 10000 francs.

CROSS-EXAMINED BY THE ACCUSED:

Q. Was I the chief man or the first man who approached you in regards this deal. If not who was?

A. You were not the first man as far as I can remember the first approach was made by our Sgt Major Gordon and Sgt McGill.

S/84732 S/Sgt Beckett C.

Witness.

FIFTH WITNESS

No. L-6900 Pte Hollworthy T.E. "B" Platoon 35 Cdn Army Tps Comp Coy RCASC, Cdn Army Overseas, having been duly sworn states:

I have been driving in "B" Platoon 35 Cdn Army Tps Comp Coy RCASC for 2 or 3 months. I know the accused. He is Tpt Sgt of "B" Platoon for approximately 2 months.

Some time in Nov 44 as near as I can remember, the accused spoke to me near #5 BSD and asked me to drive the "Buck Snee" lorry to WETTERAU telling me that Cpl Rau F. would take my truck to 163 Bde. Cpl Rau was present at the time. I drove the vehicle into WETTERAU. There were some supplies on the lorry which were there when I took it over. Pte Brian was with me. In WETTERAU Pte Brian disposed of the load to civilians. I was driving. As far as I know the supplies on the truck were government rations. Pte Brian gave me 4000 francs. As far as I remember I gave the accused 1000 francs from this sum which he accepted without comment.

CROSS-EXAMINED BY THE ACCUSED:

Q. On that day at the BSD did not you and Brian first approach me outside of the BSD and ask for a vehicle as you had some stuff you wished to dispose of?

A. No.

Q. To your knowledge did I have anything on that lorry I had purchased myself.

A. No.

L-6900 Pte Hollworthy T.E.
Witness

FOURTH WITNESS

No. 71104 Pte Brian J.J. "B" Platoon 35 Cdn Army Tps Comp Coy RCASC duly sworn states:

I am a driver in #7 Section of "B" Platoon and have been in this section for approximately a month. I came to the platoon in Sep 1944 and was in #9 Section from then until I transferred to #7 Section. I know the accused, Sgt Lawson and he is the Platoon Sgt.

About 3 weeks or a month before Xmas, as far as I can remember I spoke to the accused at 58 BSD. I asked Sgt Lawson if there was any possibility of me taking my vehicle to WETTEREN to take some stuff down. In the BSD he said yes, when we arrived outside, it was changed and Sgt Lawson said to put all the surplus rations in Edworthy's truck because he was going to go down with the truck and I was to go down with him. He said to me "Don't forget me". I said "OK". Edworthy and I drove the vehicle to WETTEREN and I sold the load to a civilian commonly known as the "Gangster". I received 13000 Belgian francs for my part and some for Edworthy's part. I can't remember the exact amount. About 2 nights after this I saw the accused in camp and gave him 9000 Belgian francs. At the time I gave him the money I told him that Rammage wanted a split for the use of his truck but that I could not afford to pay him myself. The accused accepted the money without a comment.

The supplies on the load referred to above to my knowledge were Government supplies or rations.

CROSS-EXAMINED by the accused:

Q. Did Edworthy have any rations of his own on that lorry?

A. I don't know for sure if he had rations of his own.

Q. But there was rations on that lorry for which you sold and paid him money.

A. I gave him money but I don't know if the money belonged to him or anybody else.

Q. On that day outside the BSD were not you and Edworthy together when you asked me for a vehicle.

A. I asked you inside for the loan of my vehicle and when I got outside I went up to you and said, "Is it OK", and you said "You will have to transfer your stuff onto Edworthy's lorry.

Witness.

THIRD WITNESS

No. B-115277 Pte Ross A.C. "B" Platoon 35 Cdn Army Tps Comp Coy RCASC duly sworn states:

I am a driver in #7 Section of the platoon. I know the accused, Sgt Lawson and he is the MT Sgt of the platoon, where his duty is to look after the detailing of vehicles to pick up and deliver Government supplies. I have been with the platoon since last June. I do not know anything about the accused's activities in connection with the sale of Government rations but I do know that Sgt Lawson has run "Buck Shee" lorries to BBD. I know of this only on a few occasions since the move to St Leonards around 1 Dec 1944. A "Buck Shee" lorry is an extra truck over and above those necessary to carry supplies from BBD to DID.

CROSS-EXAMINED BY THE ACCUSED:

Q. Have you any knowledge of any other person in the platoon running these "Buck Shee" lorries?

A. No.

B 115277 Pte. Ross A.C.
Witness.

SECOND WITNESS

No. C-41986, Sgt Carriere, J.R.R., No. 1 SIS, First Cdn Army, having been duly sworn, states:-

I am No. C-41986, Sgt Carriere, J.R.R. No. 1 SIS, First Cdn Army.

On 20 Jan 45, while conducting an inquiry of No. 35 Comp Coy RCASC, I saw Sgt Lawson, the accused. I informed him that as a result of statements made by other members of his platoon there was reason to believe that he had been concerned in other offences. He then volunteered a further statement which I took down in writing and after reading it he signed it in my presence. Before starting to take the statement I wrote down the caution and after reading it he signed it in my presence. This caution appears at the top of the statement. I might say that the previous day Sgt Lawson approached me and stated that he wanted to make a further statement of things. I produce the statement which was signed by the accused in my presence.

On the 2 Feb 45 I saw Sgt Lawson again and told him that as a result of inquiries I had reason to believe that in the offence dealing with 20 cases of margarine he had been concerned with Sgt McGill of his unit. As a result of this Sgt Lawson volunteered another statement after the proper caution. The caution was written at the top or heading of the statement and singed by Sgt Lawson before giving the statement. I took the statement down and after reading it he signed it in my presence. I produce that statement.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

J.R.R. Carriere Sgt.
C-41986

The statements referred to in the evidence of the above witness are attached hereto as Exhibits "B" and "C" respectively.

Exhibit "A" Joh

SUMMARY OF EVIDENCE

Ernest John

in the case of No. B-84495 SGT/LAWSON [illegible] 35 Cdn Army Tps Comp Coy RCASC, Cdn Army Overseas,

BY DIRECTION OF THE COMMANDING OFFICER, THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS

No. U-1913, Sgt Sutherst, R.S., No. 1 SIS, First Cdn Army, having been duly sworn, states:—

I am No. U-1913, Sgt Sutherst, R.S. No. 1 Cdn Special Investigation Section, First Cdn Army. On 10 Jan 45, while on duty in Belgium, I saw No. B-84495, Sgt Lawson, E.J., transport sgt of No. 35 Cdn Army Tps Comp Coy "B" Pl, at the SIS Detachment at Smetlede. I told him who I was and that I had reason to believe that he had been concerned with the disposal of military rations with other members of his unit to civilians in that area. I cautioned him. I told him that he was not obliged to say anything unless he wished to do so but that anything he did say would be taken down in writing and might be given in evidence. I asked him if he wished to make a statement and he expressed willingness and in a straight forward manner made a statement which I reduced to writing. The statement was read over to him. He was also allowed to read the statement, after which he signed it. This statement I now produce. That is all my evidence.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

U-1913 Sgt.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

E - 3 STATEMENT IN MITIGATION in the Case of B-84495, Sgt E.J.Lawson, 35 Cdn Army Tns Comm Coy RCASC

The only possible reason for these events was the "old Army system". The accused is now 28 years old. He joined up 9 days after the outbreak of war. He was 22 then. Throughout his time in England he was always under pressure to scrounge--"Get this and get that". The Pl always required things not on its WE. They had to be got. What has a NCO to do when instructed to get something; he gets it. The offr says "good work". Scrounging is the order of the day.

The accused comes to a new Pl. He must get to know his pl. He had 75 men to look after. He finds something irregular going on. The men were scrounging rations. This was going on long before he got there. It was in the blood of the pl. The accused was approached for a lorry to deliver scrounged rations. Then he had to make a decision. Consider the difficulty of his position--to refuse to allow something which had always been permitted. It was then he made his fatal error and let the lorry go. Then he went to England on compassionate leave, returning to find the situation greatly out of hand.

Sgt Lawson was greatly relieved when he was caught. He is guilty. He knows he is guilty. He was glad when disclosure came and he could get this off his conscience. Consider the temptation of Belgium. The customers waiting with hundreds of thousands of francs. The soldiers were badgered. They were living in a den of thieves, of Belgian black marketeers.

He has a clear record. He has been in the Army 5½ years. He is married, his wife living in the UK. He has 3 children, the last one born in September 44. His wife has been very ill. That is why he had compassionate leave. His father was killed at Ypres in the last war. His mother died in 1925.

It is not the man, it is the system which brought this trouble about. The men started it by telling him not to be a heel. He gave in, he succumbed to the vicious system. I urge leniency.

Hq

MEDICAL OFFICER'S CERTIFICATE
(K.R. (Can) Para 557)

I certify that I have this morning examined No. B.84495
Sgt Lawson, E.J. of 39 Cdn Army Tps Composite Coy, R.C.A.S.C
and in my opinion he is fit to undergo trial by Court-Martial.

Date 21 Feb 45

Medical Officer

ADJOURNMENTS

"AT 1056 hrs ON 19 Feb 45 THE COURT
ADJOURNED UNTIL 0900 hrs ON THE 21 Feb 45
ON THE 21 Feb 45 AT 0900 hrs. THE COURT REASSEMBLE
PURSUANT TO ADJOURNMENT, PRESENT THE SAME MEMBERS AS WHEN
ADJOURNED".

The Court satisfy themselves that Capt D J MacAllister
36 Cdn Army Tps Comp Coy RCASC, is not available to serve
owing to the exigencies of the service. Capt HR Pinder
9 Cdn FDC, RCASC, waiting member, takes his place as a
member of the Court.

B.84495

Sgt LAWSON, E.J.

fit.

19 Feb

Joh

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B84495	Sgt		Ernest John	LAWSON	36 Cdn A Tps Comp Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~[illegible]~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) this date endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial". Lawson.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~[illegible]~~) Lawson.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ Lawson.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	J D Learment	Nth NS Highrs

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
Captain	H T Hargrave MBE	2 Cdn Tk Tps Wksp RCEME
Captain	D J McAllister	36 Cdn A Tps Comp Coy RCASC

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
Captain	R R Pinder	9 Cdn FDS RCAMC

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Rank.	Name	Unit.
Lt col	G E Tritschler	AJAG HQ First Cdn Army

(Must be named, if any. RP 106.)

On Active Service in the Fd

in HOLLAND (Country.)

H M Elder (Signed personally. RP 105 fn 2.) (H M Elder)

Brigadier (Rank.)

Dat 16 Feb 45

Commanding DDMS First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (6143)

CHARGE SHEET in the case of B-84495 Sgt Lawson E.J. (Cont'd)

SEVENTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, between 15 Sep 44 and 10 Jan 45, when acting as Transport Sergeant in 35 Cdn Army Tps Comp Coy, RCASC, was concerned in improper dealings in connection with Army rations, other than the rations referred to in the first, second, third, fourth, fifth and sixth charges.

In the Field

16 Feb 45.

D.B. Monsoin
Major
Officer Commanding
35 Cdn Army Tps Comp Coy
RCASC

Approved under RR Can 540
[illegible] Capt
ADTA 1 Cdn Army
16 Feb 45

To be tried by FGCM

In the Field

16 Feb 45

H.W. Elder Brig.
DDMS FIRST CDN ARMY

CHARGE SHEET

Ernest John

The accused No. B-64495 Sgt/LAWSON ... ., 35 Cdn Army Tps Comp Coy RCASC, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916

in that he

In the Field, on or about 5 Nov 44, stole 20 cases of margarine, being Army rations, public property from 62 BSD.

SECOND CHARGE (Alternative) Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT, 1916

in that he

In the Field, on or about 5 Nov 44, did receive 20 cases of margarine, being Army rations, public property, knowing the same to have been stolen.

THIRD CHARGE Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916,

in that he

In the Field, on a day, in the month of Dec 44, stole 8 cases of cheese, being Army rations, public property from 58 BSD.

FOURTH CHARGE (Alternative) Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT, 1916

in that he

In the Field, on a day in the month of Dec 44, did receive 8 cases of cheese, being Army rations, public property, knowing the same to have been stolen.

FIFTH CHARGE Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916

in that he

In the Field, on or about 7 Jan 45, stole 10 cases of cheese and 2 cases of coffee, being Army rations, public property, from 58 BSD.

SIXTH CHARGE (Alternative) Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT, 1916.

in that he

In the Field, on or about 7 Jan 45, did receive 10 cases of cheese and 2 cases of coffee, being Army rations, public property, knowing the same to have been stolen.

(Cont'd)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record and Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 112(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

ADJOURNMENT (See minutes of Adjournment)

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Yes, I wish to call Major Kerrison, CO and Lt Hancock No 1513

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM a. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes by my defending Officer.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-64495 Sgt Lawson E.J. 35 Cdn Army Tps Comp Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd (Alternative)			Withdrawn by Prosecutor RP. 35(C)
3rd	Guilty	Guilty	
4th (Alternative)			Withdrawn by ProsecutorRP 35(C)
5th	Guilty	Guilty	
6th (Alternative)			Withdrawn by Prosecutor RP. 35 (C)
7th	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He (she) will undergo [illegible] beginning on [illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 39 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks and to suffer penal servitude for the term of three years.

(Sgd) Pte Prosecutor Lt.-Col. — Judge-Advocate, if any.

21 Feb 45 — Date awarded.

(Sgd) [signature] — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 25 Feb 45 (Sgd) [signature] Commanding ~~[illegible]~~ HQ 1 CDN INF DIV

~~[illegible]~~ 1ST CDN ARMY

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) [illegible]

(1. AA 57A. Delete if not used.)

Date 2 Mar 45 (Sgd) [signature] (H.D.C. CRAWLEY) GENERAL

Commanding GOC in C FIRST CDN ARMY

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-64495 Sgt Lawson E.J. 35 Cdn Army Tps Comp Coy RCASC	9 Mar 45	[signature] OC 35 Cdn Army Tps Comp Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is cleared to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 112(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

ADJOURNMENT (See minute of Adjournment)

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. Yes, I wish to call Pte Morrison 40 Coy 1st Hancocks No 1813.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statements and Conduct Sheet, and in mitigation of punishment?(1) Ans. Yes by my Defending Officer.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or~~ JA, ~~clamp~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

~~RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.~~

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2 & C3.
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CHIEF JAG'S OFFICE 47-85

FIELD GENERAL COURT-MARTIAL

CFA96 (To Reg of AFA2) 40/P&S 8/1698 (40-0)

Convened by Order of Brig H M ELDER DDMS First Cdn Army 4/38B dated 16 Feb 45

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-84495	Sgt	"	Ernest John	LAWSON	35 Cdn Army Tps Comp Coy RCASC

PROCEEDINGS REVIEWED
12 Apr 45
W.M. McGuinness Capt
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 16 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offr under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MAML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~him~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~him~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~him~~ fit to undergo trial by court-martial.(1) ~~and that the Court and the accused may be informed accordingly by the President.~~

(1. KR Can 557. 2. AA 44(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Have you any objection to any officer of the Court or shorthand writer?~~ ~~The Interpreter is sworn~~ ~~The shorthand writer is sworn~~(1) Do you object to ~~him~~ as shorthand writer? Ans ~~No~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offr under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J D LEARMENT	Nth N S Highrs
Member	Capt	H T HARGRAVE MBE	2 Cdn Tk Tps Wksp RCEME
Member	Capt	R R PINDER	9 Cdn FDS RCAMC
Judge-Advocate	Lt-Col	G E TRITSCHLER	AJAG First Cdn Army
Prosecutor	Capt	E B BULL	ADJA First Cdn Army
Defending Offr	Lieut	N S SAMUELS	S&T Branch, 2 Cdn Corps HQ

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See OI p 3.)

A8. The accused B-84495 Sgt LAWSON E.J. before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~him~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I. of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form G & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.A.P. 136

HY 80

Lgt Lawson, E.J.

72 S.I.S. C.M.P.
4th August, 1944.

STATEMENT of:- NO.A.18131 SPR.LAWS B.P. 1 CANADIAN MECHANICAL EQUIPMENT COY., CAEN.

WHO STATES:-

" I have been cautioned that I need not say anything unl
I wish to do so and anything I do say will be taken down in writing and may be given in evidence".

(SGD). B.P.LAWS.

I was told that there was some wine at the excavator which had been found by PHILLIPS and EVANS. I went down with them and helped them bring some bottles away in a sack.

(SGD). B.P.LAWS.

I have read this statement and it is true.

(SGD). B.P.LAWS.

Statement taken and signature witnessed by SGT.WHEATLEY 72 S.I.S. C.M.P. in the presence of SGT.ASPDEN 72 S.I.S.C.M.P. on 3rd August,1944, at CAEN.

Exhibit E
J.H.P.

"B"

72 S.I.S. C.M.Police,
4th August, 1944.

STATEMENT of:- NO.B.44646 SPR.PHILLIPS J.M. 1 CANADIAN MECHANICAL EQUIPMENT COY., CAEN.

WHO STATES:-

" I have been cautioned that I need not say anything unless I need to do so but anything I do say will be taken down in writing and may be used in evidence".

(SGD). J.M.PHILLIPS.

I was with EVANS and LAWS when we found some bottles of wine in a cellar, the building was wrecked, and I thought the stuff would'nt be used so together with the other two the bottles were put in sacks and we were going to casche it before returning to our unit when you picked us up.

(SGD). J.M.PHILLIPS.

I have read this statement and it is true.

(SGD). J.M.PHILLIPS.

Statement taken and signature witnessed by SGT.WHEATLEY, 72 S.I.S. C.M.P. in the presence of SGT.ASPDEN 72 S.I.S.C.M.P. on Thursday 3rd August, 1944.

Exhibit D
p.B.

'A'

72 S.I.S. C.M.P.
4th August, 1944.

STATEMENT OF:- NO.1914123 SPR.EVANS W. attached to NO.2 SECTION, 1 CANADIAN MECHANICAL EQUIPMENT COY., CAEN.

WHO STATES:-

" I have been cautioned by SGT.ASPDEN, S.I.B. that I am not obliged to say anything unless I wish to do so but whatever I do say will be taken down in writing and may be given in evidence."

(SGD). W.EVANS.

On 3rd August, 1944, I was out with LAWS AND PHILLIPS and we found some wine in a cellar. We put 7 bottles in a sack and were walking back to our billet when we were stopped by the police.

I have had the above statement read over to me and it is correct.

(SGD). W.EVANS.

Statement taken and signature witnessed by SGT.ASPDEN, S.I.B. in the presence of SGT.WHEATLEY, S.I.B. on 3rd August, 1944, at Caen.

Exhibit B
J.A.B.

72 S.I.S. C.M.P.
4th August, 1944.

STATEMENT OF:- NO.14386056 SGT.ASPDEN.J.B. 72 SPECIAL INVESTIGATION SECTION, C.M.POLICE.

WHO STATES:-

At about 21.30 hours on 3rd August, 1944, in company with SGT.WHEATLEY, I was keeping observations in the vicinity of CAEN town centre when I saw three soldiers two of whom were carrying sacks.

We stopped them, told them who we were and asked what the sacks contained. One of them, whom I now know to be NO.1914123 SPR.EVANS W. replied, "IT'S SOME WINE WE BOUGHT FROM A FRENCHMAN." Not being satisfied with this explanation we asked them to show us the place from where it had been purchased. EVANS thensaid, "WE CAN'T AS WE GOT IT FROM THE CELLAR OF A HOUSE."

I cautioned EVANS who elected to make a voluntary statement which I took down in writing at his dictation and which he signed. STATEMENT marked "A".

I informed CAPT.ELLIOTT O/C NO.1 CANADIAN MECHANICAL EQUIPMENT COY., 7 BASE SUB-AREA, of the circumstances and he ordered EVANS into open arrest.

The property subject of the charge, i.e. seven bottles of wine is now produced MARKED "D".

J. B. Aspden

4th August, 1944. .....
SGT.NO. 14386056.

Exhibit A.
J.B.A.

72 Special Investigation Section,
C.M.Police.

STATEMENT of:- NO.14264941 SGT.WHEATLEY B.S. 72 SPECIAL INVESTIGATION SECTION, C.M.POLICE.

WHO STATES:-

At about 21.30 hours on 3rd August, 1944, in company with SGT.ASPDEN, I was keeping observations in the vicinity of CAEN town centre when I saw three soldiers two of whom were carrying sacks.

We stopped them, told them who we were and asked what the sacks contained. One of them, whom I now know to be No.1914123 SPR.EVANS W. replied, "IT'S SOME WINE WE BOUGHT FROM A FRENCHMAN". Not being satisfied with this explanation we asked them to show us the place from where it had been bought. EVANS then said, " WE CAN'T AS WE GOT IT FROM THE CELLAR OF A HOUSE."

The other two men NO.H. 44646 SPR.PHILLIPS J.M. and NO.A18131 SPR.LAWS B.P. were cautioned by me and each elected to make a voluntary statement which I took down in writing at their dictation and which they signed.

STATEMENT from PHILLIPS marked "B".
" " LAWS " "C".

CAPT.ELLIOTT O/C No.1 CANADIAN MECHANICAL EQUIPMENT COY., 7 BASE SUB-AREA on being informed of the circumstances ordered them to be placed under open arrest.

The property the subject of the charge is now produced MARKED "D".

4th August, 1944.

B.S. Wheatley
.....
SGT.NO.14264941.

Exhibit C
J.H.P.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B.44646 Spr. John Martin PHILLIPS and No. A.18131 Spr. Basil Percy LAWS, both of No. 1 Cdn Mech Eqpt Coy, R.C.E., Cdn Army Overseas, charged with Conduct to the Prejudice of Good Order and Military Discipline (AA 40).

The Officer Commanding does not direct that the evidence be taken on oath.

FIRST WITNESS No. 14386056 Sgt. ASPDEN, J.B., 72 S.I.S., CM Police.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "A".

J.A. Parker Capt
Officer taking the Summary.

The statement taken from No. 1914123 Spr. W.Evans, and referred to in Exhibit "A" is attached hereto as Exhibit "B".

SECOND WITNESS No. 14264941 Sgt. WHEATLEY, B.S., 72 S.I.S., CM Police.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "C".

The statement taken from No. B.44646 Spr. Phillips, J.M. and referred to in Exhibit "C" above is attached hereto as Exhibit "D".

The statement taken from No. A.18131 Spr. Laws, B.P. and referred to in Exhibit "C" above is attached hereto as Exhibit "E".

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) and (G) have been complied with.

In the Field.
9 Aug 44.

J.A. Parker Capt
1 Cdn Mech Eqpt Coy, RCE.
Officer taking the Summary.

Defending Officer

The prosecution has not established a case on either charge. No one saw Spr Phillips steal the wine. Their opinion was formulated from a general conversation. It has not been proved Spr Phillips was carrying wine or that he was at the place when it was taken from. There is no proof where the wine came from. Evans in Phillips presence says it came from a cellar Lewis in Phillips presence says it came from an excavator. Phillips says nothing.

Prosecuting Officer

declines to reply.

Judge Advocate.

The defending officer's motion is for dismissal of both charges on the ground that the prosecution has not established a prima facie case. That is to say that the prosecution has not produced evidence on which the accused could although not necessarily would find him guilty of either charge. Put another way the defence says there is no case which the accused is required to meet.

How the credibility of the various witnesses is a matter for the court to decide. The accused is charged with stealing 7 bottles of wine or alternatively with receiving the wine knowing it to have been stolen. Stealing is defined in MML p116 para 50 as follows (Reads first sentence). Receiving stolen goods is defined in para 65 p124 (Reads first sentence). The question for the court to decide now is not the guilt or innocence of the accused on either of these charges but whether or not the prosecution has adduced evidence from which the court could find him guilty of either charge. Put shortly the question is, is there any essential element of either charge on which the prosecution has failed to bring evidence sufficient to require an answer by the accused. If there is then that charge the prosecution has not brought a prima facie case. I refer the court to para 66 on p124 of MML (Reads paragraph)

The Court decide that the statement is inadmissable. The court re-opens and its decision made known to the accused.

14264941 Sgt Wheatley, B.S. recalled, still on oath, states.

Spr Phillips was helping to carry one of the sacks with two or three bottles in it. Evans was carrying a sack with three or four bottles. This was the wine. Seven Bottles produced, marked EXHBIT A

~~Fact~~ Phillips agreed with Evans during the conversation that the wine had been obtained from a cellar where the excavator had been working. We then proceeded to the unit. I afterwards took possession of the wine and made enquiries with a view to tracing its source without success.

Cross-examination

The two sacks are in our R.H.Q. I didn't see Phillips stealing wine I'm not sure whether it was Phillips or Laws who was carrying one of the sacks. All the wine was in two sacks. They said they got it from a cellar. One of them did say they got it from the excavator. It was either Phillips or Laws who agreed with Evans that they got it from a cellar. I couldn't swear whether Phillips or Laws.

RP 83(b) complied with

14386056 Sgt Aspden, J.B. recalled, still on oath, states

I was with Sgt Wheatley on the evening of 3 Aug. We were patrolling Caen when we saw ~~at~~ three soldiers in the vicinity of Caen centre. As two of the men were carrying sacks. Pte Evans was carrying one. I couldn't say which of the other two, Spr Phillips or Spr Laws, was carrying the other. We approached them and told them who ~~was~~ we were and asked them what they had in the sacks. Pte Evans "replied" it is some wine we bought from a Frenchman". Sgt Wheatley asked them to show us where it was bought and Evans replied "we can't do that we got it from the cellar of a house". We then asked them to get in the car and direct us to their unit. On arrival I saw Capt Elliott and asked to have a room to speak to these men. Spr Phillips was then questioned after he had been cautioned. He made a statement. Spr Phillips was then dismissed and the same procedure applied as regards Spr Law and Pte Evans.

Cross-examination

I have been in Caen since 2 Aug. We knew why we were coming here. I didn't see Spr Phillips steal the wine. I knew it was in his possession and his explanation was not satisfactory. I didn't ask Phillips if he was equally involved. He could have been walking along the streets and just joined the others. The wine was taken out of the sacks for easier transport.

S.S. To the court. There ~~was~~ only 7 bottles. Spr Phillips did not say they got it from the excavator. His remarks were that it was a lot of fuss about nothing. I can't say exactly what Phillips said. From the general conversation I formulated the opinion that the wine was taken from a cellar.

By the Court

Spr Laws said the wine had been taken from the excavator.

R.P. 83(b) complied with.

7.

Fourth Witness for Defence on admissability of statement, called with permission of the Court.

D-17093 Spr. Nielsen, T. B. sworn states.

I was in the orderly room with Cpl Turner when Spr Phillips and a Provost SgT came in. The Provost SgT sat down in a chair & started talking about this wine. He started writing on a piece of paper. When he had finished that he read it out loud and then asked Phillips to sign it. Phillips didn't want to sign it at first and the SgT left the orderly room. He came back after about five minutes or so and told Phillips he might as well sign because it was practically the same thing as the other fellows gave. Phillips then signed the statement. The SgT did not caution Phillips. He didn't tell Phillips he didn't have to make a statement if he didn't want to. Only one Provost was in the room when Phillips signed. I only saw the one Provost SgT at any time. I didn't know there had been two.

No Cross-examination

By the Court

I was just passing time. The Provost didn't say anything about getting out. R.P. § 3 (b) complied with.

Defending Officer

Statement is inadmissable. No caution was given. He was lead to believe that the statement would not be used in evidence when he signed it. It appears the Provost were attempting to frame a charge against Spr Phillips.

Prosecuting Officer

The statement was taken down by SgT Wheatley who as a Provost would and did caution the accused. SgT Aspden corroborates the evidence of SgT Wheatley. Phillips signed the statement in three places. Once to show he had been cautioned. Once at the end of the statement and once that he had read it and it was true. He admits signing it.

Judge Advocate

Refers to pages 72 et seq p 90 M.M.L. What the facts are is a matter for the court to decide. Before this statement can be admitted the prosecution must prove that it was given freely and voluntarily that is to say that it was not given by any inducement, threat or promise. A statement is not necessarily involuntarily if inducements were held out if those inducements or the impression produced by them were removed before the statement was given. There are certain rules which if followed undoubtedly produce a voluntary statement, if any. One of these is that the accused should be cautioned before his statement is given but the lack of a caution or non-observance of any of these rules does not make the statement inadmissable if the court is satisfied that it was not in fact induced by any fear of prejudice or hope of advantage. Since the burden is on the prosecution to prove affirmatively that the statement was free and voluntary if there is any doubt in your minds the accused must be given the benefit of that doubt and the statement held to be inadmissable.

The court is closed to consider the submission

Cross-examination

There were two other men in the room. I dont know who they were. I was in the room when Phillips was being questioned.

By the Court

Phillips was questioned by Sgt Wheatley. I was present at the questioning. There were two other men in the room. They came in shortly after the interview began. I was there when the statement was signed. Sgt Wheatley read back the entire statement. Spr Phillips made no objection to the statement or to signing it. When the two men came in Phillips said its all right they are friends of mine and they remained. I went next door on one occasion to ask one of the other men a question. Sgt Wheatley cautioned the accused before asking any questions. I did not hear Sgt Wheatley say he only wanted the statement for his C.O.'s information. I was in the room when the statement was signed.

R.P. 83(b) complied

14264941 Sgt Wheatley, recalled by Prosecuting Officer, still on oath, states

I cautioned Phillips before I questioned him. Then I wrote down the statement and included the caution in the statement. Sgt Aspden was present during the questioning. I didn't leave the room at all between the time I started questioning him and the time he signed the statement. I read the statement once to him, then he read it himself, then he signed it. He made no objection to signing. I did not say that I only wanted the statement for the information of my C.O. or that it wouldnt hurt him to make a statement.

Cross-examination

~~The two other [illegible]~~ I am not sure whether the other two men were in the room or came in after the questioning ~~[illegible]~~ started.

R.P. 83(b) complied with.

Third Witness for Defence on admissibility of statement, called with permission of the court and warned

A 18131 Spr Lewis B.P. sworn states

When we came in the gate we waited until they found Capt Elliott. Then Evans and I and one Sgt went into Capt Elliott's room and the other Sgt took Phillips into the orderly room. The sgt with me stayed with me all the time except for a couple of seconds. He made about two trips or the other sgt came in a couple of times. The sgt who was with me wasn't away for ~~[illegible]~~ more than a minute. Then the Sgt who had been with Phillips took me to the orderly room and the Sgt who had been with me stayed in Capt Elliott's room with Evans. He came in to us once and asked a couple of questions. Cpt Turner was in the room when the sgt questioned me. Spr Neilson was there too.

No cross-examination.

R.P. 83(b) complied with.

he said it wouldn't make any difference about the statement. He just wanted it to [illegible] to his C.O. He didn't promise me any thing or threaten me if I didn't make a statement. R.P. 83 (b) complied with.

Second Witness for Defence on admissability of statement

B53977 Cpl. Turner J.L. 2 Sec 1 Cdn Mech Cppt Coy. sworn states

I was in the orderly room when the SgT asked Spr Phillips his story. Phillips told him what happened. The SgT wrote it down on a piece of paper and asked Spr Phillips to sign it. Spr Phillips wouldn't sign it. ~~SgT~~ The SgT talked to Phillips for a while. He told him he only wanted the statement for his C.O.'s information. Then Spr Phillips signed.

Cross-examination

When Phillips refused to sign it the first time the SgT read the statement. Spr Nelson, Spr Phillips and the SgT were there. The second pronost went out, he wasn't there when the statement was signed.

By the Court.

I was in the orderly room when one pronost and Spr Phillips came in. The SgT just asked Phillips for his story. He didn't caution him. Phillips told his story. ~~after~~ When the SgT read the statement he didn't read any caution to Phillips. The SgT said he wanted it for his C.O.'s information and he didn't know whether any thing would come of it or not. The second pronost just came in the room once for a short while and turned around and walked right out again. SgT Whatley left the ~~[illegible]~~ room after Phillips refused to sign. Then he came back.

R-examined by Defending Officer with permission of Court

Spr Phillips never said that they had a cache. I did not hear him say that they were going to cache the wire before returning to the unit.

No cross-examination

R.P. 83 (b) complied with.

[redacted]

Second Witness for Prosecution on admissability of statement

14386056 SgT Ayden, J.B. sworn states

I am a sgt of 72 S.I.S. C.M.P. I was with SgT Whatley on the night of 3rd August. I was present when the accused made a statement. It was taken on the premises. The SgT told the accused who he was and gave him the usual caution and asked him if he wished to make a statement. The accused said he would. The statement was taken down in writing by SgT Whatley at the accused's dictation. On completion of the statement it was read over by the accused who signed it. The accused did not object in any way to what he was signing

Evidence in the case of Spr Phillips, J.M. - 1 Cdn Mech Cgpt Coy.

A-8 Defending Officer moves for separate trial of accused on ground that evidence of one of the accused may be material to the defence of the other and that the question of identity might arise.

Judge Advocate refers the court to RP 16 and fns and to Para 95 Ch VI of MML.

The court is closed to consider the motion

The court decides to allow the motion

The court is opened and the accused are again brought before the court.

The President announces that the motion is allowed.

D-2 Prosecution

First Witness

14264941 Sgt. Wheatley, B.S. sworn states

I am attd to 72 S.I.S. part of the Corps Mil Police.

At 2130 hrs 3 Aug 44 I was on duty in Caen keeping observation to prevent looting. I saw the accused whom I now know to be Spr Phillips with two other soldiers whom I now know to be Pte Evans and Spr Laws. I noticed they were carrying two sacks. I stopped them and asked what was in the sacks. Pte Evans replied it is some wine which we bought from a Frenchman. I told him I was not satisfied with the explanation, cautioned him, and Evans said "We got it from a cellar." Spr Phillips was present. I then examined the sacks and found 7 bottles of wine.

In company with Aspden who was also present I took Spr Phillips and Laws and Pte Evans to their unit. I cautioned Spr Phillips and took a statement from him. I did not promise him anything nor threaten him. I wrote the statement at his dictation. He read it over and signed it.

Cross examined by Defending Officer

I questioned him in a room in this building. Sgt Aspden and two other men, I'm not sure who they were, were in the room when the questioning took place and the statement was signed.

RP 83 (b) complied with

Evidence by accused on admissibility of statement

B-84646 Spr Phillips J.M. sworn, states

I did not make any statement at all. The Provost Sgt wrote out a statement and asked me to sign it. I didn't want to sign it. I knew it wasn't right. He went into the other room ~~to~~ when he came back he said that the other boys statements were the same as this one. "It won't hurt you" he said because I am just taking it to show to my commanding officer. Sgt Aspden was not in the room while I was being questioned or when I signed the statement. Cpl Turner and Spr Neilson 2 Cdn M.E. Sec were in the room. I did sign it. He made it out himself without asking me any questions, then read it over to me and I said I wouldn't sign it. He did not warn me that I need not make a statement.

Cross-examination

He read it over to me. I signed three times on the paper. I didn't read it over. I don't remember the Sgt cautioning me. I signed it because

3.

MEDICAL OFFICERS CERTIFICATE

K.R. (Can) Para 557

I certify that I have this morning examined No. B-44646 Spr Phillips J.M. of 2 Sec, 1 Cdn Mech Eqpt Coy RCE and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station Field

Date 17 Aug 44.

Sprain & bruising left ankle temporary

C B Munro Capt
Medical Officer

C. Finney

C.F. maj. 2.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-16131	Spr	Spr	Basil Percy	Laws	1 Cdn Mech Eqpt Coy
B-44646	Spr	Spr	John Martin	Phillips	1 Cdn Mech Eqpt Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 12 Aug 44 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial". CFB

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ CFB

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ CFB.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	C FRASER	1 Cdn Rd Constr Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	P D Huxley	1 Cdn Rd Constr Coy
Lt	W M UNDERWOOD	5 Cdn Fd Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	- NIL -	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	G H Jermyn	HQ 2 Cdn Corps

On Active Service in the Fd

in France (Country.) C. J. Bermingham (Signed personally. RP 105 fr 3) Col (Rank.)

Date 15 Aug 44 Commanding 1 Cdn A G R E Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA[illegible] (In lieu of AFA[illegible]) [illegible]

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, No. B.44646 Spr John Martin PHILLIPS and No. A.18131 Spr Basil Percy LAWS, both of No. 2 Cdn Mech Eqpt Section, No. 1 Cdn Mech Eqpt Coy, RCE, soldiers of the Canadian Army Overseas, are charged with:

First Charge
A.A.Sec. 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY STEALING

in that they

in France, on 3 Aug 44 stole 7 bottles of wine, the property of persons unknown.

Second Charge
A.A.Sec. 41
(Alternative)

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS

in that they

in France on 3 Aug 44 did receive 7 bottles of wine, the property of persons unknown, knowing the same to have been stolen.

J H Elliott Capt. R.C.E.
Officer Commanding
No. 2 Cdn Mech Eqpt Sec
No. 1 Cdn Mech Eqpt Coy RCE

In the Field
12 Aug 44

Approved pursuant to
KR Can 540 and Amendments
RO 4756 (13)
12 Aug 44
[illegible] Capt
ADJA 2 Cdn Corps

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
12 Aug 44

C J Bermingham

(C J BERMINGHAM) COL
COMD, 1 CDN A G R E

[illegible]

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (and (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First and Second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the ..... charge(s)~~, and allowed on the First and Second charge(s), and that, accordingly, ~~the trial will proceed on the ..... charge(s), but~~ the accused is (~~are~~) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

~~D5. President to accused: You will now proceed with your defence (1). You may, if you wish, give evidence~~ yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) ~~of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/
(*1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 71, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-44646 Spr Phillips J.M. 1 Cdn Armd Repr Coy

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		NOT GUILTY	NOT GUILTY	Noted: C. Fraser Col.
2nd		NOT GUILTY	NOT GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) London H. Jenkyns 17 Aug 44 (Sgd) C. Fraser Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 SEP 1944 JAG BRANCH G.H.Q.

RECORDED AT CMHQ IN AB 160. VVV 79

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P Ac S/1608 (3864)

Convening Order of Lt. Col. J. Birmingham Comd 1 Cdn AGRE dated 15 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-44646	Spr		John Martin	Phillips	1 Cdn Armd Repr Coy RCE
A-19131	Spr		Basil Percy	Lewis	1 Cdn Armd Repr Coy RCE

PROCEEDINGS REVIEWED J.C. Campbell Major 12 Sep 44 REVIEWING OFFICER, JAG BRANCH, G.H.Q.

PROCEEDINGS REVIEWED Date J.A. G.H.Q. 2 Ech, Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 17 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/37938

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under Instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~s~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused ~~s~~ (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~s~~ (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused ~~s~~ (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Spr Phillips(2). NO. S.I.R. Spr Lewis No. 5 I.R.

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under Instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C. Fraser	1 Cdn Armd Const Coy RCE
Member	Capt	P.D. Hagley	1 Cdn Armd Const Coy RCE
Member	Lt.	W.H. Underwood	5 Cdn Armd Coy RCE
Judge-Advocate	Capt	J.H. Jenkyns	No. 2 Cdn Corps
Prosecutor	Capt	J.S. Parker	1 Cdn Armd Repr Coy
Defending Offr	Capt	H.G. Wood	3 Cdn Armd Repr Coy

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 79 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Spr Phillips, J.M. before arraignment make(s) ~~s~~ (a) plea for separate trial. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

Spr Phillips J.M.

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~) and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Corps Book II Page 149

VVV-76 Spc Lewis B.P.
VVV-77 Spc Phillips J.M.

JOINT TRIAL

Served copy hereof on
Det Harry Joyce
at Grays Inn Rd Thomas Str
on Fri, 10 Oct 1941
H Thazie

Chancery
8654

Headquarters 4 Canadian Infantry Brigade.

TO Detective Harry Joyce

WHEREAS a Field General Court Martial has been ordered to assemble at Camberley on the fourteenth day of October 1941, for the trial of Private Victor Lawrence of the Royal Hamilton Light Infantry, Canadian Army (Active).

I DO HEREBY SUMMON AND REQUIRE YOU

Harry Joyce to attend, as a witness, the sitting of the said Court at Camberley on the fourteenth day of October 1941 at nine-thirty o'clock in the forenoon and to bring with you such records relating to the apprehension of the said Private Victor Lawrence which you may have in your possession, and so to attend from day to day until you shall be duly discharged; whereof you shall fail at your peril.

Given under my hand at Windlesham on the tenth day of October 1941.

C.B. Topp, Brigadier
Convening Officer.

Inspector Ross Regent 1113 //

Headquarters 4 Canadian Infantry Brigade.

TO P.C. George Chamberlain

WHEREAS a Field General Court Martial has been ordered to assemble at Camberley on the fourteenth day of October 1941, for the trial of Private Victor Lawrence of the Royal Hamilton Light Infantry, Canadian Army (Active).

I DO HEREBY SUMMON AND REQUIRE YOU

George Chamberlain to attend, as a witness, the sitting of the said Court at Camberley on the fourteenth day of October 1941 at nine-thirty o'clock in the forenoon and to bring with you such records relating to the apprehension of the said Private Victor Lawrence which you may have in your possession, and so to attend from day to day until you shall be duly discharged; whereof you shall fail at your peril.

Given under my hand at Windlesham on the tenth day of October 1941.

C.B. Topp, Brigadier
Convening Officer.

Headquarters 4 Canadian Infantry Brigade.

TO PC George Chamberlain

WHEREAS a Field General Court Martial has been ordered to assemble at Camberley on the fourteenth day of October 1941, for the trial of Private Victor Laurence of the Royal Hamilton Light Infantry, Canadian Army (Active).

I DO HEREBY SUMMON AND REQUIRE YOU George Chamberlain to attend, as a witness, the sitting of the said Court at Camberley on the fourteenth day of October 1941 at nine-thirty o'clock in the forenoon and to bring with you such records relating to the apprehension of the said Private Victor Laurence which you may have in your possession, and so to attend from day to day until you shall be duly discharged; whereof you shall fail at your peril.

Given under my hand at Windlesham on the tenth day of October 1941.

E.B. Topp, Brigadier
Convening Officer.

10th Witness: (contd) two or three miles of the vicinity and could find no sign of Lawrence anywhere. I reported that fact to the Orderly Room.

11th Witness: B36873 C&MS SEMPLE, C.W. will give evidence in connection with deficiencies.

Taken by me this 8th day of October, 1941 at CAMBERLEY, Surrey.

Signed: "R.J. Carroll" Lieut.

6 Witness: S/Sgt. G.L. Ayre, Cdn. Prov. Corps, states:

"At London, at about 1000 hrs on 16 Sep 41 I attended court at Bow Street Police Court. The a/m soldier was given into my custody as an absentee, by the Magistrate. He had been arrested by P.C. 498C, G. Chamberlain of the Metropolitan Police. I escorted him to No. 6 Cdn. Prov. Coy H.Q. where I handed him over to the n.c.o. i/c cells to be detained. He was dressed in "civies".

7th Witness: K53481 L/Cpl. BIANCHINI, A., states:

"I was n.c.o. i/c cells when the a/m soldier was brought in to be detained."

8th Witness: M24153 Cpl. HUGHES, D.L., 8 Cdn. Fd Amb, states:

"The accused was admitted to the 8 Cdn. Fd Hospital at POYNTERS, Cobham, Surrey on 15 Jul 41. His case was diagnozed as V.D.G.

The accused was due for discharge on 2 Aug 41 and I notified the pack stores Cpl to that effect.

At approximately 0830 hrs on 2 Aug 41 when checking discharges for transportation to the Reception Depot I found Pte Lawrence missing. I instituted enquiries. Sgt. Carter, W.R., made a search - no trace of this man.

I consquently reported the matter to Major P.S. Serrant, who was Officer i/c Hospital for the day.

9th Witness: M24090 Cpl. LANAHAN, E., 8 Cdn. Fd. Amb, states:

"I was in charge of the stores and checked what clothing Lawrence possessed, which were all civilian clothes, this was on the 15 Jul 41.

On 2 Aug 41 I received a list of discharges from the Orderly Room, included in which was Lawrence's name.

Lawrence received his clothes, signed for them and was waiting for the lorry to take him to the Reception Depot: when it was time for the lorry to leave Lawrence was missing.

10th Witness: M24008 Sgt. CARTER, W.R., states:

"I was in charge of the V.D. ward at the time Lawrence was in Hospital. The Orderly on duty reported to me that Lawrence was missing when the lorry arrived to take him to the Reception Depot.

I took a Staff car and covered all the main roads within

S-A-12

ABSTRACT OF EVIDENCE, in the case of

K.6987 Pte. LAWRENCE, Vernon Arthur, a soldier of the ROYAL HAMILTON LIGHT INFANTRY, CANADIAN ARMY (ACTIVE)

\- - -

1st Witness: B36814 Sgt. TRENDELL, H., States:

"I was company Orderly Sgtom 3 May 41. At 2230 hrs on that date it was reported to me that Pte Lawrence was absent from his quarters and he has been reported absent daily since that date.

2nd Witness: Harry Joyce, Detective, C.I.D. Metropolitan Police, Grey's Inn Road Police Station, states:

"On 7 Jul 41 I saw the accused in Guildford Street and questioned him regarding his identity and origin. He informed me he was born in America, but failed to produce identity papers. I was taking him to the Station for further enquiries, when he admitted desertion from the Canadian Forces. Lawrence was in plain clothes when arrested.

3rd Witness: A3797 L/Cpl. RUTTER, S.C., states:

"At London on 8 Jul 41 at about 1330 hrs I was on duty at C.M.H.Q. when, acting on instructions, I proceeded to Clerkenwell Police Court where the a/m soldier appeared on a charge of being an absentee from the Canadian Army. He was dressed in civilian clothes.
He was arrested by Detective Harry Joyce (C.I.D.) Grey's Inn Rd Police Stn. He was remanded to me and I escorted him to C.P.C. HQ where he was handed over to the n.c.o. i/c cells to be detained.

4th Witness: A8099 L/Cpl. JEFFERIES, W.A., states:

"I was n.c.o. i/c cells at C.P.C. HQ when the a/m soldier was brought in to be detained.

5th Witness: George Chamberlain, P.C. 4980, states:

"On 15 Sep 41 I stopped the defendant in Wardour St., W.1, and questioned him and he admitted being a deserter from his Regiment. He was dressed in plain clothes.

No. B36987 Name Pte LAWRENCE, V. J. | Sqn., Battery, or Company "D" | Corps R.H.L.I. | Date of enlistment 18 Sep 39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 500M—5-39 (1705) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of diminution-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
Hamilton	13-3-40	Pte		AWL 1830 hrs 13-3-40 to 0500 hrs 14-3-40. AA 15(1)	Cpl. Owen L/C Clark	Forf 1 days pay. 1 day CB	15-3-40	Maj. Wilkinson	
Hamilton	6-4-40	Pte		AWL 2200 hrs 6-4-40 to 1400 hrs 8-4-40. AA 15(1)	Cpl. Trendell	Forf 2 days pay. 1 wk pp loss	13-4-40	Lt. Shambrook	
Shoreham	17-1-41	Pte		WOAS AWL at roll call at 2000 hrs on 17-1-40. AA 15(1)	Sgt. Semple	5 days PP 2	20-1-41	Maj. Wilkinson	
Aldershot	3-2-41			WOAS AWL from duty 1800 hrs 3-2-41 to 2300 hrs 3-2-41 AA 15(1)	Sgt. Semple L/C. Cruickshank L/C Mahoney	2 days PP 2 Forf 1 days pay	5-2-41	Maj. Wilkinson	
Aldershot	22 Mar 41	Pte		AWL 0700 hrs 22 Mar to 1645 hrs 7 Apr 31. AA 15(1). (Close arrest 1645 hrs 7 Apr to 9 Apr 41)	Sgt. Semple	21 days Detn	9 Apr 41	Lt.-Col. Labatt	Tot. forf. 30 days pay.

Certified to be a true copy:

(W.G. Shambrook) Capt. & Adjt.
R.H.L.I.

P 111

MBW

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(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. H-36987 NAME Pte. LAWRENCE, V.A. UNIT R.H.L.I.

AGE 20 MARRIED OR SINGLE Single NO. OF DEPENDENTS nil

DATE OF ATTESTATION 18 Sep 39

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL ✓ #5 MILITARY 29 HOSPITAL 18 TOTAL #52 Cons

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

n/a

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

Coy Stanley Capt. Unit.

Adjt., R. H. L. I.

Dated at Camberley

This 14th day of Oct 1941

(To be dated and signed as of date of trial)

DESCRIPTIVE RETURN OF* Vernon Arthur Lawrence, Pte B36987 who was apprehended at 4-45 pm (hour) on the Fifteenth day of September and was committed to confinement in [illegible] on the 15 day of October as a Deserter (or ~~Absentee without leave~~) from the ~~Bn.~~ of the Royal Hamilton Light Infantry Regiment of the Canadian Overseas Force

Age 20 yrs 6 mths Height 5 ft 8 inches
Complexion Fair Hair Brown Eyes Brown
Marks Nil In uniform or plain clothes Plain clothes

Probable date and place of attestation	18th September, 1939, Ontario
Probable date of desertion or beginning of absence and from what place	2nd August, 1941. Leatherhead
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	George Chamberlain PC 498 [illegible]

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* Was stopped in Wardour Street, W.1. and questioned by me and admitted being a deserter from his regiment.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to [illegible] stated, and has that he is [illegible] orps.

Signature, Residence, Post Town } of Committing Magistrate.

Date of Signature

V. G. Lawrence Signature of Prisoner

George Chamberlain Signature of Informant

POLICE COURTS POLICE COURTS

[illegible] her confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature, Residence, Post Town } of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

PART II. Army Form O.1618. (2)

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____

Regiment at ____ on ____ by ____

who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the_____

Police in connection with the apprehension of_____

_____and are

payable to_____

_____ (Superintendent or Officer i/c Police Station at

Date_____

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster_____is hereby authorised to pay to_____being the person recommended by the Committing Magistrate, a reward of_____for the apprehension of_____

Date_____ _____(O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

P 11

IMMEDIATE.

Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*10054) Wt.12205/256 10,000 5/39 A.& E.W.Ltd. Gp.698
(*12257) W.L.50225/1716 50,000 11/39 " " Forms/O.1618/b2

24 DESCRIPTIVE RETURN OF No 36987 B Pte Vernon Arthur LAWRENCE who was apprehended at Guilford St (hour) 3 pm on the 2 day of July 1941 and was committed to confinement at Hape Common Road Police Station on the 7th day of July 1941 as a Deserter (or Absentee without leave) from the Unit 56 Bn of the Royal Hamilton Light Infantry, Canadian Regiment Dominion forces at Aldershot

Age	20	Height	5 feet 10 inches
Complexion	Fresh	Hair	Lt Brown Eyes Brown
Marks	Nine	In uniform or plain clothes	Plain Clothes

Probable date and place of attestation	18 9 1939 Hamilton Ontario
Probable date of desertion or beginning of absence and from what place	3.5.1941 Aldershot
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Harry Pyke Detective C.I.D., Metropolitan Police, Hape Common Road Police Station, W6 1. who on oath saith:-
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	On 7th July 1941 I saw the accused in Guilford Street, and questioned him regarding his identity & nationality. He informed me he was born in America but failed to produce identity papers. I gave him a form to take to station for further enquiries when he admitted desertion from the Canadian forces

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is a deserter the before-mentioned Corps.

Signature of Magistrate

One of the Magistrates of the Bow Street Courts of the Metropolis sitting at The Police Court Clerkenwell

Date of Signature

Signature of Prisoner

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature of Magistrate

Residence

Post Town

Date of Signature

Care should be taken to insert Army No. and Rank.

Strike out " was apprehended " or " surrendered," as the case may be.

It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

Strike out " is " or " is not a Deserter " or " Absentee without leave from," or " belongs " or " does not belong to," as the case may be

P1
JBW

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IMMEDIATE.

Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

---

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*16371) Wt.[illegible] 70,000 11/40 A.&E.W.Ltd. Gp.[illegible] Form O.1618/[illegible]

A. 125. Getting ready and going out without saying anything.
Q. 126. Did he discuss it with you ?
A. 126. No, dir.
Q. 127. Just what do you mean by "getting ready"?
A. 127. Coming in and getting his clothes on and going out .
Q. 128. Would he not do that ordinarily, going out in the afternoon; did he not discuss it with you ?
A. 128. No, sir.
Q. 129. Did you have the feeling he was going for good ?
A. 129. No, sir.
Q. 130. Did you think he would ?
A. 130. No, sir.

The conditions of R.P. 40 having been complied with, the accused elected to make a statement, not under oath.

Statement of B36987 Pte. LAWRENCE, V.A., RHLI.

To start with, I had no intention of being a deserter. The one reason I had for going was that I had applied for a transfer to my brother's Unit, and it had been ignored. I put it on the Major's desk myself. I figured I wasn't getting any 'breaks'. Maybe it was my attitude, I don't know. I was as good a soldier as anyone else. I can get my equipment. I did not leave London so I would not be unable to get back to the Unit. I was in London all the time and did not try to get work or anything. There was nothing to do. I did not leave London on account of I wanted to be close to the Unit. The reason I am not making this statment on oath is because I have a personal feeling for a girl. I did not join up to be a deserter; I knew what I was going into. I applied for this transfer and did not get it. I had no intention of being a deserter.

I could have left the country - in fact I had the opportunity but did not take it. I refused it. That is all I have to say. On Denman Street, the 3rd storey of the building, on top of the "Mazurka Club" is where I left my uniform. Everything I took with me is there; my walking out dress. I had my civilian clothes made for my leave that was supposed to be coming up. It had come out in Orders that we could have a civilian suit with the C.O.s permission for leave. I had it made at Nieburg the Tailor's, Whitechapel Rd.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

THE PROSECUTOR MAKES A CLOSING ADDRESS.

COURT CLOSES FOR FINDING, 1145 hrs 14 Oct 41.

COURT RE-OPENS 1155 hrs 14 Oct 41.

THE PROSECUTOR is sworn and files Short Form of Statement of Character and M.F.M. 6, certified copy.

THE COURT CLOSES FOR CONSIDERATION OF SENTENCE.

CERTIFICATE: I hereby certify that the foregoing pages of typewritten matter, numbered 1 to 9 inclusive, is a true and accurate transcript of shorthand notes taken by me at the time and place first hereinbefore mentioned.

(D.A. Shenstone) S/Sgt., R.H.L.I.
Shorthand Writer.

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1st Witness for the Defence B37606 Pte. MacPHERSON, A.D., R.H.L.I., having been first duly sworn, is examined:

Q. 102. Are you acquainted with the accused ?
A. 102. Yes, sir.
Q. 103. What Company do you belong to ?
A. 103. "D" Coy.
Q. 104. Was that the Coy Lawrence belonged to ?
A. 104. Yes, sir.
Q. 105. Do you know anything about any kit of Lawrence's being left behind when he left the Unit ?
A. 105. Yes, it was all turned over to Quarter Stores that day or the day after he left.
Q. 106. Were there any exceptions ?
A. 106. Everything but walking-out dress.
Q. 107. I understand you were in the habit of wearing shoes that belonged to Lawrence ?
A. 107. Yes, sir. I have them, and one shirt too.
Q. 108. No other equipment ?
A. 108. No, sir.

QUESTIONED BY THE COURT.

Q. 109. What kind of shoes are they ?
A. 109. Soft ones.
Q. 110. Shoes, canvas ?
A. 110. Yes, sir.

EXAMINED BY DEFENDING OFFICER.

Q. 111. The shirt you have - is it flannel ?
A. 111. Yes, sir, flannel.

QUESTIONED BY THE COURT.

Q. 112. You said Lawrence's kit was turned into Quarter Stores - do you know what was turned in ?
A. 112. Webbing and things like that.
Q. 113. You cannot tell definitely what was turned in ?
A. 113. No, sir.
Q. 114. You said he was wearing walking out dress ? When did you know he left ?
A. 114. I saw him leave at noon hour.
Q. 115. On what day ?
A. 115. I believe it was a Saturday - around a week-end.
Q. 116. It was walking out dress he wore ?
A. 116. Yes, sir. As I am dressed now.
Q. 117. When did you see him ?
A. 117. When they brought him here to the Regiment.
Q. 118. What date ?
A. 118. Last week some time I saw him in police post.
Q. 119. You have never seen him in "D" Coy since an early day in May ?
A. 119. No, sir.
Q. 120. Have you been continuously with "D" Coy. ?
A. 120. I was in hospital and at the Holding Unit.
Q. 121. Are you a friend of Lawrence ?
A. 121. Since I have been in the Army, yes.

CROSS-EXAMINED BY PROSECUTOR.

Q. 122. Have you ever heard from him in that time ?
A. 122. No, sir.
Q. 123. Did you know he was going to leave ?
A. 123. I had an idea, but I did not know.
Q. 124. What do you mean - you had an idea ?
A. 124. Well, by his actions.
Q. 125. What actions ?

Q. 87. Did you have any conversation with him in relation to the Unit ?
A. 87. After I told him I was going to arrest him and take him to the station, I had conversation with him then.
Q. 88. Did you give him any warning ?
A. 88. I told him I was going to arrest him ?
Q. 89. But you gave him no caution ?
A. 89. No, sir.

QUESTIONED BY THE COURT.

Q. 90. Did this man produce a paybook ?
A. 90. No, sir.
Q. 91. Can you tell me, was he searched on going into the cells ?
A. 91. Yes, sir.
Q. 92. Did he have a paybook on him at that time ?
A. 92. No, sir.
Q. 93. No identification of any sort ?
A. 93. No, sir.

DEFENCE - NO QUESTIONS.

8th Witness for the Prosecution, B36638 Pte. McCABE, W.J., R.H.L.I. having been first duly sworn, is examined:

Q. 94. You are serving with the R.H.L.I. ?
A. 94. Yes, sir.
Q. 95. What are your duties ?
A. 95. Regimental police, sir.
Q. 96. What are the duties of the regimental police ?
A. 96. Our duties are most of the time with the prisoners - dealing with the prisoners and men remanded for Court Martial. When a prisoner comes in we check his kit after their sentence and when he goes out we check his kit and get his signature for it.
Q. 97. Do you remember the accused having been put into custody ?
A. 97. Yes, sir.
Q. 98. When ?
A. 98. I cannot just say the date. It was about a month ago.
Q. 99. Was a check made of his kit at that time ?
A. 99. The n.c.o. along with him, I understand, did go into this, and the only kit was what is on him now.
Q. 100. The regimental police did not handle anything ?
A. 100. No, sir.

QUESTIONED BY THE COURT.

Q. 101. Did he have a paybook ?
A. 101. I do not think so.
(The accused interposes with the remark: "No I didn't have a paybook").

A. 73. This is the list, I have been told. I have not checked with the original list. When I left the stores, the books and papers and notes were turned over to the next C.Q.
Q. 74. You cannot say that is the exact copy of your list ?
A. 74. I do not think it is my list. There are items here I do not recognize or remember.
Q. 75. Do you know where the present CQMS of "D" Coy is ?
A. 75. I was told he was sick and went to the Hospital, but is arriving back today.

QUESTIONED BY DEFENDING OFFICER.

Q. 76. What are the items on the list that make you think it is not your list ?
A. 76. Tools entrenching, tools entrenching carrier, cape, curtain A/G. That is about all.
Q. 77. Is there any reason for singling out those articles ?
A. 77. I do not imagine that anyone going A.W.L. would take those away. They do not take more than they have to.
Q. 78. Do you recall whether or not those articles were turned into stores ?
A. 78. No, sir, I cannot recall that.
Q. 79. Do you recall, shortly before the accused went A.W.L., an entrenching tool being turned in for repair ?
A. 79. I cannot remember that, sir.

THE ACOURT IS ADJOURNED AT 1030 hrs 14 Oct 41.

THE COURT RE-OPENS AT 1045 hrs 14 Oct 41.

7th Witness for the Prosecution. PC George Chamberlain, having been duly sworn, is examined:

Q. 80. Kindly tell the Court who you are and what your work is ?
A. 80. George Chamberlain, Police Constable No. 498 "C" Section, employed with C.I.D.
Q. 81. Do you recognize the accused ?
A. 81. Yes, Vernon Arthur Lawrence is his name.
Q. 82. Will you tell the Court when you saw Lawrence and the circumstances ?
A. 82. On 13 Sep about 4.40 P.M. I was on duty in plain clothes in Wardour Street. I saw Lawrence wearing his present dress, in the street. I approached him and told him I was a police officer and asked him for his identity card. He said: "I have not got it with me". I asked him in what part of the city he lived and he said Kennington. He had an obvious Canadian accent and I questioned him further. I asked him in which direction in London, Kennington was, and he told me S.W., beyond Hyde Park Corner. This was not correct. I asked him the names of schools he had attended in London and he was unable to tell me any of them. I told him I was not satisfied with his statements and believed he was a deserter or absentee from the Canadian forces. He then said: "All right, you can take me in", and I took him in to West Central Police Stn., and he appeared at Bow Street Station the following day and was held for military escort.

A.F. 0168 is produced.

Q. 83. Is that your signature there ?
A. 83. Yes, sir.
Q. 84. Were you there when the signature above yours was made ?
A. 84. Yes, sir.
Q. 85. That is signed by Lawrence ?
A. 85. Yes.
Q. 86. When you were questioning Lawrence, did you have any other conversation with him, about what he was doing in London ?
A. 86. No, sir. I simply asked where he lived, and the direction of Kennington, and he was obviously not telling the truth.

Q. 87.

I noticed the accient in his speech and asked his nationality. He told me he was an American. I asked to see his alien registration certificate and he said he did not have one. I then told him I would detain him, pending further investigation and take him to the police station. On the way, he said: "I guess its now use trying to fool you guys", and produced a service paybook, and admitted he was a deserter from the R.H.L.I., Canadian Forces. At the Police Station he was formally charged with being a deserter since 3 May this year. He made no reply to the formal charge when cautioned. He appeared at Clerkenwell Police Court on 8 Jul and was detained at Court until removal by escort. That is all.

Q. 57. What clothes was the accused wearing when you first saw him ?
A. 57. To the best of my recollection, he was wearing a double breasted jacket and a pair of brown shoes.
Q. 58. Civilian ?
A.m58. Yes.
Q. 59. While you were walking back to the Police Station, did you have any conversation with the accused ?
A. 59. Yes, we had some conversation. I remeber asking him why he had deserted, and he replied that when they came overseas he objected to the method of training and also objected to having to be bossed about by Officers who knew no more than he did.

A.F. 0168 is produced.

Q. 60. Is that your signature on this form ?
A. 60. Yes.
Q. 61. Were you present when it was made out ?
A. 61. Yes.

QUESTIONED BY THE DEFENDING OFFICER.

Q. 62. Did you say the accused used the word"deserter" when he admitted he was a member of the R.H.L.I. ?
A. 62. I am not at all sure that he used that word. He gave me the date of his absence. I am not sure that he did not say "I have been away ".
Q. 63. Did you say that in your conversation with him, he said he did not like the training of the regiment - did he seem warlike ? Did he think the regiment should have more strict training ?
A. 63. My impression - or the impression he gave me was that he had had too much.
Q. 64. But he thought himself a good soldier ?
A. 64. Yes, he did.

6th Witness for the Prosecution, B37051 L/Cpl. DUKES, W.F., R.H.L.I., having been first duly sworn, is examined:

Q. 65. In what Unit and Coy were you on 3 May ?
A. 65. R.H.L.I., "D" Coy.
Q. 66. What were your duties at that time ?
A. 66. Acting Coy Quartermaster Sgt. of "D" Coy.
Q. 67. Do you know the accused ?
A. 67. Yes, sir. Pte. Lawrence, V.A.
Q. 68. When did you last see him parade with "D" Coy ?
A. 68. On or about 3 May.
Q. 69. Have you ever seen him parade with the Coy since then ?
A. 69. No, sir.
Q. 70. Was it reported to you when he went absent on 3 May ?
A. 70. Yes, sir.
Q. 71. What did you do ?
A. 71. His kit was taken into stores and a copy of the deficiencies of the kit taken in was made up.
Q. 72. You have the list there, have you ?
A. 72. Yes, sir.
Q. 73. This list sets out the deficiencies as of 3 May ?

it was twice or three times - to issue clothes, and then it was cancelled. The last time I received instructions about patients for discharge I rece ved it about 2 Aug and I get the clothes at a quarter to nine. I knew Lawrence was a prisoner.

Q. 40. You returned these articles to him ?
A. 40. Yes, and he signed on the bottom. That goes back to our Records for reference.

CROSS-EXAMINED BY THE DEFENDING OFFICER.

NO QUESTIONS.

A document purporting to bear Lawrence's signature admitting receipt of civilian clothes and a pair of blankets, produced.

QUESTIONED BY THE COURT.

Q. 41. Nothing about boots there ?
A. 41. No, sir. He had boots, but I did not check them - he kept them.
Q. 42. Can you tell us whether or not the clothes the prisoner is now wearing are the same ?
A. 42. As far as I know they look about the same. I cannot swear to it.

4th Witness for the Prosecution, B/6814 Sgt. TRENDELL, H., R.H.L.I., having been first duly sworn, is examined:

Q. 43. What Unit and what Company are you serving with ?
A. 43. R.H.L.I., "D" Coy.
Q. 44. Do you recognize the accused ?
A. 44. Yes, sir.
Q. 45. Do you know what Coy he served in ?
A. 45. Yes, sir - "D" Coy.
Q. 46. Can you tell the Court when he last paraded with "D" Coy ?
A. 46. 3 May, sir.
Q. 47. Have you ever seen the accused on parade with "D" Coy since that time ?
A. 47. No, sir.
Q. 48. Did you ever see him until now ?
A. 48. No, sir.
Q. 49. Do you know if he had leave ?
A. 49. Not that I know of, sir.
Q. 50. What were your duties on 3 May ?
A. 50. I was Coy Orderly Sgt.
Q. 51. What happened on that date with regard to the accused ?
A. 51. The room corporal reported him absent to me on parade. I reported him to Coy Office as such.
Q. 52. You made a subsequent check ?
A. 52. I have checked every day, but there has been no sign of him.
Q. 53. By your being Orderly Sgt you would know he had left ?
A. 53. Yes, sir that is my duty.

NO QUESTIONS BY DEFENCE.

5th Witness for the Prosecution, Detective Harry Joyce, having been first duly sworn, is examined:

Q. 54. Will you tell the Court who you are ?
A. 54. Harry Joyce, Detective in "E" Section, Metroplitan Police.
Q. 55. Do you recognize the accused ?
A. 55. I do.
Q. 56. Who is he ?
A. 56. Vernon Arthur Lawrence. I saw him about three P.M., 7 Jul this year at Guildford St., London W.C. 1. He was sitting on the doorstep of No. 33. I approached him and told him who I was and asked who he was, and what he was doing there. He told me he was waiting to see some of the residents of No.33, the house outside of which he was sitting.

was ready for discharge and I notified the Orderly Room on the afternoon of 1 Aug to that effect. I was advised at that time that the accused was a prisoner, and notified the pack store corporal to that effect. The patient, being a prisoner, is not given his clothes in the morning until just, or a very short time, before the lorry arrives to take him to the Reception Depot. In the morning I got his clothes around 8.45 and after I got his clothes the patients from my Ward were brought into the Dispensary to receive final instructions from the M.O. before going to the Reception Depot. An orderly reported to me that the accused was missing.

Q. 22. At what time was this ?
A. 22. A few minutes after nine. The lorry was waiting for them. I instituted a search and with the permission of the C.O. took a staff car and covered the roads in the vicinity of the Hospital, but saw no sign of him, and had to report same to the Orderly Room.
Q. 23. How did you know he was a prisoner ?
A. 23. I was told by the Orderly Room Corporal. He came in under escort.
Q. 24. Did you see the clothes that were issued to the prisoner ?
A. 24. No, I did not know what they were.
Q. 25. Have you any idea how long he was in the Hospital ?
A. 25. No, sir, I don't know. He was not in my ward for a while. He had measles, or something.
Q. 26. How long was he in your Ward ?
A. 26. I cannot just say.
Q. 27. Two weeks, say ?
A. 27. More than one week, I would say.

CROSS-EXAMINED BY DEFENDING OFFICER.

Q. 28. Did you at any time see the prisoner with an escort ?
A. 28. No, sir.
Q. 29. Was the accused under any more surveillance than any other patient ?
A. 29. No, sir. Any time a man came under escort, the escort did not stay. We just were instructed to fix them up and get them out.
Q. 30. Then there was no difference ?
A. 30. No, sir.
Q. 31. Is there any difference regarding their pay and that of an ordinary patient ?
A. 31. I do not know, sir.

3rd Witness for the Prosecution, M24090 Cpl. LANAHAN, E., 8 Cdn. Fd Amb, having been first duly sworn, is examined:

Q. 32. What Unit are you serving with and what duties were you carrying out on or about 15 Jul to 2 Aug 41 ?
A. 32. I am with 8 Cdn. Fd Amb and was store steward.
Q. 33. What duties does that involve ?
A. 33. Looking after the patients in hospital and taking their equipment, giving receipts and getting same returned to them on discharge.
Q. 34. Was Lawrence a patient in your hospital ?
A. 34. Yes, sir.
Q. 35. Do you recognize him in this Court Room ?
A. 35. Yes, sir - that's the man there,(pointing to accused).
Q. 36. When was he a patient in your hospital ?
A. 36. He was admitted 15 Jul and discharged 2 Aug 41.
Q. 37. What did his clothing consist of ?
A. 37. One cotton shirt, two blankets and a civilian suit of clothes and braces. (Produces copy of receipt.)
Q. 38. No uniform or Army equipment ?
A. 38. No, sir.
Q. 39. When were these articles returned to him ?
A. 39. Prior to discharge I had notification - I am not sure whether

Q. 4. Where is the Hospital located ?
A. 4. At Poynters, Cobham.
Q. 5. Did you see Lawrence again ?
A. 5. No, sir.
Q. 6. He did not report again to the Hospital ?
A. 6. No, sir.

QUESTIONED BY THE COURT

Q. 7. Are you in a position to say that he could have reported but that you simply did not see him ?
A. 7. I do not think he came back.
Q. 8. If he went and reported, without being re-admitted, would you know ?
A. 8. I think so, sir.

CROSS-EXAMINED BY DEFENDING OFFICER.

Q. 9. Are you familiar with arrangements under which the accused was admitted to the Hospital ?
A. 9. Only by hearsay.
Q. 10. Would you know personally whether or not the accused was paid in Hospital ?
A. 10. I would not know.
Q. 11. What arrangements are made for paying ?
A. 11. Under hospital regulations all hospital patients are entitled to from one pound every two weeks, if they have their paybook with them. Some get ten shillings.

QUESTIONED BY THE COURT

Q. 12. The clothing that was returned to this man by pack stores was civilian clothing ?
A. 12. I think so, sir.

CROSS-EXAMINED BY DEFENDING OFFICER.

Q. 13. You implied in evidence that the accused was under escort and was a prisoner in the hospital ? Yet you know nothing of the circumstances that - the circumstances of his admittance ?
A. 13. I meant the circumstances that caused him to be admitted.
Q. 14. How did you know he was a prisoner ?
A. 14. We were informed.
Q. 15. By whom ?
A. 15. By whoever brought him.
Q. 16. You suggest he was brought under escort - what did you see ?
A. 16. I did not see it one way or the other. There is no written document. That was the impression - the understanding we were given.
Q. 17. There is no documentary evidence ?
A. 17. No, sir.

2nd Witness for the Prosecution, M24008 Sgt. CARTER, W.R., 8 Cdn. Fd Amb, having been first duly sworn, is examined:

Q. 18. Will you tell the Court your Unit and your duties ?
A. 18. I am with the 8 Cdn. Fd Amb. and at the particular time in question I was in charge of the V.D. Ward at Poynters Hospital.
Q. 19. Have you ever seen the accused - do you know him ?
A. 19. Yes, that's him. (Pointing to accused).
Q. 20. Tell the Court under what circumstances you saw him ?
A. 20. While the accused was a patient at Poynters Hospital I was on duty there.
Q. 21. What date was that ?
A. 21. I cannot name the dates; it was on 1 Aug, however that he

"E" Not Sent major 5

PROCEEDINGS OF A FIELD GENERAL
COURT MARTIAL HELD AT CAMBERLEY,
Surrey, ON .....14 OCT 41.

TRIAL OF: No. B36987 Pte. LAWRENCE, Vernon Arthur, R.H.L.I.

PROSECUTOR: Major H.F. Lazier, R.H.L.I. Lawyer

DEFENDING OFFICER: Lieut. J.K. Hunter, Essex Scots. Lawyer

SHORTHAND REPORTER: B36801 S/Sgt. D.A. Shenstone, R.H.L.I.

1. The Order Convening the Court is read to the accused.

2. The accused is asked the following questions:

Q. 1. Do you object to being tried by me as President, or to any other members of the Court ?.
A. 1. No, sir.
Q. 2. Do you object to the S/Sgt. taking down the evidence in shorthand ?
A. 2. No, sir.

3. The President, Members and shorthand writer are duly sworn.

4. The accused answers to his name and number and is duly arraigned on the charges.

5. The accused pleads "NOT GUILTY" to all charges.

6. R.P. 39 (A) is complied with and the accused answers "No".

7. The Prosecutor makes an opening address.

8 Cdn. Fd Amb, RCAMC, having been first duly sworn, is examined:

Q. 1. Do you know the accused ?
A. 1. Yes, sir. I have seen him in the Hospital.
Q. 2. Is he in this room ?
A. 2. Yes, sir - there (points to accused).
Q. 3. Will you tell the Court the circumstances under which you saw him ?
A. 3. The accused was admitted to our Hospital on 15 Jul 41, until 2 Aug 41. On the afternoon on the 1 Aug 41, as hospital clerk, I was notified that Lawrence would be discharged on the following morning, which information I conveyed to Cpl. Lanahan. I advised him that Lawrence was a prisoner and that he should not be issued clothes until the last minute. This was the procedure unless a prisoner under escort is released from hospital back to the Unit under regimental escort. At this time Division was moving around and it was not possible to contact the Unit or return him to the Reception Depot, as they were not able to contact the Unit. We had instructions to send him down under the escort of another patient and they would look after him. It was about a quarter to nine that I notified the pack stores that it was all right to issue this man's clothes to him. Around nine o'clock when I checked to see if everyone was ready for discharge, I was unable to locate the accused. I contacted Sgt Carter, the n.c.o. i/c the ward and asked if he had seen him. He said he had not, and we immediately instituted a search. It was reported to me that they had been unable to locate Lawrence and I accordingly notified the O.C. Hospital that this man had apparently gone A.W.L. That is all I have on this matter.

CHARGE SHEET

The accused, No. B36987 Pte. LAWRENCE, Vernon Arthur, ROYAL HAMILTON LIGHT INFANTRY, a soldier of the Canadian Army (Active), is charged with:-

FIRST CHARGE
A.A. Sec. 12(1)(a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

at Aldershot, on 3 May 41, absented himself from his Unit then stationed at Corunna Barracks, and remained absent until apprehended by the civil power in Guildford Street, London, on 7 Jul 41, dressed in plain clothes.

SECOND CHARGE
A.A. Sec. 12(1)(a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

at Poynters, Cobham, Surrey, on 2 Aug 41, while in confinement escaped and absented himself until apprehended in Wardour Street, London, on 15 Sep 41, dressed in plain clothes.

THIRD CHARGE
A.A. Sec.24(2)

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

on 26 May 41 at Aldershot was deficient the following:

✓	Anklets web - value	£- 4- 4
✓	Badges, cap "	1 -
✓	" worsted(RHLI) "	7½
✓	Boots, laces	½
✓	Blouse, serge, B.D. "	1-2- 6
✓	Boots, ankle "	1-2- 6
✓	Trousers, serge B.D."	1 - 6
	Brush,blacking "	1- 2
✓	Cap, F.S. "	2- 5
	Comb, hair "	2
	Discs identity "	4½
	Drawers, woolen "	7- 6
	Dressing First Field"	1- 1
	Holdall "	9
	Housewife "	7
	Knife, clasp "	2-10
	Razor "	5½
	Shirt, flannel "	9- 5
	Shoes, canvas "	3- 6
	Shirt, K.G., summer "	5 -
✓	Badges,worsted"CANADA"	5½
✓	Helmets, steel "	7 -
✓	Respirator, complete"	16- 6½
✓	Eyeshields, A.G. "	1- 1½
	Cape, A.G. "	12- 3
✓	Ointment, A.G. "	1- 7
	Curtain, A.G. "	1- 8
	Tools, entrenching "	2- 1
	" " carriers "	3- 7
		£7-9-9½

(R.R. Labatt) Lieut.-Col.
Commanding Officer, Royal Hamilton Light Infantry, C.A.(A)

At
Camberley, Surrey.
9 October, 1941.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(C.B. Topp) Brigadier,
Commanding, 4 Cdn. Inf. Bde.

At

October, 1941.

- - -

Unit R.H.L.I.
Squadron, battery or company

MORNING SICK REPORT
MEDICAL INSPECTION REPORT*

Army Form B 256

Station and Date Oct. 14, 1941. 194

Army No.	Rank and Name (Christian name in full Surname first. M under name if married)	Completed Years of Age	Completed Years of Ser-vice	Religion	If for duty†	Whether A Defaulter	Lines or Barracks	Room or Mess	Disease	Disposal Medical Officer's Remarks and Signature
[illegible]-30907	Pte. Lawrence, W.A.			CE					Examined and found fit for court martial, Capt. RCAMC.	

*Strike out whichever is not applicable.
†State nature of duty for which suited. In the case of men for medical inspection, the reason, such as "For trial by Court Martial," or "Joining the station," &c., should be stated against their names.

Orderly N.C.O.

WL 4544/1739. 2,500m 4/41. G.B. & Co. 81-4973.

COUNTER NUMBER 76793

HOUR 1140

OPERATOR'S INITIALS K.L

RELIEVING OPERATOR R.L.

2

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.36987 Private Vernon Arthur LAWRENCE, Royal Hamilton Light Infantry, Canadian Army (Active)	FIRST CHARGE Sec.12 (1) Army Act When on Active Service deserting His Majesty's Service.	NOT GUILTY	Guilty	
	SECOND CHARGE Same as above.	NOT GUILTY	Guilty	
	THIRD CHARGE Sec.24 (2) Army Act Losing by neglect his equipment, clothing and regimental necessities (SEE CHARGE SHEET ATTACHED)	NOT GUILTY	Guilty - deficient articles value $5/0/7½ as indic-ated on charge sheet	
			To undergo detention for one year and to be placed under stoppages of pay in the amount of $5/0/7½ to make good the cost of deficient articles W.B.West Major 1R Regt C President Confirmed. C.B.T.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— NO

(Signed) C.B. Topp (Signed) W.B.West. Major 1RRegtC

(C.B. Topp) Brigadier, 4 Canadian Infantry Brigade.
Commanding Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

33

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14 day of OCTOBER 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 14 day of October 1941.

W.B.West Major 1R Regt C
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 1 day of Nov. 1941,

Confirming Officer.

Promulgated and extracts taken in the case of B 36987 PTE LAWRENCE, HA.

(*a*) (Dated) 5 Nov. 41 (Signed) [illegible] Lieut-Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 42782/1937 20 M. 3/41 K.JL/2161(2) Gp. 698/3

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this eleventh day of OCTOBER, 1941.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*I am unable to appoint:—~~

~~(1.—Three Officers to form the Court.)~~

~~*(2.—A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A", to D.R.O. 772 on the trial of the person named in the annexed schedule.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.B. West	R.Regt.C.

Members.

Rank.	Name.	Regiment.
Capt.	L.R. MacDonald	Essex Scot.
Lieut.	W.B. Thomson	R.Regt.C.
Waiting Member - Lieut.	J.R. Turnbull	Essex Scot.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (C.B. Topp) Brigadier
Commanding 4 Cdn.Inf.Bde.
Convening Officer.

B.36987 Pte Lawrence J A.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of September 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ M.C. Pres.
*~~(4. The officers under instruction)~~ M.C. Pres.

were duly sworn.

* Omit if not applicable.

Signed this 30th day of September 1942

M J Clements Major

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

M/C

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of Oct 1942

P J Montague

Confirming Officer.

PART II A.O. 247. 16 OCT 42

Promulgated and extracts taken in the case of B36897 Pt Lawrence VA

(a) (Dated) Oct 15, 1942 (Signed) [illegible] Capt. Adjt. 4 Bde Wkg 2 C.D.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt. [illegible] 70m 2/47 W & Co., Ltd. Gp. 745/3

I hereby acknowledge that I have received one copy of the Summay of Evidence taken at Laurentide Camp preliminary to my Court Martial and further acknowledge receipt of the charge sheet in which I am being brought to trial.

...Lawrence V.A.
(Lawrence, V.A.)

Laurentide Camp
September 1942.

I hereby request that the Convening Officer, appoint Lieut Major, to represent me at my forthcoming Court Martial.

...Lawrence V.A.
(Lawrence, V.A.)

Laurentide Camp
September 1942.

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....,
.....beginning on the.....day of.....

4. The accused has been in confinement, awaiting trial on the present charges
for ——— days in Civil Custody,
and 3 days in Military Custody.
Total 93 days.
Of which ——— days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 18.9.39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years.

8. The accused is entitled to deferred pay or gratuity in respect of 3 years' service.

9. The accused is entitled to reckon three years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward for is in possession of or entitled to .....

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of
, dated , and in his regiment (or corps or department) the rank of
dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-36987 Pte. Vernon Arthur LAWRENCE of the 2nd. Cdn. Div. Inf. Reinf. Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or Status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.C.C.M.	14 Oct. 41 Aldershot	1.A.W.L. from 2230 hours 3 May 41 to 26 May 41. A.A. 12 (1). S.O.S. 26 May 41 by Court of Inquiry. 2.A.W.L. 1025 hours 2 Aug 41 to 9 Sep 41. A.A. 12 (1) S.O.S. 9 Sep 42 by Court of Inquiry. 3. WD&S losing by neglect clothing and regimental necessaries to the Sum of £5.0.7½. A. A. 24 (2)	To undergo detention for a period of 1 year	
Bow Street Civil Police Court	24 July 1942 London	Civil Charge "Receiving stolen property" i.e. 14 clothes ration books value 1s each, the property of the Board of Trade: Contrary to Sec. 33 Larceny Act 1916.	3 months in H.M. Prison "Wormwood Scrubs".	

(Continued overleaf.

Description of Court by which trial, or stating of Charge disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of September 1942

~~[illegible]~~
Bde Wing
2 C.D.I.R.U.

Exhibit C.
[illegible]

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-36987 Pte. LAWRENCE, V.A. of the No. 2 C.D.I.R.U.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R. 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	times	4 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. 1P

or,

There are no entries in the Conduct sheets of the accused. 2

2. The accused has not been previously convicted. 2

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

[illegible]

Certified True Copy

No. B-36987 Name Lawrence, V.A. Sqn., Battery, or Company Corps R.H.L.I. Date of enlistment 18-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q.-1772-45-1[illegible]

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	17 Jul. 42	Pte		Civil Charge "Receiving Stolen Property" i.e., 14 Clothes Ration Book value 1s. ea. The property of the Board of Trade: Contra Sec. 33 Larceny Act 1916 Close Custody 0400 hrs. 17 Jul. 42 to 23 Jul. 42 Inc. (6 days, 20 hrs.)		3 mos. in H.M. Prison "Wormwood Scrubs"	24 Jul 42	Bow St Police Court	Inf. 7 days pay F.R.&I. 149(1)(C) Inf. 93 days pay F.R.&I. 149(1)(B) Total Forfs. 100 days pay

(P.T.O.)

Certified True Copy — T.E. Rogers Capt Adj. 4th Wing 2 C.W.R.V.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
							14 Oct 41	F.G.C.M.	
Aldershot				A.O.S. 12-7-41 Close arrest from 1700 hrs 12-7-41 to 1025 hrs 2-8-41					Close arrest 21 days Forfs. 21 days pay
"				A.W.L. 1025 hrs. 2-8-41 to 9-9-41 AA 15(1)					Absent 38 days Forfs 38 days pay
				S.O.S. 9-9-41 By Court of Inquiry					
				A.O.S. 17-9-41 Close Arrest from 1730 hrs 17-9-41 to 14-10-41		1 Yr. Detn.			Close arrest 27 days Forfs 27 days pay
				W.O.A.S. losing by neglect Clothing and Kit & necessaries to the sum of £7-7-7½ A.A. 24(2)					Forfeits 365 days pay
				Charged with (1) Desertion AA 12(1) found - Guilty " (2) Desertion AA 12(1) Finding - Guilty (3) Neglect of AA 24(2) " - Guilty To extent of £5-9-7½					Tot. Forfeiture 424 days pay plus forfeiture £5-9-7½

Certified true Copy - T.E. Rogers Capt

Certified True Copy.

Exhibit D.

No. B-36987 Name Lawrence, V. A. Sqn., Battery, or Company | Corps R.A.L.I. | Date of enlistment 18-9-39 | G.C. Badges | Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 50004—8-39 (1701) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet 13-7-40 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Hamilton	6-4-40	Pte		AWOL from 2200 hrs. 6-4-40 to 1410 hrs. 8-4-40 A.A. Sec. 15(1)	Cpl. Grendell	Forfs. 2 days pay 1 week R.P. less	13-4-40	St. Shainbrook	
Shorchum	17-1-41	"		WOAS A.W.L. - Absent at Roll Call at 2200 hrs. on 17-1-41 A.A. Sec 15(1)	Sgt. Semple	5 days " 2 Field Punishment	20-1-41	Maj. Wilkinson	
Aldershot	3-2-41	"		W.O.A.S. A.W.L. absent from duty from 1500 hrs 3-2-41 till 2300 hrs 8-2-41 AA. 15(1)	Sgt Semple Cpl. Cruikshank	2 days " 2 Field Punishment	5-2-41		
Aldershot	22-3-41	"		A.W.L. - 0700 hrs. 22 Mar. to 1645 hrs 7-4-41 A.A. Sec. 15(1) Close arrest 1645 hrs. 7-4-41 to 9-4-41	Cpl. Mahoney Sgt. Semple	Forfs. 1 day pay 21 days detn	9-4-41	H.Col. Gabatt	Forf. 17+1 day P. Tot. forf 38 days pay.
Aldershot	3 Mar 41	"		A.W.L. - 2230 hrs. 3 May 41 to 26 May 41 A.A. 15(1) S.O.S. 26-May 41 By Court of Inquiry			14 Oct. 41	F. G. C. M.	Absent 23 days Forfs 23 days pay.

Certified True Copy

T. E. Rogers Capt - Adj 4 T Wing 2 C.D. RV

(P.T.O.)

List of Exhibits

In the case of No.B36987 Pte. V.A.Lawrence, R.H.L.I.Regt. 2nd CDIRU.

(For the Prosecution)

1. Certified copy of the Declaration of a Court of Inquiry concerning the absence of the accused dated 14th July 1942.

2. Certified Part 11 Daily Orders No.187 of 2nd C.D.I.R.U. dated 8th Aug.1942.

(For the Defence)

None.

2 CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT.

Last Order No.186 d/7 Aug 42.

PART II DAILY ORDERS BY: COLONEL. M.K. GREENE. COMMANDING

This Order No. 187 d/8 Aug 42.

SHEET THREE

9. MARRIAGES

M-65972 A/C. WILSON G R (CalH) Granted permission to marry W/105448 Pte. Jessie Taylor Watson, New Ice Rink Murrayfield, Edinburgh, on or after 16 Dec 42. (AUTH: AGR 6-O-MARR (A.2) d/5 Aug 42)

D-81528 L/C. MACMILLAN H (BW) Having been granted permission to Marry was married at Bristol on 28 Jul 42 (AUTH: M/CM T/D 140936 Bristol d/3 28 Jul 42

B-36902 PTE. McCONVILLE W J(RHLI) Having been granted permission to marry was married at Witcham, Surrey, on 25 Jul 42 (AUTH: M/CM/RT D 176098 d/7 25 Jul 42

10. BIRTHS

A-22372 PTE. NELL N A (NS) Born to the wife of the m/n, a son (Christopher John Nell) on 10 Jun 42 at Brighton, Sussex. (AUTH: D/CERT/RDD 2443 (Brighton) d/29 Jun 42)

11. ABSENTEES

D-61889 PTE. LAURENDEAU R (UHQ) Absent for more than 24 hrs. from 2300 hrs 5 Aug 42

D-83129 PTE. HIGGINS C (BW) Absent for more than 24 hrs. from 2300 hrs 6 Aug 42.

D-81967 PTE. BAKE A (BW) Absent for more than 24 hrs from 1700 hrs 6 Aug 42.

M-19551 PTE. PROCTOR R M (QOCH) Returned from A.W.L. at 1210 hrs 6 Aug 42.

L-12186 PTE. WORRALL J A (SSR) Returned from A.W.L. at 1125 hrs 6 Aug 42.

12. PUNISHMENTS

D-62088 PTE. GIRARD A (FMR)

Tried by F.G.C.M. at Laurentide Camp on 6 Aug 42.

CHARGE: A.A. Sec. 15 (1) when in arrest ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Laurentide Camp, while serving a sentence of Field Punishment, absented himself without leave from 0730 hours 25 Jul 42 until apprehended by C.P.P. at 1130 hrs 30 Jul 42. Thereby causing expenses to the amount of 1 Shilling for his return. (Absent: 5 days 4 hours)

FINDINGS: 'GUILTY'

SENTENCE: To undergo Detention for a period of 120 days and placed under stoppage of pay to the amount of 1 Shilling, cost of apprehension. (Sentence remitted to 90 days Detention)

CLOSE CUSTODY: from 1130 hrs 30 Jul 42 to 5 Aug 42 (Inc) (6 days 12 hrs 30 mins)

FORFEITS: 6 days pay under FR&I 149 (1) (a)
90 days pay under FR&I 149 (1) (b)
7 days pay under FR&I 149 (1) (c)

TOTAL FORFEITURES: 103 days pay. 6 Aug 42.

FINDINGS AND SENTENCE CONFIRMED BY: COLONEL. A. HAMILTON GAULT., COMMANDER. "A" GROUP CRU., but Sentence remitted to 90 days Detention. 6 Aug 42

for Adm. Officer
2 Cdn. Inv. Inf. Reinf. Unit.

2 CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT.

Last Order No. 186 d/7 Aug 42. | PART II DAILY ORDERS BY: COLONEL W.K. GREENE COMMANDING | This Order No. 187 d/8 Aug 42.

SHEET TWO

4. STRENGTH DECREASE

(a) M-20965 PTE BEATTY L. (QOCH)
M-11785 PTE DYLER J.A. (CalgH)
D-81141 PTE WILLIAMS H.(BW)
The m/n O/Rs are S.O.S. to No.1 C.R.U. T.D. w.e.f. 3 Aug 42. (AUTH:Cat."B")

(b) A-21492 PTE ANDERSON D. (ES)
S.O.S. to Essex Scottish Field Unit w.e.f. 6 Aug 42. (AUTH:Adm.Order 59 of 1941)

5. ATTACHMENTS

(a) A-21993 RSM POTTS W. (ES)
Attached f.a.p. from Essex Scottish Field Unit w.e.f. 7 Aug 42.

(b) L-12247 SGT COLLINS D.J. (SGR)
Attached f.a.p. from S.S.R. Field Unit w.e.f. 7 Aug 42.

(c) The u/m personnel are attached to No.1 C.S.R.U. for the period 6 Aug 42, to 8 Aug 42. (Trade Testing)

D-63020 PTE GINGRAS E. (FMR)
D-114893 PTE CORBIN L.P. (FMR)
D-62670 PTE AUDE M. (FMR)
A-21980 PTE DOYLE W.B. (ES)
D-61949 PTE TREMBLAY W. (FMR)
D-62884 PTE BOUCHARD J.C. (FMR)
D-62431 PTE LAMER R. (FMR)

(d) D-61297 PTE GALARNEAU J.P. (FMR)
Attached f.a.p. on discharge from hospital w.e.f. 7 Aug 42.

(e) D-82927 PTE LEWIS C. (BW)
Ceases to be attached PPCLI on proceeding to No.1 Cdn. Army Pd Coy w.e.f. (Personnel Sel) 3 Aug 42.

(f) M-16858 PTE FOSTER D.M.(CalgH)
Attached f.a.p. from No.2 C.D.S.R.U. w.e.f. 7 Aug 42.

(g) B-66764 PTE BRAMFIELD A. (RHC)
Attached f.a.p. on discharge from hospital w.e.f. 7 Aug 42.

6. HOSPITALS

ADMISSIONS

B-38278 PTE PORTER E.L. (RHLI) #15 CGH w.e.f. 7 Aug 42.

DISCHARGES

B-66764 PTE BRAMFIELD A. (~~RHC~~ RHC) Dangour D.W.S. w.e.f. 7 Aug 42.
D-61297 PTE GALARNEAU J.P. (FMR) #14 CGH " 7 Aug 42.
D-57824 PTE GUDIA B. (RdeM) #15 CGH " 5 Aug 42.
D-83094 PTE BEDROCK B. (BW) #2 CMC " 7 Aug 42.
D-83037 PTE MARCHANT P.R. (BW) #2 CMC " 7 Aug 42.
B-66502 PTE MONDERS E. (AdmW) #2 CMC " 7 Aug 42.

7. ESTABLISHMENTS

(a) M-16000 PTE EDGINTON G.J.L. (CalgH)
Ceases to hold appointment in P.L. of U.H.Q. (Postal Duties) w.e.f. 31 Jul 42

(b) D-56192 SGT BEAUCHALP A.V. (RdeM)
Ceases to hold appointment in the P.L. of RdeM Coy as instructor w.e.f. 7 Aug 42.

8. APPOINTMENTS AND PROMOTIONS

(a) M-12350 L/CPL HEMMERD J.S. (CalgH)
To be A/Cpl with pay w.e.f. 1 Aug 42.

(b) M-11614 PTE CADE P.D. (CalgH)
To be A/Cpl with pay w.e.f. 7 Aug 42.

(c) D-82055 PTE HENDERSON J.(AdmW)
M-17031 PTE ROBITAILLE R. "
The m/n are to A/L/Cplg with pay w.e.f. 6 Aug 42.

(d) B-59583 PTE KANE J.C. (RHLI)
To be A/L/Cpl with pay w.e.f. 6 Aug 42.

(e) D-82790 PTE HALSALL A. (BW)
To be A/Sgt with pay w.e.f. 4 Aug 42.

(OVER)

RHC

Exhibit B

2 CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT.

Last Order No. 186 d/7 Aug 42.

PART II DAILY ORDERS BY:

COLONEL M.K. GREENE COMMANDING

This Order No. 187 d/8 Aug 42.

SECTION "A" OFFICERS

1. STRENGTH DECREASE

(a) LIEUT I.H. LOUSON (BW) T.O.S. to Black Watch Field Unit w.e.f. 8 Aug 42. (AUTH: ECH/4608 d/ 4 Aug 42.

2. ATTACHMENTS

(a) LIEUT A.S. THORBURN (RRC) Ceases to be attached to P.P.C.L.I. on proceeding to 13 Cdn. Army Fd Coy w.e.f. 3 Aug 42.

SECTION "B" OTHER RANKS

3. STRENGTH INCREASE

(a) L-12028 SGT BELL L. (SSR) Ceases to be attached and is T.O.S from S.S.R. Field Unit w.e.f. 5 Aug 42. (AUTH: 99/6/Overage /1(A.7) 99/ /20/UNITS/ 251 d/24 Jul 42.)

(b) E-36987 PTE LAWRENCE V.A. (RHLI) T.O.S. on being apprehended by Civil Police at London at 0004 hrs 17 Jul 42. w.e.f. 17 Jul 42.

(c) The u/m personnel are T.O.S. from No.1 C.S.R.U. w.e.f. 8 Aug 42. (AUTH: BGHQ 6-2-0Sigs d/3 Aug 42.)

D-56326 PTE AUBERTIN R. (RdeM)
B-68349 PTE BOURCIER L. (RRC)
D-63471 PTE HOUDE L. (FMR)
D-123365 PTE LEFEBVRE R.N. (FMR)
B-43109 PTE BENT R.E. (RRC)
D-59169 PTE CORNEAU A. (RdeM)
D-72194 PTE LANG A. "

(d) H-20016 PTE BECK F. (QOCH) T.O.S. from Q.O.C.H. Field Unit on adm. to #15 CGH w.e.f. 29 Jul 42.

(e) H-19597 PTE BROWN J.W. (QOCH) T.O.S. from Q.O.C.H. Field Unit on adm. to #1 CGH w.e.f. 30 Jul 42.

(f) L-12132 PTE CHUNN R.T. (QOCH) T.O.S. from Q.O.C.H. Field Unit on adm. to #1 CGH w.e.f. 2 Aug 42.

(g) H-19052 PTE FRIEND R.T. (QOCH) T.O.S. from Q.O.C.H. Field Unit on adm. to #1 CGH w.e.f. 31 Jul 42.

(h) H-19644 PTE GREEN N. (QOCH) T.O.S. from Q.O.C.H. Field Unit on adm. to #1 CGH w.e.f. 29 Jul 42.

(i) H-19449 PTE GRUNDY J. (QOCH) T.O.S. from QOCH Field Unit on adm. to #1 CGH w.e.f. 2 Aug 42.

(j) H-19718 PSM MARTIN J. (QOCH) T.O.S. from QOCH Field Unit on adm to #15 CGH w.e.f. 29 Jul 42.

(k) H-19682 L/CPL NORTON C.H. (QOCH) T.O.S. from QOCH Field Unit on adm. to #1 CGH w.e.f. 29 Jul 42.

(l) H-19219 PTE RELKE J. (QOCH) T.O.S. from QOCH Field Unit on adm. to #1 CGH w.e.f. 30 Jul 42.

(m) H-19461 PTE WILLIAMS R.M. (QOCH) T.O.S. from QOCH Field Unit on adm. to #15 CGH w.e.f. 30 Jul 42.

STRENGTH INCREASE AMENDMENTS

(n) A-23002 PTE CHASE H M (ES) PT II D.O. 7 (Strength Increase) d/ 8 Dec. 41. Insofar as it relates to m/n is amended to read: on adm. to #1 Neuro

(o) D-57338 PTE BRUNETTE F. (L.Scots) PT II D.O. 179 para 8 (f) d/30 Jul 42. Insofar as it relates to m/n is amended to read: w.e.f. 26 Jul 42.

(OVER)

Exhibit A
[illegible]

RECORD of the Declaration of a Court of Inquiry assembled at Laurentide Camp, Witley, Surrey on the 14th day of July 1942 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-36978 Pte Lawrence, V.A., Royal Hamilton Light Infantry Company, 2nd Canadian Division Infantry Reinforcement Unit.

DECLARATION

The Court declare, B-36978 Pte Lawrence, V.A. of the Royal Hamilton Light Infantry Company, 2nd Canadian Division Infantry Reinforcement Unit, did illegally absent himself without leave or other sufficient cause at Laurentide Camp, Witley, Surrey, on the 18th day of June, 1942, that he is still so absent and that on the 14th day of July, 1942, he was deficient and he is still so deficient of the following articles to the value of £5 - ~~11s~~ - ½d.
10 Rs

		Vocabulary Price £	s	d	Depreciation £	s	d	Unexpired Wear £	s	d
Anklets, Web	pairs	1	3	5½			10½		2	7
Blouses, Serge		1	1 7	8		6	12	1	0	9
Trousers, Serge		1	1 7	11		7	0	1	0	11
Boots, Ankle	pairs	1	1 1	6		5	4½		16	1½
Brushes, Boot, Blacking		1		8			2			6
Brushes, Button		1	1	2			5½			10½
Brushes, Tooth		1		4½			1			3½
Comb		1		2						2
Cap, Field Service		1	5	8			11		~~3~~ 2	9
Discs, Identity		3		3						3
Dressings, First Field		1	1	1					1	1
Jacket, Sweater		1	8	6		2	1½		6	4½
Shirts, Flannel		1	9	2		2	3½		6	10½
Socks, Pairs		2	3	4			10		2	6
Towels, Hand		1		11½			3			8½
P.T. Shorts		2	5	10			11½		2	10½
Bags, Ration		1		1½						1½
Facepiece, A/G Mk IV		1	8	6					8	6
Container, A/G Mk VI		1	4	4					4	4
Haversacks, A/G Mk VI		1	6	9					6	9
Ointment, A/G		1		9½						9½
Outfits, Anti-Dim		1		2½						2½
Eyeshields, A/G		6	2	3					2	3
Wallets, A/G		1	1	5½					1	5½
					Deficiency Total			5	~~11~~ 10	½

Names of President and Members:

President. [signature] Capt.
Royal Hamilton Light Infantry Company.

Member. [signature] Lieut.
Royal Hamilton Light Infantry Company.

Member. F.B. Watton Lieut.
~~Royal Hamilton Light Infantry Company~~
ESSEX SCOTTISH

Signature of Commanding Officer [signature]

(247)

Certified true copy [signature]
Signature of Officer having custody of original record.

M.F.D. [illegible]

SUMMARY OF EVIDENCE

In the case of No. B-36987 Pte. Vernon Arthur LAWRENCE, R.R.L.I. Regt. on strength of 2nd C.D.I.R.U.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness Prosecution — Lieut. A. J. McTeer, Calgary Highlanders, Legal Officer of 2nd C.D.I.R.U. having been duly sworn states:

I am Lieut. A.J. McTeer, Legal Officer of 2nd C.D.I.R.U. and I produce,
(A) A certified copy of the Declaration of a Court Of Inquiry concerning the absence of the accused, dated 14th July 1942.
(B) Certified Part II Daily Orders No. 187, of 2nd C.D.I.R.U. dated 8th August 1942 and showing the accused to have been apprehended by Civil Police at London at 0004 hours 17th July 1942.

as Exhibits A, and B for the prosecution and all pertaining to the accused whom I now recognize and duly initialled by me for the purpose of identification.

.....Lieut.
(A. J McTeer) Lieut.

The accused declines to cross-examine the witness.

The accused having been duly cautioned in accordance with R.P. 4 (e).
Reserves his defence.

Certified that all the provisions of R.P. 4 (c) (d) (e) (f) and (g) have been complied with in connection with the foregoing Summary of Evidence.

Taken down by me in the presence and hearing of the accused this 27th day of September 1942 at Laurentide Camp.

.....Capt.
(T. E. Rogers) Capt.
Officer detailed to take Summary of Evidence.

.thru being in detention, he had gone AWL.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Lauenbide Camp, Wiley ON THE 30th DAY OF Sept 42

TRIAL OF:-No. B36987 Pte Lawrence, V.A. Unit RHL1. No 2 CDI RH

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. A.G. McTeer, (Unit) Cal. Highrs No 2 CDI RH

Defending Officer:- (Name) Lieut. J. Major. (Unit) Rds Mais. No 2 CDI RH

At 1025 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir.

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President Maj. M.G. Clennett ....(Unit) Abst H.S.R. No 1 CDI

Members Capt. C.H.E. Askwith ....(Unit) R.H.C. No 2 CDI

Lieut. J.B. Dumont ....(Unit) Rds R. No 1 CDI

The officers under instruction are duly sworn.

Q2 ~~Do you object to.....acting as short-hand writer? A2.-~~ no c. pres

~~The shorthand writer is duly sworn.~~ no c. pres

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name. Lieut. A.G. McTeer.....(Unit) Calg. Highrs. No 2 CDI RH sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes. Sir. (statement made by defending officer).

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The defending officer pointed out that while the accused had been serving eight months detention his mother had died and that he had felt partially responsible for the same due to the trouble he had got into. On being released he had applied for 48 hrs leave which had been refused. Feeling badly because he had not got leave and because he had not been able to keep in touch with his mother

cont'd Page 2.

Medical Officer's Certificate

I certify that I have this morning examined No.B36087 Pte.W.A. Lawrence of 2nd C.D.I.R.U. and find him fit to undergo trial by Court Martial.

Capt.
(R.C.A.M.C.)
30/9/42.

Laurentide Camp
30th Sept. 1942

CHARGE SHEET

The accused No. B-36987 Pte. Vernon Arthur LAWRENCE, Royal Hamilton Light Infantry Regiment, on strength of 2nd Canadian Divis ion Infantry Reinforcement Unit a soldier of the Canadian Army Overseas is charged with,

SECT 15(1) ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

at Laurentide Camp, absented himself without leave from 1400 hours, 16th day of June 1942 until he was apprehended by the Civil Police at London at 0004 hours on the 17th day of July 1942.

Absent 28 days, 10 hours, 4 minutes.

A. E. Pearson Lt/Col.
(A. E. Pearson) Lt/Col.
Officer Commanding
4th Training Wing,
No. 2 C.D.I.R.U.

Laurentide Camp
29th September 1942.

To be tried by Field General Court Martial.

H. Lefebvre

(H. Lefebvre) Brigadier,
T/Commander,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
29 Sept. 42.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-36987 Pte. Vernon Arthur LAWRENCE R.H.L.I. 2 C.D.I.R.U.	First Charge A.A. Sec. 15(1)	Guilty	Guilty to be imprisoned with hard labour for one year. and to be discharged with ignoming from His Majesty's service. 30.9.42. [illegible]	I reserve the findings and sentence for confirmation by superior authority. 30 Sept. 1942. [illegible] Brigadier
	SEE CHARGE SHEET ATTACHED			Finding and sentence confirmed. but remit discharge with ignoming. P J Montague (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :— [illegible]

" Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ? "

Answer (to be recorded on separate sheet if necessary) :—

(Signed) [illegible] Brigadier (Signed) [illegible]

T/Commanding "A" Group Cdn.Reinf.Units. CO NSR. NO1 CDI RU

Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

B-36987 Pte. Vernon Arthur LAWRENCE
R.H.L.I. 2 C.D.I.R.U.

135-P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 29th day of SEPTEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[illegible]~~

*(1. ~~[illegible]~~

*(2. ~~[illegible]~~

~~[illegible]~~

Reviewed after promulgation 24 Oct 42 W.A.I. Anglin Colonel D.J.A.G., C.M.H.Q.

No illegalities or irregularities such as would warrant withholding confirmation. 2 Oct 42 W.A.I. Anglin (W.A.I. Anglin) Colonel D.J.A.G., C.M.H.Q.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

PROCEEDINGS REVIEWED

Gen Graham Dept (JAG) C.M.H.Q. 24 Oct 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer [illegible] in command at the [illegible] and all [illegible] in [illegible] Court to [illegible]

President.

Rank.	Name.	Regiment.
Major	M.G. CLENNETT (West N.S.R.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	C.H.E. Askwith (R.H.C.)	2 C.D.I.R.U.
Lieutenant	J.B. Dumont (R.22e R.)	1 C.D.I.R.U.
Waiting Member Lieutenant	C.W. Smith (C.B. Highrs.)	5 C.I.R.U. (A.D.)

*Signed [signature] Brigadier

T/Commanding "A" Group Cdn. Reinf. Units, C.A.(O).

Convening Officer.

135-P

Pte Lawrence, V. L.

See 1041D for 1st case

O. H. M. S.

M. F. B. 270
1000 M 12-40 (8008-09-70)
H.Q. 1772-39-07

ADDITIONAL SUMMARY OF EVIDENCE

7th Witness: Lieut. A.B. McFarlane, having been duly sworn; states:

I am Quartermaster of 5 Canadian Field Ambulance. I certify that on his return to this unit B69893 Pte. Lawrence, S.E.H. was in possession of equipments, clothing and necessaries shown below, which were issued to him in Canada for his return overseas.

Anklets, web, prs.	1	Trousers, denim	1
Badges, cap	1	Razors, safety	1
Bags, kit	1	Shirts, flannel, khaki	2
Blouse, B.D. serge	1	Shirts, woollen	2
Trousers, B.D. serge	1	Shoes, canvas, prs.	1
Bootlaces, prs.	1	Socks, prs	3
Boots, ankle, prs.	2	Spoon, table	1
Braces, prs.	1	Towels, hand	2
Brushes, boot, black	1		
Brushes, boot, polish	1		
Brushes, cloth	1	Bags, ration	1
Brushes, shaving	1	Belts, waist	1
Brushes, tooth	1	Bottles, water	1
Cap, comforter	1	Braces	2
Cap, F.S.	1	Carriers, waterbottle	1
Greatcoat	1	Covers, mess tin	1
Comb, hair	1	Frogs, bayonet	1
Drawers, woollen, prs	2	Haversacks	1
Dressing, first field	1	Helmets, steel	1
Forks,	1	Packs	1
Holdalls	1	Pouches, Ammn	2
Gloves, woolen, khaki	1	Straps, shoulder	2
Housewife	1	Straps, web supporting	2
Jacket, sweater	1	Tins, mess	1
Knife, Table	1	Eyeshields, A/G	6
Mitts, prs.	1	Ointment, A/G	1
Blouse, denim	1	Ointment, anti-dim	1
Sheets, ground	1	Respirator, complete	1
		Blankets	1

A B McFarlane

(A.B.McFarlane) Lieut. QM
5 Cdn Fd Amb

The accused declines to question the witness.

Taken down by me this 20th day of March, 1942 and read to the accused. Rule of Procedure 4 complied with.

C H Playfair Lt Col

(C.H.Playfair) Lt.Col.
Officer Commanding
5 Cdn Fd Amb

ADDITIONAL SUMMARY OF EVIDENCE

6th Witness: Major F.B.Bowman, having been duly sworn, states:

I am acting Adjutant of 5 Cdn Field Ambulance. I produce the following exhibits as evidence in the case of B69893 Pte. Lawrence, S.E.H.

(1) Certificate in accordance with Section 163(1)(m) of the Army Act.

(2) Certified copy of Declaration of Court of Inquiry.

(3) Certificate of N.C.Os. of No.12 Coy, Cdn Provost Corps.

(4) Certificate of cost of apprehension.

(5) N.D.H.Q. Letter dated 5 Jan 42.

F B Bowman Maj
(F.B.Bowman) Major,
5 Cdn Fd Amb.

The accused declines to question the witness.

Taken down by me this 20th day of March, 1942 and read to the accused. Rule of Procedure 4 complied with.

C H Playfair Lt Col
(C.H.Playfair) Lt.Col.
Officer Commanding
5 Cdn Fd Amb

(cont'd) **SUMMARY OF EVIDENCE**

4th Witness: B59777, Cpl. Oddie, T., "B" Coy, 5 Cdn Fd Amb.
(sworn)
"I was Orderly Sergeant for the week of 7 July 41, to 13 July 41, and called the roll every morning, Pte. Lawrence, was absent."

"I have been with "B" Coy, 5 Cdn Fd. Amb. since that date. I have had no knowledge of Pte. Lawrence, S.E.H. return to the unit until I was detailed on 23 Jan. 42. to pick up Pte. Lawrence, S.E.H., at the 1 Cdn Div. Reception Camp, Worthing, and return him to the unit. It took him over the Cdn. Military Police."

(Signed) T Oddie

The accused declines to cross-examine the witness.

5th Witness: B59637, L/Cpl. Forhan, B., "B" Coy, 5 Cdn Fd Amb.,
(sworn)
"I am Orderly Room Corporal, and was also Orderly Room clerk during the week of 23 to 28 June 41."

"Copies of Casualty Returns dated, 27 June 41, 2 Aug. 41, are in Company Files, which show that Pte. Lawrence, S.E.H. was posted as Absent Without Leave on the 1 July, 8 July and 15 July, 1941."

"I received notification on the 23 Jan. 42 at about 1730 hrs. in the form of a phone message from 1 Cdn Div Reception Camp that Pte. Lawrence, S.E.H. was being held there and to send an escort to return him to the Company."

"I notified Sgt. Anderson, who was Orderly Sgt., who in turn detailed Cpl. Oddie, T. to pick up Pte. Lawrence, S.E.H.

(Signed) B. Forhan

The accused declines to cross-examine the witness.

The accused declines to make a statement.

Taken down by me at Worthing this 6th day of Feb. 1942 in the presence of the accused. Rule of Procedure 4 complied with.

(Signed) J R Anderson Capt.
O.C. "B" Company,
5 Canadian Field Ambulance.

SUMMARY OF EVIDENCE

Summary of evidence in the case of No.B89893, Pte. Lawrence, S.E.H. "B" COMPANY, 5 CANADIAN FIELD AMBULANCE, R.C.A.M.C.

1st Witness: No.B89845, Pte. Wedlake, H., "B" Coy., 5 Cdn Fd Amb.
(sworn)

"On the night of 23 June 1941, I was acting Orderly Cpl. for the week. On that night, Pte. Lawrence, S.E.H. whom I recognize, due to return from seven days leave, failed to sign in."

"I left a note for S/Sgt. Cunningham to the effect that Pte. Lawrence, S.E.H., did not sign in."

(Signed) H Wedlake.

The accused declines to cross-examine the witness.

2nd Witness: No.B89939, Sgt. Snider, I.V., H.Q. 5 Cdn Fd Amb.
(sworn)

"I was Orderly Sergeant from 23 June to 28 June 1941, and on a roll call, Pte. Lawrence, S.E.H., whom I recognize did not answer the roll. I reported the matter to S/Sgt. Cunningham."

"I was also Orderly Sergeant on 14 July 1941 to 17 July 1941, when a Court of Inquiry was held on his absence. He was still missing. I had no knowledge of his return to the unit until I learned he had been taken into custody on 23 Jan. 42."

(Signed) Sgt. Snider I.V.

The accused declines to cross-examine the witness.

3rd. Witness: No.B89770, S/Sgt. Cunningham, B.F., "B" Coy, 5 Cdn. Fd. Amb.,
(sworn)

"Pte. Lawrence, S.E.H., whom I recognize, was reported to me on the morning of 24 June 1941 as absent."

I checked the billets and camp area and confirmed his absence."

"He continued to be absent on all MUSTER PARADES until I left the Company on the 29 July 41."

"On my return to the unit, Dec. 13, 41. Pte. Lawrence, S.E.H. was still absent until his presence was reported to me by Cpl. Oddie T. on the morning of 24 Jan. 42."

(Signed) B.F. Cunningham

The accused declines to cross-examine the witness.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. S89893 Rank Pte Name LAWRENCE S.E.H. of 5 CDN FD AMB Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.		Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.
Coy Comdr.	21 Mar 40	AA SEC 40	Failed to report to guard room on returning to camp	3 days C.B.	NIL
Coy Comdr.	14 May 40	AA SEC 40	Continued talking in ranks during roll call after being warned by NCO.	3 days C.B.	NIL
Offr.Comd'ng.	10 Jun 40	AA SEC 15(1)	A.W.L. from 2230 hrs 28 May 40 until 0800 hrs 29 May 40.	4 days pay Tot. forfeiture	NIL
Coy Comdr.	23 Nov 40	AA SEC 40	Improperly dressed	3 days C.B.	NIL

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of March, 1942

J B Bowman Maj

13 The second has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of . . . years.

In the rank of . . . years.

In the rank of . . . years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
38939 3	Pte	LAWRENCE, S.E.H.	5 CDN FD AMB

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INADVERTENCE.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Contravention A.A. Sec.40 -- 0	times	3 times.
For Contravention A.A.Sec. 15(1)-0	times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted by

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~93~~ 93 days in military custody, making a total of ~~93~~ 93 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 32 years

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 8 mos.

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon 1 year 8 mos. service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, an military decoration or military award (or is in possession of or entitled to wear any military decoration or reward).~~

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer, last held the regimental rank of~~

12. (*In the case of an officer.*) ~~The accused holds the Army~~ the rank of , and to his regiment (or corps or department) the rank of

(P1834) WT.30344/P.1230 12/40 A.S.R.W.Ltd. Gp.698

Exhibit "G"
Field Major
Pres

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
~~St Helen's~~	~~23~~	~~Nov~~		~~Conduct to the prejudice of good order and military discipline, improperly dressed when walking out~~	~~Cpl. Eddie~~	~~3 days C.B.~~	~~Sat 23 Nov~~		

Certified true copy of M.F.M. 6 of [illegible] Pte. Lawrence, S.H.H.

Exhibit "I"
F.A. Gilbert Major
Pres.

[illegible]
[illegible]
Commanding [illegible]

No. D89893 Name Lawrence, Stanley Sgn. Battery or Company 15 Cdn Fd Amb Corps RCAMC Date of enlistment 15 Sep39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (10000) H.Q. 1772-40-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. I | Signature O.C. Company, etc. [signature] Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	20 Mar 40	Pte		Conduct contrary to Sec 40 AA	Pte Kennedy J				
				failde to report to guard room	SSgt Duncan	3 days C.B.	21 Mar 40	Gordon A	Siclair
				on returning to camp					Major
"	12 May 40			Conduct to the prejudice of good	Sgt Duncan				
				order and Military discipline -	Sgt Plant	3 days C.B.	14 May 40	Gordon A	Sinclair
				continued talking in ranks, during	Sgt Shepherd				Major
				roll call after being warned by					
				R.C.O. A.A. Sec. 40					
"	28 May 40			Absent without leave from 2230 hrs	Sgt Middleton	Forfeits 1			
				28 May to 0800 hrs 29 May 40	RSM Blythe	days pay awarded			
				A.A.Sec 15	~~L.Cpl Oddie~~	forfeiture of			
						3 days pay.	10 Jun 40	G.R.D. Farmer	
Brighton	23 Nov 40			Conduct to the prejudice of good	Cpl. Oddie, T				Lt.-Col.
				order and military discipleine -		3 days C.B.	23 Nov 40	T.C.Gibson	Capt
				walked out improperly dressed AASec 40.					

since you have been away. Some times I fear for my sanity. You know of the skeleton in our family closet. well that is what I fear most of all. If I could only stop thinking for awhile.

I was so happy when you were home Stan & I'll never know another happy hour until you are home with me again.

Oh Honey please come back to me I need you so much. & with you away from me it is eating the heart out of me.

have & have not. I know I would not have, could not have my baby in the condition I was in & as the Doctor would not permit it. I should have known So lose the baby if I tried to have him. & the fact I did lose him has made me long for him all the more. I cannot think of any thing else. Sweet heart if you were only stationed here at home. where we could be together. I would not have these nervous spells I have been having

I am afraid some thing will happen to my mind if you don't get home soon. I can't stand you being away much longer darling of mine

I cannot write more now

I've so sorry I cannot ~~wite~~ write more pleasant. But when I am so upset & crying all the time, how can I write any different?

Love all my love to you dearest Papa

Exhibit H. Fabrikant Major Press

your loving & devoted wife

Isla

& yet you tell me I should not worry. [redacted] I mean about coming home to Canada without permission. You should not be made to pay for coming home to me. loving me enough to come to me when I needed you so much. so greatly. I want you here with Ricky & I so very much. I pray every nite that it may be so.

I cannot stop thinking of the Brown Eyes I should

It was a shock. you can imagine. On the afternoon that I recieved word. Picky & I were getting ready to go to see your Mother. that is just how ignorant I was to the fact she was even ill.

If only you had known Oh my darling, I can't stand your being away from me any longer. Two years you have been gone & out of that you somehow got home to me for awhile. I didn't ask. how you got here. & I did not care, hospital. in fact I seem to have been the only one. "including neighbors & friends" who did not see her before she went. The only word I recieved was after she was gone. One of the boys came to the door & told Dad to tell me my Mother-in-law Mrs Lawrence was dead & that the funeral would take place on Tuesday. Dad came up stairs & told me. They did not even ask for me personally I could not believe it

all I cared for was that you were by my side, where I'd always wanted you. Why oh why did you have to be taken from me again.

If you could only be over here closer to Picky & I in the Army here would be just as well for you as over there. I fear for your health when you are away from me. You understand what I mean dearest.

I go mad crazy from the worry of having you so far away from me.

March 18

Dearest Papa

I've been upset since I heard of your Mother's death. It was a shock to me & in my condition the way in which the family broke the news to me did my nerves no good at all. It so happened your Mother had been ill for three week. the third week ~~which~~ she spent in the hospital. where she passed away. I was not told she was ill or in

...URN ADDRESS

...llington St S.
...lton, Canada

OVERSEAS

PLACE
STAMP
HERE

...ental No., B89893
...and Name Pte S.E.H. Lawrence
B. Coy.
...any or Section of Unit No 5 Field Ambulance
...or Branch of Service Canadian, Army, Medical Corp

Canadian Army Overseas

FORM, No. 6a.

WESTERN UNION

(THE WESTERN UNION TELEGRAPH COMPANY)

(IN THE STATE OF NEW YORK, U.S.A., WITH LIMITED LIABILITY.)

CABLEGRAM

ANGLO-AMERICAN TELEGRAPH CO., LD. CANADIAN NATIONAL TELEGRAPHS

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141 MOM 56 33=

MOE133 HAMILTON ONT

EFM PTE STAN LAWRENCE B89893

FIFTH FIELD AMBULANCE RCAMC 64 D

CANRECORDS LDN=

SORRY TO TELL YOU MOM DIED MY THOUGHTS ARE WITH YOU ALL OUR LOVE.

THE FAMILY LAWRENCE.

Exhibit 6
Fab Lt. Major
Pres

PASSED BY DENSOR No. 2330

Please send your Reply "Via WESTERN UNION" You may telephone us for a messenger

DEPARTMENT OF NATIONAL DEFENCE.

Military Detention Barracks,
Camp Borden, Ont. 6th Jan. 1942.

Officer Commanding,
5th Canadian Division Holding Unit,
Camp Borden, Ontario.

B 89893 Pte. Lawrence, S.E.H.
5th Field Amb. R.C.A.M.C.

The m/n having been A.W.L. from his Unit in England since September, 1941, was taken into custody in Hamilton, Ontario, 27-12-41 as per attached report from 12Provost Company, and sent here 5-1-42.

2. He is herewith placed in your custody for return to his Unit.

3. May it be noted, please, that the man was found in possession of a hypodermic syringe and admitted he is a drug addict.

C. B. Lindsey

C. B. Lindsey, Major,
A/O.C. Military Detention Barracks,
Canadian Provost Corps.

Copies:-

Camp Commandant,
Camp Borden, Ont.

D. A. P. M.
159 Bay Street,
Toronto, Ont.

Exhibit F
Fdclift
Major
Pres

MOST SECRET

IMMEDIATE

T.S. 22-10

DEPARTMENT OF NATIONAL DEFENCE

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
5th January, 1942.

Cam p Commandant,
Camp Borden, Ontario.

D.A.P.M., M.D. 2.

O.C. No. 2 Dist. Depot,
Toronto, Ontario.

O.C. Detention Barracks,
Toronto, Ontario.

B.89893 Pte. Lawrence, S.E.
No. 5 Field Ambulance, CA(A)

I am directed to advise that instructions have been received from National Defence Headquarters, which are quoted in part as follows:

MOVES 2911 DESPATCH IN CUSTODY FROM TORONTO B89893 PTE LAWRENCE S E OF NO 5 FIELD AMBULANCE X X SPECIAL TRAIN EX CAMP BORDEN JANUARY 6TH

2. This man is to be delivered to the D.A.A.G., Headquarters, Camp Borden, by 1200 hours, Tuesday, 6th January, 1942, at the very latest.

3. Pte. Lawrence is to be issued with steel helmet, gas mask, and sufficient clothing for the journey.

4. Pte. Lawrence is to be medically examined as to his fitness to proceed.

5. Any available documents should be handed over to the D.A.A.G., Headquarters, Camp Borden.

6. Please Acknowledge.

Exhibit E
Pte Clift
Pte Mayor
Pres

To Camp Borden only

Walter J. Bailey Lieut.
p. (F. J. Justin) Captain,
for D.A.A.G., M.D.2.

NOTE: Pte. Lawrence is to be despatched in custody on train 512 ex Camp Borden and delivered to Embarkation Commandant, Pier 21, Halifax, for embarkation on vessel E.440.

File No.

NO. 12 COY., CANADIAN PROVOST CORPS, C.A. #2 DET
~~TORONTO~~ HAMILTON, ONTARIO.

Date..Dec. 27th.....1941.

To:
Officer Commanding,

5th FIELD AMB. (Unit)

OVERSEAS (Location)

Re: B89893 PTE. LAWRENCE S.E.H.
(Number) (Rank) (Name) (Coy)

We, (~~I~~), the undersigned, hereby certify that the m/n soldier was apprehended by/turned over to us (~~me~~) at HAMILTON CITY POLICE

2135....Hrs SATURDAY....Date 27-12-41...A.W.L.

...KING ST.....HAMILTON.....Place.

2. The m/n soldier was taken to ~~Stanley Branch Detention Brks~~., ~~Toronto~~.....HAMILTON.....

3. Accused was sober/~~drunk~~ and dressed in ~~uniform~~/civilian clothing when arrested.

ADDITIONAL REMARKS:- DESERTER FROM OVERSEAS

.....

.....

B97667 L/Cpl. Graber N...

Exhibit D
F.A. Clift Major

B97676 L/Cpl. Meier L.J...

Pres

DECLARATION OF COURT OF INQUIRY

RECORD of the Declaration of a Court of Inquiry assembled at B Coy, 5 Cdn Fd Amb, in the Field, on the 17th day of July, 1941, for the prupose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B89893 Pte. Lawrence, S.E.H.

DECLARATION

The Court declare, B89893 Pte. Lawrence, S.E.H., B Coy., 5 Cdn Fd Amb, RCAMC, illegally absented himself without leave from B Coy., 5 Cdn Fd Amb at 2359 hrs., 23 Jun and is still ab sent, and that on 17 Jul 41, he was deficient and is still so deficient of the following articles:

	£	s.	d.
Boots, ankle		22	6
Helmet, steel		7	
Cap, F.S.		2	2
Blouse, battle dress, serge		22	6
Trousers, battle dress, serge		20	6
Respirator, complete		16	10
Detectors, gas, ind.			4
Eyeshields, pkg. of 6		2	
Holdall			11
Brush, tooth			5½
Comb, hair			2
Armlet, Geneva Cross			7½
Disc, identity			2
Gym Vests - 2		3	2
	£4	19	4

Names of President and Members:

Capt. T.C.	Gibson	President
Capt. M.	Carleton	Member
Capt. W.E.	Glass	Member

Signature of Commanding Officer:

C.H. Playfair Ltd
C.H. Playfair
Lieut.-Col. Commanding
No. 5 Field Ambulance, RCAMC CASF

I hereby certify this to be a true copy of the Record of Declaration of the Court of Inquiry, held on 17 July 1941, as shown in A.B. 161 of this Unit.

F B Bowman Mgr
for (C.H. Playfair) Lt.Col.
Officer Commanding
5 Cdn Field Ambulance.

Exhibit "C"
T.A. Clift
Major
Pres

CERTIFICATE IN ACCORDANCE WITH
SECTION 163 (1) (m), OF THE ARMY ACT

I certify that the person whose description is given below was arrested/~~surrendered~~ at Hamilton Ontario at 9 pm (hour), on the 27th day of December 1941.

Regimental particulars of Officer or Soldier referred to above.
(No. - B.89893
(Rank - Pte
(Name - LAWRENCE.S.E.
(Unit - No.5 Field Amb. R.C.A.M.C.

Description.
(Age - 32
(Height - 5-10
(Complexion - Dark
(Hair - Dark brown
(Eyes - brown
(Marks -

Signature of officer of police in charge of police station where the abovenamed person was taken, or placed in custody, on arrest or surrender.

Sgt of Det. Thompson
(Rank) (Name)

In Charge of Central

Station Hamilton Ont
(Police Station)

Exhibit B
Tab Lift
Major
Pres.

III

A.D.M.S.
1 Cdn Div.

1 Passed for inclusion in summary of evidence in this F.G.C.M.

H. W. Haugh Capt
28 Feb 42 A.D.J.A. 1 Cdn Div

(4) CO.
5 Cdn Fd. amb.
Passed.

B Chadwell Capt
28-2-41 for A.D.M.S. 1 Cdn Div.

10/LAWRENCE S.E./1.
A.G. 5a.

25 Feb 42.

1 Hear H.Q.
Cdn Corps. (A.C.Branch),

R.29891 Pte. S.E.Lawrence,
No.5. Field Ambulance C.A.(A)

1. Herewith certificate of apprehension of the m/n soldier, forwarded from National Defence Headquarters.

2. The District Officer Commanding M.D.II advises, that there were no costs incurred by the Hamilton City Police in the arrest of this soldier.

for (P.J.Montague)Major-General,
Senior Officer,
Canadian Military Headquarters.

11 2/ H.Q.
1 Cdn Div

1. Forwarded, for information please.

P.T.O.

P.T.O.

(T.L. Nicholls)Capt
Staff Capt "A" Cdn Corps

[Margin for Filing Purposes]

Army Form W.3011 (Books of 1908)

Date of last A.F. W.3011 rendered 24 June 1941 Number of sheets attached to this return

B Coy 5 Cdn Fld Amb (Unit)

CASUALTY RETURN—OTHER RANKS.

Detail of casualties to other ranks which have occurred since last return. The detail should include all battle casualties, accidents, admission to and discharge from hospital, casualty clearing station, etc. Promotion (acting, temporary, local or substantive). Transfers, postings, attachments, etc., courts-martial, field punishment, forfeiture of pay, etc. Leave of absence, particulars of marriage and birth or death of children, alteration in next of kin with postal address, transfers to "X" List and any other items affecting a soldier's service.

Army No.	Rank	Name and Initials	Corps	Nature and Date of Casualty	Date	Remarks. (In the case of casualties from wounds or disease, any available information for communication to relatives should be stated.)
B89893	Pte	Lawrence, S.E.H.	R.C.A.M.C.	Absent Without Leave	24 June	Failed to sign in at 2359 hrs 23 June/41 Has not returned.
F-502	Pte	Snow, D.G.	R.C.A.M.C	Strength Decrease	27 June	S.O.S. on admission to Hospital w.e.f. 27 June/41

Exhibit "A"
F.A.C. Lift
Major
President

(Date) 27 June 1941

[signature] (Signature of Commandant)

B Coy 5 Cdn Fld Amb (Unit)
3 Cdn Inf Bde.
(Bde., Divn., Area, etc., with which Unit is serving.)

Forms W.3011/1

2. (2) cont'd

Mainly because of drugs and his insane craving for them - and realizing that if he did not leave the unit he would be utilizing their supply he made his way home. In Canada he continued to use drugs and at the time of his apprehension it is stated he was in possession of a syringe. Except for the occasional day has continued to take drugs secretly up to the 25th Mar 42.

3. Summary: In brief this is a fairly typical history of a drug addict showing a weak moral character undermined by abject slavery to drugs.

4. Opinion: It is respectfully suggested that it is a widely known fact that drug addiction is the basis of many criminal acts including homicides, stealing and so forth. Further it is suggested that while unquestionably the accused has done wrong - his mind is and has been for twenty years the slave of morphine which converts him into a derelict more to be pitied and treated than judged.

5. The defence rests.

G. E. Mc Garry Capt

(b) profession ; at the age of 13 years became a professional race-jockey - suffered an injury received several hypodermics and acquired an addiction for morphine to settle his nerves.

(c) morphine ; for twenty years except for short intervals has used morphine by mouth and hypodermic injection. Taking as much as four grains in a single day. which equals fifteen pre-operation sedatives.

(d) detected crimes ;- "Breaking and entering" drug stores to obtain morphine for which he was awarded 30 months in Guelph Reformatory "Armed Robbery" - of a Bank ($400.) for which he was awarded 7 years penal servitude in Kingston Penitentiary

(e) Army history ;- Enlisted Sep. 1939 at Hamilton with 5-6 Fd Amb. and proceeded to England. At first used, for him, minimal quantities of morphine one quarter grain pill in the mornings - having substituted whiskey for morphine in the evenings. In the summer of 1940 commenced to receive news from home that his wife was repeatedly ill and that his drunken father was abusing his diabetic mother who has now deceased as of January 1942. He commenced drinking more heavily and as this failed to satisfy him commenced taking more morphine. Soon he was spending all his pay and what he could win gambling on drugs. As time went on it became increasingly difficult for him to obtain the desired quantity of drugs.

Plea

~~Address~~ of Defending Officer

Field General Court Martial

B89893 Pte Lawrence S. E. H.

5 Cdn. Fd. Amb. R. C. A. M. C.

1. Documentary Evidence

If the court please - the defense has advised the accused to plead not guilty to ~~the~~ first charges.

There is no disputing the facts that the accused did leave his unit and returned to Canada - losing the mentioned articles of issued equipment in Liverpool.

In Canada he made his way from Halifax to Hamilton where he lived quietly with his wife and small daughter aged three.

Finally he was apprehended by the civilian police and handed over to the military authorities and through the normal channels now appears before this court.

None of the documents are questioned.

2. Narcotic History of accused

It is the desire of the defense that the court have the fullest information of the accused in order that they may form a complete picture of the character and degree of guilt of the accused, thus best serving justice.

In chronological order are the outstanding facts of the accused's life history - as learned and believed to be true by the defense.

(a) Education :- little or none (1 year) the result of adverse home conditions - an alcoholic father.

No. B 89893, Pte Laurence S.E.H. R.C.A.M.C.

Continued -

The Evidence, so brought forth, collaborated together will show beyond doubt that Pte Laurence, S.E.H. intended to desert from His Majesties Forces and put that intention into execution so successfully that he was able to leave England and reach Canada; that he was absent from his unit over five months ~~from his unit~~ M.C. before his apprehension by civil police, and that he carried on in civil life wearing civilian clothing.

Also evidence will show that he was absent certain articles from his kit on 23 July, 41, and that he had to be supplied certain articles of regimental necessaries by His Majesties Government in Canada before his re-embarkation, in custody, for England.

Humbly submitted to the President and members of the Court.

M Carleton Capt R.C.A.M.C.
Prosecutor.
9. April 1942.

Page 2.

No. B 89893 Pte Lawrence S.E.H. R.C.A.M.C.

Continued:-

A Certificate in Accordance with Sec 163(1)(m) of the Army Act will be produced to prove his arrest, on 27 Dec 41. by the civil police at Hamilton Ontario.

Also a certified statement from two N.C.O.'s of 12 Coy, Cdn. Prov. Corps: No 2 Det.: to prove his receipt by this unit from the Hamilton civil police on 27 Dec 41. still in civilian cloths.

Then I shall produce a certificate of cost of apprehension from No 1 Cdn General Reinforcement Unit C.A.(O) to the sum of £1:6s:8d. This being for cost of transportation from No 1 Cdn. Gen. Reinf. Unit C.A.(O) to his present unit both for him and his guards.

Also I shall produce a letter from N.D.H.Q. detailing the movements of Pte Lawrence, under custody to Camp Borden, Ont, and instructions to have him outfitted and clothed there and despatched to Halifax, N.S. for embarkation.

A court of Inquiry on 17 Jul 41. at 'B' Coy. 5 Cdn. Fd. Amb. C.A.(O) established the fact that Pte Lawrence was short of articles in his kit to the value of £4:19s:4d:. And a Summary of Evidence on 20 Mar 42. established the amount of his kit on that date after returning to his unit.

Field General Court-Martial.

No B89893 Pte Lawrence S.E.H. R.C.A.M.C.

Opening Address of Prosecutor.

Mr President and Members of the Court.

The M/n soldier is accused of:

1. deserting ~~his Majesties forces~~ while on active service:

and

2. losing by neglect his equipment, clothing and regimental necessaries, to the value of £4: 19s: 4d: while on active service.

I shall establish by witnesses, sworn evidence, and official documents, that the M/n soldier was continuously absent from his unit, in the field, from 2359 hrs: 23 Jan. 41. until 23 Jan. 42. That he was apprehended and taken into custody by civil police at Hamilton, Ontario, Canada, at 2100 hrs: 27 Dec. 41.

This shows that he had travelled several thousand miles from his unit and had reached the opposite side of the Atlantic Ocean by whatever means he chose to travel.

Added to this the fact that he was apprehended wearing civilian clothes and was not intoxicated, it was obvious that he had no intention of rejoining his unit or any other unit in H.M. forces.

Closing address by Prosecution.

Pte. Lawrence was absent from Unit for 6 mos. as per evidence.

No evidence or reason given for his absence. He has elected not to question any of witnesses establishing that fact.

Evidence proving his arrest has been submitted.

1) Arrested when wearing civilian clothing.
2) Left Field Service went across ocean.
3) Deemed fit for court martial in spite of lack of morphine totals.
4) Drugs played no part therefore in act of desertion.
5) Wife's condition no excuse for leaving service.
6) Mother's illness occurred after he left Canada.
7) No evidence produced by defence ~~that~~ Pte. Lawrence did not wish to desert.

Closing address by Defence

1) the accused is nervous or result of ~~seeing~~ ~~of~~ treatment.
2)

The court adjourned to consider the finding

The court reassembled & the prosecution Capt. M. Carleton, previously sworn, tendered certified copy of NFM 6 Exhibit I and AFB 296, Statement of character Exhibit J

Q (to accused) Do you wish to address the court or to call evidence as to character

A. No Sir! Rule R. 37 (b)(c) (e) complied with

The defending officer makes the following plea in mitigation of sentence:

(Plea included in writing with proceedings)

Taken down by me this ninth day of April 1942 and to the best of my belief and ability is a true transcription of the evidence.

Lieut. Fred B. Tessman

Q. How long had she been pregnant at that time?
A. I wasn't certain.
Q. You will be the father of that child?
A. Yes, Sir.

Recrossexamination

Q. How much morphine per day have you used in last 5 years?
A. From 4½ to 5 grains per day.
Q. At time of your arrest Dec 41, were you using morphine?
A. I was using it but not a great deal.
Q. The letter that you have in your hand, is it from your wife?

Exhibit H

A. Yes, Sir.
Q. Is your father a normal man?
A. No, Sir! - He drinks a lot.
Q. Was your father always kind to your mother?
A. No Sir! When drunk, very abusive.
Q. How much schooling have you had?
A. Not very much. Self taught. Not much more than a year.
Q. What was your civilian work?
A. I was a jockey.

Recross examined by Prosecution

Q. You made the statement that you were using at time of arrest not much morphine
A. Yes, Sir.
Q. How much do you mean by 'not much'?
A. Two grains some days & sometimes none.
Q. Since you arrived overseas, have you been able to get a good supply of morphine?
A. Not always.
Q. Since you retd. overseas in custody, have you had a good supply of morphine?
A. Approximately 30 grains.
Q.

Pte. Lawrence S.E.H. Exhibit F.

Defence

The defending Officer did not make opening address.

Accused Pte. Lawrence S.E.H. B89893 5th Cdn. Fd. Amb. Swan states:

Q. Have you ever used drugs?
A. Yes, Sir.
Q. When did you commence using drugs?
A. At age of 16. - About 18 years ago.
Q. When did you have your last injection of drugs?
A. The day before I was taken to the Saskatoon Light Infantry - about a month ago.
Q. Is your mother dead?
A. Yes Sir.
Q. Date of her death?
A. 7 Feb. 42.
Q. Is your wife ill or in good health?
A. At present is ill.
Q. Have you ever received pleading letters from your wife?
A. Yes Sir.

~~Cross~~ Q(

Cross examination.

Q. How did you find out your mother died on 7 Feb. 42
A. I received a telegram.
Q. Can you produce the telegram?
A. Yes, Sir. - tendered as Exhibit G.
Q. When did you last see your wife?
A. 27 Dec. 41
Q. What happened night of 27 Dec 41.
A. Coming down King Street & went into Hunt's Candy Store. Two detectives were in there. I was arrested.
Q. Was your wife ill then?
A. My wife was pregnant then.

Worthing and return him to his Unit on 23 Jan 42.

No cross. examination

5th Witness. B 89837 L/Cpl. Forhan B. 'B' Coy. 5th Cdn. Fd. Amb. states:

I am in charge of the Orderly Room 'B' Coy. 5th Cdn. Fd. Ambulance.

I was clerk in the Orderly Room on week of 23 Jun to 28 Jun 41 and on making casualty return found Pte. ~~Lawrence~~ Lawrence absent. (AFW 3011 tendered as Exhibit A)

On 23 Jan 42 I received a telephone message from 1st Cdn. Div. Reception Camp stating that Pte. Lawrence was being held there. I notified Sgt. Anderson who detailed Cpl. Oddie to bring Pte. Lawrence back to the company.

No cross-examination.

6th Witness - Capt. M. Carleton 'A' Coy. 5th Fd. Amb. sworn states:

I am medical officer with 'A' Coy. 5th Fd. Amb., acting O/C today.

I produce the following exhibits as evidence in the case of B89893 Pte. Lawrence S.E.H.:

(1) Certificate in accordance with section 163(1)(m) of the Army Act, Exhibit B.

(2) Certified copy of declaration of Court of Enquiry Exhibit C.

(3) Certificate of N.C.O's of No. 12 Cdn. Provost Corps - Certificate of Apprehension - Exhibit D

(4) ~~Certificate of cost~~

(4) N.D.H.Q. Letter dated 5 Jan 42. Exhibit E

Capt. Carleton tendered the above exhibits in the absence of Major F.B. Bowman, who is now with another Unit.

(5) Letter from O/C Military Detention Barracks Camp Borden, Ontario, to O/C 5th Cdn. Div. H.U. Camp Borden, Ontario, covering arrest of

Defence did not cross-examine.

2nd Witness. No. 89939. Sgt. Snider I.V. H.Q. 5th Cdn. Fd. Amb. sworn states:

I am hospital sergeant with H.Q. Coy. 5th Cdn. Fd. Amb.

On Jun 23rd to Jun 28 - 1941 - I was orderly sergeant. On roll call Jun. 24 - 1941 - Pte. Lawrence was missing. I reported this to S/Sgt. Cunningham.

I was also orderly Sgt. 14 Jul. 41 to 17 Jul 41 when a Court of Inquiry was held the accused was still missing.

I then left the unit to come to H.Q. Coy. in December 1941.

I first heard of his return to the Company about 23 Jan 42.

No cross-examination.

3rd Witness. No. B 89770, S/Sgt. Cunningham B.F. 'B' Coy. 5th Cdn. Fd. Amb. sworn states;

I am senior N.C.O. of B. Coy.

On getting up in the morning of 23rd Jun 41 there was a note from the acting orderly N.C.O. stating that Pte. Lawrence had failed to return to barracks.

He was absent on the morning roll call of 24 Jun 41 and failed to appear on further muster parades.

He was reported as being A.W.O.L.

He continued to be absent until I left the unit on 29 Jul. 41. I rejoined the Unit on 13 Dec. 41 and was notified on the 23 Jan 42 that Pte. Lawrence had returned to the Unit and was under arrest.

No cross-examination.

4th Witness. B89777 Cpl. Oddie T. 'B' Coy 5th Cdn. Fd. Amb. sworn states:

I am employed on general duties — 'B' Coy. 5th Cdn. Fd. Amb.

I was acting orderly Sgt. from 7 Jul. 41 to 13 Jul 41. I called the roll every morning and found Pte. Lawrence absent.

I didn't see him again until I was detailed to act as escort for Pte. Lawrence from 1st Cdn. Reception Camp

Page 1

Proceedings of the F.G.C.M. assembled at Holm H.Q. 5th Cdn. Fld. Ambulance to try charges against B 89893 Pte. Lawrence S.E.H. 5th Cdn. Fld. Ambulance.

The proceedings were read to the court and all concerned and accused was asked the question, 'Do you object to being tried by the President or any members of the court whose names you have heard read over?'

The court was constituted by: Major I

Major F. A. Clift - SASK. L.I. (M.G.) President

Capt. H. F. Parker - 4th Cdn. Recce. Regt. Member

Lieut. F. B. Tessman - SASK. L.I. (M.G.) Member.

Note: Lieut. K.E. Richardson - 6th Cdn. Recce. Regt. was unable to attend.

The accused agreed to be tried by the court as constituted above.

Prosecutor:
Capt. M. Casleton 5th Cdn. Fld Amb.

Diff. Officer:
Capt. J. C. McGarry - RCAMC - 1st Cdn. Div. RCASC.

President & members were sworn.
Accused was arraigned.
Accused was asked question on bottom of Page 2 of Schedule. Answer recorded thereon.
R. P. 35 (b) complied with Fdg.
R. P. 37 (b)(c) complied with Fdg.

Prosecution

The prosecutor made an opening address - included with proceedings

1st Witness No B 89843 Pte. Wedlake H. "B" Coy. 5th Cdn. Fd. Amb. sworn states:

I am engaged as clinic orderly at "B" Coy. 5th Cdn. Fd. Amb.

Examination -

I was acting orderly corporal for the week and on the night of 23 Jun 41 Pte. Lawrence failed to sign in at 2359 hours. He was away on seven days' leave.

I left a note with S/Sgt. Cunningham to the effect that Pte. Lawrence failed to sign in.

9 Apr. 42

MEDICAL CERTIFICATE

I certify that I have examined. B89893 - Pte. Lawrence, S.E.H.

of. "B" Coy, 5 Canadian Field Ambulance RCAMC

and find him fit to undergo trial by Court-Martial.

R. T. Potter Capt.
Signature of Medical Officer

Station. In The Field

Date. April 9/42

CHARGE SHEET

The accused 309893 Pte. LAWRENCE, S.E.H., 5 Canadian Field Ambulance, a soldier of the Canadian Army(Overseas)is charged with,

While on Active Service,

DESERTING HIS MAJESTY'S SERVICE,

in that he, at 2359 hrs., 23 Jun 41 absented himself from "B" Coy., 5 Canadian Field Ambulance, until arrested by the Civil Power at Hamilton, Ontario, Canada, at 2100 hrs., 27 Dec 41, dressed in civilian clothing.

The accused 309893 Pte. LAWRENCE, S.E.H., 5 Canadian Field Ambulance, a soldier of the Canadian Army(Overseas) is charged with,

While on Active Service,

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he, on 17 Jul 41 was deficient -

	No.	Value. £	s.	d.
Boots, ankle, prs.	1		22	6
Helmet, Steel	1		7	
Cap, F.S.	1		2	2
Blouse, Battle Dress, Serge	1		22	6
Trousers, Battle Dress, Serge	1		20	6
Respirators, complete	1		16	10
Detectors, gas, individual				4
Eyeshields, pkts. of 6, pkts.	1		2	
Holdall	1			11
Brush, tooth	1			5½
Comb, hair	1			2
Armlet, Geneva Cross	1			7½
Discs, identity	2			2
Gym vests	2		3	2
		£4	19	4

To be tried by Field General Court Martial.

(G.H. Pearkes)
Maj.-Gen.
G.O.C. 1 Cdn Div.

(C.B. Playfair) Lt.-Col.
Officer Commanding
5 Cdn Field Ambulance.

9 April 1942.

To
The Convening Officer
F. G. C. M. - B89893 Pte Lawrence S.E.H.

1 This soldier is a case for medical attention because of his very apparent lack of physical and nervous control. It is felt by this court that Lawrence's addiction to drugs is so far advanced that he should have treatment while he is in detention.

F. A. Clift Major - Pres.
H. Parker Capt.
J. B. Tessmor Lt.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-89893 Pte LAWRENCE S.E.H. 5 Cdn Fd Amb R.C.A.M.C.	1st Charge A.A. Sec 12(1)	F.A.C. Not Guilty	F.A.C. Guilty Eighteen months (18)	
	2nd Charge A.A. Sec 24(2)	F.A.C. Guilty	detention F.A.C.	
			To be put under stoppages of pay until he has made good the sum of four pounds nineteen shillings and four pence in respect of deficiencies of kit as listed in 2nd charge (see Charge sheet) F.A.C.	I confirm the finding & sentence of the Court. G.R. Pearkes M.S.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary) :— No. F.A.C.

(Signed) G.R. Pearkes (G.R. Pearkes) Maj.-Gen. G.O.C. Commanding 1 Cdn Div.

Convening Officer (e)

(Signed) F. A. Clift Major

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of April 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) F.A.C.
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 9th day of April 1942

F. A. Clift Major

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this 18 day of April 1942.

G.R. Pearkes M.S.

Confirming Officer.

Promulgated and extracts taken in the case of B89893 Pte Lawrence, S.E.H.

(a) (Dated) 30 Apr 42. (Signed) C. H. Clayfair Lt Col. Lieut. Col. Commanding No. 5 Field Ambulance, R.C.A.M.C., C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(11759) Wt. 40015—4[illegible] [illegible] F.St. G. [illegible]

48 I

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25 day of March, 1942.

Whereas it appears to me, the undersigned, an officer in Command of ~~5 Cdn Fd Amb R.C.A.M.C.~~ 1st Cdn Div., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*(I am unable to appoint~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely~~

PROCEEDINGS REVIEWED.
[signature] Reviewing Officer (Rank) [illegible]
15 May 42.

President.

Rank.	Name.	Regiment.
Major	F.A. Clift	Sask L.I.(MG)

Members.

Rank.	Name.	Regiment.
Capt	H.F. Parker	4 Cdn Recce Regt(4PLDG)
Lieut	K.E. Richardson	4 Cdn Recce Regt(4PLDG)
Lieut	F.B. Tessman	Sask L.I.(MG)

*Meeting signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed G.R. Pearkes (G.R. Pearkes) Maj.-Gen.
Commanding G.O.C. 1 Cdn Div.
Convening Officer.

48I

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

NAME Pte LAWRENCE. S.E.H ..... REGIMENTAL No. .....

UNIT OF ENLISTMENT ..... RANK .....

	CONTENTS	NON-EFFECTIVE BY
	COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
	SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
	PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
	FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
	CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
	FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
	DENTAL HISTORY SHEET	DISCHARGE
	MEDICAL REPORT OR CASE HISTORY SHEET	DATE
	MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
	TRANSFER CLOTHING STATEMENT	AUTHORITY
	LAST PAY CERTIFICATE (M.F.D.930A)	
	PROCEEDINGS ON DISCHARGE	
	PROCEEDINGS COURT OF ENQUIRY	DESERTION
	DECLARATIONS COURT OF ENQUIRY	DATE
	PAY SHEETS	AUTHORITY
	CARDS	
	SUNDRY	

M.F.W. 2000

REQUEST FOR DEFENDING OFFICER

I, H26658 Tpr Lawrence, R.A., request that in the event of a Court Martial being held, that Capt S.A. Nicol, of Cdn Armd Corps Trg Unit be appointed to defend me.

R.A. Lawrence

(R.A. Lawrence) H26658

I certify that in the event of a Court Martial Capt S.A. Nicol will be available to defend Tpr Lawrence, R.A.

G.E. Armstrong Lieut.
for (S.A. Nicol) Capt & Adjt.,
Cdn Armd Corps Trg Unit.

In the field
In Italy
10 Jan 45

RECEIPT FOR SUMMARY OF EVIDENCE

I, H26658 Tpr Lawrence, R.A., hereby acknowledge receipt of a true copy of the Charge Sheet and Summary of Evidence in connection with the Charges pending against me.

R.A. Lawrence

(R.A. Lawrence) H26658

Witnessed by C.E. Armstrong Lieut.
for (S.A. Nicol) Capt.

In the field
In Italy
10 Jan 45

LIST OF WITNESSES

Witnesses in the case of H26658 Tpr LAWRENCE, Ross Adelard, Canadian Armoured Corps Training Unit.

FOR THE PROSECUTION

B74507	Sgt	CAMERON,	J.A. - Cdn Armd Corps Trg Unit
G208	SQMS	WEBBER,	C.H. - Cdn Armd Corps Trg Unit

FOR THE DEFENCE

N I L

A.E. Armstrong Lieut
for (S.A. Nicol) Capt & Adjt.,
Cdn Armd Corps Trg Unit.

In the field
In Italy
10 Jan 45

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY:					
				(S.A. Nicol) Capt & Adjt.,					
				Cdn Armd Corps Trg Unit.					

No H26658 Name LAWRENCE, R.A. Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 23-5-40 | GC Badges G.S.G.J 30 Jan 45 | Service or Proficiency Pay Ex "C"

MFM 6 (AFB 122) 40/P&S/136 (34)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
OLD SHEET DESTROYED 23 NOV 42									
DETTINGEN BARRACKS	29 Nov 42	TPR		WOAS. ABSENT WITHOUT LEAVE, IN THAT HE ABSENTED HIMSELF FROM DETTINGEN BARRACKS ON THE 29 Nov 42 FROM 1200 hrs TILL 2025 hrs 29 Nov 42 (ABSENT 8 hr. 25 MIN.) A.A. SEC 15 (1)	CPL HEIGH PROVOST.	5 days C.B.	30 Nov 42.		FORFEITS 1 days PAY BY F.R.&I.
FIELD	16 APR 43	TPR		A.H. SEC 40. WOAS CONDUCT TO THE PREJUDICE OF GOOD ORDER & MILITARY DISCIPLINE I.E. IMPROPERLY DRESSED IN A PUBLIC PLACE.	R.S.M. TUCKETT G.W.	7 days C.B.	19 APR 43	MAJOR C.W. FLETCHER	
FIELD	20 DEC 43	TPR		AWL FROM 1400 hrs until 1800 hrs 20 DEC 43 (4 HRS) A.A. SEC 15 (1)	SGT. RICHARDSON	7 days C.B.	22 DEC 43	CAPT C.P. HALL	

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day of January 1945

A. E. Armstrong Lieut.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

G.S.G.J. Ex "B"
20 Jan 45.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H26656	Trooper	LAWRENCE, Ross Adelard	CDN ARMD CORPS TRG UNIT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers, terms stated should correspond with the number of entries in the conduct sheets, punishments being given in the exact terms adopted on each occasion, and in any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	A.A. Sec 16 (1)	times	2	times.
For	A.A. Sec 40	times	1	times.
For		times		times.
For		times		times.
For		times		times.

[redacted]

or

[redacted]

2. The accused has not been previously convicted, *or*

[redacted]

3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for [redacted] 17 23 days in military custody, making a total of 17 23 days, of which none days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 23 yrs

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 23 May 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4yrs 7 months 28 day

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 7 months 28 days service.

9. The accused is entitled to reckon 4yrs 7 months 28 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C.V.S.M. with Clasp.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

(*14220) W—13652/144 125,000 8/42 A & E.W. Ltd. Gp.698

G.S.G.T.
20 Jan 45.

		100%	75%
Blouses, B.D.,	1	6.25	3.93 ¾
Drawers, woollen,	1	1.20	.90
Shirts, angola,	1	2.08	1.82 ¼
Trousers, B.D.J	1	5.39	4.04 ¼
Vests, woollen,	1	1.20	.90
Fork, table	1	.07	.06 ¼
Knife, table	1	.15	.11 ¼
Spoon, table	1	.07	.06 ¼
Blankets, G.S.,	3	11.16	8.37
Total		26.82	19.89

I certify that the s/m prices are the latest vocabulary prices in my possession.

The accused questions this witness,-

Question - Did you find me deficient of any equipment of which I was not issued?

Answer - I couldn't find you deficient of kit which you had not been issued.

The accused declines to question this witness further.

(C.E. Webber)

Having been duly cautioned according to R.P. 4 (e), the accused declines to make any statement or to give evidence on oath, and reserves his defence.

The above Summary of Evidence was taken down by me in the presence and hearing of the accused, and in accordance with R.P. 4 (c), (d), (e), (f), and (g), this 4th day of January 1945.

(J.S. Allen) Lieut.,
Officer detailed to take Summary.

In the field,
In Italy,
9 Jan 45.

G.S.J Ex "A"
20 Jan 45.

SUMMARY OF EVIDENCE

in the case of

H 26658 Tpr LAWRENCE, Ross Adelard

of CANADIAN ARMOURED CORPS TRAINING UNIT

By direction of the Commanding Officer,
Evidence to be taken on Oath.

In the field,
In Italy,
4 Jan 45.

FIRST WITNESS

B74507 SGT CAMERON, J.A., on strength of C.A.C.T.U. having been duly sworn states:

"I am B74507 SGT CAMERON, J.A.,on strength of C.A.C. Trg Unit, employed as Duty Sgt for Tank Sqn. At 0630 hrs, 28 Dec 44, I was in charge of Tank Sqn morning parade. I called the roll and the accused, whom I now recognize, failed to answer his name. Also, I was in charge of all parades and duties from 23 Dec 44, up to and including 28 Dec 44. The accused failed to answer his name and was not detailed for any duties from23 Dec 44 up to and including 28 Dec 44. At approximately 2000 hrs, 28 Dec 44, the accused, reported to me at the Sgt's Mess. I accompanied him to the Sqn Orderly Room to check on Absentee Reports. I then conducted him to the guard room where I turned him over, under close arrest to the M.P. on duty."

The accused declines to question this witness.

J.A. Cameron Sgt
(J.A. Cameron)

SECOND WITNESS

G2O8 SQMS WEBBER, C.H., on strength of C.A.C.T.U. having been duly sworn states:

"I am G2O8 SQMS WEBBER, C.H., on strength of C.A.C. Trg Unit, employed as SQMS for Tank Sqn C.A.C.T.U. On the morning of 29 Dec 44, at approximately 0630 hrs, I was detailed to inspect the kit of the accused, whom I now recognise, which I did. On commencing to inspect his kit, I found that he was deficient his MBW 1 Pt 3, so I asked him what he was missing, checking on a blank MBW 1 Pt 3, he stated that he was short the following articles of clothing and regimental necessaries,-

G.S.G.J
20 Jan 45.

FORM "E"

Plea in mitigation in the case of
Tpr. Lawrence, R.A.

In respect to the first charge against the accused, the following points are brought to the attention of the court:

(1) The period of absence, to which the accused has entered a plea of 'guilty', was over the Christmas season. This period is normally considered as different from the rest of the year.

(2) The only reason this man was put up for trial by F.G.C.M. was because he had been charged with a large loss of kit; of which he was not guilty; otherwise his case would have been dealt with by the C.O.

(3) The accused surrendered himself voluntarily. There was no intention, on his part, to absent himself for a long period.

(4) The accused has had a clean record for about two years — covering his period of service in an operational theatre.

[signature]

G.S.G.J. 30 Jan 45. FORM EX'D'

Submission to Court under R.P. 40

AB

It is submitted that the prosecution; in failing to prove that the articles of bit, mentioned in the second charge, were on charge to the accused on 29 Dec 44; has failed to establish a prima facie case and that the accused should, therefore, not be called upon for his defence.

[signature] Capt

Defending Officer.

Submission by Defence — Form I

Not Guilty of Charge II — Submission accepted Charge acquitted.

Charge I — Guilty

No statement from accused or change of plea

Prosecution

1 - Summary of evidence

2 - M.F.M. - 6

3 - Character & Service Statement

Plea of mitigation from Defence — Form ~~Ex~~ E

G.S.G.I.

H 2663-8 Spr. Lawrence K. A. Ex "F"

G.C.M.O. 20 of 45.

no plea from accused before arraignment

Charge I } read by President
Charge II }

Accused
Pleas

Charge I - Guilty
Charge II - Not Guilty

1st Witness for Prosecution

C 208 S/Q.M.S. Webber C.N., S.Q.M.S. Tank Sqn.

" " " " " "

having been duly sworn states — sir, on the morning of 29 Dec 44, I was detailed to inspect the kit of the accused & found him deficient as listed in the summary of evidence

Questioned by Prosecution

Q. 1 - Is the accused to whom you refer present in the court.

A. 1 - yes, sir - I recognize the accused.

~~Questioned~~
Cross Examined by Defence

Q. 1 - How did you check the kit of the accused on the date mentioned.

A. 1 - I checked it against the blank HQM 1 Pt. III

Q. II - Can you give any evidence to show the accused had these articles in charge at the mentioned date.

A. II - No, sir.

Questioned by Court.

Q. 1 - Is it usual to check kit against a blank HQM 1 Pt. III

A. 1 - No, sir.

20 Jan 45

I certify that I have this day examined H.26656 Apr LAWRENCE, R.A. - CACTU and find him fit to undergo trial by FGCM this day.

J.M. Heller Capt MC USNR

(J.M. Heller) Capt
Medical Officer
CACTU

F.1.67

G.S.G.J.
20 Jan '45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-26658	Trooper		Ross Adelard	LAWRENCE	CAC Trg Unit

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 16 Jan 45 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ". W.G.H.R.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~ W.G.H.R.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder. W.G.H.R.

4. I am unable to appoint ~~[illegible]~~, (b) a Fd Offr as President, for the reason ~~[illegible]~~ that no Fd Offr is available. W.G.H.R.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[illegible]~~ W.G.H.R.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Capt	G.S.G. Jones	CAC Trg Unit
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

	Capt to be detailed by CO CAC Trg Unit	
	Lt to be detailed by CO CAC Trg Unit	
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

	Lt to be detailed by CO CAC Trg Unit	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

	N/A	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.) W.G.H. Roaf (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 16 Jan 45 Commanding (W G H Roaf) OIC Cdn Sec GHQ 1 Ech AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

G.S.G.T.
20 Jan 45.

CHARGE SHEET

The accused, H26658 Tpr Ross Adelard LAWRENCE, on strength of Canadian Armoured Corps Training Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 15 (1)
Army Act

When on active service, absenting himself without leave

in that he,

In the field, in Italy, did absent himself without leave from 0830 hours 23 Dec 44 until surrendering himself at Canadian Armoured Corps Training Unit, at 2000 hrs 28 Dec 44.

SECOND CHARGE
Section 24 (2)
Army Act

When on active service, losing by neglect his equipment, clothing, and regimental necessaries,

in that he,

In the field, in Italy, on 29 Dec 44, was deficient of

		100%	75%
Blouses, B.D.,	1	5.25	3.93 ¾
Drawers, woollen,	1	1.20	.90
Shirts, angola,	1	2.03	1.52 ¼
Trousers, B.D.,	1	5.39	4.04 ¾
Vests, woollen,	1	1.20	.90
Fork, table,	1	.07	.05 ¼
Knife, table,	1	.15	.11 ¼
Spoon, table,	1	.07	.05 ¼
Blankets, C.S.,	3	11.16	8.37
Total		26.52	19.89

In the field,
In Italy,
10 Jan 45.

(G.C. Smith) Major,
Commanding,
Cdn Armd Corps Trg Unit.

To be tried by Field General Court-Martial.

(W G H Roaf) Brigadier
Officer IC
Cdn Sec GHQ 1 Ech AFHQ

In the Field
16 Jan 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~shall read the~~ F.G.T, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) ~~he has~~ F.G.T call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)(1). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans No. (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~ (1) The Court decides (not) to advise accused to change his ~~plea(s)~~ of Guilty to Not Guilty on First charge(1). The accused is (~~are~~) so informed, ~~and he (they) (his) (their) plea(s) on charge(s) Part I of the Schedule is amended accordingly~~.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) F.G.T.

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Second charge(s)(1). F.G.T. The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is ~~disallowed~~ F.G.T on the ~~charge(s), and~~ F.G.T allowed on the Second charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (~~are~~) found Not Guilty on the latter charge(s)(3)(4) F.G.T.

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(ies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3) F.G.T.

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Plea of mitigation read by Defending Offr. See Ex "E" (2) F.G.T. F.G.T.

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2) F.G.T.

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H26658 TROOPER ROSS ADELARD LAWRENCE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty.	
2nd	Not Guilty	Not Guilty.	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ G.S.G.J beginning on (date) G.S.G.J (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

60 (Sixty) Days detention which will include the 23 (twenty three) days spent in confinement awaiting present trial.

(Sgd) G.S.G.J Judge-Advocate, if any. Jan 20/45. Date awarded. (Sgd) G.S.G. Jones (Capt). President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall be as follows: "To undergo detention for 37 days" and with respect to the first charge I confirm the finding and sentence as so varied.

~~I direct that the accused be sent committed to prison or detention barracks until [illegible]~~

(1. AA 57A. Delete if not used.)

(Sgd) W. H. Coad Brigadier

Date 25 Jan 45 Commanding OIC, Cdn Sec 1 Echelon APHQ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H26658 Tpr Lawrence RA	29 Jan 45	G.H. Smith Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100. Legal 4V39

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & S/1808 (2864)

Convened by Order of Brigadier W. H. Coad Comd Can Sec G.H.Q. dated 7th Jan 45. 12th A.F.H.Q.

2 FEB 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H26658	Trooper.		Ross Adelard	Lawrence,	C.A.C. 8th Fd Regt RA

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JUDGE ADVOCATE GENERAL'S OFFICE, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 20 January 1945.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed. G.S.G.J

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.) G.S.G.J

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3) G.S.G.J

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0930 hours trial commences. G.S.G.J

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) G.S.G.J

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ G.S.G.J ~~as interpreter? Ans~~

The ~~Interpreter~~ is sworn.(1) ~~Do you object to~~ G.S.G.J ~~as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1) G.S.G.J

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, G.S.G.J ~~JA, if any~~, and Offrs under instr, G.S.G.J ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt.	G.S.G. JONES.	C.A.C.T.U.
Member	Capt	J.T. Moore.	C.A.C.T.U.
Member	Lieut	A.F. Beswick	(R.C.D.)
~~Judge-Advocate~~			
Prosecutor	Lt	J.B. ALLEN	CACTU
Defending Offr	Capt	S.A. NICOL	CACTU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused H26658 Trooper Lawrence R.A. before arraignment makes(s) (no) ~~a~~ plea G.S.G.J (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All caps and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. G.S.G.J G.S.G.J

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4V39

TPR LAWRENCE RA

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

LIST OF EXHIBITS

in the case of

H-26656, Tpr. Ross Adelard LAWRENCE

(A) Letter from A/AA & QMG, dated 27 Sep 43, file 404/Censbr "L"/1 (Dis).

(B) Censorship submission LON/74137/43.

(C) Letter written by Tpr. Lawrence, dated 9 Sep 43.

(J.H. Perry), Colonel,
Officer Commanding,
No. 2 C.A.C.R.U.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT

1 October, 1943.

I desire to have an officer detailed to defend me at my pending trial by Court-Martial.

R O Lawrence

H-26658, Tpr. Lawrence, R.A.

Maj. ~~A. D. Humphrey~~
A. T. McNab

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion~~

~~In the rank of years.~~

~~In the rank of years.~~

~~In the rank of years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Air Force

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of October, 1943 [signature] Capt & Adjt No. 2 C.A.C.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

[signature]

M.F.B. 388
20M—11-41 (2273)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R-26658	Tpr	Ross Adelard LAWRENCE	No. 2 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the ~~Service~~ and ~~General~~ Regimental and Squadron, ~~Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	2 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. ~~The accused has been in confinement awaiting trial on the present charge, for ..... days in civil custody, and ..... days in military custody, making a total of ..... days in custody, of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 22 yrs, 10 mths, 22 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 28 May 40

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~war~~ military decoration, or ~~war~~ military reward (~~or is in possession of or entitled to~~). ~~State any war (here describe) decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused ..... was made a warrant officer last held the regimental rank of .....~~

No. H26658 Name LAWRENCE R.A. Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 28 May 40 | G.C. Badges | Service or Proficiency Pay N/A | M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. MAJOR W.J.A. WALLACE | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Sep 42	Tpr		A.A. 15(1) WOAS A.W.L. 8 hrs, 25 minutes.	Documentary	5 days C.B.	30 Sep 42	Col G.W. Little	Forf 1 days pay FR&I 149(1)(a)
Field	15 May 43	Tpr		A.A. 15(1) WOAS AWL 2230 hrs 15 May 43 to 1030 hrs 16 May 43. Absent 12 hours.	Documentary	Forf 2 days pay.A.A.Sec 47(2)c.	29 May 43	C.R. X4 List	Forf 1 days pay FR&I 149 (1)(a) Forf 2 days pay FR&I 149(2)

CERTIFIED TRUE COPY

(P.T.O.)

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

N.A. Dickens Capt.

(N.A. Dickens), Captain,
Officer detailed to take
the summary of evidence.

Warburg Barracks,
Aldershot, Hants.
1 October, 1943.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

SUMMARY OF EVIDENCE

in the case of

H-26658, Tpr. Ross Adelard LAWRENCE, of No. 2 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, this summary of evidence is taken on oath.

FIRST WITNESS for the prosecution

Captain, W.S. Thomson, No. 2 C.A.C.R.U., having been duly sworn, states:-

"While acting as the Adjutant, No. 2 C.A.C.R.U., on the 29th September, 1943, I received certain correspondence, which I will present as Exhibits. First was a letter, from the A/A.A. & Q.M.G., C.R.U., enclosing a censors report and three letters in one envelope, addressed to Mrs. R. Lawrence, Regina, Sask., and bearing the return address on the reverse side, H-26658, Tpr. Lawrence, R.A., "C" Squadron, No. 2 C.A.C.R.U., Canadian Army Overseas. The letter from C.R.U., I present as exhibit "A", referred to certain objectionable remarks in the letter written by Tpr. Lawrence. I present the censors report, dated 21 Sep 43, as exhibit "B". As exhibit "C", I present the letter commencing with the greeting 'Dear Chillun' and signed 'Ross'. The letter was dated 9 Sep 43. One paragraph read as follows:- 'How is the daughter and heir to the family fortune? Whatever you do don't let her join the C.W.A.C's. I hear they do nasty things (The C.W.A.C's) I mean. Oh, well, I could think of worse occupations -- Besides, look at the market for those things these days. Oh yes - mercenary little buggars, those girls. Thank Goodness I'm pure.'"

The accused requested that the letters, exhibit's "A" and "B" be read to him. This was done.

(W.S. Thomson), Captain.

The accused declined to cross examine the witness.

The accused, desiring to make a statement was warned in accordance with Rules of Procedure 4 (c) "You are not obliged to say anything, or give any evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing, and may be given in evidence.

The accused then stated:-

"The letter was written in jest, the whole tone of the letter showed that, and I knew that whatever was in there would be taken as a joke by the addressee. No degratory remarks were intended, and I didn't realize that it could be misconstrued to mean anything against the character of the C.W.A.C's.

H-26658, Tpr. Lawrence, R.A.

THIS is a true copy of the Original Document.

COPY EXHIBIT I

ON ACTIVE SERVICE

CANADIAN LEGION WAR SERVICES Sept 9 1943

Dear Chillun:

Hi Gates, whats cookin?

I presume you have had the tale of the bad, bad laurence, unfolded on your understanding shoulders, and that you think I am about the blackest-hearted bitch that ever drew breath -- well you have ½ a point there, but not it all. You see, as the Bishop said to the actress "I've got provocation." and thus the aforementioned statement doth apply to yours truly.

However, I suppose you know it all by now, so I shall rest the rather boring details of a poor little boy gone astray.

How is the daughter and heir to the family fortune? Whatever you do don't let her join the CWAACS. I hear they do nasty things (The CWACS I mean. oh well I could think of worse occupations -- Beside look at the market for those things these days -- oh yes -- mercenary little buggars, those girls. Thank Goodness I'm pure.

Now that the bullshit session is over lets get down to a real family chat.

I haven't heard any more news concerning Richard's welfare, I certainly hope something comes through. Whatever it may be.

Well I suppose Judy is almost big enough now to slap my face, if I tried to take her out -- I'll bet sh's cute as hell -takes after her uncle they tell me.

Well I guess thats just about enough, so I'll ring off for now. Please write soon.

Love to all 3 of Youse

from

Me

Ross

ENVELOPE

Mrs. R. Laurence,
c/o Mrs. D.S. Horsky,
19 Newell Apts,
Regina, Sask.
Canada

Air Mail

Fr: H26658 Tpr Laurence R.M.
C Squadron 2 CACRU CAO

In summing up the evidence and in reviewing the case-
The accused joined the army in May 1940 and came overseas in Nov 41. His MFM 6 shows that he has been a reasonably good soldier as he has only two previous minor charges against him.
The accused has two brothers in the RCAF. One a Wing Commander in action in the east at present.
The letter written to his sister referred to her 3 year old daughter and was written in a jesting manner. It had no intention to harm the character of any service of the Cdn army.
Since the accused enlisted he has completed his education and has attained the degree of L.L.B. This studying was done in his spare time in the evenings.
In view of the above it is hoped that the court will take a lenient view of the letter which was written in a joking manner and had no intention of harming the service of C.W.A.C.

A.H. McNabb, Major.

MM

Trial of H 26658 Tpr R A Lawrence 2 CACRU
Page 1
The accused when arraigned Pled not Guilty
The Question under R P 39 (A) was asked
The Answer No Sir was recorded
1st witness for the accused.
Capt W S Thompson 2 CACRU being duly
sworn states
I was acting as adjt of 2 CACRU on
29th Sept when I received thru proper
Channels a letter from A/A.A.-Q M Tot
CRU dated 27 Sept 1943 which enclosed a Censors Report
dated 21st Sept and 3 Letters ~~each~~ ad in one
envelope addressed to Mrs R Lawrence
c/o Mrs H S Horsley 19 Newell Apts Regina
Sask. On the back of that envelope are
the following particulars H 26658 Tpr Lawrence
R.A. C Squadron # 2 CACRU. C.A.O.
and the words via Air Mail and Par.
Avion. The letter had been mailed
thru Army Post Office. The appropriate
Routine Order requires that any soldier
mailing a letter thru the Army Post
Office must have his name, the
name of his unit and C.A.O on the
back. One of the 3 letters so enclosed
is dated 9th Sept 1943. I produce
it herewith together with the
Envelope it commences with the words
Dear Chillun. My
Marked EX 1 by the Court
The Defendy officer declined to Cross Examine
The case for the Prosecution is closed.
The President advised the accused under
Note 2 R P 40.
1st witness for the Defence
The accused being duly sworn states
I wrote this letter to me sister enclosed
in the envelope addressed to my mother.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Woking, Surrey
ON THE 6 DAY OF October 1943

The accused H266589 Tpr. Lawrence, R.A. Unit 2 C.A.C.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt. Col. D. L. Redmond, V.D. Unit H.Q. C.R.U.

Members. Capt. C.A. McEwen Unit 3 C.A.C.R.U.

Lt. H.V. Pritchard Unit 3 C.A.C.R.U.

The officers under instruction are duly sworn:-

.....Unit.....

.....Unit.....

Prosecutor. Capt. M.A. Dickens Unit 2 C.A.C.R.U.

Defending Officer. Maj. A.G. McNab Unit 2 C.A.C.R.U.

The charge sheet is signed by the President and the accused is arraigned.

The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 36(B).

MM Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

Proceedings follow in Longhand
MM

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined H2665T T.P.R.
(No.) (Rank)

LAWRENCE R.A. of H 2 C.A.C.R.U.
(Name)

and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station [illegible]

Date

Sgd. [illegible] Capt
(Medical Officer) M.O. H2

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

CHARGE SHEET

in the case of

H-26658, Tpr. Ross Adelard LAWRENCE, of No. 2 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, who is charged with:

FIRST CHARGE
SEC 40
ARMY ACT

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, on or about the 9th September, 1943, did write a letter addressed to Mrs. R. Lawrence, c/o Mrs. D.S. Horsley, 19 Newell Apts., Regina, Sask., and did cause same to be posted, and which said letter contained the following:- "How is the daughter and heir to the family fortune? Whatever you do dont let her join the C.W.A.C's. I hear they do nasty things (C.W.A.C's) I mean - Oh Well I could think of worse occupations - besides look at the market for those things these days. Oh yes - mercenary little buggars, those girls. Thank Goodness I'm pure".

(J.H. Perry), Colonel,
Officer Commanding,
No. 2 C.A.C.R.U.

Warburg Barracks,
Aldershot, Hants,
1 October, 1943.

To be tried by F.G.C.M. in the Field.

4 Oct 43

(T.J. RUTHERFORD) Brigadier
Comd "E" Gp CRU

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-26658 Tpr. LAWRENCE, R.A. 2 CACRU	FIRST CHARGE A.A. Sec. 40 See charge sheet attached.	Not guilty	Guilty	Finding and sentence confirmed JGR

Sentence

To forfeit all ordinary pay for a period of thirty (30) days
6th Oct 1943
[illegible]

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? Answer - no
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (T. J. RUTHERFORD) Brigadier (Signed) [signature]
Commanding "E" Group, CRU
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of Oct 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

MM *~~(3. The Interpreter)~~
MM *~~(4. The officers under instruction)~~

were duly sworn.

Signed this 6th day of Oct 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

MM ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

MM ~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ JGR

Signed this 6 day of October 1943.

[signature] Brig.
Confirming Officer.

Promulgated and extracts taken in the case of H-26658, Tpr. Lawrence, R.A.

(a) (Dated) 8 Oct 43 (Signed) E.A. Kay, Capt Capt & Adjt. (E.A. Kay)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] A.& E.W.Ltd. Cp.[illegible]

55-23

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourth day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "E" Group, Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint:~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President.~~]

for the following reasons, namely :—]

Proceedings Reviewed: Eddie Douglas Lt Col Branch

Reviewing Officer: [illegible]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-Col.	D. L. Redman, V.D.	HQ CRU

Members.

Rank.	Name.	Regiment.
A Captain		3 CACRU
A Lieut		3 CACRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(J. J. RUTHERFORD) Brigadier
Commanding "E" Group, CRU
Convening Officer.

[signature]

SS-23

TPR LAWRENCE R.A.

LIST OF EXHIBITS.

(In the case of A.34849 Pte.(L/Cpl) Lawrence,L.J.)

Soldier's Pay Book, M.B.M.1. (Part II)
for the period 1 Jul 42 to 31 Jan 43.
Issued to A.34849 Pte.(L/Cpl.)Lawrence,L.J..... EXHIBIT "A".

Soldier's Pay Book, M.B.M.1. (Part II)
for the period 1 Feb 43 to 31 Jul 43.
Issued as above ..... EXHIBIT "B".

Soldier's Pay Book, M.B.M.1. (Part II)
for the period 1 Aug 43 to 31 Mar 44.
Issued as above ..... EXHIBIT "C".

Statement of Capt.John T. Parry, RCAPC,
on strength London Detachment, RCAPC..... EXHIBIT "D".

Statement of Major H.M.McAlary, RCAPC.
on strength 1 C.M.H.U..... EXHIBIT "E".

Confirmation Slip for £24.14.8d d/10 Mar 44
from the Chase National Bank of New York..... EXHIBIT "F".

Confirmation Slip for £24.13.2d d/11 Apr 44,
from the Chase National Bank of New York..... EXHIBIT "G".

Deposit Credit Note Chase National Bank,
London, d/23 Feb 44 for £9. 0s 0d..... EXHIBIT "H".

Deposit Credit Note Chase National Bank,
London d/24 Feb 44 for £20. 0s 0d ..... EXHIBIT "I".

Deposit Credit Note Chase National Bank,
London, d/2 Mar 44 for £4. 0s 0d ..... EXHIBIT "J".

Deposit Credit Note Chase National Bank,
London, d/5 Apr 44 for £15. 0s 8d ..... EXHIBIT "K".

Deposit Credit Note Chase National Bank,
London, d/26 Apr 44 for £10. 0s 0d ..... EXHIBIT "L".

LIST OF WITNESSES FOR THE PROSECUTION.
In the case of A.34649 Pte.(L/Cpl)
Lawrence,L.J.

Capt. J. Rodgers,
Paymaster & Adjutant,
Unit Pay Detachment, RCAPC.

Capt. John T. Parry, RCAPC.
on strength London Detachment, RCAPC.

Major Burton M.McAlary, RCAPC.
on strength 1 C.E.R.U.

.....

LIST OF WITNESSES FOR THE DEFENCE.

N I L.

A.34849 Pte.(L/Cpl) Lawrence. L.J.

I desire to have an officer assigned by the Convening Officer to represent me at ~~my~~ trial.

I request the services of Capt Silverberg, J.A.G. Branch, C.M.H.Q.

17 Aug 44

L. J. Lawrence

Exhibit "E"
BM

Statement of Major Burton M. McAlary, RCAPC, on strength #1 C.E.R.U.

I am Paymaster (1) of #1 C.E.R.U. From 9 Jun 43 to 27 Sep 43 I was Paymaster (2) at London Detachment Acton.

Paybooks, MBM 3, Part II issued to A 34849, Lawrence, Lester Jay, dated respectively from 1 Feb 43 to 31 Jul 43 and 1 Aug 43 to 31 Mar 44 and marked Exhibits "B" and "C" have been shown to me. The signatures "B.M. McAlary" on page 11 of Exhibit "B" are mine, also the first three signatures on page 7 of Exhibit "C".

When transferring balances from an old paybook to the new I always check the balance. Exhibit "C" presented to me for examination on 10 Aug 44 shows a total credit on the first line of page 6 of $378.34, whereas the credit should be $278.34. The free credit balance on page 11 of Exhibit "B" is 33.34 and this free credit balance of 33.34 was carried forward to the first line of page 7, Exhibit "C" and signed by me. Exhibit "C" presented to me for examination now shows a free credit balance on first line of page 7 of 133.34. In the second line of pages 6 and 7, Exhibit "C" the credits for August 1943 pay and subsistence allowance were written in and the free credit balance entered was 127.34 when I signed the paybook. I observe that ~~when~~ Exhibit "C" shown to me for examination on 10 Aug 44 shows a free credit balance of 227.34. These alterations being an increase of $100.00 in each case since I signed the paybook, Exhibit C, were not made by me or with my knowledge or consent.

B.M. McAlary Major

London, Eng. 10 Aug 44

Ex "D" cont'd
#111

the credit column, page 6 have been changed from 272.52 to 302.52, and the figures in the first line of credit balances on page 7 have been changed from 21.52 to 51.52, and on the second line from 42.51 to 12.51.

The last two entries opposite my signatures on pages 14 and 15 of Exhibit "A" are in the handwriting of Cpl. S.C. Reading (deposed to above). The entries in the second line of pages 6 and 7 of Exhibit "B", as originally made, are in the handwriting of Sgt. Crawford (deposed to above).

J. Harry Capt.

London 10 August 1944.

Exhibit "D"
44

Statement of Capt John T. Parry, RCAPC, on strength London Detachment RCAPC.

From April 1942 to September 1943 I was paymaster at #1 C.G.R.U.

I know A34849, L/Cpl Lawrence L.J. RCAPC. During the above period he was employed in my office at CGRU from approximately 15 Jan 43 to 12 Feb 43. At that time his application for transfer to RCAPC was pending, and he was in my office for instruction. He had nothing to do with making entries in paybooks. The men chiefly responsible for making such entries were experienced clerks. The senior N.C.O.s in the office were Sgt. C.A. Crawford and Cpl. S.C. Reading (now Sgt). Both of them had been bank accountants before entering the army. They had both been employed in my office from April 1942 until after 2 February 1943. I am familiar with their handwriting.

N.B.M.1, Part II, issued to A34849, Lawrence Lester Jay, dated respectively from 1 Jul 42 to 31 Jan 43 and 1 Feb 43 to 31 Jul 43, and marked Exhibit "A" and "B" have been shown to me. The signatures "J.T. Parry" on the last three lines of page 15, Exhibit "A" are mine, also the first three signatures on page 7 of Exhibit "B". My invariable custom is to check that all figures brought forward in a new paybook are in agreement with the closing balances shown in the paybook which has been withdrawn for verification of balances. Referring particularly to the first two lines of pages 6 and 7 of Exhibit "B" certain figures have been altered since I signed the entries. The figures in the

Having read over my statement, I wish to add the following:-

I wish to add that my account in the Chase National Bank of New York in London, has been in operation for over two years, with always enough in deposit.

I have a Brother-in-Law in England who at the asking will loan me as much as I ask for, within reason. If I asked for £300. he'd loan it to me. I have other friends in England who would loan me money for the asking. If I wired to the States I could get up to $600.00 a year.

I give this added statement to show that I don't have to change figures in paybooks to gain the sum of $133.00, knowing that this would in the end be caught.

L. J. Lawrence

over the sum of £300. Exhibit "C" the closing figures show that my credit balance under my knowledge was $76.77. In my current pay book my Free Balance shows that it has always been above the average with the exception of one time when there was a misunderstanding in figures where, instead of receiving £7. I received £17. reducing my Free Balance which I was trying to build up.

If I had altered figures in exhibit "B" and, knowing that they would show up upon audit at the Treasury Office, I would be very foolish to alter another set of figures in a book following the book already in the possession of the Treasury Office.

In exhibit "C" the figures show $33.34 and have been increased to $133.34, showing an erasure in the work. If I was going to raise figures, I never would erase and then put the same figures back adding $100 to increase the Free Balance.

Evidence of the accused continued 16 Aug 44.

I have Deposit Slips in my possession that I would like to present at this time for evidence to show that it is not necessary for me to falsify figures to gain extra money.

The witness produced the following documents in evidence :-

Confirmation slip for £24. 14s 8d d/18 Mar 44 from the Chase National Bank of New York marked exhibit "F".

Confirmation slip for £24. 13s 2d d/11 Apr 44 from the Chase National Bank, marked exhibit "G".

Deposit Credit Note Chase National Bank, London, d/23 Feb 44 for £9. 0s 0d, marked exhibit "H".

Deposit Credit Note Chase National Bank, London d/24 Feb 44 for £20. 0s 0d, marked exhibit "I".

Deposit Credit Note Chase National Bank, London d/2 Mar 44 for £4. 0s 0d, marked exhibit "J".

Deposit Credit Note Chase National Bank, London d/5 Apr 44 for £15. 0s 8d, marked exhibit "K".

Deposit Credit Note Chase National Bank, London, d/26 Apr 44 for £10. 0s 0d, marked exhibit "L".

(See page 5 for added statement). L. J. Lawrence

I certify that the foregoing Summary of Evidence, consisting of ~~four~~ 4 pages, was taken down by me in the presence of the accused on the 15th and 16th Aug 44, and that RP 4 (C), (D), (E), (F) and (G) have been complied with.

H. Hetherson Capt.
J A G Branch CMHQ

Officer Detailed to take Summary of Evidence.

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I want to make a statement.

Q. On oath or not on oath?

A. On oath.

The accused, sworn, states:-

If the figures of my free balances in the opening of exhibit "A" to the closing of exhibit "A" were observed, it would be noted that I always carry a substantial free balance, never having been overdrawn in my accounts. When I left Capt.Parry's office to report to the Chief Paymaster's Office in Acton for duty, my pay book was not in my possession. Not having checked my figures in my previous book I took it for granted that the opening accounts in exhibit "B" was correct inasmuch as the Captain's signature was after the figures. If I thought that these figures was an excess of what I should have had, to save my self a lot of grief in the end, I would have called his attention to it and had it straightened out immediately. When exhibit "B" was called in for audit on July 31st, 1943, why was not that error noted upon auditing of that book, instead of letting it ride for a whole year? If my figures in the Free Balance in exhibit "B" is noted, it can easily be seen that, even with an excess of $30.00, my Free Balance was always over the average.

When I left from Paymaster 2's office,C.M.H.Q. to return to Capt.Paul's office, Paymaster (1), C.M.H.Q. for duty, I had left my pay book, exhibit "B" in the hands of the Pay Clerk at C.M.H.Q.Details, Paymaster (2). Two or three days after I was down with Capt. Paul, my new pay book was forwarded to me. The figures as entered in the pay book now were those as received by me. Being under the opinion that my pay books have always been over the average in Free Balance, I paid no attention to these amounts, taking it for granted that my pay book was in perfect condition. If I had the idea that there was something wrong in the pay book, and having been in the Pay Corps and knowing the workings of the Treasury Office where they find even a penny error, I would have been foolish not to have jumped the gun and called the attention of this error to my Paymaster, instead of waiting and letting it slide with the possibility of serious charges arising.

I have sufficient money, both on deposit and at the Bank in London, and money in two Banks in the States where I can draw, without having to falsify figures in a pay book for the sake of $130.00; I have Deposit Slips in my home in Lancaster that will show that in the year of 1944 I have had deposited to my account monies from both the United States and from England

Q. If pay books were presented to you a year after you had made a signature to an entry in his book, would you be able to swear that those figures were in that book when you signed for them sir?

A. Yes.

Q. If you were going to raise figures on a pay book and there was $33.00 in the pay book and you wanted to raise it to $133.00, how would you raise that to $133.00?

A. The question would never arise as I would never attempt to do such a thing.

Q. If a person wanted to raise his pay book from $33.00 to $133.00, what would be the easiest way for them to do it?

A. By adding a one in front of the three.

Q. Captain, would it be ridiculous to cause an erasure and then add the one which leaves the alteration of the figures standing out?

A. Not being a hand-writing expert I would not like to express an opinion.

J Rodgers Capt.

Second Witness. Capt. John T. Parry, R.C.A.P.C. on strength London Detachment, M.C.A.P.C.

I certify that in my opinion the attendance of this witness is, owing to exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as exhibit "D".

H Holborn Capt.

I do not require the attendance of Capt. John T. Parry for the purpose of cross-examination.

L D Lawrence

Third Witness. Major Burton M. McAlary, R.C.A.P.C., on strength 1 C.E.R.D.

I certify that in my opinion the attendance of this witness is, owing to exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as exhibit "D".

H Holborn Capt.

I do not require the attendance of Major B.M.McAlary for the purpose of cross-examination.

L D Lawrence

SUMMARY OF EVIDENCE.

Summary of Evidence in the case of No. A.34849 Pte. (L/Cpl) Lawrence, L.J., Unit Pay Detachment, R.C.A.P.C., C.A.O., charged with, while on Active Service, knowingly and with intent to defraud, altering documents which it was his duty to preserve (2 Charges under A.A.Sec.25.(2)).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness. Capt. J. Rodgers, Paymaster and Adjutant, Unit Pay Detachment, R.C.A.P.C., sworn states :-

I am Capt. John Rodgers, Paymaster & Adjutant, Unit Pay Detachment, R.C.A.P.C. I have examined the pay books (M.B.M.1. Part II) now shown to me. These pay books were issued to A.34849 Pte. (L/Cpl) Lawrence, L.J. covering the periods 1 Jul 42 to 31 Jan 43, 1 Feb 43 to 31 Jul 43 and 1 Aug 43 to 31 Mar 44. These have been marked exhibits "A", "B" and "C" respectively. An examination of exhibit "A" shows the closing balance in the book as $27.32 Credit. The opening balance in exhibit "B" shows $57.32 Credit, an excess of $30.00. As a result of this excess of $30.00, this soldier did receive cash on 27 Feb 43, A.R.#61 line 6 pages 6 and 7 in excess of his entitlements. The closing balance of exhibit "B" shows $35.34 Credit. The opening balance in exhibit "C" shows $135.34 balance credit. As a result of the $100.00 excess shown this soldier did receive cash in excess of his entitlement on 3 Dec 43, A.R.#630, line 6, pages 8 and 9. By 18 Feb 44, A.R.#811, line 5 of exhibit "C" pages 10 and 11, this soldier had been paid $156.60 in excess of his entitlement.

The M.B.M.1. Part II is issued to a soldier and is used to record his debits and credits of pay and allowances. It is the soldier's personal record of his pay account. Pay books are used for a period and then withdrawn and replaced with a new book, the balances of the old book being transferred to the new book on opening. Soldiers are not permitted to make any entries or alterations in their books. They must carry their books on their persons at all times, only being away from them when the Paymaster requires the books to make entries. It is a soldier's duty to preserve and keep his pay book in good condition. These instructions are embodies on page 1 of the M.B.M.1. Part II for the information of the soldier.

L/Cpl.Lawrence was transferred to the Unit Pay Det., R.C.A.P.C. from London Detachment, R.C.A.P.C. on 20 Apr 44. Since being T.O.S. here he has been employed in the D.A & A.P. Sub-Section of this office checking marriage documentation. He has not been employed on pay books in this Unit.

Cross examined by accused :-

Q. How long have you been paying troops?

A. Since August 41.

FGCM - 5 & 8 Sep 44
A-34849 Pte (L/Cpl) Lawrence LJ

Exhibit "A" - MBM 1 (Part II) for period 1 Jul 42 to 31 Jan 43, the property of A-34849 L/Cpl Lawrence LJ.

Exhibit "B" - MBM 1 (Part II) for period 1 Feb 43 to 31 Jul 43, the property of A-34849 L/Cpl Lawrence LJ.

Exhibit "C" - MBM 1 (Part II) for period 1 Aug 43 to 31 Mar 44, the property of A-34849 L/Cpl Lawrence LJ.

Certified that the above have
been substituted for the
original exhibits in the m/n
FGCM proceedings.

Nov 44 _____
(EE Wasson) Capt
JAG Rep 2

This ruling refers to laying the charge under section 18(5) and my learned friend suggested that these charges might have been laid under section 18(5). Note 11 under this section refers to it (reads) and I submit that section 25(2) is the proper section under which to lay charges against a man charged with altering his pay book. The charges have been passed as so laid by the Legal Officer and being of a fraudulent nature under KR(Can) 540 must be approved by a representative of the JAG Branch so that we might say already the ruling of NDHQ has been over-ruled by CMHQ. Therefore, I submit that there is sufficient to put the accused on his defence.

I point out again as I argued before this Court the other day that you are not now finding the accused guilty of the offences but are deciding whether there is sufficient evidence to require an explanation on his part and that this being one of those cases in which the accused, being in possession of the books, is the best one to explain the alterations in those books.

DEP: I must say there is not the slightest evidence before this Court to indicate that at the time these changes were made the books were in the possession of the accused. I am sorry to interrupt but I must correct the impression. No witness stated the accused was in possession at the time the alterations were made.

PROS: The charges are that the accused between certain dates made alterations and those dates are quite wide. They are the dates of issue and withdrawal and the books were issued to the accused. Therefore, there is evidence of possession in that sense.

a false credit balance of $130.00 and that that credit operated to deprive the government of that amount. The only person who could possibly benefit by the alterations is the accused and at the present time he has benefitted by having that extra money from time to time upon which he has drawn. Therefore, the submission of the prosecution is that there is sufficient evidence to put the accused on his defence and explain how it is that these alterations which were to his benefit and to the detriment of the Canadian Government were made. It has been shown that the charges in this case were made after the paymasters, Capt. Peary and Major McAlary, had signed the entries. That is to say the soldier did not receive these extra monies by a mistake of these particular paymasters at the time the entries were made in the books. Someone has raised the amounts. It is therefore submitted that it is for the accused to give a satisfactory explanation. If he gives a rational explanation then the rule which the Defending Officer just cited will apply. I wish to refer to MML on the question of 'Burden of Proof' at page 73, the third paragraph of section 13 (reads). I submit that this is one of those cases where knowledge of what happened is within the knowledge of the accused and it is up to him to explain.

On the question of the duty of a soldier to preserve his pay book, the 2nd note to the section itself, section 25(2), refers to the duty to preserve and that the Court may use their own military knowledge in determining any question relating thereto. This is a case arising under that section. I further submit that in this case the duty to preserve it is in the same form as it was issued to him. It is definitely his duty not to make any alterations. That is not only stated in the instructions but I submit it is a part of our common knowledge that soldiers must not interfere with the entries in their pay books. Note 5 to this section further refers to the particulars under such charges and the power of the Court to use their military knowledge and refers to the examples on page 728, Specimen Charge-Sheets Nos. 74 and 75. We know very well that it is the duty of a soldier to preserve his pay book and at certain periods he must hand in his pay book to the pay office. Meanwhile, in between those periods, he must keep and preserve it in the condition he received it.

As to the dates in the charges before the Court, these dates were put in obviously because the books have those dates on the back and it is between those dates that the alterations have been made. Obviously if the pay book was altered when not in his possession then it was when in the possession of the pay office. If the Court find him guilty they must find him guilty of doing so when the books were in his possession. He had possession except when they were called in. That, I submit, deals with the first and second submissions of my learned friend.

The next point is the ruling shown in the Extract of Opinions issued by NDHQ. This actually is the first time I have seen it. There is no question about the first sentence (reads). If that applies to this case, it is not the duty of the soldier to make or complete his pay book. I admit it. Going on with the extract (reads). That weakens this ruling because it has no relation to anything we have here. The only thing I can say is that personally I disagree with it. I think it is wrong and I wish to point out that their rulings do not bind the Court and are liable to be changed at any time. [illegible]

intent to defraud alter those pay books. All three paymasters say that do not know who did it. Two of them say they were not suggesting the accused did it. It is evident that many people handled the books, that the books could have and did pass through other hands in delivering them to the accused and that there were innumerable erasures and changes. Some of them are against him and some are in his favor. In the light of that confused evidence if the Court bears in mind its primary duty that if there is a reasonable doubt the accused must be given the benefit of that doubt we say that the Court can hardly find him guilty of the charges.

There are so many further aspects to this case, which make it impossible that this man could have done this very serious crime with which he is charged. The alterations are stupid and obvious; no-one but a fool would make them and no-one but a fool would expect that they would go beyond hours or days without being caught. Then we see that it is not done once but twice. Surely a man who is transferring to the Pay Corps for the 1st time is not going to make alterations in his pay book. Surely if he does so once he will not do so a second time. Surely since he knows no-one can get away with any money, that if the Paymaster does not find it the Audit Board will, he will not do it. A man in the Pay Corps, knowing all this, is the last man in the world you would expect to do this or be likely to do this.

This entire case is based upon circumstantial evidence, the fact that the alterations were made and the fact that the accused did not declare them. Surely if paymasters do not see them you do not expect ordinary soldiers to see them? A chap who keeps large balances you do not expect to check his account closely. I do not think any one of you in this room can tell within £20 or £30 what you have unless you are broke. A person with a large balance does not know but when he is near the line or broke he does know. Lawrence had and has large balances. The evidence is purely circumstantial. There is an absolute iron-clad rule in law in regard to circumstantial evidence and that is that not only must it be consistent with the guilt of the accused but inconsistent with any other rational explanation. There is no evidence that he altered them with intent to defraud in view of the evidence before this Court as to how those books were kept and the number of fellows who handled them.

My submission is that it is not possible for any Court of law to hold that the evidence in this case can exclude any other possible rational explanation of how these things came about. It is so fantastic to suggest that he did so that I submit the Court should dismiss the case at the present time as no prima facie case has been made out.

PROSECUTOR

May it please the Court:

The charges which the prosecution have brought are that he knowingly and with intent to defraud altered these documents. Intention is not possible of positive proof. It can only be inferred from overt acts and it is only on the evidence of these acts that the Court can base a finding that it is done with fraudulent intent. What we have shown here is that the paybooks issued to the accused were altered. We have not any witness who said that they were altered by the accused but it has been shown that they were altered so as to give him

In the second place, it is alleged that on the 1st of February 43 it was in his possession. They allege that that pay book was in his possession from the 1 Feb 43 to the 31st of July. They say it was in his possession continuously during that time. That is what is alleged. Had they described it as the pay book for that period it would have been accurate and correct, but as they are laid at present the charges have as an essential ingredient "altered a pay book in his possession for the period from 1 February 1943 and 31 July 1943." The evidence does not bear that out. And in the second charge from "1 August 1943 to 31 March 1944". The argument is the same in respect to both charges; one is in the same position as the other. The evidence of the prosecution witnesses is that for long periods of time the pay books were not in the possession of the accused. Capt. Peary was prepared to say that some time after the 27th of January until after the 12th of February the book was in his possession or in his office and not in the possession of the accused at all, and we have the evidence of them being turned in regularly. It is possible that proper charges might have been framed but the charges here have not been proved. The prosecution's own witnesses have disproved it and the prosecution must fail.

The third point, Section 25(2) of "The Army Act" reads as follows (reads Sec. 25(2)). Note 5 thereunder reads as follows (reads Note 5). The duty there mentioned is to retain documents for the Army, such as the paymaster his Acquittance Rolls and Pay Rolls and the QMS his documents but not the case of a soldier who has to keep possession of his book and then turn it back. I am born out in this statement by the Digest of Opinions and Rulings compiled from the Records of the Office of the Judge Advocate General at NDHQ. I refer to page 23. They say quite plainly,--

> "A charge under Sec. 25 of the Army Act must relate "to a document which, in respect of the accused, it is "his duty to make or complete. The section would not "extend to something which, because the accused is a "soldier, he has a right to do of his own volition, such, "for instance, as an application for dependents' allow-"ance on form M.F.M. 16. A false statement in such a "document might be the subject of a charge under Sec. "18(5) with an alternative under Sec. 40 but not under "Sec. 25."

It is not his duty for a document to be held or kept; it is in connection with a document it is his duty to make and complete. No-one has suggested that L/Cpl Lawrence had any duty to make out his pay book or to complete the entries in his pay book.

My submission is that, assuming for the purpose of argument that L/Cpl Lawrence did make the changes, which we deny, never-the-less the charges have been wrongly laid. They might have been laid under section 18 or section 40 but NDHQ says that section 25 applies only to documents which the accused has a duty to make and complete. My submission is that as laid the charges cannot be made out, that the Court should dismiss the case at this stage for no matter what the evidence is it cannot possibly succeed.

Now dealing with the facts themselves, assuming the charges are correct, which we deny, no Court of English justice can in conscience on the evidence we have had before us today suggest that L/Cpl Lawrence did knowingly or with

Q No-one gets away with it?
A No, they do not.

Q I suppose you will agree with me that human beingsworking on them that there are all kinds of errors and alterations in pay books?
A No, not all sorts.

Q They are not unusual are they?
A Mechanical errorsare unusual.

Q There is one page on which there is at least one dozen alterations (indicates)?
A That is right but that is not the usual thing in handling pay books. Pay book errors are usually from lack of field advice catching up with the pay books.

Q You will agree that there are a number there?
A Yes and I have seen some books as bad as that but it is not usual.

Q I suppose that it is fair to say that because of the human element it is not infrequent that there are alterations?
A There are alterations necessary.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83(B)

The Witness withdraws.

The Prosecution is closed.

D-4 SUBMISSION OF "NO CASE"

DEFENDING OFFICER

I have a submission to make to this Court based upon 3 grounds; the first two are legal grounds and the third is a question of making out a prima facie case and as to how that should be interpreted in law.

In the first place it will be noted that in both these charges the accused is charged with that "knowingly and with intent to defraud altering a document which it was his duty to preserve" and which was in his possession from 1st Feb 43 to 31 July 43 and from 1st August 43 to 31st March 44 respectively. My submission is that in the first instance we have had before us no evidence upon which this Court can in law come to the conclusion that the accused had a duty to preserve that book. The instructions are placed and appear in the books and state that he must not lose by neglect, must not alter it and must have it with him when he goes on sick parade, to the hospital and when leaving his unit. The prosecution has always in British justice the onus of establishing the case beyond reasonable doubt. All they have shown here is that the accused must not do certain things with his book and must at certain times have it but have not made out a case that it was his duty at all times to preserve that book. If they have made out that case, which I say they have not, then the evidence proves that the accused did preserve the books. There are the books right there. He turned them in and there they are. He did not lose them. He is not charged with altering them. He is charged under sec 25(2) of the Army Act with 'intent to defraud'. My submission is that they have not made out a case and, if they have, then their own witnesses proved that he did preserve them. They were turned in and the accused has discharged his duty and cannot be held guilty in that respect.

Q Yes.
A There would be around the 1000, may be 1200.

Q And how many pay clerks would you have?
A I had 2 there handling military pay and I also have 2 on civilian pay.

Q And the figures you gave, 1000 to 1200, were for military pay?
A Yes.

Q And those 2 clerks could make all the entries in a new pay book within 48 hours and get them back?
A It is possible.

Q Was that not the case?
A Your question was 'could they' and I say yes.

Q Did they?
A I will qualify that since your previous question and say that some of those books would go back before 48 hours and some might be over but the average would be about 48 hours

Q And I suppose you will agree with me that in some instances some books might be held up for a period of several days. That is fair?
A Yes.

Q Now these pay books are turned in every 6 months for audit?
A Yes.

Q I do not suppose you have any personal knowledge when the matter of these alterations came to light?
A No, I have not.

Q If I were to tell you August 44 you would not have any reason to dispute that?
A No.

Q Is there any reason why an alteration made in August 43 should not be picked up before August 44?
A Yes. There is.

Q What is it?
A The book was not put in for audit until some time after-- in March 44.

Q But I suppose that normally these discrepancies are picked up in much quicker time?
A A discrepancy of this kind would not be picked up.

Q They would have the soldier's ledger sheet?
A But it is not in the same place as the pay book.

Q When the pay book was turned in?
A They should pick it up.

Q A discrepancy made 6 months earlier should be picked up also?
A I do not know exactly what you mean. This pay book was turned in March 44 and 6 months previous to that would be October. There is no reason why they should pick up a discrepancy in October when the pay book was in the soldier's possession.

Q It is a fact from your own knowledge that all discrepancies in pay books are invariably picked up?
A Yes.

Q I understand that the average period of time from turning in a pay book to receiving back the pay book varies from 2 to 5 days. Would that be your experience?
A No.

Q What would you estimate it at?
A 48 hours.

Q Invariably?
A You asked me the average time in my experience. The average is 48 hours.

Q In each department you have been at?
A Yes.

Q I suppose it does happen that men go on leave or on holiday or to the hospital even and they leave in a rush without their pay books?
A I have had some experience. Not now.

Q The interval of time between turning in an old pay book and getting a new one back is usually longer than the interval when a soldier turns in his current pay book and gets the same one back. Is that true?
A The word 'usually'. I would not say usually. There may be cases. I would not say usually at all.

Q Then is the opposite true that the interval between turning in and issuing a new pay books is no longer than the interval between turning in and turning back the same pay book?
A It is hard to answer that question 'yes' or 'no'. It all depends upon circumstances.

Q That would depend upon the number of books and the size of the staff?
A Yes.

Q It varies depending upon circumstances?
A Absolutely.

Q I do not suppose that you have any idea by whom those alterations were made?
A No, Sir.

Q You are not suggesting that they were made by Lawrence?
A I am not answering that question.

Q I am asking if you are suggesting Lawrence made those alterations?
A I made the statement the items had been changed but I do not know by whom.

Q You are not suggesting here they were made by Lawrence. You do not know?
A I do not know who made the changes.

Q Approximately how many pay books would you handle in your office?
A At that particular time?

Q At Acton?
A At Acton there were 750 to 800 in addition to the casuals. The total number you mean by the month?

Q Yes. It was perfectly obvious to you and it seemed perfectly obvious to me. Can you give any reason why it should not have been obvious to these other men?
A They would not have the other book to compare it.

Q Neither would L/Cpl Lawrence? The old pay book would be kept there?
A No.

Q You say they appear obvious to you and they appear obvious to me. Can you tell me any reason why they should not be picked up by the man who signed later?
A There is no reason why he would not notice the alteration.

Q But he might assume that it was a normal alteration?
A Yes. That it was a correct balance.

Q You said that a new paymaster would not have the old book to check the balance?
A That is right.

Q You keep the old books?
A We keep them and then they are forwarded to the archives.

Q They are not returned to the soldier?
A Oh, no.

Q He would not have access to his old book to check with his old balance?
A That is right.

Q I understand, Sir, that Lawrence was attached from your pay office at Acton to the pay office at 2 Cockspur Street during the 1st. week in August?
A That is right.

Q I understand further that his pay book, his new pay book was not delivered to him before he left but was sent by courier to 2 Cockspur Street. Have you any memory of that?
A No.

Q Have you any reason to say that might not happen?
A It should not happen.

Q But that does happen. I suppose there would be records available somewhere in your office to show whether it was forwarded?
A I don't know.

Q If Lawrence were to say that is what happened would you have any reason to deny it?
A I might like to ask him a question if he did.

Q You would have no reason to disbelieve it?
A I suppose the answer is yes.

Q You would have reason?
A No. The answer is no. The book should go with the man.

Q That does not always work out. There is an Army regulation that pay books should be held for no more than 48 hours. I think you will agree with me that they are kept longer than that sometimes?
A I do not know. There may be extenuating circumstances. Probably he did not pick it up.

Q Do you know the accused, L/Cpl Lawrence?
A I recognize him (indicates the accused). I know him, yes.

Q Was he at your detachment when you were there?
A Yes, he was.

Q Were the changes in those figures you point out made with your knowledge?
A No, Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER.

Q In Exhibit "B", the last entry, after the 33.34 there appears to be another one which has been crossed out?
A That is right.

Q Can you tell me anything about that?
A The entry you refer to appears to be the credit for August pay and as the pay book for July should have been withdrawn before a new pay book was issued the entry having been made in the old pay book it would be erased and the figure put in the new pay book.

Q That was an entry made by 1 of the clerks and afterwards crossed out?
A I think so, yes.

Q These original entries in the beginning of Exhibit "C" would be made by 1 of your clerks?
A The original entries, yes.

Q Before it was submitted to you for signatures?
A That is right.

Q After you had signed it the book would go back to 1 of your clerks?
A Yes.

Q And in due course would be delivered to L/Cpl Lawrence?
A Yes.

Q And Capt. Peary has told us the practice at his office is that during the period after the old books are turned in and while new ones are being entered up that they often call on Orderly Room clerks who are not ordinary pay clerks? Would that practice be followed in your office?
A No, Sir.

Q You do it all by pay clerks?
A Yes.

Q Had the book been in its present condition when it was submitted for signature would you have signed it?
A No.

Q I would think not. I suppose you agree with me that the alterations are crude and noticeable?
A I will.

Q Can you give me any reason why those alterations should not have been immediately picked up by subsequently signing paymasters who put their name right below it?
A I see no reason why they could not.

Q Who issued that pay book Exhibit "C"?
A That would be issued by the Detachment at Acton.

Q Whose signature appears?
A My signature.

Q Your signature appears at the top of the page?
A Yes.

Q And who was the officer responsible for the issue of that book?
A I was.

Q Will you compare the balances between the 2 books and explain to the Court what you find?
A There is a difference of $100.00.

Q How does that arise?
A The last balance of the previous book is 33.34 and the opening balance in the new book is 133.34.

Q A difference in the sum of $100.00?
A That is right, $100.00.

Q Referring to the credit entry on page 6 1st line what is the figure that now appears?
A 378.34, that is page 6 of Exhibit "C".

Q Is that the correct figure for that credit balance?
A Do you mean is that the correct figure for the credit?

Q Yes.
A It is the correct figure for the figures shown now in Exhibit "C".

Q Assuming the credit balance is 33.34, is it correct?
A No. Assuming that the correct credit balance is 33.34 the total credit shown on page 6 should be 278.34.

Q What were the figures that were there when you signed opposite the figures on Exhibit "C"?
A The figures would be 278.34 and the credit balance would be the same as carried forward from Exhibit "B", namely, 33.34.

Q Look at the second entry on page 7 Exhibit "C". What have you to say?
A The credit balance should be 127.34 whereas it is 227.34.

Q What were the figures when you signed?
A 127.34.

Q Do you know what date you made those signatures?
A It would be made sometime between.....

Q The third entry on page 6 of this pay book is dated 16 August 43. Would it be made prior to that?
A Yes, made prior to 16th August 1943.

Q What is your practice in entering up balances from an old book to a new one?
A The practice is to carry.....

Q Your practice. What is your practice?
A My practice is to carry forward the balance as shown on the old pay book to the new pay book and the balances are checked from the old to the new before it is signed by me.

Q Did you check those particular books?
A I did.

Q And had those alterations been there when they came up you would have initialled them or caught them?
A I would have initialled them but I would not say that I would have caught them. If they were not apparent I would not have caught them.

Q Will you agree with me that despite the Army regulations that pay books should not be kept for more than 48 hours that as a matter of necessity and practice they are often kept for days?
A It does happen.

Q I understand that this matter of alterations was first brought up in the month of August 44?
A I have not been conversant with it.

Q If you will take my word for it, can you give me any sound reason why the over-payment or over-credit to Lawrence should go from February 43 to August 44 without being brought to his attention or anybody elses?
A No, I cannot give any reason for it.

Q Seems peculiar, does it not?
A Yes, it does.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83(B)

The Witness withdraws.

THIRD WITNESS for the Prosecution — Major Burton M McAlary, RCAPC, having been duly sworn, is examined by the Prosecutor:--

Q You are Major Burton M McAlary?
A Yes.

Q You are now paymaster at CGRU?
A I am.

Q Were you at one time with the London Detachment at Acton?
A Yes.

Q What period?
A Between, approximately June 8th or 9th to September, around 27th September.

Q What year?
A 1943.

Q I show you 2 documents. Referring you to Exhibit "B" and to Exhibit "C", look at pages 10 and 11 of Exhibit "B". Whose signatures are opposite all the entries on page 11?
A On page 11 my signatures.

Q What is the final credit balance opposite the last signature?
A 33.34.

Q And looking at Exhibit "C" whose are the first 2 signatures opposite the credit balances on page 7?
A The first two signatures are mine.

Q You have told us that Lawrence was being transferred to the Pay Corps and was at your office for instruction. Will you agree with me that it would be the absolute heighth of folly for any person intending to transfer to the Pay Corps to make alterations in his pay book?

A It would appear so.

Q Examining these alterations on page 7 of Exhibit "B" they are the most obvious alterations possible?

A Quite so.

Q The minute you see that page they stand out?

A Yes.

Q And in addition some person has put in a bracket mark beside them?

A Yes.

Q Can you give me any reason why that change was not immediately picked up by one of the paymasters signing any of the entries immediately below?

A No, I cannot.

Q It seems fantastic?

A I can hardly express an opinion there.

Q And since the entry on the 3rd line page 7 of Feb 13 has not been altered obviously the alterations were made prior to that date?

A It would appear so.

Q It is so. Itcannot be otherwise?

A Yes.

Q In view of the fact that Lawrence was being transferred to a new pay office and that the alterations stand out, very obviously it would seem most unreasonable that Lawrence would make the alterations himself. Is that fair?

A I can hardly pass an opinion on that.

Q You are not suggesting that Lawrence made the alteration?

A No. I am not aware who made it.

Q Will you agree with me that in pay books generally one finds a very large number of errors and alterations?

A Quite.

Q They are not uncommon?

A No.

Q That is the reason for the audit?

A Primary reason for it.

Q And it does not surprise you at all to find in one pay book a dozen or so alterations and errors?

A Yes, it does surprise me.

Q Does it surprise you that these errors and alterations are not initialled?

A It does as I have always made a practice to initial all changes.

Q Had he been attached to London then and not had his new pay book issued to him that is what would have happened to it?
A Yes. That is normal procedure but I fail to see why a man working in the Pay Office would leave without taking his pay book with him.

Q I expect it is capable of ascertaining whether or not his new pay book was sent through. Your files would show that?
A Yes, but the files might be turned in. Normally a letter would go with it.

Q If Lawrence did swear that is what happened you could not deny it and would be willing to accept it?
A Yes.

Q That new pay book must have been entered between 27th Jan and 1st Feb?
A Yes.

Q And if it were sent to him in London and he were attached here on the 12th Feb there would have been a period of 12 days or more when it would be at CGRU?
A Assuming the fact that he did not take it with him, yes.

Q And you have already told us that if he says so you would not be prepared to deny it?
A Yes.

Q Then, assuming that is true, that book would have been available or open to the access of any one of a number of people in the pay office?
A Yes.

Q And Lawrence on getting his new book would not have the old book, which would remain at CGRU?
A Yes.

Q And he would have no means of checking his new balance as against his old balance by himself?
A No.

Q I wonder if you would direct your mind back to the end of January 43. Do you recall having some 8 men working in the Pay Office, some issuing new books, who were not normal pay clerks?
A Yes, it happened quite frequently at those periods.

Q A period when old books are turned in and new ones issued is a period of considerable rush?
A Not rush, but they come up periodically and are prepared for.

Q And you call in the services of Orderly Room clerks who are not normally pay clerks?
A Yes.

Q And you recall having done that about this time?
A But I might add in that case these clerks do not transfer any balances from 1 pay book to another. All these would be doing is to copy covers, next-of-kin, etc.

Q They would have access to the various books during that period?
A Yes.

Q And in fact it does happen?
A Yes, but not frequently.

Q Now, when a pay book is handed in it goes through several hands in the Orderly Room and several in the Pay Office?
A Yes.

Q And when it is handed out it goes through several hands in the Pay Office and possibly several in the Orderly Room?
A No.

Q Why not?
A In any Pay Office that I have been at the Pay Sergeant usually delivers pay books to the personnel himself or he sends a Nominal Roll to the Coy Orderly Room requesting personnel to pick them up at the Pay Office.

Q That is the usual custom, but there are cases where a battery or company pay books are delivered en masse?
A I cannot say that as I have never been a paymaster other than at a Reinforcement Unit.

Q You have no knowledge of that?
A No.

Q You were telling us that L/Cpl Lawrence was attached to your unit temporarily?
A Temporarily to my office.

Q Prior to him being transferred to London?
A Yes.

Q Do you remember the date of his transfer?
A No, not any specific date.

Q Would it have been about this time?
A No, I would imagine it would be about 2 months later than that.

Q My information is, and it can be proved, that he was attached to London the 12th day of February. Is that right?
A No, there is nothing in his pay book to indicate that.

Q The last signature of yours is beside the February pay?That is at line 2 page 7?
A Right.

Q The next signature, that of Capt. Simpson, is on 13 February. Was that Capt. Simpson at CGRU?
A No.

Q Obviously Lawrence was in London at the time that entry was made?
A Yes.

Q And you made your entry you told us between Jan 27th and Feb 1st?
A That is right.

Q Do you remember, Capt. Peary, having to send Lawrence his pay book through the Army mail to be delivered to him here in London?
A No, I have no recollection of that.

Q You would not deny it?
A I would not deny it but do not recollect it.

Q Has that paybook been in the possession of the accused?
A Yes.

Q The date of that pay book is from 1 Feb 43 to 31 Jul 43?
A Yes.

Q Would you look at it with reference to the credit in the credit column on 1st line page 6? What would you say about those figures?
A The figure of 292 has been ruled out and the figure 302.52 placed over it.

Q What figures were there when you signed the pay book?
A 272.52.

Q Have you made any other entries in that pay book?
A No.

CROSS-EXAMINED BY THE DEFENDING OFFICER.

Q Can you remember the dates upon which you signed opposite these 2 items on lines 1 and 2 page 7 Exhibit "B"?
A No, I cannot say the actual date but would say that it would be between the 27th Jan 43 and 1st Feb.

Q As I understand it, Capt. Peary, when a soldier hands in his old pay book he does not necessarilly hand it in personally?
A No.

Q It can come through the Orderly Room?
A Yes, through the Orderly Room or at a pay parade.

Q When the new one is issued to him it is not handed to him personally?
A Yes.

Q Invariably?
A Yes. In the office.

Q You mean to tell me that in every case a new book is issued it is always handed to the soldier in the pay office?
A To my knowledge. Yes.

Q And you would say there are no cases where new pay books are handed to soldiers other than in the pay office?
A Yes.

Q You make your oath?
A Yes.

Q What happens when a soldier is transferred from 1 unit to another between the dates he hands in his pay book and he receives a new one?
A He usually is paraded to the Pay Office and his pay book checked and it is seen that he is in possession of his pay book.

Q When you say 'usually' I take it that there are occasions where that does not happen?
A Yes.

Q There are definitely cases where a soldier handed in his old pay book and receives his new pay book some time later elsewhere than in the Pay Office?
A Yes. It is possible.

Q While he was in your office had he anything to do with pay books?
A No, he was under general instruction in pay duties under the direction of the Senior NCOs.

Q I show you a document which is Exhibit "A". Would you examine it please. The last 3 entries, the signatures of the paymaster on page 15?
A They are my signatures.

Q And the last credit balance is what?
A $27.52, a free credit balance.

Q I show you Exhibit "B". I refer you to page 7. Whose signatures are on the first 2 entries of free credit balance?
A My own signatures.

Q Did you make the entries opposite your signatures?
A No, I did not. The entries were made by one of my clerks.

Q Comparing the 2 balances on"A" the final credit on "A", and the initial credit balance on "B", what have you to say?
A I would say the balance carried forward has been increased or altered subsequently to my signing for the balance forward.

Q When you signed opposite the entries on Exhibit "B" what were the entries of credit balance?
A The entries were free credit balance of 27.52.

Q And it now appears as?
A 57.52.

Q And the next entry?
A The next entry was 42.51 at the time of my signature. It is now increased to 72.51.

Q Was that change made to your knowledge?
A No, not to my knowledge. They have been made subsequently to my signing the original entries.

Q Do you know who made the changes?
A No, I do not.

Q Would you explain to the Court what you do when you make up the balances for a new pay book?
A The old pay book is balanced off, usually by one of the pay clerks in the office, and the balance carried forward into the new pay book. Then the 2 pay books are brought in to me and I check the figures carried forward into the new pay book with those in the old pay book.

Q How often do you do that?
A Invariably. I always do it whenever pay books are withdrawn and new ones issued.

Q Who issued pay book Exhibit "B"?
A It was issued by myself.

Q How do you issue pay books?
A There are certain periods which are designated when the pay books are withdrawn on instructions from the Chief Paymaster. A new book is prepared and at the end of the month the balances are carried forward into the new pay book and then re-issued to the personnel to whom it is made out.

A I do not know any reason whether he should or should not. I do not know who made the changes.

RE-EXAMINED BY THE PROSECUTOR.

Q Referring to Exhibit "D", has the surplus of $130.00 been deducted from the accused's pay as yet?
A Not as yet.

DEF: May I ask a question directly arising out of that question?

Q Why have not the pay authorities deducted the $130.00?
A The reason is that when there are discrepancies in pay clerks books they do not allow the deductions to be made from the Form CT 5059 until instructions are received from the Chief Paymaster.

Q Eventually it will be done?
A Eventually the sum of $132.00 will be deducted from this soldier's pay account.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RULE OF PROCEDURE 83(B).

The Witness withdraws.

SECOND WITNESS for the Prosecution Captain John T Peary, London Detachment, RCAPC, having been duly sworn, is examined by the Prosecutor:--

Q You are Capt. John T Peary, London Detachment, RCAPC?
A Yes.

Q When did you come to the London Detachment?
A Originally in December 1943 and was transferred out in the latter part of May 1943 and returned again about the middle of July the same year.

Q You came to your present position in Sep 43. Where were you before that?
A I came up Dec 43.

Q When were you at No. 1 CGRU?
A From May 42 to Sep 43.

Q What were your duties there?
A Paymaster.

Q Do you know the accused, L/Cpl Lawrence?
A Yes, I do.

Q Do you recognize him?
A Yes. (Indicates the accused).

Q Was L/Cpl Lawrence employed at CGRU?
A He was attached to my office of Paymaster for duties, pending transfer to the Pay Corps, for a period of three weeks.

Q Do you know where he went from there?
A Yes. He went up to London Detachment RCAPC.

Q So, in other words, even if he were to deduct $130.00 over-credit the government would still owe him $11.00 and some-
A thing?
On 30th September.

Q Right, on the 30th. September?
A Yes.

Q We have had evidence that at times his balances were below $130.00 but at the present date there is well over $130.00 so he has not in fact got one cent of government money. That
A is true is it not?
No. It is only the 8th. of the month.

Q By the end of this month when the balance is earned, Yes? Unless he draws it out he will not have one cent of
A government money?
Yes.

Current Pay Book, dated 1st Apr 44, is admitted and marked EXHIBIT "D".

Q Turing to these actual alterations you will agree that there has been no apparent attempt to hide the alterations?
A They are plain and obvious?
I agree.

Q And if Lawrence were wanting to alter his book with intent to defraud that would be the last way in the world that
A anyone would want to do it?
It would be a very poor way to try to fool anybody.

Q Any person seeing those alterations must be struck by them?
A It should be so.

Q Can you give me any reason why those alterations were not
A immediately noticed?
By the succeeding paymasters?

Q Yes. They stand right out like a sore thumb?
A On looking at these books and alterations it seems very strange to me that succeeding paymasters did not notice them.

Q If they would not be noticed by paymasters, whose duty it is to keep close eye on these things, it is quite reasonable that they should not be particularly noticed by the accused?
A That is reasonable is it not?
That all depends upon the soldier. I have had soldiers come to tell me their balance was out five cents.

Q and you have had others who did not notice large errors?
A Well, errors.

Q Apart from paymasters, those errors are obvious to clerks
A in the paymasters office who made succeeding entries?
I think they should have noticed them.

Q And the fact that they were not noticed might be a reasonabl ground for saying that there was nothing particularly
A uncommon about those errors or alterations. Is that fair?
It might be.

Q Knowing that if he made those alterations they were very obvious and should have been picked up and knowing all errors and discrepancies are eventually picked up and the he would stand to gain nothing, can you think of any reasonable reason in the world why Lawrence should attem to do anything like that?

Q And any person working for the Pay Corps would know that regardless of what alterations were made in the pay book he would not wind up with any more money?

A It would come to light on the audit and the correction would be made in his pay book.

Q Any person who was fool enough to make any alterations would know that he could not keep the money and that it would eventually be debited against him?

A That is correct. I think most soldiers know that these things eventually have to be entered in his pay book.

Q And persons working in the Pay Corps would know that better than most?

A Definitely.

Q And Lawrence was working in the Pay Corps during all these times the changes are alleged?

A He was working either in the Pay Corps or for the Pay Corps.

Q Actually assuming, and we do not admit it, that these changes were made by Lawrence he would be bound to know he would get nothing from it?

A I would say so.

Q In examining Lawrence's balances through these books is it not a fair statement that his free credit balances are somewhat larger than that kept by the average soldier?

A Yes.

Q And obviously he was not in need of his money or he would have drawn it?

A Apparently not.

Q I now show you a Pay Book which is made out to A-34849 Lawrence, Lester J. Do you recognize that signature?

A Yes.

Q Whose is it?

A That is the signature of L/Cpl Lawrence, L.J.

Q The accused today?

A Yes.

Q It is what?

A It is the Current Pay Book, MBM I Part II, issued on the 1st Apr 44 to him by Capt. Simpson, Paymaster (2) CMHQ Details.

Q And there is an alteration or two here. You will agree with me?

A There are evidences of errors.

Q Made by pay clerks?

A Yes.

Q What is his final balance?

A His final balance as of today is $245.00 deferred pay and $141.15 free balance credit.

Q Now he is charged with having been credited with an excess of $130.00 and there is actually coming to him $141.15. Is that right?

A On the 30 Sep 44 he would be able to draw on this book $141.15.

Q Page 10 line 9 Canadian Currency column is another alteration there?
A Yes.

Q On page 11 line 3 there is an entry for 44.92 credit column?
A Balance credit column, yes.

Q And I believe on closer examination the item should be 54.92. Is that right?
A Yes.

Q In other words, that is a case where Lawrence was given credit of $10.00 less than he was entitled to?
A The balance was $10.00 less than it should have been.

Q Then in the next line, line 4, it would appear as if 17.04 was raised to 27.04?
A There is an alteration under the balance credit column line 4 page 11.

Q Then continuing on down to line 8 page 11 it would appear as if it had been altered from 90.02 to 81.02?
A There has obviously been an alteration in the figures in the balance credit column line 8 page 11.

Q And line 10 page 11 is that another alteration?
A Yes.

Q It looks as if 76.87 has been reduced to 76.77?
A There is an obvious change on line 10 page 11 balance credit column.

Q Now would you turn to the entries in pencil on pages 12 and 13 and tell me what those entries are?
A As far as I know these entries are made by the clerk in the CTO Office who was verifying the balances in this pay book.

Q And it would appear from those items would it not that actually as a result of the various alterations Lawrence was given an excess in the credit balance of $132.10.
A $132.00.

Q In other words, apart from the two items he is charged with there have been other alterations or errors--four in all. Is that right?
A Yes.

Q And they have the effect actually of making his excess entitlement $132.00?
A $132.00 exactly.

Q The authorities did not bother with the other $2.00 in these charges?
A Yes. They did not.

Q They did not bother with any incorrect entry in his favor?
A There would be a CT 5059 sent out to his present paymaster instructing him to correct the soldier's pay book.

Q In other words, what you are telling me is that all discrepancies are always caught?
A Yes, that is the purpose of the Pay Book audit.

Q Continuing on with Exhibit "C", on page 7 line 1 is another of these famous alterations with which we are charged?

A Yes.

Q And what is that alteration?

A The figures now shown are 133.34 but I cannot tell you what the altered figures were.

Q And if the balance was properly carried forward from Exhibit "B" it should be 33.34?

A Yes.

Q But after the figure 33.34 there was a figure 157.34 which is marked out. It may be that some clerk also got confused there?

A That is possible.

Q And also line 2 page 7 Exhibit "C" there has been an alteration there which has also been changed. That is so?

A Yes.

Q Line 3 that merely carries on the entry from the alteration on the first line?

A Yes.

Q And you will notice that both those entries cover the forward balance and the August 16th one?

A The 1st entry is for forward balance from the old book and the 2nd entry is the August 16th.

Q And both are signed by Capt. McAlary?

A Yes.

Q Also a new paymaster appears on 16 Aug 43?

A Yes.

Q And since the item for 16 Aug 43 has not been changed we must assume that the previous changes were made prior to that date?

A It is reasonable to assume that the changes were made prior to 16 Aug 43.

Q And if in this case, as I later propose showing, where L/Cpl Lawrence was moved from Acton to Cockspur Street, changed his unit, got a new paymaster, got a new pay book issued to him some time later, it is possible that any one of a number of people might have had that new pass book in the intervening number of days?

A It is quite possible.

At 1230 hours on the 8th day of September 1944 the Court adjourned until 1345 hours on the 8th day of September 1944.

On the 8th day of September 1944 at 1345 hours the Court reassemble pursuant to adjournment, present the same members as when adjourned.

Q On page 8 bottom line under column 'Canadian Currency' there is an alteration. Will you agree with me?

A Yes, that is an alteration.

Q Page 9 line 6 there is an alteration on the last figure. Is it not from 50 to 53?

A There is an alteration on line 6 page 9 balance credit column.

Q A fairly substantial change?
A Right.

Q And a very apparent one?
A Yes.

Q I gather from the pencil figure 179.10 which appears beside the altered figure 179.20 that the latter figure is still incorrect?
A Yes.

Q How do you explain that?
A That is explained by a clerical error on the part of the clerk who entered the figures 97.00 in the balance credit column instead of adding it to the previous balance of 82.10.

Q And despite all of those changes not a single initial?
A Yes.

Q Will you look at line 9. There is an entry in credit balance 41.63 and on the same line the pencil figures 40.63. What does that indicate?
A There is a mistake in the balance credit page 9 line 9 of $1.00.

Q In other words as a result of that error Lawrence became entitled to an overpayment of $1.00?
A No. As a result of that error the soldier is shown with $1.00 in his credit more than he was entitled to.

Q Then continuing on down to line 12 there is a figure there of 100.32 which has obviously been superimposed on some other figures?
A There have been alterations in the balance credit column page 9 line 12.

Q And would you say there is also an error in the amount finally arrived at there?
A Yes.

Q So that even the final figure of 100.32 is incorrect?
A That is right.

Q Then would you look at line 13? Can you say if that has been varied?
A The figures in the balance credit column line 13 page 9 appear to have been changed from 121.43 to 99.33.

Q And from the pencilled notation at the side would you say the final figure arrived at was correct?
A No, it is not correct.

Q Page 10 line 9, there is a line marked out. Is that correct?
A Yes.

Q And also on page 11 the same line?
A Yes.

Q And the last entry figure crossed out appears to be?
A 157.34.

Q And somebody has entered them and crossed them out without initialling?
A Yes.

A that time apart from obvious alterations in the figures? Somebody has been monkeying around with the book but I do not know who or when.

Q That is not a normal pay entry mark?

A No.

Q Assuming, which of course we do not admit for a minute, that Lawrence had made those alterations would it seem reasonable that he would make a couple of crude and stupid alterations and then make a bracket mark to draw attention to it?

A I do not know whether Lawrence made the changes or drew the bracket. I cannot say.

Q Speaking as an individual, if a man were going to make changes with intent to defraud the government he would not draw attention to it by putting a bracket beside it?

A It would seem silly.

Q Continuing down to line 10, obviously that figure '6' in 62.88 has been changed. Is that correct?

A I would say the first figure on line 10 balance credit has been changed.

Q On page 8 bottom line under credit column the figures 610.30 appear to have been changed, or some of them. Is that correct?

A The figures under 'credit' bottom line page 8 have been changed.

Q And on the same line if you go underneath the column of Canadian Currency there is another alteration?

A There is another one, yes.

Q And here we see one item 15th May where the entire item has been struck out and initialled?

A Line 8 on pages 8 and 9 has been completely ruled cut and initialled by the paymaster.

Q And that is the only place on these pages where any alteration whatsoever has been initialled?

A That is right, yes.

Q None of the other alterations have been initialled?

A No, they have not.

Q Then it is obvious that the paymaster sometimes....?

A Sometimes forgets to initial.

Q Or pays

A Yes. them without initialling?

Q Page 9, look at line 4. Can you tell me what that alteration is?

A The entry on line 4 page 9 balance credit appears to have been changed from 43.10 to 91.10.

Q That is a fair sized change is it not?

A Yes.

Q Then take a look at page 9 line 6. Would you tell me what that change is?

A The figures under balance credit page 9 line 6 appear to have been changed from 97.00 to 179.20.

Q Here on page, the first entry on page 6 of Exhibit "B" will be the same or should be the same as the last credit item on page 14 on Exhibit "A" which also was 292. That is a possible explanation?

A Yes.

Q Then continuing on with page 6 we find in line 3 a figure which was apparently once $21.82 but is now $26.82.

A There is an alteration on line 3 on page 6 in the Canadian Currency column.

Q Now on the bottom line of page 6 Exhibit "B" the figures 606.07 have obviously been changed to 615.97?

A Yes.

Q Now turn to page 7 of Exhibit "B"/ we have on the top the 2nd alteration respecting which one of the charges is based?

A Lines 1 and 2.

Q That is right, and since the succeeding items beginning on the 13th Feb, line 3, have not been changed the previous changes must have been made some time prior to the 13th Feb 43. Is that right?

A Right. Yes.

Q Now continuing on down. One other thing Capt. Peary was at that time obviously the paymaster of Lawrence?

A Yes.

Q And had been from some time in Jan 43. The last entry is Feb pay which was made the beginning of Feb 43?

A Yes.

Q And when this Exhibit "B" was a new book it was issued after Exhibit "A" had been turned in?

A Yes.

Q And it would have been made up by the L/Cpl or by the department? The new book would be made up by whom after the old book was turned in?

A We would.

Q And if in between Jan 31st when he turns in the old book and the date he received the new book his station is changed it would be some time before he would get his book. Is that true?

A Quite likely.

Q And here we see on the 31th Feb he has a new paymaster. Is that right?

A Yes.

Q And it is not at all unreasonable to assume that he turned in his old book, he changed his station, got a new paymaster, that he had no opportunity of checking the old balance, it is not at all unreasonable that he should accept that as his balance?

A It is not unreasonable.

Q Here is a bracket mark that you might throw some light on beside lines 2 and 3 page 7?

A I have looked at that bracket mark before and wondered with the Defending Officer what it meant.

Q You do not know?

A No, I do not.

Q Is it not reasonable to say that somebody or other, that somebody has been monkeying around with this book during

Q One point I am not clear on. When a soldier turns in his old pay book you have given evidence that it is entered up and signed by the paymaster in the new pay book and then it is returned to the soldier?
A You mean the balances are carried from the old books?
Q And signed by the paymaster?
A Issuing the book and then returned to the soldier.

Q My information is that this transaction sometimes takes as long as two weeks?
A That might be correct.

Q In the case of Lawrence, I am informed between Exhibits "A" and "B", when he turned in Exhibit "A" and got Exhibit "B" he changed his location from CGRU to Acton and between turning in Exhibit "B" and getting Exhibit "C" his location was changed from Acton to Cockspur Street, CMHQ, and in each case it was a matter of weeks before he got his new pay book. That would not surprise you?
A That would not surprise me but I cannot corroborate that.

Q I am not asking you to do that.
A No, it does not surprise me.

Q Apart from the alterations which have already been drawn to the attention of the Court and for which Lawrence is charged there are a large number of other alterations. You will agree with me?
A Let me look at them.

Q Don't you remember them?
A I just looked at the entries the prosecutor asked me to. If you like I will count up the number of errors.

Q We will count them all up together. Will you agree with me that alterations in pay books are fairly common things?
A I would not want to say in this book because there are not any.

Q Generally speaking would you say there were?
A No I would not.

Q They are not rare by any means?
A In Exhibit "A" they are so rare there aren't any.

Q We will go through them together. In Exhibit "A" at page 9 line 3 obviously the figure $81.16 has been changed to $80.16. Is that correct?
A Not being a handwriting expert I could not say whether there was a change or not.

Q Certainly someone changed that. You will not agree that there is an alteration?
A I said it may be.

Q Now in Exhibit "B" on page 6. There has been a change here from $272.52 to $292.52 to $203.52?
A Has that been a $272 before that?

Q Yes. It must have.
A That is right.

Q The normal course is that one's old book is turned in and then the soldier is through with it. It is not returned to him?
A The old book is turned in and a new one prepared and the soldier is shown his old book and he signs the new book. This may not happen in all cases or units.

Q I think you will go this far with me that it hardly ever or never happens?
A I could not go that far with you.

Q Have you ever seen it happen outside of your own?
A You seem to forget that I have never been with another paymaster.

Q Does it always happen in your case?
A They are all told to turn in the old books. They are double-checked but if any soldier says he has not enough we show him the book.

Q Will you agree with me in this case? If that were done in every case there would be many less errors and complaints?
A Yes. I suggested that to the Chief Paymaster about 3 months ago as a matter of fact.

Q Had that been done in each case with these books these errors might not have gone so far without being found?
A In these books the changes might have been made after the balances had been entered and checked.

Q They may have been. We do not know?
A We do not know.

Q Then are we agreed on this. When a soldier turns in his old pay book as a rule that is the last he sees of it and he gets a new one?
A I do not think the general rule but it could be.

Q With respect to this duty to preserve his book there seems to be some variance between the instructions in Exhibit "A" with the instructions on Exhibit "B" and "C". The instructions in Exhibit "A" are contained in pages 2 and 3. Instructions in Exhibits "B" and "C" are each contained on page 1?
A Yes.

Q And they vary somewhat?
A They vary somewhat.

Q And apart from the fact that the soldier is prohibited from making unauthorized entries in his pay book or from losing it by neglect there is no other duty to preserve the book. That is fair, is it?
A Not on the instructions contained in these pages.

Q In addition the instructions on Exhibits "B" and "C" state that the pay book must be in the possession of the soldier when reporting on sick parade, on admission to the hospital, and on other occasions when leaving his unit. Apart from those things there is no duty to preserve?
A Not set out in these pages.

Q And a soldier would know of no other duties to preserve except what is set out here or in daily orders?
A There might be orders published.

Q We have not any here--Daily Orders published?
A No.

Q Is it not true that for every soldier there is a ledger sheet for his pay?
A Yes.

Q And the ledger sheet shows actually every credit and every withdrawal?
A Yes.

Q And that is actually the important thing that determines what pay he will get?
A Yes.

Q In other words these pay books are like bank pass books?
A Yes, something.

Q It is a record for him personally?
A It is not the last word as to his credit.

Q In other words this ledger sheet of his, which every soldier has, that is the last word with respect to his pay?
A Yes.

Q And this is merely a sort of interim document this pay book?
A Not exactly an interim document for it is sometimes possible to correct the ledger sheet from the pay book.

Q You mean errors appear on the ledger sheets?
A Yes. Everywhere in the world.

Q The ledger sheet is the document of authority?
A Yes.

Q And this is something to give the soldier's Paymaster and others generally showing the standing of his account?
A Yes.

Q Your audit is done every 6 months?
A At one time it was done every six months. Now it is being done on a continuous basis.

Q Previously it was every 6 months?
A The pay books were turned in every 6 months. I would not say the audit was every 6 months.

Q The books were turned in for audit each 6 months?
A Yes.

Q Now as to the procedure on turning in an old pay book and receiving a new pay book I suppose a soldier turns in his book to his pay officer or Orderly Room for the pay office?
A Yes.

Q And that book is withdrawn?
A Yes.

Q And he never sees it again?
A Well, in my office when the old books are turned in we retain them so a soldier can ask to see his old book up until the old ones are sent in for audit.

Q That is an arrangement of your own? A precautionary arrangement?
A Yes, but I think most paymasters should do it.

Q They should but they don't?
A I do not know.

Q But you already agreed that it happens that it is longer than that?
A It might be.

Q They are then sent back to the soldier through his Orderly Room?
A Yes.

Q So we have this situation. A soldier will hand in his book to the Orderly Room.Eventually it will go to the pay office and eventually go back to his Orderly Room and then be returned to the soldier?
A Yes.

Q And it might take several days for that transaction?
A Yes, it might.

Q And it might pass through one dozen hands?
A It might.

Q And pay books as I understand it will also be handed in to the Orderly Room for changes in next-of-kin entries?
A Yes.

Q For changes in questions of assignment of pay?
A Yes.

Q In promotion or rank?
A Yes.

Q For any Part II Order entry in fact?
A Practically any Part II Order.

Q And any QM Entry?
A Many repayment entries.

Q So actually this soldier's pay book is in the possession of his Orderly Room or his paymaster for a substantial period of time each month?
A Yes.

Q Now because of the fact that errors creep in quite frequently the Government has set up an audit Board?
A The Pay Book Verification Section of the CTO's Office.

Q Have you ever been on any of those or know anything of their operation?
A It is a civilian organization and they have a Hollarith Accounting Machine on which they compile machine statements for all the soldiers in the Canadian Army. Withdrawn pay books are compared and checked against the machine statement and any errors or omissions are recorded on Form CT 5059 which is sent in duplicate to the Paymaster of the soldier concerned for adjustments to be made in the soldier's current pay book.

Q And a large proportion of these adjustments have to be made for errors?
A I have never actually known the exact percentage of errors but I understand it is sufficiently high to warrant the continuing of this Pay Book Verification Section.

Q It is not an unusual thing?
A No.

Q I agree, but they do it. As careful as you are occasionally you have made corrections or changes and overlooked initialling it? It happens to everybody.

A I would not say that I have not. You will have to have some 2000 pay books to find out.

Q I have one here where you have slipped up. It is not important but it does happen. There is an alteration which is not initialled or is that your normal signature beside it?

A My signature along the side of that change is attesting the change.

Q The ideal practice is that an initial should be there?

A If the change had been made over it I would have initialled it. If the change had been made after I signed it I would have initialled it. This comes up in all cases.

Q Errors are bound to be made. I see nothing wrong with it. It is possible also that your name being there beside it that some other person could come along and alter it, the figures, and it is without an initial but it would appear opposite your signature. That is possible?

A Yes. The same thing could happen if my initial was only there. They could come along and alter it.

Q I quite agree. My only point in my cross-examination is to bring out this fact that in dealing with figures where they pass through a number of different hands and a large number of books errors are bound to creep in?

A Yes.

Q Some errors are caught by the clerks and changes made right away and some are caught by the paymasters and changed right and there are some that are not caught until the audit later. That is correct?

A That is correct.

Q In the case of pay offices the paymaster does not hand back directly to the soldier his pay book?

A I do.

Q Generally speaking will you agree with me that paymasters do not hand the book back directly to the soldier?

A I have never been on a pay parade other than my own.

Q And you have no knowledge from talking with them?

A No.

Q It is quite believable to you that that is the case?

A Yes. It might happen.

Q That the book would be handed to the clerk with a stack of other books and be returned to the Orderly Room to be given back to the soldier?

A Yes, that might be.

Q And I suppose occasionally even in your department the book is sent back to the soldier through the Orderly Room?

A I thought you were talking about pay parade. They are not often withdrawn and sent back to the Orderly Room.

Q When the books are in the possession of the paymaster it might be for days. You agree with me?

A 48 hours.

Q I suppose, I think we all know regulations say that pay books should not be kept more than 48 hours but in actual practice pay books are kept from 3 days to a week or more before soldiers get them back. That is a reasonable statement is it not?

A I would not like to say that definitely.

Q I am not suggesting it happens in your department. This is general, about pay generally. I think you will agree with me?

A I answered that.

Q That is as far as you will go?

A Yes.

Q And after the entry is made in the pay book by some clerk in the pay office the entire entry is made all across the sheet, I suppose, from the credit and assigned pay to final balance?

A Yes.

Q And then a stack of pay books are usually left on the paymaster's desk and he signs down the whole works. That is the usual practice?

A I do not think the paymaster would sign until he had verified them. I personally would not.

Q But we do know as a matter of fact, we have all seen them, a stack of pay books?

A I would like to say not many.

Q I want you to agree with me?

A I can only say for my own.

Q Does it sound reasonable, knowing practice in pay offices, that after these entries are made the clerks in the pay office, that numbers of books are left on the paymaster's desk and he goes through and signs them. He has to rely on his clerks?

A My answer to that is that some paymasters may do that.

Q And if some clerk makes an error in making the entry he corrects it as he catches it?

A A clerk?

Q Yes. He substitutes the new figure?

A I would cross the original figure through, leaving it still visible, and put the new figure in.

Q And in some cases you will find clerks who change it by pressing heavy on top of the old figure?

A Some clerks may do that but they shouldn't.

Q Have you seen pay books where it happened?

A Yes.

Q I suppose the ideal practice would be that every time that happens it should be initialled?

A The paymaster should initial it.

Q But that is not always done?

A I think the majority of paymasters do initial changes.

Q It is not always done and..?

A If they don't they are sticking their necks out.

Q Yes, but that is obtained as a rule by a clerk in the Pay Office or in the soldier's Orderly Room when it is handed out?

A Actually and strictly speaking a new pay book should be handed to the soldier.

Q It should be but it is not always done. That is correct?

A I do not want to criticize paymasters in the Canadian Army.

Q I don't want to criticize anybody. We all know that those things are done?

A You can "include me out" on that.

Q What is the system with regard to soldiers turning in their paybooks to get paid? Is it true that in the first instance he turns it in to his Orderly Room?

A Yes.

Q And his Orderly Room turns it over to the pay office?

A Right.

Q And I suppose that in the Orderly Room about half-a-dozen soldiers or clerks might have access to them?

A They should not have.

Q I agree but in fact is that done? We have seen pay books piled up on the desk. I am merely talking about existing practice. You will agree with me there?

A I suppose in some units they are.

Q And it will be turned over from the Orderly Room to the pay office and I suppose another half-dozen clerks have access to them there?

A It would depend upon the size of the staff.

Q Yes?

A Yes.

Q And entries are made by clerks in the pay office?

A According to regulations they are not supposed to be made by clerks in the pay office.

Q But in many cases they are made by clerks in the pay office?

A Yes.

Q In most cases. I think you will agree with me?

A No, I do not.

Q Lets get this clear. We all know that certain orders are laid down for running this Army and we all know that those regulations are not adhered to any more than has to be done. What we are interested in is not what the regulations say should be done but actually what is done in practice. That is the important thing. I think the Court will agree with me.

PROS: If it is any help to the defence or the Court I am willing to admit that pay books have been known to be left in Orderly Rooms.

DEF: In this particular case?

PROS: No, but that it is general knowledge.

DEF: That it is general knowledge?

PROS: Yes.

Q Would you look at the opening balance on Exhibit "C"?
A The opening balance credit on Exhibit "C", page 7, is $133.34.

Q As a result would the soldier concerned receive anything?
A As a result of the over-credit, which by this time would amount to $130.00, the soldier exceeded his actual entitlement on the 26th Aug 43 AR 304. That is on line 4 of pages 6 and 7.

Q Would you go further in the book? Is there anything else?
A You mean about his over-drawing?

Q Anytime then that his balance fell below $130.00 on Exhibit "C" would he be overdrawn?
A Yes.

Q Are there any examples of that?
A Line 10 page 7; line 5 page 9; line 6 page 9; lines 8 to 14 page 9; and lines 1 to 7 page 11.

Q How is the accused being employed?
A Since being TOS Unit Detachment 20 Apr 44 the accused has been employed in the D A & A P Sub-section of the Unit Pay Section.

Q Dependent's Allowance and Assigned Pay?
A Dependent's Allowance and Assigned Pay Subsection.

Q Has he been working on pay books in there?
A No.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q You do not know who made those alterations?
A No.

Q You are not suggesting that Lawrence made them?
A No.

Q And I suppose you would be happy to have Lawrence back to work for you in the morning or say Monday?
A Yes.

Q When a pay book is first issued to a soldier is it handed to him directly by the paymaster or does it go through some clerk in the paymaster's office and perhaps to the Orderly Room and then to the soldier?
A I cannot speak for all paymasters in the Canadian Army but personally I hand the pay book to the soldier for him to sign his name in it.

Q I suppose it is a fair statement from your knowledge that the regular, the usual procedure is that pay books are signed by the paymaster, handed to some clerk in the pay office and then either the clerk passes them on to the soldier or to the soldier's company or battery. That is the usual procedure?
A I do not know that that would be the case in the issue of a new pay book.

Q I mean in the case of a new one?
A The soldier's signature has to be obtained in the new book.

Q On Exhibit "B" it is where?
A On Exhibit "B" it is on page 7.

Q And Exhibit "C"?
A On Exhibit "C" it is on page 7.

Q Has a soldier any duty regarding those books?
A The complete duties of a soldier concerning this paybook, Exhibit "A", is on pages2 and 3 of the book.

Q Is a soldier allowed to make any entries in the book?
A According to the instructions in the pay book, paragraph 3, which states "This book is the property of the Canadian Government and a soldier who loses it by neglect or alters any official entry in the same or makes unauthorized entries therein may be charged with a serious offence under the Army Act."

Q From your knowledge, from your military knowledge as a paymaster in the Canadian Army is a soldier allowed to make any alterations or entry in his pay book?
A No, he is not allowed to.

Q And what about possession? What are his duties regarding keeping the book? When is it in his possession and when and to whom is it handed into someone else's possession?
A A soldier carries his pay book in his possession until asked to turn it in to the paymaster when an advance of pay is required and for other entries to be made in the book.

Q Would you look at these books please? Would you look at Exhibit "A" first with reference to the closing balance? What is it?
A The closing balance in Exhibit "A" is $27.52 balance credit.

Q That is on page?
A Page 15.

Q Will you now look at the opening balance in Exhibit "B"?
A The opening balance credit on Exhibit "B", page 7, is $57.52.

Q From the examination of those two books what should be the correct figure?
A The correct opening balance figure in Exhibit "B", page 7, should be $27.52.

Q As a result of that was any money paid?
A As a result of the excess credit of $30.00 the soldier was enabled to draw an excess over his actual credit on the 27th Feb 43, AR 81.

Q What does AR 81 mean?
A Acquittance Roll 81.

Q Would you look at Exhibit "B"? What is the closing balance in Exhibit "B"?
A The closing balance credit page 11 in Exhibit "B" is $33.34.

Q What should be the opening balance on the subsequent book?
A The opening balance on the subsequent book should be $33.34.

Q Would you look at page 6? Is there a signature opposite the printed entry 'Soldier's Signature'?
A Yes.

Q What is the name?
A It appears to be the signature of L/Cpl Lawrence L J.

Pay Book dated 1 FEB 43 to 31 JUL 43 is admitted and marked EXHIBIT "B".

Q I show you another document. What is this?
A This appears to be MBM I Part II issued to A-34849 Lawrence L.J.

Q Is there a signature opposite the printed words 'Soldier's Signature' on page 6?
A Yes.

Q In your opinion whose signature is that?
A It appears to be the signature of L/Cpl Lawrence L.J.

Q In your opinion, from your knowledge of the accused and knowing his handwriting, whose signature is that?
A In my opinion.....

DEF: You have to establish qualifications for opinion evidence first. I object to that evidence. The fact that this man has seen the signature of L/Cpl Lawrence does not make him competent. I do not think that is sufficient for him to say I can recognize the accused's signature when he has only seen it 8 to 10 times. That is not sufficient.

PROS: I submit it is. The point as to whether a signature is that of a particular person is for the Court to decide and they may base their finding on the opinion of witnesses. In the case of a question as to handwriting a man who has an opportunity of observing that handwriting may be called as a witness. I refer you to MML page 89, paragraph 67. (The Prosecutor reads the whole paragraph). It does not in other words require an expert to give evidence. A witness can give his opinion and say as to whether or not he has had an opportunity of knowing the handwriting and give his opinion on it. Then the Court decides whether it is or is not the handwriting.

PRES: The objection is over-ruled.

PROS: Pay Book dated 1 AUG 43 to 31 MAR 44 is admitted and marked EXHIBIT "C".

Q Will you give us the dates of Exhibit "C"?
A 1st Aug 43 to 31st Mar 44.

Q Capt. Rodgers, what is the purpose of a soldier's pay book, MBM I Part II, and what is it issued for?
A A MBM I Part II is issued to record a soldier's credits and any balances or debits in his pay account. It is the soldier's personal record and is turned in at times specified by the Chief Paymaster. I should have said turned in for audit at times specified by the Chief Paymaster. In it is recorded his number, name, marital status, name and address of next-of-kin, particulars of assigned pay, his daily rate of pay and it shows the soldier's signature and signature of the Paymaster issuing the book.

Q Where is the signature of the paymaster issuing the book?
A In Exhibit "A" it is on page 8 below the signature of the soldier.

Q I want you to examine these documents?
A Referring to pay book 1 Jul 42 to 31 Jan 43 this pay book was issued to A-34849, Lawrence, L.J. I recognize his signature because I pay L/Cpl Lawrence twice a month. These books were issued at different times. The first in July 1942 covers a certain time.

DEF: I will make the objection that this witness does not know from his personal knowledge that these books were issued to L/Cpl Lawrence. All his evidence can say is that the books appear to contain a certain name and signature.

PROS: Q Capt. Rodgers, there is a signature on the top of this book, on page 8 of the pay book of 1 Jul 42 and there appears opposite the entry "Soldier's Signature" a signature "Lester J Lawrence". Do you recognize that handwriting?
A That appears to me to be the signature of L/Cpl Lawrence L.J.

Q Is that the accused?
A That is the accused.

Q How long have you known the accused?
A Since April of this year.

Q Have you had any opportunity of observing his signature?
A I have had the opportunity of seeing his signature on Acquittance Rolls at least twice a month since then.

DEF: Q Eight times?
A I would not put down an exact figure as there is such a thing as casual payments and he might not have drawn pay on each pay day.

PROS: Q In your opinion whose signature is that?
A That is the signature of L/Cpl Lawrence L J.

Q How is a pay book issued to a soldier?
A A pay book is issued to a soldier when he first arrives in England or when his current book is being withdrawn. When his current book is withdrawn a new pay book is issued transferring the balances from the withdrawn book to the new book.

Q You are speaking now of what is called "Militia Book Part II"?
A Milita Book MBM I Part II.

Q Is that the regular form of pay book issued to Canadian soldiers?
A Yes.

Q How does it actually get into a soldier's hands?
A It is issued to him by the Paymaster.

DEF: Q I am not clear as to what that means. It is handed to him or to some clerk or what? I do not understand that phrase "Issued to him".
A When a soldier is issued with a new pay book he signs his name, pardon me, he signs his usual signature on the top of page 8. The paymaster issuing the pay book signs the pay book at the same time.

PROS: Pay Book dated 1 JUL 42 to 31 JAN 43 is admitted and marked EXHIBIT "A".

Q I now refer you to another document. Will you explain to the Court what it is?
A This appears to be MBM I Part II issued to A-34849 Lawrence L J for the period 1 Feb 43 to 31 Jul 43.

FW

FIELD GENERAL COURT -MARTIAL

IN THE CASE OF: A-34849 Pte (L/Cpl) LAWRENCE, Lester J. Unit Pay Detachment, R.C.A.P.C.

The Court re-assemble at Malaya House, London, England, at 1000 hours 8th Sep 44 pursuant to adjournment made at Lancaster, England, Tuesday 5th Sep 44.

DEF: I have an expert witness and make application that he be granted permission to sit in for the entire proceedings. I propose calling him as a witness.

PROS: I have no objection.

The application is granted.

D - 2

PROSECUTOR'S OPENING ADDRESS

May it please the Court:

The charges against the accused in this case are briefly that he knowingly and with intent to defraud altering documents, namely, soldier's pay books, which it was the duty of the accused to preserve. Three pay books issued to the accused for varying periods will be produced. The prosecution proposes to establish that certain alterations were made in the pay books whereby the accused benefited for a period to the extent of $130.00 Capt. Rodgers, Adjutant of the Unit Pay Detachment, RCAPC, will be called to point out the alterations in the pay books and their effect and also to give evidence as to the duty of soldiers in the care of their pay books. As will be shown and as already known to the Court as a matter of its military knowledge each entry in a pay book is signed by the Paymaster. The officers who signed the pay books opposite the alleged alterations will be called to establish that when they signed the books, the entries, the correct balances then appeared and that the alterations were made subsequent to their signatures.

D - 3

EVIDENCE FOR THE PROSECUTION:

FIRST WITNESS For the Prosecution — Captain J Rodgers, Paymaster and Adjutant, Unit Pay Detachment, RCAPC, having been duly sworn, is examined by the Prosecutor:

Q You are Capt. John Rodgers?
A Yes.

Q Of the Unit Pay Detachment?
A Yes.

Q RCAPC?
A Yes.

Q Stationed at Lancaster?
A Yes.

Q What is your experience as a Paymaster?
A I have been a paymaster since May 1941.

MEDICAL CERTIFICATE.

I hereby certify that I have this morning examined A-34849 Pte. (L/Cpl) Lawrence, L.J. of the Unit Pay Detachment, R.C.A.P.C. and in my opinion he is fit to undergo trial by Field General Court-Martial.

C.M.H.Q.
London
8 Sep. 44.

R.C.A.M.C.
Medical Officer, C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAM/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.34849	Pte	(L/Cpl)	Lester, J.	LAWRENCE	Unit Pay Detachment RCAPC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) this date endorsed by me, (~~as by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	F. Wingert, RCA	2 CARU
(Rank.)	*(Must be named. RP 106.)*	*(Unit.)*

MEMBERS.

Captain	J.K. Barnard, RCA.	2 CARU
Captain	A.T. O'Rielly, RCAPC	Unit Pay Detachment
(Rank.)	*(Named or detailed. RP 106.)*	*(Unit.)*

WAITING MEMBER.

Captain	R.L. Oxley, RCAPC	Unit Pay Detachment
(Rank.)	*(Named or detailed, if any. RP 106.)*	*(Unit.)*

JUDGE-ADVOCATE.

	Nil	
(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in England
(Country.)

Date 29 Aug 44

(Signed personally. RP 105 fn 2.)

P J Montague
Major-General
(Rank.)

Commanding (P J Montague) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

Addressed to Offr Commanding (Barnard) 2 CARU

C.M.F.G.C. No. 2

A CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

By the Convening Order issued by me at London on the 29th day of August 1944 in the matter of a Field General Court Martial for the trial of A-34849 Pte (L/Cpl) Lester Jay Lawrence, Unit Pay Detachment, R.C.A.P.C., Captain J.K. Barnard, RCA, 2 C.A.R.U. was appointed a member of the said Court.

Such appointment of Captain J.K. Barnard as a member of said Court is hereby cancelled and Captain J.R. Causley, RCA, 2 C.A.R.U. is hereby appointed a member of said Field General Court Martial in his place and stead.

Dated at London this 2nd day of September, 1944.

P Montague

(P.J. Montague) Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS
Convening Officer

C H A R G E S H E E T.

First Charge.
Sec.25(2)
Army Act.

The accused, A.34849 Pte.(L/Cpl) Lawrence, Lester.J. Unit Pay Detachment, R.C.A.P.C. a soldier of the Canadian Army Overseas, is charged with, when on Active Service :-

knowingly and with intent to defraud altering a document which it was his duty to preserve in that he at London, England between 1 February 1943 and 31 July 1943 with intent to defraud altered the figures in a paybook in his possession for the period from 1 February 1943 and 31 July 1943 by altering the figures 272.52 to 302.52 such figures representing dollars and being the figures on the first line of credit balance on page 6 of the said paybook and the figures 27.52 to 57.52 and the figures 42.50 to 72.50 such figures representing dollars and being the first two credit balance entries on page 7 of the said paybook which it was his duty to preserve.

Second Charge.
Sec.25(2)
Army Act.

knowingly and with intent to defraud altering a document which it was his duty to preserve in that he at London, England, between 1 August 1943 and 31 March 1944 with intent to defraud altered the figures in a paybook in his possession for the period from 1 August 1943 to 31 March 1944 by altering the figures 33.34 to 133.34 and the figures 127.34 to 227.34 such figures representing dollars and being the first two credit balance entries on page 7 of the said paybook which it was his duty to preserve.

Approved on behalf of GOC Overseas pursuant to RR(Can) 540 and Overseas RO 4750(13) R G Morden
18 Aug 44 (R. G. Morden) Lt-col.
A.J.A.G., C.M.H.Q.

(M.M. Wyndham), Major.
O.C., Unit Pay Detachment, RCAPC.

Lancaster,
17 Aug 44.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
29 Aug 44

(P J Montague)
Major-General
In Charge of Administration
CANADIAN MILITARY HEADQUARTERS

Canadian Military Headquarters
29 AUG 1944

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 and p 4; MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence and such exhibits as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~his~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st & 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the ..... charge(s)~~, and allowed on the 1st & 2nd charge(s), and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (~~are~~) found Not Guilty on ~~the latter~~ charge(s).(4) Dpd
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1), (2) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or call anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 47, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 96, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 348 49 Pte (L/Cpl) Seales J. Laurence RCAPC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Not guilty	
2nd	Not guilty	Not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial ~~[illegible]~~ of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... 8 Sept 44 (Sgd) [signature] (RP 45, 50)

Judge-Advocate, if any. Date awarded. President.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 13 SEP 44 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 VVV99

FIELD GENERAL COURT-MARTIAL

CFAMR (In lieu of AFA3) 40/P & S/1698 145/21 4/38B

Convened by Order of Major General P J Montague Comd CMHQ dated 29 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 162, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 348 49	Pte	L/Cpl.	Seales J.	Laurence	RCAPC.

PROCEEDINGS CONFIRMED
13 Sep 44
[signature]
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5th & 8th Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 537. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to Bombardier Pomfret S Sept 44 as shorthand writer? Ans NO
H 99087 Sgt Dimmick D.K. 8 Sept 44 NO
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans N/A (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any), are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F Wingar RCA	No 7 C A R U
Member	Capt	J R Beardsley RCA	No 2 C A R U
Member	Capt	A T O'Reilly RCAPC	Unit of my selection
Judge-Advocate	N/A	N/A	N/A
Prosecutor	Capt	David L Matheson RCA	JAG Branch CMHQ
Defending Offr	Lieut	W. Epstein RCA	JAG Branch CMHQ

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 (2).)

A8. The accused Pte (L/Cpl) Seales J. Laurence before arraignment make(s) (no) ~~(a)~~ plea. Accused made an application for an adjournment to 4 Sept. Granted by Court

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13C, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(severally)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VVV-99

PTE LAWRENCE L.J.

EXHIBIT "D"

Statement of Evidence

At approx 2100 hrs 17th Sep 44. I H 195345 Pte Matson R in company with B 49332 Pte Atkinson C.L. were proceeding back to camp when we noticed three civilians who were acting rather suspiciously. So we thought we would keep watch on them for awhile. We watched them for about one hour then went back to our tents. After some ten minutes we decided to go back again and have another look. As we were passing our N.Y. compound we noticed a movement behind the wire fence where the petrol is stored, and discovered it to be a civilian man crouching. On being challenged he came out with his hands up and we then escorted him to the Orderly Officer.

CTA
R.M.

Pte Matson R.

H 195345 Pte Matson R

Pte Atkinson C.L.

B 49332 Pte Atkinson C.L.

EXHIBIT "C" 19 Sep 44

STATEMENT OF Mr. DURAND, M. Jr. 44 RUE DASERA LA HOG, DEAUVILLE, NORMANDY, FRANCE

I was playing cards with my father and Mr. Louis on Sunday night in Mr. Louis's Cafe, when in came 4 Cdn soldiers, they sat down, and ordered three drinks, the fourth who was doing the talking did not drink. A conversation was started, then Mr. Louis got up and left my father and I continued to play cards, I heard the four soldiers and Mr. Louis talking about petrol, but as I was busy playing cards, I didn't pay any attention, the next thing I saw was Mr. Louis leaving with the two soldiers, he came back and picked up the other two soldiers, and he asked my father and I to go with him, when I got in the truck I noticed Mr. Louis had a basket with 5 bottles of champagne in it, after we got started three of the soldiers each took a bottle and drank it the fourth who had not drank any was used as an interpreter, after that the three of them fell asleep when we arrived at Downres the French Cdn woke them up, the small Sgt was help to his tent by the Cpl and French Cdn, but the French Cdn said before leaving to wait here, and we will get you some petrol, the tallest Sgt then woke up and said something about "Petrol" he then left and made several trips carrying petrol, he did not come back, so my father sent me to look for him and bring him back for his bottle of champagne, when I went into this place to look for the Sgt. I saw some petrol cans on my left, I went over to see if I could see the Sgt around there, while doing this someone yelled at me, I got scared and tried to hide. While I was hiding two sentry came up to me, and took me down to a tent. There was an officer there who looked at my identification. I told him that I was looking for someone, he then asked me who I was with just then my father and Mr. Louis came in.

This statment was taken by Cpl NEWMAN and translated by L Cpl HENDY as it was given in French.

(Signed) M. Durand

Witnessed by:

Geo A Hendy L Cpl
(R21446 HENDY G A)
No. 9 Cdn L of C Provost Sec

Cpl Newman 6

EXHIBIT "D" 19 Sep 44

STATEMENT OF Mr. M. DURAND, Sr. 44 RUE DASERA LA HOG, DEAUVILLE, NORMANDY, FRANCE

At about 0515 hrs on Sunday night the 17 Sep 44 I was playing cards with my son and my friend Mr. M. Louis in his cafe, when in came 4 Cdn soldiers, I noticed 3 of them were drinking, 2 Sgts and 1 Cpl, the fourth man a Pte, who was a French Cdn, and who was their Interpreter, was not drinking. After awhile there was a conversation started, and they said they came from DOUVRES. A little something was mentioned about them missing their ride home. They asked my friend, M. Louis, if he could take them home as they had noticed his truck outside, he told them he did not have enough petrol, the smallest Sgt of the two then said if you take us home, and give us 5 bottles of champagne I will get you two cans of petrol. My friend then agreed to the deal, as it would help them out a lot as in reference to the ride home. My friend then left with the truck, and the 2 Sgts as they had left their leather coats at the ROYAL HOTEL on his way back he stopped at the cafe, and picked up the other two soldiers, and he asked me and my son to go with him for the ride, when I got into the truck I noticed my friend had 5 bottles of champagne, and on our way back the 2 Sgts and 1 Cpl each drank a bottle. When we arrived at DOUVRES, the 2 Sgts and Cpl were asleep, the French Cdn woke them up, he then came and told Mr. Louis to wait as they would get them the petrol. He and the Cpl then helped the small sgt to his quarters, as he was helpess. The tall Sgt who was asleep then woke up and said "Petrol", he made 6 trips to carry it, on the last trip he brought only one, making 11 cans. I helped my friend to place it in the truck. I never saw the Sgt again that night although we waited for him for quite awhile. We then sent my son M. DURAND to look for the Sgt, and he didn't come back, so I went myself to look for him. I sopped several soldiers to try and find one that could speak French. One came along and I asked him to help me find my son, he took me to a sentry. Just then Mr. Louis came up with another soldier, we then went to a tent where my son was. There was an officer there who questioned me, and then left and came back a few minutes later.

This statement was take by Cpl NEWMAN and translated by L Cpl HENDY as it was given in French.

(Signed) M. Durand

Witnessed by:

Geo A Hendy L Cpl
(R21446 HENDY G A)
No. 9 Cdn L of C Provost Sec

Cpl Newman 6

EXHIBIT "A"

STATEMENT OF MR. M. LOUIS, 44 RUE DASERA LA HOG, DEAUVILLE, NORMANDY FRANCE

At approx 1700 hrs 17 Sep 44 four Canadians came into my cafe. One of my assistants served these soldiers with drinks. While they were drinking I was playing cards with MR. M. DURAND. and his son. We then got talking to these four Canadian soldiers as they seemed nice and polite. We asked them where they came from and they said DOUVRES. While talking they told us that that they had missed their truck in which they were coming home. Three of these Canadian soldiers could not speak French but the fourth, a French-Canadian, was used as an interpreter. He was quiet and polite and did not drink while he was in my Cafe. I had left my truck outside which they might have seen as they asked me if I could take them home. I said I have not got enough petrol to go there and back. The small Sergeant of the two, said through the interpreter that he would give me two jerry cans of gas for five bottles of champagne. I said "yes" just to accommodate them. The two sergeants then said "We have left our leather coats at the Royal Hotel." I said, "I will drive you over to pick up your coats", and on the way back I picked up the other two soldiers and also my two friends Mr. M. DURAND and his son and five bottles of champagne and then headed for DOUVRES. On the way home the two sergeants and one corporal drank one bottle of champagne each. When we arrived at DOUVRES the two sergeants and corporal were asleep. The French-Canadian woke them up. They were still drunk, the smallest sergeant was so drunk that the corporal and the French-Canadian took him to his quarters, but before leaving the French-Canadian told me to wait, as they would get me the petrol. After they left the tall Sgt woke up and said. "Oh, Petrol", and made signs for me to wait there. He made 6 trips and fetching 2 jerry cans each time except for the last trip he brought only 1 can, he then left and I never seen him again that night. I waited for him about 30 minutes, as I still had a bottle of champagne in the truck which was for him.

This statement was taken by Cpl NEWMAN and translated by L Cpl HENDY as it was given in French.

(Signed) [signature]

Witness by: [signature] L Cpl
P21446 L/Cpl HENDY No. 9 Cdn L of C Pro Sec

Cpl Newman C

NINTH WITNESS: (Cont'd) We obtained statements from three of the soldiers, the fourth, B-83065 Bdr. PENWARDEN, H.E. refused to make one. We also obtained statements from the civilians and they did not know the names of the soldiers, Sgt. Laurence is referred to as the "Tall Sgt.", Sgt. McNeill as the "Short Sgt", and Pte. Deziel as the "French Canadian", and Bdr. Penwarde as the Cpl."

The accused declines to cross-examine this witness.

C. Newman
Cpl. Newman, C.

TENTH WITNESS: F21446 L/Cpl. HENDY, G.A., No. 9 Cdn L of C. Provost Section, sworn state

"I corroborate the statement given by Cpl. Newman."

The accused declines to cross-examine this witness.

Geo A. Hendy
L/Cpl. Hendy, G.A.

The accused was cautioned as follows:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I want to make a statement.

Q On oath or not on oath?

A On oath.

The accused, sworn, states:-

"I left with a party of men at approx 1000 hrs on a trip to TROUVILLE. We arrived at approx 1200 hrs. I left the truck with Sgt. McNeil, Cpl. Penwarden, Pte. Deziel and we went into a place called "LITTLE HOTEL" where we had on drink and dinner. We left there and went to another cafe and we started drinking extremely heavy. We stayed there most of the afternoon. From there we went to the brothel house where we had a few more drinks. I went to a room with a woman, after first paying the Madame 200 francs. After I came down stairs we all left. We made our way back to the truck. We stopped at another cafe and had just one drink there. From there we went to a cafe that was deserted except for the proprietor. We had quite a number of drinks in there. S/Sgt. Cox who was in charge of the party came in and said "finish your drinks as the truck was waiting to go home". The proprietor then drove us in his truck to where our truck was parked. We got out of his truck and talked with the rest of the boys. I didn't know where the proprietor was after that. We then decided to go back to the same cafe as we had just left and had a number of drinks. The proprietor then went down the celler and brought up some champagne and said we owned him so much money. We all chipped in and paid him. He then took all the champagne out to his truck and he had two civilians with him. We all drank two of the bottles of champagne on our way home and we started the third one. After that I didn't remember a thing until the next morning I woke up in bed undressed To my knowledge, no deal was made in the cafe.

K.E. Laurence
Sgt. Laurence, K.E.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of four pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F), and (G) (13) have been complied with.

F.R. Arnot Capt.
(F.R. Arnot) Capt. F12 Base Coy., C.S.C.

SIXTH WITNESS: AND SEVENTH WITNESS:

M195545 Pte. MATSON, R. and B49332 Pte. ATKINSON, C.L., #12 Bn. 2 CBRG

I certify that in my opinion the attendance of these witnesses, is, owing to the fact that both have been posted to the Front on 18th September, 1944, not readily procurable, and a written statement of the evidence, signed by them, has been read to the accused and is attached hereto as Exhibit "D".

S.R. Arnot Capt.
Capt. S.R. Arnot

I do not require the attendance of M195545 Pte. MATSON, R., and B49332 Pte. ATKINSON, C.L., for the purpose of cross-examination.

H. Lawrence
Sgt. Lawrence, H.

EIGHTH WITNESS:

B83065 Bdr. PENWARDEN, H., #9 Bn. 2CBRG., sworn, states:-

"Approx 22 men left this camp on Sunday, 17 Sept 44, and proceeded to Trouville. On arriving there we disembarked from the truck and four of us proceeded uptown to get something to eat. We also indulged in some liquid. Then we proceeded to an establishment where they sold drinks. We sampled nearly every kind of drink they had. Then we proceeded to a brothel. We indulged in more drinks but I don't remember how many. Then we left and proceeded downtown. I remember being in another establishment and also leaving in a civilian truck. Other than that everything after leaving the brothel is very hazy."

Cross-examined by the accused:-

Q Do you remember any bills in the last cafe, Cplt

A I don't remember any bills, and don't see why there should have been as I had lots of money with me.

Q Was there any mention of petrol in the cafe?

A Not that I remember.

H. Penwarden
Bdr. Penwarden, H.

NINTH WITNESS:

C5091 Cpl. C. NEWMAN, No. 9 Cdn L of C Provost Section, sworn, states:-

"At approximately 2230 hours 17 Sept 44 we were notified by the Orderly Sgt. (Sgt W. CRUMLEY) of 12 CBRB that they had detained three civilians. One of whom had been caught in their petrol compound by Pte. ATKINSON, C.L. and Pte. MATSON, R. both of 47 Coy., 12 CBRG.

On making inquiries we found that the a/m civilians had eleven Jerry cans of [illegible] petrol in their truck, which was parked approximately 25 yards from the compound. We also found that there had been four soldiers involved in the incident.

We took the particulars of the civilians and found them to be Mr. M. LOUIS, Mr. M. DURAND (senior) and Mr. M. DURAND (junior), all of DEAUVILLE, NORMANDY. When asked if they could identify the soldiers who were involved they replied that they could. We then notified the GENDARMES who took them in custody for the night.

The following morning an identification parade was arranged with the O.C. of 12 Bn. CBRG for 0815 hours, at that time we had the civilians present, but they were unable to find any of the soldiers on that parade. Through further investigations we suspected that the soldiers belonged to the Dental Corps personnel attached to 9 Bn. CBRG. An identification parade was arranged for the a/m personnel, A-66946 Sgt. LAURENCE, H.E./ M-41271, Sgt. McNeill, E. / B-10074, Pte. [illegible], G. were identified by the civilians. Bdr. PENWARDEN then gave himself up saying he was the fourth member of the party. The four men were immediately placed under close arrest pending further investigations.

(continued on next page)

SECOND WITNESS: (Cont'd). He then came in and put on the lights and a few minutes later Sgt. Laurence came in with a bottle of champagne. They had something to eat and drank the bottle of champagne. They started to discuss the activities of Sgt. Laurence's party, but I was so sleepy I didn't hear anything. I was used as an interpretor, as both Sgt. Laurence and Sgt. McNeil had asked me earlier in the evening to go with them.

The accused declines to cross-examine this witness.

Pte. Deziel, G.

Translated into French.

Sgt. Monchamp, F.C.

THIRD WITNESS: Mr. M. LOUIS, 44 Rue Dasera La Hog, Deauville, Normandy.

I certify that in my opinion the attendance of this witness is, owing to the distance involved and lack of available transport, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "A".

Capt. F.R. Arnot

I do not require the attendance of Mr. M. LOUIS for the purpose of cross-examination.

Sgt. Laurence, K.C.

FOURTH WITNESS: Mr. M. Durand, Sr., 44 Rue Dasera La Hog, Deauville, Normandy.

I certify that in my opinion the attendance of this witness is, owing to the distance involved and lack of available transport, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "B".

Capt. F.R. Arnot

I do not require the attendance of Mr. M. Durand, Sr., for the purpose of cross-examination.

Sgt. Laurence, K.C.

FIFTH WITNESS: Mr. M. Durand, Jr., 44 Rue Dasera La Hog, Deauville, Normandy.

I certify that in my opinion the attendance of this witness is, owing to the distance involved and lack of available transport, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "C".

Capt. F.R. Arnot

I do not require the attendance of Mr. M. Durand, Jr., for the purpose of cross-examination.

Sgt. Laurence, K.C.

Exhibit "A" - B.5

SUMMARY OF EVIDENCE:

In the case of No. A99846 Sgt. LAURENCE, K.E., #12 Base Dental Coy., C.D.C., charged with Illegal Disposition of W.D. Petrol.

By Direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS: M41271 Sgt. McNEILL E., No. 12 Base Dental Coy., C.D.C., sworn, states:

"On 17 Sept 44 at approx 1000 hours I left in a 60 Cwt with a party to go to TROUVILLE. We arrived at approx 1200 hours. I left the truck with my friends who were Sgt. Laurence, Cpl. Penwarden, Pte Deziel. I took my friends to a cafe which I had been to before. We had our luch and a few drinks, then we left and went to another cafe where we stayed all afternoon drinking. We did not know what time it was when we left there, but went to several more cafes. At the last cafe we went to, the proprietor seemed quite friendly to us. We had a few drinks while we were there. We sampled several different kinds of drink I was getting pretty drunk by this time. The next I remember was getting into a Vehicle what looked to me like a civilian truck. I must have passed out in the truck. The next thing I remember was being helped out of the truck and taken to my tent by two soldiers whom I do not know. I was then sick and flopped on my bed.

The accused declines to cross-examine this witness.

E. McNeill
Sgt.

SECOND WITNESS: R100704 Pte. DEZIEL, G., No. 12 Base Dental Coy., C.D.C., sworn, states:-

"I left here at 0945 hours 17 Sep 44 on a truck to TROUVILLE. Sgt. McNeill and Sgt. Laurence said they were going to take me along with them to act as an interpreter. When we arrived at TROUVILLE we went to a cafe accompanied by Cpl. Penwarden. Everyone had a few drinks. After a meal we went to a club where all but myself had more to drink. They drank champagne and many other types of liquor. I, myself, drank only lemonade and other soft drinks. We then went from the club to a brothel called "Bermont Castle". Sgt. McNeill was the only one who did not go up to the rooms with the girls. He stayed downstairs and had more to drink. After we left the hostel we went to a couple of hotels and had more to drink. I still only had soft drinks. From there we went to another cafe where the others drank some more. By this time they were becoming quite drunk. The proprietor of the cafe came over to me and said, "You must have lots of petrol". I said, "Yes, you must know that we have lots of petrol in the Army". The waitress then came over and told the proprietor that we owed 180 francs. The proprietor said to her, "Never mind, I shall fix that up". He did not ask if we had any money. The proprietor then said to me, "How about making a bargain with petrol". I said, "For myself, I don't care". The proprietor then asked me to interpret the request to the others which I did. The two sergeants conversed together on the matter. The corporal was not included in this conversation. Sgt. Laurence told me to tell the proprietor that if he would give us one bottle of champagne each we would get him more petrol. The proprietor then brought up four bottles of champagne in a wicker basket, but laid it on a nearby table. Sgt. Laurence then asked me to ask the proprietor how much Petrol he wanted. The proprietor said he wanted 500 litres of petrol. Sgt. Laurence then winked at Sgt. McNeil and said, "That will be O.K." The proprietor then gave us the four bottles of champagne and said that we be received the 500 litres of petrol it would cover the cost of the four bottles of champagne and the 180 francs which we owed him. The others then took another drink and then we went out and got into the proprietor's civilian truck to return back to camp to get the gas. There were three civilians and four soldiers. On the road back each one of my friends had a bottle of champagne which they drank. When we arrived home I hear d Sgt. Laurence tell the three civilians to wait as he would get the gas. Cpl. Penwarden and myself helped Sgt. McNeil back to his tent as he was helpless, and put him to bed. Cpl. Penwarden then said he was going to bed and I said, "So am I". When I got into bed a few minutes later, I heard someone calling my name. I recognized the voice as being from one of the new sergeants who had just recently arrived at the camp. I did not answer as I wanted to sleep.

Exhibit "C" - E.2

No A99846 Name LAURENCE, K.E. Sqn, Battery, or Company 12 Corps Cdn Dental Date of enlistment 29 Jul 40 GC Badges N/A Service or Proficiency Pay "B" MFM 6 (AFB 122) 49/P&S/125 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc (Signed) (J.P.Whyte) Lt-Col. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET NO. 1 DESTROYED				4 Aug 44					
Date of last offence				4 Aug 42					
						(Signed) (J.P. Whyte) Lt.-Col.			
					19 Oct 44	Certified to be a true copy from the Regimental Books in my custody.			

Officer having custody of Regimental Books.

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~THIRTY-FIRST~~ FIRST day of ~~OCTOBER~~ NOVEMBER 1944

[illegible] Capt.

Exhibit "B" - E-2

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
A.99846	Sgt.	LAURENCE, Keith Edmund	No. 12 Base Dental Coy. C.D.C.

NOTE—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet Not Known

Date of last entry in Field Conduct Sheet 4 Aug 47

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ ~~being absent~~ days.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 44 days in military custody, i.e., 40 days in open arrest, 4 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23

6. The date of his ~~attestation~~ ~~joining up for military service~~ is 29th Jul 40

7. The service which the accused is allowed to reckon is 4 yrs 96 days

†State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM and Clasp

9. (If the accused is a warrant officer or N.C.O.). The accused has served continously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of Sergeant	21 AUG 44
In the war substantive rank of Nil	
In the acting rank of Nil	

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 51-432 T.Ltd. Forms/B 296(War)/2

THE DEFENDING OFFICER ADDRESSES THE COURT
PLEA IN MITIGATION

It is clear from the conduct sheet that this man has a good record. The facts of the case have been shown that this was one big party. The men had been working for a long time before, since coming over, under hard conditions and this trip to DEAUVILLE was one big blow-out and seeing that the circumstances were a big blow-out in DEAUVILLE after a very tedious period of work, it is admitted that the accused had to much to drink but as soon as he got drunk returned to his lines and got to bed and there is no record of his not being on the job the next day.

All this information is known to the Court and I just ask the Court to take these things into consideration when awarding punishment - that this was just a lapse of human nature and lots of people do this and get too much to drink and get into trouble.

I ask the Court to take these facts into consideration.

for a period of approx 3 hours and 20 minutes which happens to be the same 3 hrs and 20 minutes during which the alleged offence would have taken place. I will leave that to the Court to decide.

It is my duty to also point out to the Court that the question of drunkenness must be considered and I refer the Court to MML, Chapter III, para 48, which states that:

"Drunkenness often has to be considered by courts-martial not as an offence itself, but in relation to greater offences, which it accompanies. It is a principle of English law that drunkenness is no excuse for crime. But where intention is of the essence of the offence, drunkenness may justify a court-martial in awarding a less punishment than the offence would otherwise have deserved, or reduce the offence to one of a less serious character."

And again, at Chapter VII, para 9:

"Temporary intoxication (from liquor or drugs) as distinct from mental disease, which alcoholism, etc, may bring on, is not (if voluntary) in itself any excuse for crime; but evidence of drunkenness which rendered the accused incapable of forming the specific intent essential to constitute the crime must be taken into consideration together with the other facts proved in order to determine whether or not he had that intent. Evidence of drunkenness falling short of a proved incapacity in the accused to form the essential intent, and establishing merely that his mind was affected by drink so that he more readily gave way to some violent passion does not rebut the ordinary presumption that a man intends the natural consequences of his acts."

I am advising the Court on this phase of the matter not as it affects the second charge, as the accused has pleaded guilty to the second charge, but as it affects the finding on the first charge.

I wish further to remind the Court that the accused is entitled to the benefit of any reasonable doubt, and a reasonable doubt has been defined as a doubt that any ordinary reasonable person would entertain in like or similar circumstances and not an imaginary or fanciful doubt. If the Court after weighing the evidence has a reasonable doubt then the accused is entitled to the benefit of that reasonable doubt.

I further advise the Court that it is for the Prosecution to prove that the accused is guilty and not for the accused to prove that he is innocent. In other words there are certain essential ingredients of that charge each of which must be proved by the Prosecution. If the Prosecution has not proved these ingrediants then it is not for the accused to prove his innocence. The accused is innocent until he is proven guilty.

Mr President is there anything further on which you wish me to advise the Court?

No.

Mr Prosecutor?

No Sir.

Mr Defending Officer?

No Sir.

THE JUDGE-ADVOCATE ADDRESSES THE COURT
SUMMING UP

The accused is charged with two offences, the first charge being under Sec 40 AA, Conduct to the prejudice of good order and military discipline, in that he, improperly disposed of a quantity of government petrol, 49½ gallons, and secondly a charge of drunkenness. He has pleaded guilty to the second charge so that at this phase of the proceedings the Court is only concerned with the first charge.

The duty cast upon the Judge-Advocate is mainly concerned with advising the Court on the law and accordingly anything I say which might indicate my personal opinion as to the facts is to be taken as my own personal view only and not as advice to the Court on the facts. The Court and the Court alone is the sole judge of the facts.

The first charge is not a difficult type of charge. It is mainly a question of fact. Did the accused or did he not improperly dispose of 49½ gallons of petrol.

The Prosecution has adduced evidence which is not in many phases entirely clear, in fact it is confused. There is evidence before the Court that some sort of a discussion took place between the accused and companions and a civilian, one M. LOUIS. This discussion had something to do with the supplying of petrol to the civilians in return for a ride home and some champagne. There is some evidence to that effect by witnesses other than the civilians. The Prosecution then called the three civilians who gave evidence which I do not propose to deal with in detail. The evidence of these witnesses was to the effect that the accused carried 11 jerry cans of petrol from the petrol compound in 12 CBR Bn to the civilian vehicle.

It is my duty to point out that where the evidence of an accomplice is concerned the Court, while it may convict on such evidence, should not do so unless there is additional or some corroborative evidence. In other words, while in strict law the evidence of an accomplice is sufficient to enable a Court to convict it is dangerous for the Court to convict on the uncorroborated evidence of an accomplice. An accomplice has been defined as one who willingly takes part in an unlawful transaction or a crime. The evidence is not very clear but there would seem to be ample reason to believe that M. LOUIS as well as the other civilians were interested in obtaining some petrol and accordingly might have been interested to the extent that they were parties to the entire transaction and accordingly were parties to an unlawful act and therefore would be accomplices.

The Court will then have to consider whether there is any corroboration of the evidence of these accomplices, if the Court is satisfied that they are accomplices. I advise the Court that there must be corroboration. That is there must be independent evidence which not only shows that petrol was improperly disposed of but that the accused was the one who improperly disposed of same. The evidence of one accomplice can not corroborate the evidence of another. There must be independent evidence which confirms that petrol was improperly disposed of and that the accused was directly implicated in that improper disposal.

There is some corroboration of improper disposal of petrol because there is evidence before the Court by L/Cpl HENDY of the Pro Corps who has sworn that 11 tins of petrol were found in or near the civilian vehicle. Now that is corroboration of an independent nature for the improper disposition of the petrol but that is not corroboration of the civilian's story that the accused was directly connected with that disposal.

The Court will have to consider whether there is any corroboration of that additional material evidence. As opposed to that there is the evidence of a fellow sgt who swears that the accused was in his company

THE PROSECUTING OFFICER ADDRESSES THE COURT
SUMMING UP

There are only two points I would like to bring out. The Defending Officer more or less stated that three men have come here in this Court and committed perjury. I ask the proof of perjury. These three men swear and say that they saw the accused carry petrol.

He mentions times. There is widely diversified ideas of time and if they arrived at the cafe at 1715 hrs as stated and had several drinks there and then a good long ride from TROUVILLE to DOUVRES, it is quite a long ride, it might have been later than they said that they arrived back in DOUVRES.

The Defending Officer has stated definitely and quite emphatically that if a man carries petrol his hands will get very dirty. I will ask why the accused hands were not ditry after riding in a civilian truck for that distance. Unless that truck has been cleaned up every day your hands will be dirty. I contend that his hands must have been dirty.

We have the evidence of L/Cpl HENDY who stated that the cans were petrol cans, that the MT Officer of 12 CHR Bn accepted these cans and returned them into his compound. An MTO who would accept cans marked as petrol cans, and they are the only cans in the army which contain petrol and they are duly marked as petrol and the MTOs usually know their jobs. The L/Cpl definitely stated they were not water cans.

The Defence attempted to bring in the fact that the accused was not physically fit to carry these cans. Well to prove that he must bring in an MO's certificate. If a man's PULHEMS profile is 1111111 he is still physically fit to carry the cans.

EEP

of champagne which M. DURAND had been waiting around to give this bottle to Sgt LAURENCE, he waited long after dark

It is not thought that these civilians would be waiting around till after dark to specially give this extra bottle of champagne to the sgt. And when one of these civilians, waiting around, was found in the compound he said that he had been there to tell Sgt LAURENCE to come and get his bottle of Champagne. Now they have never produced this bottle of champagne. Now Sgt LAURENCE evidently took this bottle of champagne with him when he left earlier in the evening.

The other point is about the hands. Anybody who takes petrol from a petrol dump is bound to get his hands very dirty and greasy. There is no such things as new petrol tins. I do not think any of us has ever seen a petrol can which has just been wiped and washed and just come out of the dump.

One more incident which was never proved, that any petrol was in these tins, that any petrol has been stolen or that any petrol ever existed. The Prosecution never proved that any petrol ever existed. But petrol tins definitely can not be clean and if any member of this Court wishes to carry petrol cans for 150 yards or 100 yards back and forth I guarantee that their hands will be very dirty. Even after a few yards as the witness states the dirt gets ground into your hands. They went to have tea together and he handed him food and naturally anybody who hands food to anybody is going to notice the condition of a mans hands.

Now sir I do not think there is any sense in my unduly prolonging this argument. The facts are here and the Court has been able to analyse the evidence of the witness as well as I have.

THE DEFENDING OFFICER ADDRESSES THE COURT
SUMMING UP

Sir, the testimony for the Prosecution against the accused which consists of evidence given by three French civilians is very confusing. Their memories are good in some things and bad in others. At many times during the course of their evidence they made statements as to fact which upon their being closely questioned were found to be entirely wrong.. I might mention in connection with that the statement made by M. DURAND Sr, regarding the conversation which he was supposed to have had at DOUVRES after the other soldiers had left and he had no interpreter. Until he was reminded of the fact he reported quite a considerable conversation and then he covered up and said it was done with signs. The stories told by these witnesses are obviously told so that in no way should they be incriminated by the crime but the accused should be made the scapegoat to foist the blame upon when they were caught red handed with army petrol in their car and one of the members caught in the petrol compound and when seen there tried to conceal himself. When ordered to come out he said he was in there looking for the accused, clearly a very flimsy story.

This man whom I have examined is a robust young man. He said he had never handled a petrol tin. Their story was that the petrol was carried back to the truck by the accused and was lifted into the truck by M. LOUIS.

I question the Court that a man like M. LOUIS would be lifting petrol into the truck, that this corpulent gentleman would have done so with a young man there to do it. Surely he would have handled the petrol and instead of that he said he had never lifted a can of petrol and he had no idea of its weight.

The obvious answer is that the evidence of these witnesses can be of very little value because these witnesses who have given evidence before this Court have just said what they like to say.

Also these three civilians before they were examined, that is when they were handed over to the Gendarmes, it was nearly two days before their statements were taken, and they had a chance to make up a story which would incriminate somebody else but themselves and the obvious person to incriminate was the accused. They were quick to state that they were along with him and they were with him when he was supposed to have committed the crime of carrying the petrol to the truck during the lapse of time.

One witness M. DURAND, Sr, said that it was about 4 or 5 minutes after the other three soldiers left, including Sgt McNEILL who was escorted back to his tent in 9 CBR Bn lines which have now been described to the Court as being 1000 yards from the truck and a walking distance of 5 or 6 minutes. There must be some variation in the two, you could hardly walk 1000 yards in 5 or 6 minutes. Perhaps the Members of the Court know the exact location of these lines as they were in DOUVRES.

According to M. DURAND, Sr, it was 4 or 5 minutes after DEZIEL and McNEILL and company left for 9 CBR Bn lines that they woke up the accused. Then this immaginary conversation ensued between M. DURAND Sr and the accused. After that according to them the accused started to carry petrol from the compound to the truck. It took him from 10 to 15 minutes to make a trip. He made six trips making a lapse of time of from 1 hour to 1½ hrs. In the mean time the accused has been joined by two reputable witnesses and is said to have arrived in 9 CBR Bn lines, 1000 yards from the scene of the alleged crime 5 or 6 minutes after DEZIEL went to his tent, an approx time according to Sgt SLACK of 2010 hrs. Now at 1945 hrs the other witness Sgt PAQUIN traversed this cross-roads, at 1945 hrs he had gone over this cross-roads and had seen the civilians and the truck and had not seen Sgt LAURENCE and also it was bright day-light and the little hole in the wall through which he had to come with the petrol was located one side of a sentry of an English unit. Even if Sgt LAURENCE had been capable of making these six trips between the time he got up to 9 CBR Bn lines and the other soldiers got up there he could not have carried petrol to the civilian's truck during the hours of day-light.

Another point, when he arrived up with these radishes, a bottle of champagne and tomatoes he had obviously had to go and get the radishes and there was something gone out of this champagne bottle and there is this bottle

personal knowledge. He has done well. I have found him to be efficient, I have never known him to be in trouble and any time he has spent in my sight he has conducted himself as a sgt should. I have never known him to be in any difficulty.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

The Defence is closed.

A.161 Right around 8 o'clock, I would say 8:10, 2010 hrs.

Q.161 And how long did you stay with him?

A.161 I was with him until about 2330 hrs.

Q.162 Continuously?

A.162 Yes sir.

Q.163 Where.

A.163 In one of the tents where we were working in.

Q.164 You stayed in that tent?

A.164 We stayed in that tent until I walked home with him.

Q.165 You never left him for a moment from 2010 hrs until 2330 hrs?

A.165 No sir.

Q.166 What were you doing?

A.166 We made coffee and were eating sandwitches and were talking about different things in general.

Questioned by the Judge-Advocate.

Q.167 Do you know where the petrol compound of 12 CBR Bn is?

A.167 No sir.

Q.168 Approx how far is the entrance to 12 CBR Bn from where you were to 9 CBR Bn?

A.168 I would say approx 1000 yards.

Q.169 What time was it when you last left the accused?

A.169 2330 hrs sir.

Q.170 How do you know it was that time?

A.170 I looked at my watch sir.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

THIRD WITNESS - For the Defence - duly sworn.
Major W C OSBORNE, 12 Base Dental Coy, CDC.

Q.171 You are Maj W C OSBORNE, 12 Base Dental Coy, CDC?

A.171 Yes I am.

Q.172 Do you know the accused Sgt LAURENCE?

A.172 I do.

Q.173 How long have you known him?

A.173 Since the formation of the coy around the 4th or 5th of Jun.

Q.174 Will you tell the Court what you think of Sgt LAURENCE as a technician and a member of the personnel of the coy?

A.174 Sgt LAURENCE came to this coy as a reinforcement on or about 4 or 5 Jun of this year. I have known him over that time and since then he has been an efficient technician. I have never heard of him being in trouble at any time. As far as his qualities as a technician I can speak from

Q.146 Was he requiring any assistance?

A.146 No he was walking quite well by himself.

Q.147 Did you have anything to drink with Sgt LAURENCE at the camp?

A.147 Yes sir.

Q.148 What did you have to drink?

A.148 Champagne sir.

Q.149 Did he have the champagne?

A.149 Yes he had the champagne.

Q.150 Was the bottle of champagne a full bottle?

A.150 No there had been several drinks taken out of it.

Q.151 What time was this when he came in?

A.151 Around 2000 hrs.

Q.152 Did you have anything to eat that night?

A.152 Yes we had tea in the tents where we were working.

Q.153 Is that your usual habit or do they have tea anywhere else?

A.153 They have tea at 9 CBR Bn but we used to make our own tea from parcels sent from home.

Q.154 What did you have to eat this night?

A.154 Tomatoe and radish sandwitches and I had a tin of spam.

Q.155 Did you notice when you were eating with Sgt LAURENCE that his hands were unusually dirty?

A.155 No sir, I noticed his hands because he was eating tomatoes.

Q.156 Have you any idea how dirty a mans hands would get if he had to go to the petrol dump to get some petrol and carry it any considerable distance?

A.156 Yes sir.

Q.157 Do they get very dirty?

A.157 Yes sir.

Q.158 Are they hard to get clean afterwards?

A.158 Yes sir, very hard to get clean.

Cross-examination by Prosecutor.

Q.159 Sgt, you said that a person carrying petrol gets their hands very dirty and they are very hard to get clean. May I ask why?

A.159 You get the gasoline and grease on your hands.

Q.160 If these cans were new from Ordnance they are freshly painted cans and have not been handled in such a manner to get grease on them from repeated handling would a persons hands get dirty?

A.160 I believe they would from the gasoline. I know as we handle a lot of gasoline for the dental stores. There is always a certain amount of dust and the least amount of gasoline would make the cans dirty.

Q.161 What hour was it when you first saw the accused on the evening of the 17th Sep?

D.6 p.2 Questioned by the Judge-Advocate.

Q.132 Do you know where the petrol compound of 12 CBR Bn was?

A.132 No sir.

Q.133 When you first observed this civilian vehicle was it 1945 hrs?

A.133 yes.

Q.134 What first attracted your attention to it?

A.134 It was parked right there around our place.

Q.135 Were there any civilians in it?

A.135 No they were out on the road.

Q.136 What were they doing?

A.136 As far as I could make out they were just hanging around there.

Q.137 Did you notice any jerry cans?

A.137 No sir.

Q.138 How many civilians were there?

A.138 Three civilians sir.

Q.139 Could you describe them.

A.139 No I could not sir.

In the opinion of the Court and the Judge-Advocate RP83(B) Need not be complied with.

Witness withdraws.

SECOND WITNESS - For the Defence - duly sworn.
L-34069 Sgt SLACK H R, 12 Base Dental Coy.

Q.140 You are L-34069 Sgt SLACK H R, 12 Base Dental Coy?

A.140 Yes Sir.

Q.141 Do you remember seeing the accused Sgt LAURENCE on the night of Sep 17th this year?

A.141 Yes sir.

Q.142 Will you tell the Court the circumstances of your meeting with Sgt LAURENCE that night?

A.142 I was in camp that night and was just returning from my billets and I saw Pte DEZIEL going into the tent, they usually have something to eat at nights and I was looking for Sgt LAURENCE and I went over to the operators tent. This was at 9 CBR Bn and I was talking to Sgt GRIFFIN which was the chair assistant and Sgt LAURENCE came into the tent, he had been drinking and he was under the influence.

Q.143 Was he drunk or was he sober in your opinion?

A.143 No I would not say he was drunk but he showed signs of drinking.

He had tomatoes and radishes and he went into the tent with me. This was about 5 minutes after Pte DEZIEL arrived at his tent. We had something to eat and I took him down to his quarters.

Q.144 Whom, Sgt LAURENCE?

A.144 Yes.

Q.145 Why did you have to take him back to his quarters?

A.145 I just walked home with him.

FIRST WITNESS - For the Defence - duly sworn.
C-97025 Sgt PAQUIN O D, 12 Base Dental Coy, CDC.

Q.118 You are C-97025 Sgt PAQUIN O C, 12 Base Dental Coy, CDC?

A.118 Yes I am sir.

Q.119 Do you remember the night of 17 Sep this year?

A.119 I do sir.

Q.120 Will you tell the Court what you were doing between 1900 and 2000 hrs and from then on on that night?

A.120 At 1930 hrs I went out for a walk. At 1945 hrs I passed a civilian vehicle on the road and I saw standing there some civilians.

Q.121 Would you tell us where that vehicle was?

A.121 It was on the main road heading into the town right on the road which runs across from HQ our unit to our QM stores.

Q.122 That is the cross-roads on the main road going into town and on the corner, one corner, of the cross-roads is 12 CBR Bn lines?

A.122 Yes. I saw them there at 1945 hrs, the vehicle and the civilians.

Q.123 Did you see Sgt LAURENCE?

A.123 I did not. At 2155 hrs I returned along the same road and I saw the vehicle and a soldier on guard.

Q.124 About how far was that vehicle from the little door going through the stone wall into 12 CBR Bn?

A.124 I would say around 100 ft.

Q.125 Where there any sentries posted habitually along the main road near that door entering 12 CBR Bn and on this night?

A.125 Yes sir there was a sentry on duty that night and he is with the British REs.

Q.126 He was posted on the main highway close to that door?

A.126 Yes sir.

Q.127 Do you know whether or not with any degree of certainty, whether or not, Sgt LAURENCE is very strong?

A.127 He is not.

Q.128 Why?

A.128 I would not say for certain sir.

Cross-examination by Prosecutor.

Q.129 Sgt PAQUIN , was that night very dark at 1945 hrs?

A.129 It was not dark.

Q.130 At 2155 hrs it was dark?

A.130 Yes.

Q.131 Have you a luminous watch?

A.131 I have sir.

SIXTH WITNESS - duly sworn. Prosecution calls this witness at the request of the Defending officer.
H-195545 Pte MATSON R.

Q.113 You are H-195545 Pte MATSON R?

A.113 Yes sir.

Q.114 Where are you employed?

A.114 I am employed at the 35 Tps Composite Coy.

Q.115 On the 17th of Sep where were you employed?

A.115 I was at 12 Bn, 2 CBRG.

Cross-examination by Defence.

Q.116 On the night of Sep 17th will you tell the Court what happened on your way into camp? Did anything unusual happen?

A.116 As I was coming home this night with a friend I noticed a civilian inside the camp area. He tried to hide but we noticed him and it looked very suspicious to us.

Q.117 Where was he?

A.117 He was inside the petrol compound. I apprehended him and took him to the guard and he told us to take him right to the Adjutant and question him there. I did not get his name, he was a civilian.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

The Prosecution does not intend to call Sgt McNEILL, Bdr PENWARDEN and Cpl NEWMAN whose testimonies appear in the Summary of Evidence.

The Defence does not require the attendance of these witnesses.

The Prosecution is closed.

A.99 There were 11 full ones and there is about 4½ gallons in each jerry can.

Q.100 Do you know the names of any of the civilians?

A.100 Later I found out the civilians to be M. M LOUIS, M. M DURAND, Sr, and M. M DURAND, Jr.

Q.101 Were they in the vehicle when you arrived?

A.101 No they were in a tent when I arrived.

Q.102 You say the next day there was an identification parade?

A.102 Yes sir. The parade was held at 12 CBR Bn in front of their Orderly Room.

Q.103 Who were the persons who were to identify somebody?

A.103 The three civilians.

Q.104 Did they identify anyody at that parade?

A.104 No sir.

Q.105 Was there another identification parade?

A.105 Yes there was one at the Base Dental Coy.

Q.106 Was there anybody identified at that parade?

A.106 Yes sir, three men were identified.

Q.107 Are there any persons present who were identified?

A.107 Yes the accused Sgt LAURENCE.

Q.108 What happened after that?

A.108 The three men were placed in close arrest.

Q.109 Were any further investigations carried out?

A.109 Yes sir to try and locate the man known as the Cpl later found to be a Bdr.

Cross-examination by Defence.

Q.110 When you went up to the truck and when you escorted the civilians down and handed them over to the Gendarmes did you at any time see a bottle of champagne in the truck or in possession of the civilians?

A.110 No sir, I did not sir.

Questioned by the Judge-Advocate.

Q.111 Did you see the accused on the evening in question?

A.111 No sir I did not.

Questioned by the President.

Q.112 When did you first see the accused?

A.112 When he was identified at the Dental Coy parade.

In the opinion of the Court and the Judge-Advocate RP 83(B) need not be complied with.

Witness withdraws.

Cross-examination by Defence.

Q.90 Are the petrol tins heavy?

A.90 I do not know as I did not carry them myself.

Q.91 Which direction did the accused go when he left the truck the last time?

A.91 In the same direction as where he had come from with the containers.

Questioned by the Judge-Advocate.

Q.92 Did anyone help the accused carry the jerry cans?

A.92 No sir.

In the opinion of the Court and the Judge- Advocate RP 83(B) need not be complied with.

Witness withdraws.

FIFTH WITNESS - For the Prosecution - duly sworn.
F-21446 L/Cpl HENDY G A, No.9 Cdn L of C Pro Sec.

Q.93 You are F-21446 L/Cpl HENDY G A of 9 Cdn L of C Pro Sec?

A.93 Yes sir.

Q.94 Could you tell the Court what happened on the night of 17 Sep 44?

A.94 I was called upon by the Orderly Sgt of 12 CBR Bn and together with Cpl NEWMAN I went to 12 CBR Bn Orderly Room. There I found three civilians and an RCASC officer. The officer was questioning the civilians in French and he explained to me that the civilians had had some dealings with stealing petrol. I then went down to LA DELIVERANDE to get the Gendarmes. The Gendarmes came back with me and took the civilians into custody for the night. The following day an identification parade was held at 12 CBR Bn at which the civilians were unable to identify anyone. Then another parade was held at the HQ of 12 Base Dental Coy and at this identification parade three soldiers were identified one of which was the accused Sgt LAURENCE.

Q.95 As a result of information you received what investigation did you carry out if any?

A.95 I went down to the civilian vehicle which was on the road parked 25 yds from the main entrance of 12 CBR Bn gate. Upon arrival I saw jerry cans in the vehicle, there were approx 11 jerry cans. I had the vehicle moved from there and put it under guard. The civilians were placed in custody over night by the Gendarmes.

Q.96 What were the contents of these jerry cans?

A.96 I believe they were petrol cans.

Q.97 Is there any distinguishing features about these cans?

A.97 The only distinction between these cans and water cans is that the petrol cans are painted green or yellow while the water cans are brown with a dash of white and have the word water printed on the base of the can. These were not water cans. I did not examine the contents.

Q.98 Were these cans full?

A.98 The following day when I got a release from the DAPM I put them back in the petrol compound and the transport officer was with me at the time. I did not examine them or smell them to determine whether they contained petrol or were full.

Q.99 Approx how much petrol would they average?

FOURTH WITNESS - For the Prosecution - duly sworn.
M. DURAND M, Jr, TROUVILLE, NORMANDY.

Q.77 You are M. DURAND M, Jr of TROUVILLE?

A.77 Yes sir.

Q.78 Do you remember the night of Sep 17th 44 and what took place that night? Is there any person present in this Court room whom you saw that night?

A.78 Yes I remember the 17 Sep 44 and the Sgt present here I remember as having seen that night. Witness indicates the accused.

Q.79 What took place on the night of 17 Sep 44 in the cafe of M. LOUIS in DEAUVILLE?

A.79 We were playing dominoes when some soldiers came in.

Q.80 Is there any soldiers in this room whom you recognise as having seen that night in the cafe of Mr LOUIS?

A.80 Yes I recognise the sgt over there - indicates the accused - .

Q.81 What happened after you had finished playing dominoes?

A.81 I did not pay very much attention to what the soldiers were doing in the cafe.

Q.82 Where did you go when you left the cafe?

A.82 After leaving the cafe we went into M. LOUIS' car and then we went to LA DELIVERANDE.

Q.83 What if any conversation did you hear between the Cdn soldiers through the interpreter and M. LOUIS?

A.83 There was an interpreter but I did not bother to listen to the drift of the conversation.

Q.84 You arrived at DELIVERANDE, what happened there?

A.84 Three of the soldiers who were in the car left and the only one left was the accused and then we woke him up. He then came down from the car and looked for his other soldier friends and saw that they were gone, then waited for a few minutes and then mention petrol. And then he came back with some containers. I do not know the name of the containers but I have seen many of them on the army trucks. (interpreter apparently asking questions of the witness before they are asked by the Court).

Q.85 What was in these containers?

A.85 I did not open them but I was told that it was petrol.

Q.86 Were any of the contents of these containers put in the petrol tank of M. LOUIS' car?

A.86 I do not know sir.

Q.87 After the accused finished his trips what happened?

A.87 After bringing the containers he left for the camp leaving behind one bottle of champagne.

Q.88 What did you do?

A.88 Then I went in the camp to see if I could find the soldier to return the bottle of champagne that was left behind and then a sentry came and asked me what I was doing in the camp.

Q.89 What part of the camp were you in when you were halted by the sentry?

A.89 At the edge of the camp on the left.

Q.65 After you left for LA DELIVERANDE what transpired?

A.65 Then the accused and the other soldiers drank champagne enroute to LA DELIVERANDE.

Q.66 On arrival at LA DELIVERANDE what happened?

A.66 The other sgt left in company with the interpreter and the accused stayed in the vehicle. With movements of his hands and mention of the word petrol I understood that he meant that he wanted us to stay and he proceeded to the camp. I understood from his motions and the word that he wanted us to stay in the car after he left. And the accused then made 5 or 6 trips to and from the car with jerry cans.

Q.67 What was in these cans?

A.67 I did not look to see if it was petrol.

Q.68 Was any of the liquid from these cans put in the petrol tank of M. LOUIS' truck.

A.68 I think that M. LOUIS put some in but I am not sure.

Q.69 After 5 or 6 trips of the accused what happened then?

A.69 And then before the accused left with gestures I and M. LOUIS understood that he meant that we were to wait and that he was going to bring his friends to consume the last bottle of champagne. Upon his not returning I sent my son in search of the sgt.

Q.70 What had been done with the jerry cans?

A.70 They were placed in M. LOUIS' car.

Cross-examination by Defence.

Q.71 Did you clearly hear this conversation in the cafe between M. LOUIS and the soldiers?

A.71 No I sat at the table and only heard a few words mentioned about petrol and champagne.

Q.72 How long did it take the accused to make each trip for petrol back and forth.

A.72 Around 10 minutes each trip, About 10 to 15 minutes but I am not sure as it has been over two months.

Q.73 For each trip?

A.73 Yes sir for each trip.

Q.74 For a round trip?

A.74 As the car was parked approx 100 metres from the camp it took him approx 10 to 15 minutes for the round trip with two jerry cans.

Q.75 When the accused left did he take any champagne with him?

A.75 I did not see him take any. I did not see him take any champagne, the only thing I know is that there was one bottle of champagne left in M. LOUIS' car.

Q.76 How many bottles did they drink in the trip back?

A.76 I do not know how many bottles were consumed but I know that 4 bottles of the 5 were missing in the basket.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

Q.52 When you woke up the accused did you ask him when he was going to get the petrol or did you say anything about the petrol?

A.52 No I did not mention anything about petrol he is the one who remembered the bargain we had made.

Q.53 What was the condition of the accused when you made this so called bargain with him?

A.53 Normal sir.

Q.54 Had he not been drinking anything?

A.54 Before that he was normal he had taken only a few drinks in my cafe.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

The Witness withdraws.

THIRD WITNESS - For the Prosecution - duly sworn.
M. M DURAND, Sr, TROUVILLE, NORMANDY.

Q.55 You are M. M DURAND, Sr, of TROUVILLE?

A.55 Yes sir.

Q.56 What is your occupation?

A.56 I am a butcher.

Q.57 Do you remember the night of September 17th 44?

A.57 A little sir.

Q.58 Is there anyone present in this room whom you saw that night?

A.58 Yes I recognise the sgt - indicates the accused.

Q.59 Where did you see the sgt?

A.59 In the cafe restaurant of M. LOUIS in DEAUVILLE.

Q.60 Did you hear any conversation between the accused and M. LOUIS either through the interpreter or directly?

A.60 No sir.

Q.61 What happened on the night you were in the cafe?

A.61 I was playing dominoes with M. LOUIS and some Cdn soldiers came in the cafe and then a conversation was struck between M. LOUIS owner of the cafe and the interpreter and then they said that they had missed their vehicle to go back. And then asked M. LOUIS if he would drive them back to LA DELIVERANDE and then I heard M. LOUIS say that he did not have enough petrol for the whole trip. And then I do not know exactly what transpired but finally the soldiers went to the Royal to pick up their leather jerkins.

Q.62 How was this conversation carried on between the soldiers and M. LOUIS.

A.62 The interpreter spoke from words uttered by a sgt but not the accused present in this room.

Q.63 Was the accused present during that conversation?

A.63 Yes the accused was present.

Q.64 Was the conversation in English or French?

A.64 The interpreter was speaking to the accused in English and translating it to M. LOUIS in French.

Q.39 Describe the cans?

A.39 It is the same kind of container as the army truck has with three handles and I have heard it referred to by other soldiers as jerry cans.

Q.40 Where they empty or full?

A.40 I do not know if they were half-full or full but I know they contained some liquid.

Q.41 What did you do with the cans?

A.41 They were given to me by the accused and I placed them in the vehicle.

Q.42 And then what happened?

A.42 And then he left and said to me "I will be back" I waited for a few minutes and then noticing still one bottle of champagne in the car I sent a friend of mine to look for him in the vicinity of the camp and then police arrived.

Q.43 When did you next see the accused?

A.43 I did not see the accused until the following day and I identified him in a parade of soldiers.

Cross-examination by Defence.

Q.44 In the cafe how much petrol did you ask for in exchange for the champagne?

A.44 I did not state the quantity I said that if you can obtain me some petrol I will give you 5 bottles of champagne.

Q.45 How long after the three soldiers left your car, how long after that did you wake up the accused?

A.45 About 4 or 5 minutes.

Q.46 How large were these bottles of champagne?

A.46 75 or 80 centilete, the usual average champagne bottle.

Questioned by the President.

Q.47 When the accused woke up in your truck what was his condition?

A.47 When I woke up the accused he was neither drunk or sober he knew what he was doing.

Q.48 Did the accused when he woke up have any conversation with you?

A.48 After I woke up the accused he asked me where his friends were and I answered that they were gone and then he mentioned, "oh yes the petrol, wait here for me."

Q.49 Do you understand English?

A.49 No.

Q.50 Did the accused speak French to you?

A.50 No.

Q.51 How do you know what he said?

A.51 Then he looked around and kept looking in the car and outside and in the car and said, "comnarade" and I imagined he meant his friends so I said partie which means gone.

Questioned by the Judge-Advocate.

Q.25 What is your occupation?

A.25 I am the proprietor of a cafe and restaurant.

Q.26 Do you recognise any person in this Court?

A.26 I recognise the Sgt - indicates the accused.

Q.27 When did you see that Sgt before?

A.27 I saw the Sgt on a Sunday in September.

Q.28 What happened on that Sunday in September?

A.28 That Sunday 4 Cdn soldiers came in my cafe while I was playing cards and then I and the other soldiers entered into a conversation and then after the soldiers told me they were from DOUVRES and that they were looking for a vehicle to take them back to their camp and then the soldiers saw my vehicle in front of my cafe and asked me to take them back to camp.

Q.29 Was the accused in your cafe?

A.29 The accused was in my cafe at the time.

Q.30 Was he close enough to hear the question put through the interpreter?

A.30 Yes sir.

Q.31 What happened after this?

A.31 Then I told the soldiers that I did not have sufficient petrol to take them to their camp and then I told them that I had enough petrol to take them to their camp but not to return and then through the interpreter I was told that they would give me some petrol if I took them to their destination.

Q.32 What was the bargain reached?

A.32 Then I was told that if the soldiers gave me petrol they expected 5 bottles of champagne.

Q.33 What happened at that stage?

A.33 Then some of the soldiers left and proceeded to their vehicle to pick up their leather jerkins and then we loaded the 5 bottles of champagne into my car and proceeded to DOUVRES.

Q.34 After you arrived in DOUVRES what happened?

A.34 Some of the chaps were sleeping in the car.

Q.35 Was the accused present?

A.35 Yes the accused was present in my car. Then three of the soldiers left my vehicle and the interpreter helped another sgt as he was a little wobbly at his knees. And then the accused, after the others left, the accused was still sleeping in the vehicle. Then I woke up the accused and upon waking up he said "ah yes the petrol". And then he made six trips and brought 11 jerry cans of petrol to my car.

Q.36 He made six trips, where from?

A.36 On the side of the street and he seemed to come from the camp.

Q.37 What was in these 11 cans?

A.37 As far as I was told it was petrol but I do not know.

Q.38 You did not examine them?

A.38 No sir.

EBS

A.14 I stayed in the cafe and the civilians left in company with both sgts when they proceeded in their vehicle to pick up their leather jerkins and then the other soldiers came back to the cafe to pick me up and they loaded the bottles in the civilian's car. On returning back in the civilian car three bottles of the champagne were consumed enroute to the best of my knowledge and then not long after the bottles of champagne were consumed the three soldiers were sleeping in the car. We returned by the LA DELIVERANDE road and stopped on the road in DOUVRES at the right of the street.

Q.15 How far was that from the camp where you were situated at?

A.15 About 5 or 6 minutes walk from my camp.

Q.16 After you stopped there what happened.

A.16 Then I woke up the three soldiers and told them that we had reached our destination. When I left in company with Sgt McNEILL Sgt LAURENCE was still in the civilian vehicle.

Q.17 Did you see the accused again that evening?

A.17 When I returned to my tent, about 5 minutes after I was in my tent the accused came in to see me. He came in my tent and consumed the last bottle of champagne in company of two other sgts.

Q.18 Were you engaged in interpreting after you left the cafe?

A.18 Yes sir. The civilians had the champagne in the front of the car and when the soldiers wished for some more champagne they asked me and I interpreted to the civilians.

Q.19 Was there any further conversation?

A.19 No sir.

Cross-examination by Defence.

Q.20 Did you spend much time in Sgt McNEILL's tent when you took him home?

A.20 I came in his tent and I asked him where his bed was and I put him down on the bed and asked him if he was alright and he said "Yes" then I left the tent.

Questioned by the Judge-Advocate

Q.21 What was the condition of the accused when you left the civilian vehicle to go to your tent?

A.21 He was fairly reeling from the drinks he had taken.

Q.22 Was he drunk?

A.22 He was drunk.

Q.23 Why do you say he was drunk, how do you know? What made you form the opinion that he was drunk?

A.23 Because he was staggering from one side to the other and once nearly fell from the side of the car.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

SECOND WITNESS - For the Prosecution - duly sworn.
M. M LOUIS, 44 Rue Desire La Hog, DEAUVILLE, NORMANDY.

Q.24 You are M. LOUIS M, of 44 Rue Desire La Hog, DEAUVILLE, NORMANDY?

A.24 Yes sir.

FIRST WITNESS - For the Prosecution - duly sworn.
E-100704 Pte DEZIEL G, No.12 Base Dental Coy, CDC.

Q.1 You are E-100704 Pte DEZIEL G, of No.12 Base Dental Coy, CDC?

A.1 Yes sir.

Q.2 Where do you work?

A.2 I work at the laboratory of 12 Base Dental Coy.

Q.3 Do you have any recollection of the 17th Sep 44?

A.3 Yes sir.

Q.4 What are those recollections?

A.4 At that date I left at 0945 hrs with some of the soldiers in a truck and then we went to TROUVILLE.

Q.5 Do you recognise any person in this Court as having been with you on that date?

A.5 Yes I recognise Sgt LAURENCE who was with us.

Q.6 After you arrived in TROUVILLE what happened?

A.6 It was noon time so I went to dinner. After that I and the other chaps went to various cafes for drinks. After visiting all these cafes I and the other chaps went to the Whore house. After that I and the other chaps also went back to some more cafes. And then after that I came to this cafe where I met some civilians.

Q.7 Was the accused present in that cafe?

A.7 Yes the accused was with me in that cafe.

Q.8 What happened in that cafe?

A.8 After a few drinks around I and all the other chaps spoke to the civilians who were playing at the table and one of the civilians mentioned petrol.

Q.9 Did you reply to him?

A.9 The civilian said to me, "Ask the other chaps if they can find me some petrol." And I answered, "there is lots of petrol in the army."

Q.10 Did you ask that question of the other chaps?

A.10 No

Q.11 What happened after that?

A.11 After that the lads still wanted to drink and the civilians proposed a bargain and the bargain was that the soldiers were to supply the civilians with 500 litres of petrol in exchange for 4 or 5 bottles of champagne.

Q.12 Did you interpret this suggestion to the accused?

A.12 To the best of my knowledge of French and English I translated the request to the accused now in this room.

Q.13 What did the accused say if anything?

A.13 Then the accused left in company with another Sgt and proceeded to an apartment and then came back. On returning both of them winked and said, "It's all right", I dont know which of them said "It's all right", whether it was the accused here or the other sgt who said "It's all right".

Q.14 What happened after that?

A.14 (over)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined A99846
(No)

Sgt. LAURENCE KE and in my opinion
RANK NAME

he is fit to undergo trail by Court-Martial.
~~unfit~~

Station Field

Date 1 Nov. 44

M Sacke, Capt RCAMC
Medical Officer

(Unit) 9 Bn 2CBRG

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined A 99846
(No)

Sgt. LAURENCE K.E. and in my opinion
(Name) (Rank)

he is fit to undergo trail by Court-Martial.
~~unfit~~

Station Field

Date 31 Oct 44

M Sacker Capt RCAMC
Medical Officer

(Unit) 9 Bn 2 CBRG

A811

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-99846	Sgt		Keith Edmund	LAURENCE	12 Base Dental Coy, CDC.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 OCT 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY, CIC,	OC 20 Cdn Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut	To be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E E PEARLMAN	ADJA, HQ 2 CBRG

On Active Service in the Fd

in BELGIUM (Country.)

G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Date 23 OCT 44

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

A811

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/B or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-99846	Sgt	Keith Edmund	LAURENCE	12 Base Dental Coy, CDC.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the personnel named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on endorsed by me, ~~now by an offr of the Cdn Army~~ (date) 23 OCT 44 Martial".

2 And whereas I am of opinion that it is not practicable ~~that it is not practicable for the~~ that such offence(s) should be tried by an ordinary General Court-Martial; ~~I am of opinion that it is not practicable for the accused to be tried by an ordinary qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said ~~person(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, or (b) an Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.			Unit.
Major	A E KELSEY, (Must be named. RP 106.)	CIC,	OC 20 Cdn Spec Emp Coy

MEMBERS.

Rank.		Unit.
Capt	To be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut	To be detailed by OC 11 CBR Bn (Named or detailed. RP 106.)	11 CBR Bn

WAITING MEMBER.

Rank.		Unit.
Capt	To be detailed by OC 12 CBR Bn (Named or detailed, if any. RP 106.)	12 CBR Bn

JUDGE-ADVOCATE.

Rank.		Unit.
Capt	E E PEARLMAN (Must be named, if any. RP 106.)	ADJA, HQ 2 CBRC

On Active Service in the Fd in BELGIUM (Country.)

Date 23 OCT 44

(Signed personally. RP 105 fn 2.)
(G Francoeur) Brigadier
Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for instns and notes for use on trial.)

4/38A (Para 116 DND of AFAI) W.P. & S./1947 (6851)

AGH

CHARGE SHEET

The accused, No. A.99846, Sgt. Keith Edmund Laurence, 12 Base Dental Company, C.D.C., a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
In the Field, on 17 September 1944, improperly disposed of a quantity of petrol (49½) gallons, same being Government property.

Second Charge
Sec 19
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he
At Trouville, Normandy, on 17 September 1944, was drunk.

(J. [illegible] Whyte) Lt.-col.,
Officer Commanding,
No. 12 Base Dental Coy.,
Canadian Dental Corps.

In the Field
19 Oct 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
23 OCT 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (s) - The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). - The accused is (are) so informed, and he (they) changes (his) (their) plea(s) on charge(s). - Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir. (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s) (s). - The Court is cleared, and considers the submission (.) - The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ (1) BF 3
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans do neither. Do you intend to call witnesses on your behalf ? Ans Yes sir. Are they witnesses as to character only ? Ans one as to character and two as to fact.
(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1) EF ~~He directed announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated - Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir,
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB 355 or AFB 29a.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defending Officer. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(6), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-99846 Sgt Keith Edmund LAURENCE, 12 Base Dental Coy, CDC.

	Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 40 AA	Not Guilty	Not Guilty	
2nd	Sec 19 AA	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 pars 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As presently under sentence for~~ ~~awarded on same~~ (?)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(and 40 days in open arrest)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under 22.)

Sentence Awarded by the Court:

To be severely reprimanded

(Sgd) E B Pearlman Capt. 1 Nov 44 (Sgd) A E Kelsey Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP (2)(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(3), RP (2)(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 9.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused be put committed to prison or detention barracks and further ordered~~ (1. AA 57A. Delete if not used.)

Date 7 Nov 44 (Sgd) C Francoeur Brig

Commanding 2 CBRG Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
A-99846 Sgt Keith Edmund Laurence 12 Base Dental Coy CDC	7 Nov 44	J Macdonald Capt Adjt for O.C. 12 Base Dental Coy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 180 42-100

CFAAS (in lieu of AFAS) RP & KR (1968) 149-51

FIELD GENERAL COURT-MARTIAL

4/388

RECEIVED 24 NOV 1944 AB BRANCH G.S. WING

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 23 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-99846	Sgt	Keith Edmund	LAURENCE	12 Base Dental Coy, CDC.

PROCEEDINGS REVIEWED 24 NOV 44 J. C. Enoch Capt.

PROCEEDINGS OF TRIAL.

Held at HEADQUARTERS, 2 CBRG, REVIEWING OFFICER, 1 AIR BRANCH, C.M.H.Q. in the Fd in (country) BELGIUM on (date(s)) 31 OCT, 1 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for oaths and instrs as how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 40-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that witness required to be read in his presence at Charge [illegible] are present.~~ (2)

(1. KR Con 537. 2. AA 46(B), RP 60 fn 6. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to C-41830 Sgt PROULX JCM as interpreter ? Ans No Sir.

The Interpreter is sworn.(1) Do you object to 1-70650 S/Sgt DAVIE JW as shorthand writer ? Ans No Sir.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir.(2)

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 22, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A E KELSEY	OIC, OC 20 Cdn Spec Emp Coy
Member	Captain	J A W BELL	OIC, 11 CBR Bn
Member	Lieut	T S WRIGHT	OIC, 11 CBR Bn
Judge-Advocate	Capt	E B PEARLMAN,	ADJA, HQ 2 CBRG
Prosecutor	Lieut	W D LYNCH	OIC, 11 CBR Bn
Defending Offr	Capt	G M LOGAN	CDC, 12 Base Dental Coy

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 24, 27, 108, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See Dr p 3.)

A8. The accused A-99846 Sgt LAURENCE K E. before arraignment make(s) (no) plea

(?)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 48s to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ reconsiders the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 2 p 39

4E-100
SGT. LAWRENCE K.E.

LIST OF EXHIBITS

IN THE MATTER OF K 37164 Pte. Lawrence, J.D. of Reinforcement Section, H.Q., C.F.C. and attached to No. 11 Company, C.F.C.

NIL

LIST OF WITNESSES FOR THE PROSECUTION

IN THE MATTER OF Charges under Army Act Section 40

Against: K 37164 Pte. Lawrence, J.D. of Reinforcement Section, H.Q., C.F.C. and attached to No. 11 Company, C.F.C.

B 20000 C.S.M. Edgar, M.R. - No. 11 Company, C.F.C., Dall Camp.

H 19752 Sgt. McCombe, J.G.- No. 11 Company, C.F.C., Dall Camp.

LIST OF WITNESSES REQUESTED BY THE ACCUSED FOR THE DEFENCE

NIL.

H 19252 Sgt. McCombe, J.G.(Cont'd)

16. A. No Sir.

17. Q. Comparing his efforts to the efforts of other men in your gang, how did his work stack up with theirs?

A. Very very poor.

J.G. McCombe Sgt.

To the Accused

As in the case of the first witness you now have the right, if you wish, to cross-examine this witness or reserve that right until a Field General Court Martial.

K 37164 Pte. Lawrence, J.D.

I wish to reserve that right until a Field General Court Martial.

To the Accused

Do you wish to make a statement or give any evidence under oath? You are not obliged to do so, but if you do I now warn you that anything that you might say will be taken down in writing and may be used as evidence in your trial by Field General Court Martial.

K 37164 Pte. Lawrence, J.D.

I do not wish to make a statement or give evidence under oath at the present time.

To the Accused

Do you wish to be represented by a Defending Officer at your trial?

K 37164 Pte. Lawrence, J.D.

I do Sir.

Certified that the conditions of Rule of Procedure No. 4 (c), (d), (e) and (f) have been fulfilled.

Dall Camp,
8th December, 1941

[illegible] Capt.

H 19752 Sgt. McCombe, J.G. (Cont'd)

5. A. /that the other men working the yard had their own end to hold up. He replied that they probably would because they wanted to.

6. Q. Did you mention that they were holding up their end?

A. I did Sir.

7. Q. What was his reply?

A. He replied to me again that that was because they wanted to. I answered him by saying that you don't want to work because you don't want to hold up your end. He replied that he didn't want to work in this Company and had never wanted to be in it. I told him at that time that I was not interested in where he wanted to be, that as far as I was concerned that he would have to do a day's work. He then definitely stated that he did not intend to do any more than he was doing. I told the Accused that if he persisted in this attitude I would have to parade him before his Commanding Officer.

8. Q. What did he say to that?

A. He replied that he believed the Officers of No. 11 Company already knew his attitude and he again said that he did not intend to work any more than he was at that time.

9. Q. Did you definitely order him?

A. I did Sir.

10. Q. Was his attitude one of defiance?

A. It most certainly was.

11. Q. Then what transpired?

A. I told the Accused that I would parade him in front of his Commanding Officer next morning.

12. Q. What did he say to that?

A. He said nothing Sir. I then reported the matter to the C.S.M. and asked him to see that the Accused was paraded at the first opportunity.

13. Q. Was there any other conversation or anything else included in your discussion with Pte. Lawrence.

A. Yes. To the extent that I had to listen to all his sorrows about how he was wronged in Canada by not being given his own line of work and also of being sent overseas in the Forestry Corps against his will.

14. Q. Did he continue on the job for the balance of the day?

A. Yes Sir.

15. Q. Was there any improvement in his work?

A. There was not Sir.

16. Q. Anything that you know of with regard to his health that would make him incapable of doing the additional work you required of him.

B 20000 C.S.M. Edgar (Cont'd)

11. Q. With what result?

A. He still wished to go before a Field General Court Martial.

12. Q. Regarding the remand made by his Commanding Officer, were any changes made in the orders regarding his custody?

A. No Sir.

13. Q. Then his present status is close arrest pending a Field General Court Martial?

A. Yes Sir.

W. R. Edgar
C.S.M.

To the Accused

You now have the right of cross-examining the witness who has just given evidence, or, if you wish, you can reserve that right until a Field General Court Martial.

K 37164 Pte. Lawrence, J.D.

I wish to reserve my right until a Field General Court Martial.

H 19752 Sgt. McCombe, J.G.

1. Q. You are a Sergeant in No. 11 Company, C.F.C. which is now located at Dull Camp, Perthshire?

A. Yes Sir.

2. Q. On or about the 5th day of December, 1941 you laid a charge against the Accused which is the subject matter of these proceedings?

A. I did Sir.

3. Q. You recognize the Accused as being the man against whom you laid this charge?

A. Yes Sir.

4. Q. You recognize the Accused as being K 37164 Pte. Lawrence, J.D.

A. Yes Sir.

5. Q. Tell us the circumstances under which you laid this charge.

A. Sir: On the day and date as mentioned by you, Pte. Lawrence was working under me in the lumber yard of No. 11 Company, C.F.C. I gave him a job of laying slabs for a new road in the lumber yard, warning him that I expected that he would do a day's work. During the morning he did very little, and after dinner I spoke to the Accused and told him that he would have to do a great deal more. I mentioned to him the fact/

Dall Camp,
8-12-41.

SUMMARY OF EVIDENCE

IN THE MATTER OF K 37164 Pte. Lawrence, J.D.
(Posted to Reinforcement Section, H.Q., C.F.C. and attached to No.11 Company, C.F.C.)

CHARGE

Army Act Section 40. While on Active Service - Conduct to the prejudice of good order and military discipline in that he, at Dall Camp, on Friday the Fifth day of December, A.D. 1941, when ordered to work by Sgt. McCombe, said that he was doing all he intended to do, thereby being insolent and defiant to a superior officer.

WITNESSES

B 20000 C.S.M. Edser, M.R.

1. Q. You are the Company Sergeant-Major of No. 11 Company, C.F.C.?

   A. Yes Sir.

2. Q. Your Company is now located at Dall Camp in Perthshire?

   A. Yes Sir.

3. Q. On or about the 6th day of December, 1941 you paraded the Accused before his Commanding Officer?

   A. I did Sir.

4. Q. Will you relate the circumstances under which the Accused was paraded.

   A. The Accused was reported to me by Sgt. McCombe. I made out a charge against him and had him paraded before his Commanding Officer, and at his own request, he was remanded to D.O.C. No. 4 District, C.F.C. I took him under close arrest and had him placed in custody at 0940 hours.

5. Q. Has the Accused been held in close arrest since?

   A. Yes Sir.

6. Q. Did the Accused appear before the D.O.C. No. 4 District, C.F.C.?

   A. Yes Sir.

7. Q. With what result?

   A. At his own request he was remanded for a Field General Court Martial.

8. Q. Was he then released from close arrest?

   A. No Sir.

9. Q. Were any further instructions received regarding the Accused?

   A. Yes. He was ordered to be paraded before his Commanding Officer on 8-12-41 and given the opportunity to change his decision if he desired to.

10. Q. And was he paraded before his Commanding Officer on 8-12-41?

    A. Yes Sir.

No. K37164 Name Lawrence, J.D. Sqn., Battery, or Company British Columbia Regt. Corps DCOR Date of enlistment 7-12-39 G.C. Badges Nil Service or Proficiency Pay Nil

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8025) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Coteau Barracks	24-7-41	Pte.		AWL from 2215 hrs 24-7-41 to 0600 hrs 25-7-41 (7 hrs 45 mins) Sec. 15 A.A.	Sgt. Senior	3 ds C.B.	25-7-41	Capt. Rogers	Auto. Forf. 1 days pay FRI
Dell Camp	15-11-41	Pte.		AWL from 2200 hrs 15-11-41 to 1800 hrs 17-11-41	Sgt. Lynn	Ffts. 1 days pay A.A. 46 2(e)	18-11-41	Major Ferguson	Ffts 2 days Pay F.R& I.

Certified true copy

Auth. for O.C., No. 11 Co'y., C.F.C.
(D.A. Carmichael) Capt.,
A/O.C. No. 11 Company,
Canadian Forestry Corps,
C.A.(A.F.)

(P.T.O.)

Amd. 1-9-39 PtII #139 d/31-5-40

No. K37164 Name Lawrence, J.D. Sqn., Battery, or Company "B"Coy Corps 1st Bn.BC Regt. "DCOR" (CA) Date of enlistment G.C. Badges N11 Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. D. Verchere (Mjr.) | Character Good

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8025) H.Q. 177-45-15

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vanc.,B.C.	10-12-39	Rfn		AWL 1200 hrs 10-12-39 to 2345 hrs 12-12-39	No Record		Pt II 122	No Record	A/F 4ds pay FR&I 149(1)(a)
Vanc.,B.C.	22-1-40	Rfn		AWL 1700 hrs 22-1-40 to 2350 hrs 23-1-40	No Record	7 As CB	Pt II 25	No Record	A/F 2ds pay FR&I 149(1)(a)
N. West'r.	3-7-40	Rfn		AWL 2200 hrs 3-7-40 to 2355 hrs 5-7-40	Sgt Cooke	5 ds CB	8-7m40	Mjr. D.Verchere	A/F 3ds pay FR&I 149(1)(a)
Sea Island	2-8-40	Rfn		AWL 0015 hrs 2-8-40 to 0030 hrs 5-8-40	Cpl.Patterson Rfn Dallas	7 ds CB	5-8-40	Lt. J.S. Worthington	A/F 3ds pay FR&I 149(1)(a)
N. West'r.	19-8-40	Rfn		AWL 1730 hrs 19-8-40 to 2300 hrs 19-8-40	L/Cpl. Nagstaff,J.		21-8-40	Lt. Cpl. G.Carmichael	A/F 1ds pay FR&I 149(1)a

Certified true Copy [signature] Adjt. for O.C., No. 11 Coy., C.D.C.

Certified true record May 28th, 1941
(G. Carmichael) Lieut. Col.
O.C. 1st Bn. BC Regt. "DCOR" (CA)

(D.H.Q., Ottawa—No. 1 Company, C.D.C., A/C.S., C. A.(A.F.)) (P.T.O.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K 37164 Rank Pte. Name LAWRENCE, J.D. of Regt. Section, C.F.C. Coy, C.F.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of December, 1941

F. W. [illegible] Lieut
A/Adjutant,
No. 11 Company, C.F.C., C.A.(A.F.)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(Corrections.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by Field general court-martial the information may be collected from such sources as are available and the paragraphs inserted amended accordingly.*)

No. 4 District H.Q. 12 JAN 1942 Canadian Forces Corps

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
K 37164	Pte.	LAWRENCE, J.D.	Reinforcement Section, H.Q., C.F.C. att. to No 11 Company, C.E.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	A.W.L. Twice	SEVEN times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~[illegible]~~

3. The accused is not under sentence at the present time, *or* ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Twenty-four days in military custody, making a total of Twenty-four days, of which Nil. days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21 years.

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 7-12-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Two years.

8. The accused is entitled to deferred pay or gratuity in respect of Two months service. Overseas.

9. ~~[illegible]~~

10. The accused is in possession of, or entitled to, no military decoration or military award ~~[illegible]~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

(*18540) W.L.M.(S&H) 75,000 12/40 A.& E.W.Ltd. Gp.s/8

NO. 5 COMPANY CANADIAN FORESTRY CORPS, C.A.

477

Black Island Camp,
Blair Atholl,
29/12/41

I CERTIFY that No. K-37164 Pte. Lawrence, J.D. Reinforcement Section, C.F.C. attached to No.11 Coy, C.F.C. is fit to undergo trial by Court Martial.

Signature of Medical Officer.....Capt.
(W.F.Gough)
R.C.A.M.C.,
M.O. #4 D.H.Q, C.F.C. C.A.

No. 5 COY.
CANADIAN FORESTRY CORPS.
(CANADIAN ARMY)
ORDERLY ROOM

F

SENTENCE

THE COURT SENTENCE THE ACCUSED to forfeit seven days pay. Sentence.

x x

To be struck out except in cases where trial has taken place on a plea of "Not Guilty".

FINDING

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE FINDING

THE COURT FIND THAT THE ACCUSED guilty as charged.

x

When the Court is already open this sentence will be struck out.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

x

THE COURT BEING RE-OPENED, THE ACCUSED IS AGAIN BROUGHT BEFORE IT.

Evidence of character, etc.

Captain R.E.Beanish, prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to character and particulars of service of the accused? Answer by the Witness. Yes sir.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked EXHIBIT 'A', signed by the President, and annexed to the proceedings.

Question by the President

Is the accused the person named in the statement which you have heard read? Answer by the Witness. Yes.

Question.

Have you compared the contents of the above statement with the regimental books? Answer. Yes sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
Answer. Yes sir.

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? Answer. No sir.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

I maintain that it has not been proved by the Prosecutor that these words were uttered, and if these words were uttered it is the responsibility of the Prosecutor to prove them uttered. The accused stated it not to be insolence or defiance.

The Court is closed for the consideration of their findings at 1230 hours.

danger of convicting a prisoner on the uncorroborated evidence of an accomplice and, in his discretion, advise them not to do so, thought the the same time pointing out that it is withing their legal province to convict upon it if they choose. In a trial by court-martial, where the Court performs the functions of both judge and jury, they should very carefully consider the danger before convicting on the uncorroborated testimony of an accomplice; and, if there is a judge-advocate, it is essential that he should direct their attention to the point. Except where a statute makes provision as to the nature of the evidence necessary, the corroboration required is independent testimony which confirms in some materiql particular not only the evidence that the crime has been committed, but also that the accused committed it.

We have provided you with a credible witness, an N.C.O. wearing three stripes. The defence is not suggesting that there is any animosity between the two men, it is primarly the Sergeant doing his duty. It is now the duty of this Court to judge whether the evidence of the Sergeant is more credible than the evidence of the accused. I will not attempt to suggest an answer for that is the duty of the Court.

Summary by the Defence: May I call your attention to Courts-Martial Page 58, Chapter V, Section 67- " At the outset of their deliberations the court must remember that it is a principle of the English law that the accused is presumed to be innocent until he is proved to be guilty, and that the burden of proof rests upon the prosecution. Unless, therefore, the guilt of the accused has been established beyond reasonable doubt, the accused must be acquitted, as the prosecution has failed to sustain adequately the burden of proving his guilt.

Generally speaking, it is legally open to a court to convict an accused person upon the evidence of one credible witness. But in some cases corroboration of such witness is required by law; in others it is required by practice almost amounting to a rule of law. In some instances it is desirable that corroboration should be looked for though not actually required by law or practice.

We have in this case two witnesses, one for the Prosecution and one for the Defence. Witness for the prosecution used certain words. Accused claims that he used other words. I maintain that it is the duty of the Court, by additional witnesses, or by any method they see fit, to prove that the statements of the accused are not correct. If I may be permitted to take a little of your time, I would wish to say a little about the work performed by the accused.

Prior to his enlistment he was a salesman. He knows nothing of Forestry work and is not happy in his work for he does not know anything about it. It is natural to assume that this type of man would not know anything about the Forestry Work. That this man was detailed to do a job of laying slabs and sorting slabs it is natural to assume that he would be slow in his task. It is submitted that to prove insolence and defiance the prosecution must prove that the man intended to be insolent and defiant. I submit that the prosecution has failed to prove this point. This is again brought out in the cross-examination of the first witness. I know this man has asked to be paraded. The permission was refused. Under our rules and regulations any soldier has the privilege of seeing his Commanding Officer and airing his grievances. I submit that the accused has been discriminated against and I see just cause that th he felt that he had been prejudiced against, and that might have a lot to do with the tone used. In conclusion may I read the charge. "Conduct to the prejudice of good order and military discipline in that he, at Dall Camp, Perthshire, on or about the 5th day of December, A.D., 1941, when order to work by Sgt. McCombe, said that he was doing all he intended to do, thereby being insolent and defiant to a superior officer, a person subject to military law, contray to Army Act, Section 40."

/I maintain

The accused, K 37164 Pte. Lawrence, J.D., cross-examined by the Prosecutor (Con't).

6. Q. The Sergeant testifies that you said "that you were doing all you intend to do". Did you make that statemen?

A. No Sir.

7. Q. Did at any time during the afternoon did Sgt. McCombe tell you that if you did not work harder he would lay a charge against you?

A. He did make that statement.

8. Q. You mentioned that you enlisted on August 28th, 1939. In what unit did you join?

A. The Duke of Cannoughts.

9. Q. How did you get into the Canadian Forestry Corps?

President ruled the question irrelevant.

Summary by the Prosecutor:

President and gentlemen of the Court:- The case that we have heard this morning is one that comes in the category of a petty grievance but still a crime. Actually cases of this type have been dealt with in Company Orderly Rooms all over the Empire. It is, in fact, surprising that such a matter should come before a Court-Martial at all. The fact that it is a particularly small charge should not change the specific fact which the Court must face to do justice, whether the accused made the remarks as charged or whether he was insolent. I was trying to bring out the background of this man for many actions of a man can be accounted for by his background. It is not for me to say whether he was happy or not happy with No. 11 Company, he would still have to show proper respect to an N.C.O. With only one witness for the prosecution to state what this man said and with the accused taking the witness stand to off set the statements, it is a case to decide which witness to believe or which one speaks the truth. Sgt. McCombe says specifically that the accused said "I do not intend to do more than I am doing". It is also a question as to the voice in which these words were uttered. I submit that an N.C.O. is very unlikely to arrest a man who stated "I am doing all the work that I am able to do". It may be submitted by the defence that one witnesses' testimony is as good as the other man's. It may be as good as the other provided that the one man is as good as the other. I refer to Sec. 44 Chapter VI of the Evidence Act. "The rule which requires production of the best obtainable evidence does not require the strongest possible assurance: in other words, does not require the fullest proof of which the case will admit, nor the repetition of evidence beyond that which is sufficient to establish the fact. For instance, it is not necessary, in order to prove handwriting, to call the writer himself; nor, if a whole regiment should be present at some overt act of mutingy or insubordination, as the striking of a commanding officer in fron of his regiment, would the law require the production of all the persons present; for if one witness only were produced, and, if, from his situation at the moment of the occurrence, he had as favourable an opportunity of observing what took place as any person present, his evidence would be complete, and not inferior in kind to any that could be produced.
Sec. 45 - On the same principle the law admits as sufficient the uncorroborated testimony of one credible witness, subject to statutory exceptions in the case, e.g., of treason, procuration of women and girls, and in certain cases where a child of tender years is allowed to give evidence without being sworn; and to the further exception that in a trial for perjury one witness alone is not sufficient, without some material and independent corroborative evidence in proof of the statement as to which the perjury is charged. Apart from any such statutory requirement the evidence even of an accomplice is in strict law sufficient, if the jury consider him credible; but it is now held to be the duty of the judge to war the jury of the /danger

The accused, K 37164 Pte. Lawrence, J.D., examined by the defence (con't)

16. Q. He told you about working and holding your end up?

A. Yes Sir.

17. Q. What did you tell him?

A. That the other men were more used to it.

18. Q. He told you that you did not want to work because you did not want to hold up your end?

A. Yes Sir.

19. Q. When the Sergeant told you that you would have to work faster what did you say?

A. In the afternoon you mean?

20. Q. In the afternoon?

A. I told him that I was doing all I was able to do.

21. Q. That was what you said?

A. Yes Sir.

22. Q. Was the Sergeant angry when he came around to see you in the afternoon?

A. He was very preturbed about the situation.

The accused, K37164 Pte. Lawrence, J.D., cross-examined by the Prosecutor.

1. Q. I do not like to thresh over old straw, but would you tell me in your own words exactly what happened from the time you reported to Sgt. McCombe? We understand about the work that you were doing so you can begin from the time he came around in the morning.

A. He came around in the morning and told me to hurry up. I told him that I was doing all the best I could. He went away. Then he came around after dinner and told me that the other men were holding up their end and I answered that they were more used to the work. He then told me that I should do more and I told him that I was doing all I was able to do.

2. Q. Did you say that you did not want to work and that you did not want to be in the Company?

A. I did not mention any special Company but I told him that I did not want to be in the Forestry Corps at all.

3. Q. But you did tell him that you did not want to be in the Canadian Forestry Corps?

A. I did Sir.

4. Q. And when was it, in the morning or in the afternoon?

A. It was in the morning that he said that.

5. Q. Was it in the afternoon that you told him that you were doing all you were able to do?

A. In the afternoon.

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The accused, K 37164 Pte. Lawrence, J.D., Reinforcement Section, H.Q., C.F.C., attached to No. 11 Coy., Canadian Forestry Corps, having been duly sworn is examined as follows:

Q. 1. Pte. Lawrence, when did you enlist in the Canadian Army?

A. August 28th, 1939.

2. Q. When were you sent overseas?

A. In the middle of October of this year.

3. Q. You were sent to No. 11 Company?

A. Yes Sir.

4. Q. What was your occupation before you enlisted?

A. I was a salesman.

5. Q. What were you doing when you first came over?

A. I was laying slabs in the camp yard.

6. Q. How many were there?

A. Two or three or more. It was never a definite figure.

7. Q. How long were you on the job?

A. Two or three weeks.

8. Q. Were any complaints made?

A. Not to me.

9. Q. On the 5th December whom did you report to?

A. To Sgt. McCombe.

10. Q. What did Sgt. McCombe tell you?

A. He told me to lay some slabs, or whatever you call them, on the road and some of the larger ones were to be sorted and piled at the side of the road.

11. Q. In other words you had to lay some on the road and some along the road?

A. Yes Sir.

12. Q. How many times did he come to you in the morning?

A. Once only he spoke to me but he came two or three times.

13. Q. When he spoke to you what did he say?

A. He told me that I had better work more.

14. Q. He did not say anything more till afternoon?

A. No sir.

15. Q. When he came around in the afternoon he warned you about working?

A. Yes Sir.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. Yes Sir.

Question. Do you intend to call any other witness in your defence ?

Answer. No Sir.

Question. [redacted]

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (ii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says†

[hands in a written address which is read, marked , signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

Cross-examination of Second Witness, H 19752 Sgt. McCombe, J.G., Con't.

17. Q. Did the accused say anything further to you than that he did not intend to do more than he was doing?

A. He told me about the grievances he had. At the time he told me this I said that I could have to parade him. He said that the officers knew hoe he felt about the work already.

Second Witness, H 19752 Sgt. McCombe, J.G., re-examined by the Prosecutor.

Q. 1. You said during the examination Sergeant, that you brought to the accused's attention the work that the other man had done in one and a half days?

A. Yes Sir.

2. Q. And that it was 90 feet of road?

A. Yes Sir.

3. Q. How much road did this man do in the morning?

A. I could not say in the morning but at the end of the day I measured it to be twenty-one feet.

B 20000 C.S.M. Edgar, R.H., First Witness recalled and is examined by the Defence.

1. Q. There is just one question that I would like to ask you. Did the accused ask you to parade him to his Officer Commanding?

A. A number of times. I spoke to the Officer Commanding at the time and it was not convenient for him to see him.

2. Q. Would you say four or five times?

A. Yes Sir.

3. Q. This man has been charged with insolence and defiance. The evidence which has been submitted has more to do with the amount of work done or not done. There has been no evidence to prove the charge as read and I request that the accused be dismissed for lack of evidence.

Defence rests.

Prosecutor: Sgt. McCombe states on testimony and on oath that the accused said these words "I do not intend to any more work". Sgt. McCombe has further given evidence that there was no conflict between the Sergeant and the accused, and nothing in their past relationship which is not normally found in the relationship between a Private and Sergeant. This Court might quite properly dismiss the case on the grounds of insufficient evidence without requiring any defence testimony to be heard but it may only do so if the prosecution has not established a pri facie case. The question of judicial notice must be taken into consideration before the Court can reach this decision. Under the Rules of Evidence judicial notice may be taken of the fact that we are at war for instance. Judicial notice may be taken of the matter of the respect that one rank must pay to another superior rank. The Sergeant's evidence states that the accused said certain words in a manner in which private soldiers should not speak to their superiors. I submit that it rests upon the defence to show that there was such aggravation to excuse the remarks or that the remarks were not uttered.

Cross-examination of Second Witness, H 19752 Sgt. McCombe, J.C., Con't.

2. Q. It was stated in the summary that he reported to you for work on the 5th. Why did he report?

A. The Sgt.-Major said that we were one man short and that he was sending up Pte. Lawrence.

3. Q. You gave him his instructions?

A. I showed him what to do and gave him full instructions as to the work.

4. Q. You left him to carry it out?

A. Yes sir.

5. Q. Did you come back to supervise at any time?

A. I came back a couple of times.

6. Q. Did you give him instructions each time you came?

A. No Sir.

7. Q. How many times did you actually come back to the road?

A. I came four times Sir.

8. Q. Each time did you complain?

A. No Sir.

9. Q. How many times did you complain?

A. Once Sir.

10. Q. When you came around in the afternoon, naturally you were preturbed about the amount of work done, what did you say?

A. I told him that he was not doing as much work as he could and he replied that he did not intend to do any more.

11. Q. Was that what he definitely said to you?

A. As far as I can remember.

12. Q. Not what you remember but what he actually said?

A. I do not intend to do any more work.

13. Q. When you came back in the afternoon you were naturally preturbed that there was no more work done?

A. Yes Sir.

14. Q. Were you angry?

A. No Sir.

15. Q. You told him that there was not enough work done?

A. Yes Sir.

16. Q. You say this man was insolent. How was he insolent?

A. By the way he answered.

Second Witness for the Prosecution, H 19752 Sgt. McCombe, J.C. (Con't)

4. Q. The instructions you gave him were in the form of a direct order?

A. Yes Sir.

5. Q. Did he understand that it was a direct order?

A. I do not see how he could not.

6. Q. Had anyone been working on the road previously previously to the accused?

A. Yes Sir.

7. Q. Was that how you could compare what work he was doing to someone else's?

OBBCTION BY THE BEFENCE: Due to the nature of the charges, insolence and defiance should be proven and the amount of work done is irrelavent.

OBJBCTION OVERRULED. A. Yes.

8. Q. You have told us that the accused said that he was doing as much work as he was going to do or words to that effect?

A. Yes sir.

9. Q. What was the attitude taken in his statement?

A. I would say it was insolent.

10. Q. Did he complain about the work?

A. He said that he did not have a square deal, and that he did not want to be in the Forestry Corps and that he did not intend to do more than he was doing.

11. Q. Were his replies the replies such as a private soldier would use to a Sergeant?

A. Definitely not Sir.

12. Q. He remained on the job all day?

A. Yes Sir.

13. Q. Was there anything other than his work that he complained about?

A. No Sir.

14. Q. When he was complaining about conditions did he complain about his health?

A. No sir.

15. Q. As far as you know what would you say his health was?

A. I would say it was very good Sir.

Second Witness for the Prosecution, H 19752 Sgt. McCombe, J.C., cross-examined by the Defence.

1. Q. That morning Sergeant, this man reported and was put on the job of laying slabs on the road, how much road was there to lay?

A. There was a considerable piece to lay and the man on the previous day, that was working on the last day, laid 90 feet.

9. Q. At that time was he left in open arrest?

A. No Sir, immediately that he was disposed of by his Company Commander I placed him under close arrest.

10. Q. And he remained in close arrest since that time?

A. Ever since he was in Dall Camp.

11. Q. And ever since then as to your knowledge?

A. Yes Sir.

12. Q. You heard the charge that was read before the accused today?

A. Yes Sir.

13. Q. Is the charge the same as the one originally charged with?

A. Yes Sir.

First Witness cross-examined by the Defence.

1. Q. The charge was reported to you?

A. It was Sir.

2. Q. In other words you know nothing about it except what you heard from the man who made the charge?

A. Yes Sir.

3. Q. He was reported as having disobeyed orders when he was not working, when ordered to work?

A. Yes Sir.

4. Q. That is all.

Second Witness for the Prosecution, H 19752 Sgt. McCombe, J.G., No. 11 Coy., Canadian Forestry Corps, having been duly sworn is examined by the Prosecutor.

1. Q. Will you give us your number, name, rank and unit?

A. H 19752 Sgt. McCombe, J.G., No. 11 Coy., Canadian Forestry Corps.

2. Q. Do you recognize the accused?

A. Yes Sir.

3. Q. Can you tell the Court what dealings you have had with the accused in the morning?

A. On the morning of the 5th December or thereabouts, the accused was sent to the Mill Yard to work under me. I gave him the job of laying a Slab Road in the yard. During the morning he did very little work but I thought that he might improve and I spoke to him in the morning and I told him that I expected to get a day's work out of him. After dinner, when I had saw what he had done, I told him that he was not doing as much as he was able to do. I told him that he would certainly have to do more. I did mention at the time that he would have to hold his own end up as the other boys in the business were holding up theirs and he answered that he did not intend to do any more than he was doing. I told him that if he persisted in this attitude I would have to parade him to the Commanding Officer. He then told me that he did not intend to do any more than he was doing. I then told him that he would be paraded before the Commanding Officer next morning.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 A.)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

[redacted]

The prosecutor proceeds to call witnesses.

First witness for prosecution. B 20000 C.S.M. Edgar, M.R., No. 11 Coy., Canadian Forestry Corps, having been duly sworn is examined by the Prosecutor.

[redacted]

1. Q. Sgt.-Major, will you give us your number, rank, name and unit?

   A. B 20000 C.S.M. Edgar, M.R., No. 11 Coy., C.F.C.

2. Q. And you are stationed at?

   A. Dall Camp.

3. Q. On or about the 6th of December, did you parade the accused?

   A. Yes Sir.

4. Q. On what charge?

   A. He was reported to me by Sgt. McCombe, the foreman of the mill yard, as disobeying orders by not working as he was told to.

5. Q. You know nothing of the charge except what Sgt. McCombe told you?

   A. No Sir.

6. Q. When you received the report what did you do?

   A. I placed him under open arrest until morning.

7. Q. This was reported to you in the evening?

   A. Yes Sir.

8. Q. What did you do then?

   A. I had the charge made out and paraded him to the Commanding Officer in the morning.

The President, members [redacted] are duly sworn.

[redacted]

Q. Do you object to M49759 Sgt. Ewachniuk, A., acting as shorthand writer?

A. No Sir.

Court Stenographer is duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon [redacted] charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [redacted] charge against you, which you have heard read? *Question to the accused.*

Not guilty Sir. *Answer.*

[redacted] *Question.*

Answer.

[redacted] *Question.*

Answer.

[redacted] *Question.*

Answer.

[redacted]

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

p

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for A Field General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Black Island Camp, Blair Atholl, on the 29th day of December 1941 by order of Brig.-General J.B. White,

Commanding Canadian Forestry Corps

dated the 23rd day of December 1941

President.

Major J.M. Boswell, No. 5 Coy., C.F.C.

Members.

Captain H.H. Styffe, No. 4 Dist. H.Q., C.F.C.

Lieut. R.G. Rowe, No. 5 Coy., C.F.C.

, Judge Advocate.

Trial of* K.37164 Pte. Lawrence, James Douglas, Reinforcement Section, H.Q., C.F.C., attached to No. 11 Coy., C.F.C.

Medical Certificate handed to the President by the Prosecutor, read and duly certified.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that Lieut. R.G. Rowe is not available to serve ~~owing to~~ Lieut. N.V.R.A. Burke, No. 11 Coy., C.F.C. waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Captain R.E. Beamish

Counsel‡ or defending officer† Lieut. A. Hudson

At 1115 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] Wt. [illegible] K. & H., Ltd. [illegible] Form A 9[illegible]

Remanded for a Field General
Court Martial this 8th day
of December, 1941.

D. Carmichael.
(D.A. Carmichael) Captain,
O/C No. 11 Company,
Canadian Forestry Corps,
C.A.(A.F.)

The accused has elected trial by Court Martial

CHARGE SHEET

87.

CANADIAN FORESTRY CORPS NO. 11 COMPANY

The Accused: K 37164 Pte. Lawrence, J.D.
of Reinforcement Section, H.Q., C.F.C. and attached to No. 11 Company, C.F.C.
a soldier on Active Service is charged with:-

CHARGE
A.A. Sect.
40.

Conduct to the prejudice of good order and military discipline in that he, at Dall Camp, Perthshire, on or about the 5th day of December, A.D., 1941, when ordered to work by Sgt. McCombe, said that he was doing all he intended to do, thereby being insolent and defiant to a superior officer, a person subject to military law, contrary to Army Act Section 40.

D.A. Carmichael Capt.

Dall Camp,
8th December, 1941.

(D.A. Carmichael) Capt.,
A/O.C. No. 11 Company,
Canadian Forestry Corps,
C.A.(A.F.)

H.Q., C.F.C., 23-12-41.

To be tried by Field
General Court Martial.

J.B. White Brig.-Gen.

(J.B. White)
Commander,
Canadian Forestry Corps,
Canadian Army Overseas.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K. 37164 Pte. LAWRENCE, James Douglas. Reinforcement Section, R.C., C.F.C. Attached to No. 11 Company, C.F.C.	1st Charge:- A.A.Sec. 40.	Not Guilty	Guilty ~~Forfeit~~ ~~Remit~~ Lower Days(7) Forfeiture of Pay. 29/12/41 JBW.	Confirmed J.B.White

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.B.White Brig.-General (Signed) J.M.Boswell Maj.
(J.B.White) (J.M.Boswell)
Commanding Canadian Forestry Corps *Convening Officer* (*c*) C.A.(O). C.C.No. 5 Co'y., C.F.C. *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of December, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 29th day of December 1941.

J.B.White Brig.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this 29th day of December 1941.

J.B.White Brig.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension

~~*I direct that the sentence named in the margin be not committed to prison until further orders.~~

Signed this 15th. day of January 1942.

J.B.White Brigadier General
(J.B.White) *Confirming Officer.*
Commander,
Canadian Forestry Corps, C.A.(O).

Promulgated and extracts taken in the case of

(*a*) (Dated) January 21st 1942 (Signed) W.S.T.Wallace Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(43759) Wt. 48113—183. 100 M. 8/40 P.St. C. Ltd.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Twenty-third day of December, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Forestry Corps Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer of it of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

PROCEEDINGS REVIEWER

27/1/42

Reviewing Officer (Jdo) Cmdg

President.

Rank.	Name.	Regiment.
Major	J.M. Boswell	No. 5 Co'y C.F.C.

Members.

Rank.	Name.	Regiment.
Captain	H.H. Styffe	No. 4 Dist. H.Q., C.F.C.
Lieutenant	R.G. Rowe	No. 5 Co'y C.F.C.
Lieutenant	{ Waiting Member { N.V.R.A. Burke,	No. 11 Coy, C.F.C.

*Signed J.B. White Brig.-General.
(J.B. White)
Commanding Canadian Forestry Corps, C.A. (O).
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

1776 - Ste Lawrence J.D.

O. H. M. S.

11

66

JB

M. F. B. 270

1000M 12-40 (8608-09-70)
H.Q. 1772-30-13

(Substitute for A.F.B. 296)
or M.F.B. 355.

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED.

No.B.36987 Rank Pte. Name LAWRENCE V.A. 1st. Bn. R.H.L.I.

Age 22 Married or single Single No. of Dependents Nil.

Date of Attestation 18 Sep 39

No of days spent in close arrest (To date of trial).....

Civil Nil Military 16 Hospital 8 Total 34

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

NIL.

A CERTIFIED TRUE COPY OF M.F.M.6 MUST ACCOMPANY THIS FORM

(Officer i/c Records.)

D.J. McLennan
(D.J. McLennan) Capt. & Adjt.
1 Bn R.H.L.I. Cdn. Army A.

Dated at: In the Field

This day of 27 Aug 1943.

(To be dated and signed as of date of trial)

Statement of the service of No.B.36897 Rank Pte. Sheet No.1.

Name LAWRENCE Vernon Arthur.

Report Date	From whom received		Record of Promotions, Reductions Transfers Casualties, Reports etc.	Rank Shown	Effective Date	Unit	Place	Part II D.O. No.	Date.
		(1)	Forfs 1 dys pay AWL		14 Mar 40	RHLI	Hamilton	71	16 Apr.40
		(2)	Forfs 2 dys pay AWL		8 Apr 40	RHLI	Hamilton	93	9 Apr 40
		(3)	Five dys F.P.for AWL, 0600 hrs 19 Jan 41 to 1000 hrs 19 Jan 41 forfs 5 dys pay F.R.&.I.149 (1)(B)		19 Jan 41	RHLI	Field	7	27 Jan 41
		(4)	2 dys F.P. for AWL from 1500 hrs 3 Feb 41 2300 hrs 3 Feb 41 forfs 1 dys pay F.R.&.I.1-A and 2 dys pay F.R.&.I.149(1)(B)		5 Feb 41	RHLI		11	7 Feb 41
		(5)	AWL 22 Mar 41 forfs 39 dys pay awd 21 dys detn.		9 Apr 41	RHLI		28	11 Apr 41
		(6)	Granted 3 days remission of sentence. Credit 3 dys pay.		26 Apr 41	RHLI		31	30 Apr 41.
		(7)	AWL - 2230 hrs.		3 May 41	RHLI		39	31 May 41
		(8)	S.O.S.deserter, Defec £7-9-9½		26 May 41	RHLI		50	18 Jul 41
		(9)	T.O.S. from illegal absence		12 Jul 41	RHLI		55	22 Aug 41
		(10)	AWL. A.D.S. while under close arrest		2 Aug 41	RHLI		60	19 Sep.41
		(11)	S.O.S.Deficiencies £7-9-9½	Pte.	9 Sep 41	RHLI	UK	61	26 Sep 41
		(12)	T.O.S. from desertion	Pte.	17 Sep 41	RHLI	UK	69	14 Nov 41
		(13)	Stoppage of Pay F.R.I.(1)B 222 (11) 75¢ per diem concurrent with forfs awd by FGCM 19 Oct 41 D.O.71		15 Jul 41 2 Aug 41 14 Oct 41	RHLI	UK U.K.	69	14 Nov 41
		(14)	S.O.S. to #1 Cdn.Inf.H.U. in detn		14 Oct 41	R.H.L.I.	UK	71	30 Nov 41
		(15)	FGCM 1 yrs. Detn Forfs 47 dys pay F.R.&.I.149(1)(a)(B)(c) 1.		15 Jan 42	2/DIRU	UK	142	16 Jan 42.
		(16)	Remission of 122 dys released from detn		18 Jun 42	2/DIRU	UK	147	22 Jun.42
		(17)	AWL more than 24 hrs from 1400 hrs		18 Jun 42	2/DIRU	UK	154	30 June 42.
		(18)	AWL 8 dys.		18 Jun 42	2/DIRU	UK	164	13 July 42
		(19)	AWL 21 dys.		14 Jul 42	2/DIRU	UK	187	8nAug. 42
		(20)	Court of Inquiry forfs 27 dys pay Def £6.4.2		24 Jul 42	2/DIRU	UK	188	10 Aug 42
		(21)	3 months in H.M. Prison total forfs 100 dyspay						
		(22)	Released from H.M. Prison Remission of Sentence 30 dys	Pte.	24 Sep 42	2/DIRU	UK	230	28 Sep. 42
		(23)	FGCM to undergo one years imprisonment with hard labour Total forfs 468 dys pay	Pte.	30 Sep.42	2/DIRU	UK	247	16 Oct 42
		(24)	Released from Cdn. Detn Bks. 119 days remission of sentence	Pte	29 May 43	4 CIRU	UK	76	1 Jun. 43.

REC/B/36987

CANADIAN MILITARY HEADQUARTERS

RECORDS OFFICE,
ACTON, W.3.

20 Aug 43

Officer Commanding,
R.H.L.I.
Canadian Army, England.

B 36987 Pte. LAWRENCE V.A.

Reference telephone conversation of to-days date, please find attached hereto record of Regimental Entries for m/n soldier, as Requested.

2. For your information, please.

B.E. Willan,
(B.E. Willan) Lieut.
for Officer i/c Records,
Canadian Military Headquarters.

ENC. Rubber stamp.

RCEIVED
22 Aug 1943
R.H.L.I. (W.R.)
C.A.S.F.

Summary of Evidence in the case of B.36987 Pte. LAWRENCE V.A. 1st. Bn. R.H.L.I. a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for the Prosecution: Capt. D.J.McLennan SFS Adjt. 1st. Bn. R.H.L.I. sworn states:

As Adjutant of the R.H.L.I. I called the Civil Police at Horsham on the 3 Aug 43 and requested that they go to No.1.Cdn. General Hospital, situated there, for the purpose of examining the kit of B.36987 Pte. Lawrence, V.A.

The accused declines to cross-examine the witness.

D.J. McLennan, Capt.

First
~~Second~~ witness for the Prosecution D.98661 Q.M.S. MacIver J. Quartermaster, 1 Cdn. General Hospital.

A written statement of this witness evidence, purporting to be signed by him, has been read to the accused, and is included in this summary (Attached as Exhibit "A")
Having regard to the exigiencies of the service the attendance of this witness cannot in my opinion be readily procured.
The accused does not demand the attendance of this witness for cross-examination.

~~S.F. Sharpe Capt.~~
~~Officer Detailed to take the summary.~~

Attached are Military Books M.1.for B.36892 Pte. Hodge L.B. and B.36774 Pte. Ross A.T. marked exhibits "B" and "C" respectively. Further attached is military identity Card No. M.420580 marked Exhibit "D" and leave passes in the name of B.36892 Pte. Hodge L.B. and B.36774 Pte. Ross A.J. both marked exhibit. Blank Leave passes are marked Exhibit "P"

S.F. Sharpe Capt.
Officer detailed to take the summary.

The accused, having been duly cautioned in accordance with R.P.4(E) says:

"I don't want to make a statement"

Lawrence B.36987
V.A.

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P.4 complied with.

In the Field
20 Aug 43.

S.F. Sharpe Capt.
Officer detailed to take the summary.

I desire the services of Lt. Major of R. de Mais for a Defending officer, if he is available. If he is not available I desire Capt. J.L. Firth of the 1st. Bn. RHLI.

B.36987 Lawrence, V.A.

SUMMARY OF EVIDENCE

In the case of B.36987 Pte. Vernon Arthur LAWRENCE, 1st. Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas.

THE ACCUSED IS INFORMED OF HIS RIGHTS

THE C.O. DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH

FIRST WITNESS FOR THE PROSECUTION
D98661 Q.M.S. MacIver J. Quartermaster, 1 Cdn. Gen. Hospital

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused, and is included in this summary (Attached as Exhibit "A"). Having regard to the exigencies of the service, the attendance of this witness, cannot, in my opinion, be readily procured. The accused does not demand the attendance of this witness for cross-examination.

Attached are Military Books M. Part 1 for B.36892 Pte.Hodge L.B. and B.36744 Pte. Ross A.T. marked exhibits 'B' and 'C' respectively. Also attached is military Identity Card No. M420580 marked Exhibit 'D' and leave passes in the names of B.36892 Pte. Hodge, L.B. and B36774 Pte. Ross A.J. both marked Exhibit 'E'. Blank leave passes are marked Exhibit 'F'.

(S.F. Sharpe) Capt.
Offr detailed to take the Summary.

THE ACCUSED HAVING BEEN DULY CAUTIONED IN ACCORDANCE WITH R.P.4(E) says:

"I do not wish to make a statement"

("V.A. Lawrence) B36987

THE ACCUSED DOES NOT WISH TO CALL WITNESSES IN HIS DEFENCE AT THIS POINT.

Certified that R.P. 4 complied with.

In the Field
25 Aug 43.

(S.F. Sharpe) Capt.
Officer detailed to take the Summary.

EXHIBIT "H"

F.A. Wansborough. Major.

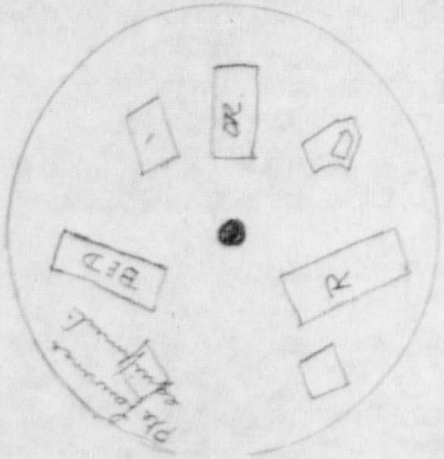
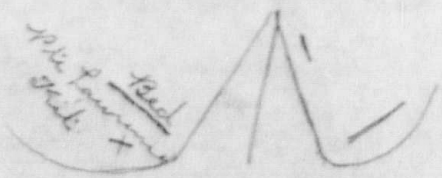


Exhibit "I"

F.A.Wansborough.
Major.



CANADIAN ARMY OVERSEAS

LEAVE PASS

Exhibit "P"
FAWansborough
Major.

Pass No. Date 2 Aug 43

No.B36774 Rank. Pte. Name ROSS A.J.

has permission to be absent from his unit
from A.D. hrs. 2 Aug 43

to 2359 hrs. 16 Aug 43 for the purpose of
proceeding to
MANCHESTER.

Rubber Stamp.

Royal Hamilton Light Infantry.
Orderly Room.
2 Aug 43.

F.E.Plante Capt,
Unit signature Stamp.

CANADIAN ARMY OVERSEAS

LEAVE PASS

Exhibit "E"
FAWansborough
Major.

Pass No. Date 2 Aug 43

No.B36892 Rank Pte. Name Hodge L.B.

has permission to be absent from his unit
from A.D. hrs. 2 Aug 43.

to 2359 hrs. 16 Aug 43 for the purpose of
proceeding to
MANCHESTER.

Rubber Stamp.
Royal Hamilton Light Infantry
2 Aug. 43.
Orderly Room.

F.E.Plante Capt.
Unit signature stamp.

Exhibit "G"
F.A.Wansborough.
Major.

Exhibit "G" consists of 13 LEAVE PASS FORMS - BLANK- but bearing the Rubber Stamp of the Hamilton Light Infantry. 5 bearing date of Oct. 43. 4 Bearing date of Sep. 43 and 4 bearing date of Aug 1943.

F

Sentence.

Sentence.

The Court sentence the accused B.36987 Pte. Vernon Arthur Lawrence to NINE MONTHS DETENTION.

F.A. Wansborough.
Major.
27 Aug 43.

G.A. Ponsford.
Lt.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused B.36987 Pte. Vernon Arthur Lawrence is guilty as charged.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

The Prosecutor Lt.W.D.Parker RHLI is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes - a copy of Regimental Record and AFB 296.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "J", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No Sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. These were sent from CMHQ.

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

Accused declines to cross-examine this witness. The accused does not object to the record being produced to the Court and says it is a true copy of his record. The Defending Officer in turn does not object.

Question to the accused.

Do you wish to address the Court? *Answer.* No sir.

The Court is closed for the consideration of the sentence.

F.A.Wansborough Major.
G.A. Ponsford. Lt.

Q. Did you see anyone in the tent.
A. No one.

Q. Next morning did you examine your equipment?
A. No Sir.

Q. Do you know if the other men examined their equipment?
A. I don't think so.

Q. What kind of kit bags did Lawrence have?
A. Two of the Army issue.

Q. Were they full of equipment?
A. I don't know.

Q. Were they full or empty?
A. I think one was full & the other ¾ full.

Q. Were they tied at the top or locked?
A. I don't know.

Q. Are you in the same platoon as Private Lawrence.
A. I am Sir.

Q. Same Section?
A. Yes Sir.

Q. Do you chum around with Pte. Lawrence.
A. No only in the Section.

Questions by the Court.

Q. About what time did the conversation between Rilley and Lawrence take place?
A. I don't know but I think it was about Midnight.

Q. I think you said you could'nt see the door from where you were sleeping?
A. Yes Sir.

Q. What do you sleep on?
A. Palliasse.

Q. And you still could'nt see?
A. No Sir.

This concludes the case for the Defence.

Defending Officer says in closing.

No question there, but were they there with his knowledge and consent? He states he has no knowledge of any exhibits whatsoever and he has produced evidence which shows it possible for some authorized person to have been in his tent on the night before he went to the hospital at which time the large pack could have been tampered with. You will notice on diagrams of the tent that Pte. Lawrence's kit was next to the opening which would have made it possible for someone to get at that kit.

FAW [redacted]

F.A. Wansborough. Major.

G.A.Ponsford.
Lt.

A. to go back to sleep again. I kept talking to Pte. Lawrence and he to me. He asked me where I was and when I said I was in bed he wanted to know who was in the doorway. By the time we got up to see who it was the fellow had a chance to get away.

Cross-examination by the Prosecution.

Q. You say immediately on left as you enter the tent was the equipment of Pte. Lawrence?
A. Yes Sir.

Q. Does he own two of the large size kit bags?
A. Yes I think so.

Q. What time was it when you first heard someone in your tent?
A. I don't know I haven't a watch.

Q. Where in the tent did you see the person?
A. In the doorway.

Q. The only time you saw him he was standing in the doorway?
A. Yes Sir.

Q. Was he facing you or did he have his back to you?
A. I don't know.

Q. Did he return again?
A. Not as far as I know.

Q. After he left did you examine your kit bags?
A. There was no sense in opening them as it was too dark to see if anything was missing. I felt my tunic pocket to see if my pen and pencil set was gone & went back to bed.

Q. Did you examine your equipment next morning?
A. Yes Sir.

Q. Did you find anything had been touched?
A. Nothing of mine.

Q. Do you know of any equipment other than your own had been touched.
A. Nobody mentioned anything to me.

Q. Are you in the same platoon as Pte. Lawrence?
A. Yes Sir.

Q. Same Section?
A. Yes Sir

Q. How long have you known Lawrence.
A. Since coming to Unit - two months.

Q. Is he a Buddy of yours?
A. Yes Sir.

Questions by the Court.

Nil.

G.A.Ponsford. Lt.

P.W.Wansborough. Major.

3rd. Witness for the Defence.

B.38467 Pte. Flood D.I. 1st. Bn. Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas after having been duly sworn is examined by the Defending Officer.

This witness produces a diagram showing a sleeping plan of the tent in which he and the accused sleep. It is produced to the Court and marked Exhibit "I" and attached to the proceedings.

Q. Will you describe any instances that occurred on the night previous to Pte. Lawrence going to Hospital.
A. On that night I had been asleep and I was awakened by voices of Pte. Lawrence and Rilley talking. From where I was in the tent I could'nt see the door for the uniforms that were hanging on the tent pole. Lawrence asked Rilley where he was & Rilley also asked Lawrence. They both replied they were in bed.

Cross examined by Prosecutor.

Question by the Court.

Q. Can you tell me what Unit Hodge and Ross belong.
A. No Sir.

Q. Can you tell me why you particularly noticed the Pay Books.
A. Because I saw two pay books & I know it is not customary for a soldier to have two pay books.

Q. Why was the inspection made?
A. I was looking for two revolvers.

FAW ~~FAW/Defence-at-//~~

This is the case for the Prosecution .
at this Point the Defending Officer submits no case and asks for dismissal at this point on the grounds

(1) Onus on the Prosecution to prove their case.
(2) No Prima Facie case established against the accused.

In reply the Prosecutor says

(1) The fact that he had the documents on him is sufficient to put him on his defence.

The Court refuses to accept the submission of the Defence.

DEFENCE

The accused wishes to make a statement NOT on oath. It has been explained that the court does not give as much weight to evidence Not under oath as under oath.

1st. Witness for the Defence.

The accused B.36987 Pte. Lawrence V.A.

NOT sworn states.

On returning from leave on the 25th. July I was put under close arrest with no kit because I was three days overdue on my leave. I was under close arrest until the following Saturday at 1630 hours. I had no access to my kit all this time. When I was given 21 days F.P. the Quartermaster was not in his Company Stores where my kit was being held. Returning after 1730 meal parade I was able to secure my kit from the Stores where I took it back to my tent and placed it in its normal position. I had no reason at that time to go into my kit. Being on F.P. I had to do General Duties until 2130 hrs. The following day being Sunday I worked in the kitchen all day until ~~1630~~ 2130 hrs. FAW

All this time having no reason to go into my kit.
The following morning I reported sick and was told that I would be going to hospital right away. A lorry took me back to my tent where I loaded my kit and was taken to hospital. That kit, holding nothing which I needed was not opened till the Horsham Police came down to examine my kit. On the previous night before going to hospital Pte. John Riley woke up saying there was somebody in our tent. As he woke us up the person or persons took out (left).

2nd. Witness for the Defence.

B.41964 Pte. Rilley J. 1st. Bn. R.H.L.I. a soldier of the Canadian Army Overseas after being duly sworn ~~states~~ is examined by the ~~Prosecutor~~ Defending Officer.
FAW

This witness produces a diagram showing a tent and the equipment in it. This is marked Exhibit "H" and attached to the proceedings.

Q. On the Night previous to Pte. Lawrence going to the Hospital can you tell me af any event that took place in that tent?
A. Late that night I woke up and found somebody standing in the door of the tent. I was in the act of getting up when Pte. Lawrence happened to say something. Thinking it was Pte. Lawrence I laid down and started

G.M Ponsford. Lt.

I also found two passes made out as follows:-
(1) In the name of B.36892 Pte. Hodge L.B..
This pass is produced to the Court and marked EXHIBIT E and attached to the proceedings.

(2) In the name of B.36774 Pte. Ross A.J. This pass is produced to the Court and marked EXhibit "F" and attached to the proceedings.

In addition I found 13 blank passes bearing the Royal Hamilton Light Infantry Orderly Room Stamp. These passes are produced to the Court and marked exhibit "G" and attached to the proceedings.

Q. Was Private Lawrence present when this examination was made?
A. Yes Sir.
Q. Did he offer any explanation when these passes were found?
A. He said he had no idea where any of the documents came from. He said however that he knew Pte Hodge and Pte. Ross.

Cross-examination by Defending Officer.

Q, Was there any attempt on the part of Pte. Lawrence to conceal these documents?
GAP
FAW A. ~~When he tipped the bags article by article~~ When he tipped the articles out of the bag everything came out except the Pay Books.

Q. How many bags did Pte. Lawrence have?
A. I'm not sure Sir.

Q. Did he have more than one?
A. Yes Sir.

Q. Can you remember which bag these pay books fell out of?
A. I believe Sir it was the Pack.

Q. Can you remember what else was in the pack.
A. No Sir.

Q. In your statement you said "All the articles fell out" were there a lot of articles?
A. More than one Sir.

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. D. 98661 Q.M.S. MacIver, R.C.A.M.C. attached #1 Cdn. General Hospital, a soldier of the Canadian Army Overseas

being duly sworn, is examined by the prosecutor.

Q. You are Q.M.S. at #1 Cdn. General Hospital?
A. Yes Sir.
Q. Were you present when the kit of Private Lawrence V.A., R.H.L.I. was examined on the 16th. of Aug. 43.
A. Yes Sir.
Q, Will you tell the Court what was found in that kit, if anything.
A. I found two pay Books which I initialled, one Pay Book was made out to B.36892 Larry Baden Hodge, this Pay Book is produced to the Court and marked Exhibit B and attached to the proceedings, the other Pay Book was made out in the name of B.36774 Pte. Ross, Anthony John, this pay book is produced to the Court marked Exhibit C and attached to the proceedings. I also found Military identity card H.M. 420580 made out in the name of Lt. W.H. Whiteside which I also initialled. This identity card is produced to the Court and marked Exhibit "D" and attached to the proceedings.

P.A. Wansborough
Major
Geo. A. Ponsford.
Lt.

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lt. G.A. Gavel - General List att R.H.L.I.
Lt. C.D. Gibson - R.H.L.I.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Not guilty Sir. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

FAW

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

FAW

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

FAW

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with. FAW

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

F.A. Wansborough. Major.
Geo A. Ponsford, Lt.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 27th. day of August 1943 by order of Brigadier J.E. Sagar

Commanding Fourth Canadian Infantry Brigade

dated the 26th. day of August 1943

President.
Major F.A. Wansborough
Essex Scot.

Members.
Capt. W.O. Stockdale
Lorne Scots att. Essex Scots.

Lt. G.R. Reid
R.H.L.I.

Lt. G.A. Ponsford
Essex Scot. , Judge Advocate.

Trial of* B36987 Pte. Vernon Arthur Lawrence
R.H.L.I.

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to FAW , waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. W.D. Parker, R.H.L.I.

FAW ~~Counsel~~‡ or defending officer† Capt. J.L. Firth
R.H.L.I.

At 1500 o'clock the Trial commences.

The order convening the Court is read, and is marked X FAW , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

F.A. Wansborough, Major
Geo. A. Ponsford, Lt.

Q4274. Wt.W16839/78. 25,000 sets. 6/40. K. & H., Ltd. G627/11. Forms A 9/33.

- Medical Certificate -

This is to certify that I have examined No.B.36987 Rank. Pte.
Name Lawrence V.A. on 27 Aug 1943 and find him fit to
undergo trial by Court martial.

EXHIBIT "A"

F.A.Wansborough
Major.

S.W. Cohen Capt.
Medical Officer, R.H.L.I.

I desire the services of Lieut. Major of R de M Regt to defend me at my trial by Field General Court Martial. If he is not available I desire Capt.J.L. Firth, R.H.L.I.

(B.36987 Pte. Lawrence V.A.)

CHARGE SHEET

The accused B36987 Pte. Vernon Arthur Lawrence, 1st. Bn. Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with:

CHARGE
Section 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, on 4 Aug 43 was improperly in possession of a Military Identify Card No.M.420580, the property of Lieut. W.H. Whiteside, R.H.L.I. C.A., O/S M.B.M., Pt. 1. in the name of B38892 Pte. Hodge L.B., M.B.M. Pt. 1. in the name of B36674 Pte. Ross A.J., leave passes in the names of B36892 Pte. Hodge L.B. and B36774 Pte. Ross A.J. and 13 Blank leave Passes bearing R.H.L.I. Orderly Room Stamp.

In the Field
25 Aug 43

J.M. Rockingham.
(J.M. Rockingham) Lt. Col.
Comd 1 Bn R.H.L.I., Cdn. Army A.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
26 Aug 43

J.E,Sagar Brigadier
Fourth Canadian Infantry Brigade.

B.2.
F.A. Wansborough
Major.
G.A. Ponsford,
Lt.

CHARGE SHEET

The accused B36937 Pte. [illegible]non Arthur Lawrence, 1st. Bn. Royal Hamilton Light Infantry, a [illegible]oldier of the Canadian Army Overseas, is charged with:

CHARGE
Section 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, on 4 Aug 43 was improperly in possession of a Military Identify Card No.M.420580, the property of Lieut. W.H. Whiteside, R.H.L.I. C.A., O/S M.B.M., Pt. 1. in the name of B38892 Pte. Hodge L.B., M.B.M. Pt. 1. in the name of B36674 Pte. Ross A.J., leave passes in the name of B36892 Pte. Hodge L.B. and B36774 Pte. Ross A.J. and 13 Blank Leave Passes bearing R.H.L.I. Orderly Room Stamp.

In the Field
25 Aug 43

J.M. Rockingham.
(J.M. Rockingham) Lt. Col.
Comd 1 Bn R.H.L.I., Cdn. Army A.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
26 Aug 43

J.E.Sagar Brigadier
Fourth Canadian Infantry Brigade.

B.2.
P.A. Wansborough
Major.
G.A. Ponsford,
Lt.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B36987 Private Vernon Arthur LAWRENCE, 1st. Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army (Active)	FIRST CHARGE A.A.Sec.40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (SEE CHARGE SHEET ATTACHED)	NOT GUILTY	GUILTY 9 MONS Detention F.A.Wansborough Major 27/8/43	30 Aug 43 Confirmed J.E. Sagar Brigadier.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— No Sir.

(Signed) J.E. Sagar (J.E.SAGAR) Brigadier — *Commanding* 4 CDN INF BDE — *Convening Officer* (a)

(Signed) F.A. Wansborough Major. — Lt.G.A. Fonsford. — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th. day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) PAW
*(4. The officers under instruction) Geo A. Ponsford Lt.

were duly sworn.

* Omit if not applicable.

Signed this 27 day of Aug 1943.

F.A. Wansborough, Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 7th M.M.L. 1926.

I certify that the terms of *A.C.I. 330 of 1918 have been complied with. PAW

Signed this day of 19.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier concerned be discharged with ignominy~~ JES
~~and suspend its execution until further orders.~~) JES

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 30 day of Aug 1943.

J.E. Sagar,
Confirming Officer. Brigadier
Comd. 4 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of B36987 Pte. Lawrence V.A.

(a) (Dated) 30 Aug 43 (Signed) A.D.J. McLennan (A.D.J.McLennan) Capt. & A/Adjut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here.

Certified true copy of original proceedings herein.

O.O.-119.

[signature] Army Form A.3.
J.A.G. Rev. 1

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this TWENTY SIXTH day of AUGUST, 1943

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: * [illegible] JES

[illegible] JES

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* [illegible] JES

* [illegible] JES

* [illegible] JES

* [illegible] JES

[illegible] JES

UNDER INSTRUCTION:

Lt. G.A. Gravel - General List.
Lt. C.D. Gibson - RHLI

X F.A.Wansborough
Major

Lt. G.A. Ponsford, HQ 4 Cdn.Inf.Bde, is appointed Judeg Advocate
G.A. Ponsford,
Lt.

President.

Rank.	Name.	Regiment.
Major	F.A. Wansborough	Essex Scot.

Members.

Rank.	Name.	Regiment.
One Capt or Lt. to be detailed by OC Essex Scot.		
One Capt.or Lt. to be detailed by OC RHLI		
WAITING MEMBER One Capt or Lt. to be detailed by OC RHLI		

*Signed J.E. Sagar
(J.E. Sagar) Brig.
Commanding 4 CDN INF BDE.
Convening Officer.

Proceedings Reviewed
E.K. McDougall, Capt.
for Reviewing Officer (JAG) CMHQ.
2 Oct. 43.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

OO-119 (case F3)

PTE LAWRENCE J.A.

See D-114 for 1st case
" P-135 " 2nd "

COUNTER NUMBER 74559

HOUR 11:15

OPERATOR'S INITIALS GDV

RELIEVING OPERATOR K.L

LIST OF WITNESSES

In the case of K.98151, Cfn. James Rezeau LAWRENCE,
Royal Canadian Electrical Mechanical Engineers,
on strength of 1 Canadian Base Workshop.

(For the Prosecution)

1.	K.42835 Sgt. KELLY, C.J.	1 Cdn. Base Workshop, RCEME
2.	B.57592 Sgt. HALEY, R.	1 Cdn. Base Workshop, RCEME
3.	B.57677 Cpl. SPROULE, L.L.	1 Cdn. Base Workshop, RCEME
4.	B.173, Cfn. GLENNIE, J.	1 Cdn. Base Workshop, RCEME
	Prosecutor Lieut. G.I. KING	1 Cdn. Base Workshop, RCEME

(For the Defence)

None

I hereby request that the Covening Officer appoint Lieut. G. H. Roberts ..... to represent me at my forthcoming Court Martial.

..J. R. Lawrence.....
(Accused)

Bordon, Hants.
3 Jul 44.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Bordon preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

.....J. R. Lawrence.....
(Accused)

Bordon, Hants.
3 Jul 44.

LIST OF EXHIBITS

In the case of K.98151, Cfn. James Rezeau LAWRENCE, Royal Canadian Electrical Mechanical Engineers, on strength of 1 Canadian Base Workshop.

(For the Prosecution)

A. A maroon mottled fountain pen, trade name "Endura"

B. An eversharp pencil, coloured brown and streaked with blue and white, trade name "Parker"

C. A statement signed by the accused given on the 27 Jun 44.

(For the Defence)

NONE

7 POW

5 July 44.

K 98151 Cpl J R Lawrence.

Received from Major Miller President of the Court, to be further held until notified for their disposal from higher authority

1 pen tagged Exhibit "A"

1 pencil tagged Exhibit "B"

G S King Lieut.

FOURTH WITNESS for the prosecution RECALLED

B.173, Cfn. GLENNIE, J. on the strength of 1 C.B.W., R.C.E.M.E. having been duly sworn, states:-

I did not give anyone authority to take my pen and pencil from my battle dress blouse pocket on the 24 or 25 June 1944. I did not give the accused authority to take my pen and pencil from my battle dress blouse or to use my pen and pencil.

I do not make a habit of lending my pen and pencil to anyone, unless they have my permission. Only once have I loaned my pen and pencil to another person. That was in April or May 1944 and that person secured my permission use only the pen, which I myself gave to him to use.

The accused declines to question the witness.

The above record is read to the witness.

Signed. J. GLENNIE

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused this 1st day of July 1944 and that the Rules of Procedure 4(C),(D),(E) and (F) have been complied with.

G.I. KING, Lieut.,
Officer detailed to take the Summary of Evidence.

On Monday morning, 26 Jun 44, I reported that my pen and pencil were missing from my battle dress blouse to C.S.M. HILL of "C" Coy. on whose strength I am.

The accused declines to question this witness.

The above record is read to the witness.

Signed. J. GLENNIE

The accused was cautioned as follows.

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused having been duly sworn, states:-

On Sunday morning, 25 June 1944 I was "browned off" I wanted to get away from camp but didn't have sufficient money. I could see no one around "C" Coy. Lines who would have loaned me money, so I took Glennie's pen and pencil to see if I could get a loan on them from Sgt. Kelly.

When Cfn. Glennie asked me if I had seen his pen and pencil on Sunday night, 25 Jun 44, I was too ashamed to admit that I had taken them from his tunic. As soon as I had repaid the loan from Sergeant Kelly, I would have returned the pen and pencil to Cfn. Glennie's tunic.

Similarly on Monday morning 26 June I did not confess to Major Penney, my Coy. C.O. when he questioned me about the pen and pencil as I was too ashamed to admit this to him.

When questioned by the Regimental Police, 1 C.B.W., R.C.E.M.E. I felt I wanted to confess and have this deception off my mind.

Signed. J.R. LAWRENCE

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and in the hearing of the accused this 28 day of June, 1944, and that the Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

G.I. KING, Lieut.,
Officer detailed to take
the Summary of Evidence.

a pencil. I recognize Exhibit "A" of this Summary of Evidence to be the pen and Exhibit "B" to be the pencil given to me by Captain Beck and which he told me to investigate.

In course of the investigation I questioned K-98151 Cfn. Lawrence, J.R. whom I recognize as the accused. I produce Exhibit "C" the Statement made to me by the accused and which is marked "C" and attached to this Summary of Evidence. I duly cautioned the accused before he made the statement.

After the accused made the statement, I placed him under close arrest at approx. 1700 hours 27 Jun 44.

The accused declines to question this witness.

The above record is read to the witness.

Signed. Sgt. HALEY, R.

THIRD WITNESS for the prosecution

B.57677, Cpl. SPROULE, L.L. on the strength of 1 C.B.W. R.C.E.M.E., having been duly sworn states:-

I am Provost Corporal of 1 C.B.W., R.C.E.M.E. I recognize the accused as K.98151, Cfn. Lawrence. I was present at 1645 hours, 27 Jun 44 when statement was taken by Cpl. Budd of "C" Company Orderly Room from the accused. I recognize Exhibit "C" to be the statement taken from the accused.

I was present when accused was duly cautioned by Sgt. Haley.

The accused declines to question this witness.

The above record is read to the witness.

Signed. B.57677 Cpl. SPROULE, L.

FOURTH WITNESS for the prosecution

B.173, Cfn. GLENNIE, J. on the strength of 1 C.B.W., R.C.E.M.E., having been duly sworn, states:-

I recognize Exhibit "A" to be a fountain pen belonging to me, also Exhibit "B" to be a pencil belonging to me.

I have owned the pen for approx. 18 months and the pencil for more than 4 years.

On Saturday night, 24 Jun 44, I saw the pen and pencil in my battle dress blouse pocket which was hanging on the wall behind my bed in Hut 4 of "C" Coy. 1 C.B.W., R.C.E.M.E.

At approx. 2030 hours, Sunday evening, 25 Jun 44, I was going to write some letters and went to get my pen and pencil. My battle dress blouse was in the same place, that is hanging on the wall behind my bed but the pen and pencil were not in the pocket of my battle dress blouse. I asked several men, including Cfn. Lawrence, if they had seen my pen and pencil. I recognize the accused to be Cfn. Lawrence. Every man I questioned replied that he did not know anything about the pen or pencil.

SUMMARY OF EVIDENCE

in the case of

K.98151, Craftsman James Rezeau LAWRENCE, Royal Canadian Electrical Mechanical Engineers, on the strength of 1 Canadian Base Workshop, R.C.E.M.E., a soldier of the Canadian Army, Overseas:

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

K.42835, Sergeant KELLY, C.J., on the strength of 1 Canadian Base Workshop, R.C.E.M.E., having been duly sworn, states:

At approximately 1400 hours, Sunday, 25 Jun 44 the accused, whom I recognize to be Cfn. Lawrence, asked me to lend him fifteen shillings on the security of a fountain pen. I told the accused that the fountain pen was not sufficient security for the loan. I gave him ten shillings on loan taking the f fountain pen as security.

I produce the fountain pen which was given to me by the accused as security of the loan. The fountain pen is tagged Exhibit "A" and attached to the Summary of Evidence.

At approximately 1630 hours, Sunday 25 June 44, the accused gave me a pencil as security for the loan of an additional five shillings. I gave the accused the five shillings, taking the pencil as security of the loan.

I produce the pencil which was given to me by the accused as security of the loan. The pencil is tagged Exhibit "B" and attached to the Summary of Evidence.

I asked the accused when he would repay me the loan of fifteen shillings. He told me that he would repay the loan on 15 July 44, or when he received some money which he was expecting, whichever came first.

At approximately 0830 hours, 26 June 44, Cfn. GLENNIE asked me if I had a fountain pen and pencil which he described to me. He said that the pen and pencil belonged to him. On hearing this, I went to my quarters to get the pen and pencil. Then I turned the pen and pencil over to C.S.M. Hamilton of E Company, on whose strength I am.

The accused declines to question this witness.

The above record is read to the witness.

Signed. Sgt. C.J. KELLY

SECOND WITNESS for the prosecution.

B.57592, Sergeant HALEY, R. on the strength of 1 Canadian Base Workshop, R.C.E.M.E., having been duly sworn, states:

I am Provost Sergeant, 1 C.B.W., R.C.E.M.E. The Adjutant of 1 C.B.W., R.C.E.M.E., Captain Beck, called me to his office at approximately 1600 hours, 27 Jun 44 to investigate the alleged theft of a fountain pen and

MFM 6
(AFB 122)
40/P&S/106 (3438)

No K.98151 Name LAWRENCE J.R. Sqn. Battery or Company Corps R.C.E.M.E. Date of enlistment 25 Jul 40 GC Badges 1 Service or Proficiency Pay N/A

Company Conduct Sheet Date of last entry in N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc Sgd. R.E.Niven, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY. .....July 44 RHBeck (R.H.Beck) Captain. Officer having custody of Regimental Books.					

PTO

11. ~~[illegible]~~ RHB

RHB

RHB ..... RHB ..... RHB

RHB ..... RHB

12. ~~[illegible]~~ RHB

RHB ..... RHB

RHB ..... RHB

RHB ..... RHB

RHB ..... RHB

NOTE: - If any matter in any of the above paragraphs cannot be stated from the Regimental Books, the paragraph must be struck through.

SCHEDULE

RHB

Air Force

47 of the Army Act, and of cases in which trial has been dispensed with of accuracy.

Number..... Rank..... Name.....

Unit

of..... Regiment

NOTE: - A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried.	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		RHB		

RHB

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody;

Signed this 5th day of July, 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

R.H. Beck

(R.H. Beck) Capt. & Adjt.,
1 C.B.W., R.C.E.M.E.

KFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment or unit
K,9815	Cfn.	James Rezeau LAWRENCE	I C.B.W., R.C.E.M.E.

1. The following is a fair and true summary of the entries in the Regimental Company Conduct Sheets of the accused.

	Within last 12 months	Since enlistment or appointment
For	Nil times	NIL times
For	Nil times	NIL times
For	Nil times	NIL times
For	Nil times	NIL times

or,

There are no entries in the conduct sheets of the accused.

NOTE: If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

A.P.A. 73

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for ...Nil... days in civil custody, and ....7..... days in military custody, making a total of .....7..... days in custody, of which ..Nil..... days were spent in hospital

5. The present age of the accused according to his attestation paper is 23 yrs. 2 mo. 26 days

6. The date of his attestation specified in his attestation paper is 25 July 40

7. [illegible]

8. [illegible]

9. The accused is in possession of or entitled to military decoration. State any military decoration

C.V.S.M. and Clasp.

[illegible]

PLEA OF MITIGATION

In the Case of Cfn. James R. Lawrence

We have in the accused a very young man who has been in the Army Four Years without a crime against him and then like "a bolt from the blue" he gets himself ~~xxxg~~ tangled up with two very serious charges against him. Stealing and being improperly in possession of certain articles belonging to a comrade.

Did this young man stop to think what he was doing; no he did not.
Did this young man deliberately take those articles belonging to Pte. Glennie with the idea of stealing; no he did not. He took pen and pencil with the idea of giving them back when he redeemed them from Sgt. Kelley whom he pledged them with.

Now if this man was a thief and deliberately stole those articles would he go to a person whom he knew to try and borrow money using the articles as security; no he would go to some stranger who did not know him and may never see him again, so you can readily appreciate the fact that the accused did intend to pay the money back to Sgt. Kelley, redeem the pen and pencil and return them to the rightful owner. He was improperly in possession but ~~xx~~ he did not steal.

So gentlemen of this Court Martial before passing sentence on this unfortunate young man take into consideration two facts:

1. His youth.
2. His clean record.

Robert Lint

Fourth Witness
(for the Prosecution)
RECALLED

8173 Gnr Glennie J. on the strength of 1 CBW. RCEME having been duly sworn, states:—

I did not give anyone authority to take my pen and pencil from my battle dress blouse pocket on the 24 or 25 June 1944. I did not give the accused authority to take my pen and pencil from my battle dress blouse or to use my pen and pencil.

I do not make a habit of lending my pen and pencil to anyone, unless they have my permission. Only once have I loaned my pen and pencil to another person. That was in April or May 1944 and that person secured my permission to use the pen by ~~[illegible]~~, which I myself gave to him to use.

The accused declines to question the witness
The above record is read to the witness.

J. Glennie

The accused was cautioned as follows:—

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and removes his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused this 1st day of July, 1944 and that the rule of Procedure # (C), (D), (E) and (F) have been complied with.

G. King Lieut.
Officer detailed to take the Summary of Evidence.

Fourth Witness (for the Prosecution)

B173 Cfn Glennie J. on the strength of 1 CBW, RCEME having been duly sworn, states:—

I recognize Exhibit A to be a fountain pen belonging to me, also Exhibit B to be a pencil belonging to me.

I have owned the pen for approx 18 months and the pencil for more than 4 years.

On Saturday night, 24 June 44, I saw the pen and pencil in my battle dress blouse pocket which was hanging on the wall behind my bed in Hut 4 of C Coy & CBW RCEME.

At approx 2030 hrs Sunday evening, 25 June 44 I was going to write some letters and went to get my pen and pencil. My Battle dress blouse was in the same place, that is hanging on the wall behind my bed but the pen and pencil were not in the pocket of my Battle Dress Blouse. I asked several men including Cfn Lawrence if I had seen my pen and pencil, ~~including~~ ~~of~~ I recognize the accused to be Cfn Lawrence ~~whom I recognize the accused~~ (SSK) Every man I questioned replied that he did not know anything about the pen or pencil.

On Monday morning, 26 June 44 I reported that my pen & pencil were missing from my battle dress blouse to C.S.M. Hill of C Coy on whose strength I am.

The accused declines to question this witness.

The above record is read to the witness.

J Glennie

Third Witness (for the Prosecution) B57677 Cpl Sproule L.L. on the strength of 1 C B W. R C E M E having been duly sworn states:—

I am Provost Corporal at 1 C B W R C E M E
I recognize the accused as K98151 Gnr Lawrence.
I was present at 1645 hrs on 7 June 44
when statement was taken by Cpl. Budd
of C Company Orderly Room from the
accused. I recognize Exhibit C. to be the
statement taken from the accused.
I was present when accused was duly
cautioned by Sgt Haley
The accused declines to question this
witness
The above record is read to the witness.

B57677 Cpl Sproule L.

Second Witness. (for the Prosecution) B57592 Sgt Haley R. unit strength of 1 C B W R C E M E having been duly sworn, states: —

I am Provost Sergeant 1 C B W R C E M E.
The Adjutant of 1 C B W R C E M E, Captain Beck called me to his office at approx 1600 hrs 27 June 44 to investigate the theft of a pen and a pencil. I recognize Exhibit A of this Summary of Evidence to be the pen and Exhibit B of this Summary to be the pencil given to me by Captain Beck and which he told me to investigate.

In course of the investigation I questioned K 98151 Lawrence J.R. whom I recognize as the accused. I produce Exhibit C the statement made to me by the accused and which is marked "C" and attached to this Summary of Evidence. I duly cautioned the accused before he made the statement.

After the accused made the statement, I placed him under close arrest at approx 1700 hrs 27 June 44.

The accused declines to question this witness.

The above record is read to the witness.

Sgt. Haley R.

First Witness (for the Prosecution)

K #2135 Sgt Kelly C J. on the strength of 1 C B W R C E M E, having been duly sworn, states: —

At approx. 1400 hrs Sunday, 25 June 44 the accused, whom I recognize to be Gfn Lawrence asked me to lend him fifteen shillings on the security of a fountain pen. I told the accused that the fountain pen was not sufficient security for the loan. I gave him ten shillings on loan taking the fountain pen as security.

I produce the fountain pen which was given to me by the accused as security of the loan. The fountain pen is tagged Exhibit A and attached to the Summary of Evidence

At approx. 1830 hours, Sunday 25 June 44, the accused gave me a pencil as security for the loan of an additional five shillings. I gave the accused the five shillings taking the pencil as security of the loan.

I produce the pencil which was given to me by the accused as security of the loan. The pencil is tagged Exhibit B and attached to the Summary of Evidence.

I asked the accused when he would repay me the loan of fifteen shillings. He told me that he would repay the loan on 15 July 44 or when he received some money which he was expecting, whichever came first.

At approx. 0830 hrs 26 June 44, Gfn Clemens asked me if I had a fountain pen and pencil which he described to me. He said that the pen and pencil belonged to him. On hearing this, I went to my quarters to get the pen and pencil. Then I turned the pen and pencil over to C.S.M. Hamilton of E Coy on whose strength I am.

The accused declines to question this witness.

The above record is read to the witness.

Sgt K. Kelly

Summary of Evidence
in the case of

K 98151 Craftsman Lawrence J.R. on the strength of 1 Canadian Base Workshop RCEME, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath

The accused was cautioned as follows

do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused having been duly sworn, states -

On Sunday morning, 25 June 1944 I was "browned off." I wanted to get away from camp but didn't have sufficient money. I could see no one around the B Coy lines who would have loaned me money, so I took Glennie's pen & pencil to see if I could get a loan on them from Sgt. Kelly.

When Glennie asked me if I had seen his pen and pencil on Sunday night, 25 June I was too ashamed to admit that I had taken them from his tunic. As soon as I had repaid the loan from Sergeant Kelly, I would have returned the pen and pencil to Sgt. Glennie's tunic.

Similarly on Monday morning 26 June I did not confess to Major Penney, my Coy C.O. when he questioned me about the pen and pencil as I was too ashamed to admit this to him.

When questioned by the Regimental Police, I felt I wanted to confess and lose this deception off my mind.

J.P. Lawrence

I certify that the foregoing Summary of Evidence consisting of six pages was taken down by me in the presence and in the hearing of the accused this 28 day of June, 1944, and that the Rules of Procedure 44 (C), (D), (E) and (F) have been complied with.

G.S. King Lieut
Officer detailed to take the Summary of Evidence.

EXHIBIT "C"

1700 hours.
27 Jun 44.

Adjutant,
1 C.B.W., RCEME

I, K.98151 Cfn. Lawrence, J.R., being duly cautioned, that anything I may say may be taken down in writing, and used as evidence, make the following statement.

"After spending Sunday, 25 June 44, in camp, I had the urge to go somewhere, and seeing as I was rather broke, and wondering where I could get some money, to get out of camp for the evening I saw Cfn. Glennie's tunic, with his pen and pencil set showing, and I decided to borrow it, and see if I could get some money on security of said pencil set.

I saw Sgt. Kelly and he let me have fifteen shillings and was to be redeemed on the fifteenth July '44. After redeeming said pencil set, it would have been returned to the owner.

I make this above statement voluntarily, and without duress, at above time and date.

Signed.

K.98151, Cfn. Lawrence, J.R.

Witnessed.

R.57592, Sgt. Haley, R. (Sgd).

R.57677, Cpl. Sproule, L.L. (Sgd.).

Certified True Copy.
3 Jul 44.

(H.H.Beck) Captain,
Adjutant,
1 C.B.W., R.C.E.M.E.

Exhibit "C."

1700 Hours,
27 Jun 44.

Adjutant,
1 C.B.W., RCEME.

I, K.98151 Cfn. Lawrence J.R., being dutly cautioned, that anything I may say may be taken down in writing, and used as evidence, make the following statement:

"After spending Sunday, 25th June 44, in camp, I had the urge to go somewhere, and seeing as I was rather broke, and wondering where I could get some money, to get out of camp for the evening, I saw Cfn. Glennie's tunic, with his pen and pencil set showing, and I decided to borrow it, and see if I could get some money on security of said pencil set.

I saw Sgt. Kelly and he let me have fifteen shillings and was to be redeemed on the fifteenth July '44. After redeeming said pencil set, it would have been returned to the owner.

I make this above statement voluntarily, and without duress, at above time and date.

J R Lawrence
K 98151 Cfn. Lawrence J.R.

WITNESSED:

D. T. Daley.
B 57592 Sgt. Daley R.

T Sproule
B 57677 Cpl. Sproule L.L.

Ex C
Adm. IV
C

I have known Sgt Kelly since Jul 42. I took the articles out of Glennie's pocket, it was a Sunday afternoon, I was browned off and wanted to get out of camp but could find no one with any money to lend me. I was sitting on Glennie's bed and saw the pen and pencil and took them without saying anything. I took them to Sgt Kelly to get a loan. He gave me 15 shillings on them, I was to get them back on the 15 July or when some money came from home which I was expecting. I have given other things to Sgt Kelly as security on the odd little loan. My father lives separate from my mother and has done for 14 years, I have a younger brother and sister living with my mother and have $25.00 a month assigned to my mother. I worked for this drug store for three years when I worked all day I opened the store in the mornings, and at night if the boss were away at a meeting or some other place I was responsible for putting away the money and closing up the shop.

EVIDENCE AS TO CHARACTER

1st WITNESS FOR THE DEFENCE - Capt A.L. McLean, 1 CBW, RCEME, sworn:
I have known the accused approximately two years. I believe he came over with the B.W. He came to my section about nine months ago, he is a storemaster by trade and works in the tool cribbing shop which comes directly under my jurisdiction. His behaviour has been very good, as a tradesman he is reliable as a soldier he has been excellent, no trouble at all in any way. As far as I know he is well liked by all the men with whom he comes in contact. He is regarded by other officers quite well. He is responsible for the cribb and all the tools in his shop, he takes very good care of his tools and has never been short of any or lost any of the tools on his charge.

2nd WITNESS FOR THE DEFENCE
~~B 6619~~ Sgt MOSS, D.L., 1 CBW, RCEME, sworn states:

I know the accused, he has worked under me for nine months, his work assumes a certain amount of responsibility and he has accepted it willingly and has not given me any reason to doubt either his ability or integrity. I have found him one of my best men, and during the past week I have missed him very much. I know that he got along with everyone in the shop and in his hut. He is in charge of tools and some are very light and expensive, and I have found him very good at taking care of them. From what I've heard concerning this trouble his comrades are much surprised, as I am, no one ever expected it of Lawrence, we always trusted him. During the time he has worked in this shop it would seem to me that the temptation to steal something from the shop would be more tempting than what he took, some of our tools are very valuable and small and easily carried away, he could have taken any of them but nothing was ever missing.

COURT IS CLOSED TO CONSIDER THE FINDING

COURT IS RE-OPENED

PLEA IN MITIGATION WRITTEN AND ATT.

4th WITNESS FOR THE PROSECUTION
B 173 Cfn GLENNIE, J., 1 CBW, RCEME, sworn states:

I recognize the accused as Cfn Lawrence. On the 24 Jun 44 my pen was in my tunic and on the 25 Jun at approximately 2030 hours I went to write a letter and found my pen and pencil was gone. I asked all the men in the hut if they had seen it including Lawrence, nobody had seen it. I had left my tunic hanging up behind my bed in my hut. I share the same hut as the accused (witness is shown Exhibits "A" & "B") these are my pen and pencil, I have had the pen for 18 months and the pencil for four months.

CROSS-EXAMINED BY THE DEFENDING OFFICER

I have never lent my pen or pencil, I did have my tunic hanging up at the top of my bunk, the accused sleeps in the bunk above me, my tunic was hanging up with the pen and pencil in it.

Q Are you sure you never lend your pen or pencil?
A I remember lending my pen~~cil~~ but once and pen never. I lent my pen once to a chap to address a letter, that was about last Christmas. The accused has been sleeping in my upper bunk since he came off the night shift, not three months, maybe one month.

Q Do you not think that the accused could have taken it to use it?
A No Sir, I ask if anyone had taken it or seen it, the accused heard and did not say anything, if he took it he did so without my permission.

BY THE COURT

Q Did you ever lend your pen to the accused?
A No Sir, it was someone else that I lent it to.

Q Can you recognize this pen and pencil as yours?
A Yes Sir, by the colour, the loose end on the pen, the make and the fact that I only had two pieces of lead in the pencil.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

PROSECUTOR, Lt G.I. KING, 1 CBW, RCEME, sworn states:

After duly cautioning the accused in the words which I wrote in the Summary, he elected to give evidence under oath. He then made a statement which I wrote down at his dictation. After I wrote it down I read the statement back to him and gave it to him to read and asked him to affix his signature to it. He signed it.

(Top portion of page 6 of the Summary marked Exhibit "D")

CASE FOR THE PROSECUTION IS CLOSED.

STATEMENT BY THE ACCUSED

Sir,

I have four years high school a junior matriculation. My father and mother are alive, my home was a happy life, I joined in 1940, before that I was temporarily employed in a drug store, I worked after school and weekends and holidays etc. After I completed my junior matriculation I intended to go in for pharmacy. I joined the army for patrotic reasons and to fight for my way of life. It is five months since I have had any leave. Glennie sleeps in the same hut, I sleep in the upper bunk of his bed. I have know Sgt Kelly since

RE-EXAMINED BY THE PROSECUTOR

Q Did you see the articles?
A I did Sir.

Q Did the accused make a statement?
A Yes Sir. (Witness is shown a document) This is the statement that Lawrence gave voluntary after being duly cautioned regarding the missing articles. This statement was given to the clerk who typed it as it was dictated by the accused, I was present at the time and heard it all, after it was typed the accused signed it.

PRESIDENT TO THE DEFENDING OFFICER

Q Have you any objection to this statement?
A None Sir.

(Statement received in evidence and marked Ex "C")

In the opinion of the Court it is unnecessary to comply with RP 83(B)

3rd WITNESS FOR THE PROSECUTION
B 57677 Cpl SPROULE, L.L. I CBW, RCEME, sworn states:

I recognize the accused as Cfn Lawrence, I am the Prov cpl of this unit. On the 27 Jun at approximately 1700 hours Sgt Haley asked me to accompany him on an investigation. I accompanied him and Cfn Lawrence, the accused, to "E" Coy Orderly Room. Sgt Haley questioned the accused about a pen and pencil. After some time the accused said he would tell the truth. To begin with he said he had bought the pen, it was his pen and also the pencil was his. Then he told us he had taken this pen and pencil from Glennie's pocket. We then got the stenographer and after Sgt Haley gave the accused the caution which was just after the accused said he would tell the truth that he was warned and made his statement, as he made it the stenographer typed it. (Witness is shown ~~a document~~ Exhibit "C") This is the statement that Lawrence dictated to the stenographer, he read it over after it was typed and then signed it in my presence.

CROSS-EXAMINATION BY THE DEFENDING OFFICER

Q What was the conversation pertaining to previous to the accused being warned?
A Sgt Haley asked where he had got this pen and pencil, he said he had got the pencil for his 19th birthday along with another pen which he had lost, he said he had bought the pen from a man in "A" Coy some months previous, he did not know the man or if he was in the unit at that time.

Q Did you ask him to confess?
A We told him that it would be better to tell the truth and get it off his chest.

BY THE COURT

Q When did you tell him that?
A That was when we were questioning him in "C" Coy orderly room about 1600 hours.

Q Before or after the warning?
A Before the warning.

Q And what answer did Lawrence make at that time?
A None.

Q When was it he claimed it as his own pen?
A Previous to that Sir, he said it was his own pen.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

F.G.C.M. IN THE CASE OF

K 96151 Cfn LAWRENCE, J.R., 1 BW RCEME

5 JULY 1944

EVIDENCE FOR THE PROSECUTION NOTE D-3

1st WITNESS FOR THE PROSECUTION
K 42835, Sgt KELLY, C.J., 1 CBW, RCEME, sworn states:

I recognize the accused as Pte Lawrence. On the 25 Jun 44 at about 1400 hours the accused asked me for 15 shillings on a fountain pen. I told him I would give him 10 shillings. At 1600 hours he brought me a pencil and asked me to lend him five shillings on that. I did. He said he would pay me on the 1st or 15 Jul or when he received some money from home, he would pay me the first opportunity he had.

(Witness is shown a fountain pen) This is the fountain pen, that I was given as security for some money. I can identify this pen by the make, the colour, the loose end. (Witness is shown a pencil) This is the pencil that I lent five shillings on I recognize it by the colour and the fact that it only had two pieces of lead in the barrel. (Pen received in evidence and marked "A", pencil received in evidence and marked Exh "B").

DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THIS WITNESS

BY THE COURT

Q Have you had your money back?
A No Sir.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

2nd WITNESS FOR THE PROSECUTION
B 57592, Sgt HALEY, R, 1 CBW, RCEME, sworn states:

I recognize the accused as Cfn Lawrence. I am the provost sgt in this unit. At 1600 hours 27 Jun 44 as a result of information and instructions I received from the Adj I proceeded to "E" Coy tool room where I picked up the accused and questioned him regarding the theft of a pen and pencil set. After questioning him at about 1700 hours the accused was cautioned that anything he might say would be taken down in writing and would be used as evidence.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q What was the nature of your questions before you gave him the warning?
A The questions were concerning the pen and pencil set, there was at that time two people who claimed ownwership of the set. The accused said he owned it and another party said he owned it and lost it. We were trying to ascertain which of the two did own it. The accused stated that he had had it for some considerable time and that the set belonged to himself, he did not actually deny that it belonged to the other soldier, who of course claimed the set.

Q Is it correct that this conversation went on before you warned the accused?
A Yes, the conversation pertaining to the question of ownership took place before the accused was warned.

Q When did you place the accused under close arrest?
A At 1700 hours.

Medical Officer's Certificate
R.R. (Gen.) para. 357

I certify that I have this [illegible] No. K-98151 Cfn. Lawrence J.
(Rank) (Name)

of 1-R.W., R.C.E.M.E. and in my opinion he is [illegible] to undergo trial by Court

Martial.

Station Borden Hants.

Date. 5 Jul. 44

Sgd. W. McPfeiffer, Maj.
(Medical Officer)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-98151	Cfn		James Regeau	Lawrence	1 BW RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Jul 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. M. Miller E.D.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	H. S. Smith	HQ CRU
Lieut.	H. C. Judd	1 CCOD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — J.E. Sager (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Date 4 Jul 44 — Commanding (J.E. SAGER) Brigadier "F" Gp, CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1897 (4601)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, K.98151, Cfn. James Rezeau LAWRENCE, Royal Canadian Electrical Mechanical Engineers, on strength of 1 Canadian Base Workshop, a soldier of the Canadian Army Overseas is charged with, while on active service

1st CHARGE
Sec. 18(4)
Army Act.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

at Bordon, Hants., on or about 24 June 1944, stole a fountain pen and pencil, the property of B.173 Craftsman GLENNIE, J., on strength of 1 Canadian Base Workshop, R.C.E.M.E., a person subject to Military Law.

ALTERNATIVE CHARGE
Sec. 40
Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Bordon, Hants., on 25 Jun 44 was improperly in possession of a fountain pen and pencil, the property of B.173 Cfn. GLENNIE, J., on strength of 1 Canadian Base Workshop, R.C.E.M.E.

.....Colonel,
Officer Commanding,
1 Cdn. Base Workshop, RCEME

Bordon, Hants.,
28 Jun 44.

To be Tried by Field General Court Martial.

Bordon, Hants.
4 Jul 44

(J. E. SAGER) Brigadier
Comd "P" Gp, CRU

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : K 98151 Cfn James Rezeau Lawrence 1 C B W

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18 (4)	Not Guilty	Guilty	
alternative 2nd AA 40	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for Fourteen (14) days.

(Sgd) [signature] Judge Advocate, if any. 5 July 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

JEL

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) [signature]

(1. ~~AA 57A. Delete if not used.~~)

(Sgd) J. E. Sager Brigadier

Date 10 Jul 44 Commanding (J. E. SAGER) Brig. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K98151 Cfn. Lawrence J.R.	10 Jul 44	[signature] Captain Adjt. 1 CBW

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court~~ is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission ~~is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans No Sir. Do you intend to call witnesses on your behalf?
Ans No Sir. Are they witnesses as to character only? Ans .....
(1. RP [redacted] 115 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is ~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~ to be released forthwith.(2)
(1. AA 54(7) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex E respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Sir (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~(2) 7f
(1. When several accused tried separately see RP 5(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 RRR-1.00

RECEIVED 19 JUL 1944 JAG DIV CH

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1098 (2864)

Convened by Order of Brigadier J.E. Sager Comd "F" Gp, CRU dated 4 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-98151	Cfn		James Rezeau	Lawrence	1 BW RCEME

PROCEEDINGS REVIEWED 20 Jul/44

JAC Evans Watson Capt

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH CMHQ

Held in the Fd in (*country*) England on (*date(s)*) 5 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter? Ans~~ ~~The Interpreter is sworn.(1)~~ Do you object to Sgt Shultz as shorthand writer? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Mueller ED	H.Q. CRU
Member	Capt	H.J. Smith	H.Q. CRU
Member	Lieut	H.C. Judd	1 CCOD
~~Judge-Advocate~~			
Prosecutor	Lieut	G.I. King	1 CBW
Defending Offr	Lieut	G.H. Roberts	1 CBW

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ——— before arraignment make(s) (no) ~~(a)~~ plea ——— (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 11. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RRR-100
CFN-LAWRENCE J.R.

H.Q. C.R.U.

2 October 1945.

Convening Officer
D Branch
H.Q. C.R.U.

C4324 Pte LAWRENCE HG-10REPAT
FGCM —— 2 OCT 45

~~Recommendation To Mercy~~

Will you be good enough to read the psychiatric report on this accused. I respectfully suggest that he be sent to the Bramshott Wing of Canadian Detention Barracks where can be kept constantly under observation.

(O L REDMAN) LT-COL
PERM- PRES FGCsM
H.Q. C.R.U.

LIST OF WITNESSES

In the case of C4324 Pte Lawrence H.G., H&PER, on the strengt h of No 10 Cdn Repat Dep.

FOR THE PROSECUTION

1.	D140141	Cpl	Wright	A.N.J.	10 Cdn Repat Dep
2.	H614679	L/Cpl	Coleman	W.C.	10 Cdn Repat Dep
3.	D71380	CSM	Gregory	A.M.	10 Cdn Repat Dep

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of C4324 Pte Lawrence H.G., H&PER, on the strength of No 10 Cdn Repat Dep.

N I L

25 Sep 45

This is to acknowledge that I have received, free of charge, the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Witnesses
1 List of Exhibits

H G Lawrence.

(C4324 Pte Lawrence H.G.)

25 Sep 45.

I, C4324 Pte Lawrence H.G., wish to have an officer defend me at my forthcoming trial by F.G.C.M.

I desire the services of ~~any officer~~ if he is available.

H G Lawrence.

(C4324 Pte Lawrence H.G.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true extracts from MFM 4 - 26 Sep 45					
				Officer having custody of original MFM 4.		B.K. Corbett.			

No. C4324 Name LAWRENCE H G Sqn, Battery, or Company — Corps R&PR — Date of enlistment 5-9-39 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Nov 42	Pte		AWL - AA Sec 15(1)	Docy	27 days detn	2 Dec 42	C.O.	12 days pay FR&I 149.1.a. 27 days pay FR&I 149.1.b.
Field	19 Mar 43	Pte		CIVIL CHARGE - False Pretenses	Docy	3 yrs pnl serv	9 Jul 43	SUSSEX ASSIZES	
Field	16 Jan 43	Pte		AWL - AA Sec 15(1)	Docy	admonished	21 Jan 43	D.O.	3 days pay FR&I 149.1.a.
Field	2 Mar 43	Pte		AWL - AA Sec 15(1)	Docy	2 days pay FR&I 149(2)	5 Mar 43	C.O.	1 days pay FR&I 149.1.a.

Place	Date of offence	Rank	Cause of Circumstances	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Dec 41	Pte		AWL - AA Sec 15(1)	Docy	7 days C.B.	22 Dec 41	C.O.	1 days pay FR&I 149.1.a.
Field	9 Feb 42	Pte		AWL - AA Sec 15(1)	Docy	21 days F.P. 21 days pay FR&I 149(2)	16 Feb 42	C.O.	10 days pay FR&I 149.1.a.
Field	8 May 42	Pte		AWL - AA Sec 15(1)	Docy	5 days C.B.	26 May 42	C.O.	2 days pay FR&I 149.1.a.
Field	21 May 42	Pte		CIVIL CHARGE	Docyv	2 mos impris	9 Jun 42	Civil Court	
Field	15 Oct 42	Pte		A WL - AA Sec 15(1)	Docy	16 days F.P. 16 days pay FR&I 149(2)	20 Oct 42	C.O.	4 days pay FR&I 149.1.a.

No. C4324 Name LAWRENCE H.G. Sqn, Battery, or Company — Corps H&PER — Date of enlistment 5-9-39 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAS/156(5419)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Feb 41	Pte		AWL - AA Sec 15(1)	Docy	5 days C.B.	4 Feb 41	C.O.	1 days pay FR&I 149.1.a.
Field	17 Feb 41	Pte		AWL - AA Sec 15(1)	Docy	7 days C.B.	28 Feb 41	C.O.	5 days pay FR&I 149.1.a.
Field	19 Aug 41	Pte		AWL - AA Sec 15(1)	Docy	10 days F.P. 10 days pay FR&I 149(2)	29 Aug 41	C.O.	2 days pay FR&I 149.1.a.
Field	30 Aug 41	Pte		AA Sec 40	Docy	5 days F.P. 5 days pay FR&I 149(2)	5 Sep 41	C.O.	

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C4324 Rank Private Name Lawrence H.G. of 10 Cdn Repat Dep Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Civil Court	9 Jun 42 Field	CIVIL CHARGE	2 mos impris	
Sussex Assizes	21 Jan 43 Field	False Pretenses	3 yrs penal serv	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of Oct 45.

J.K. Coote Lt
A/Adj. (10 Rept. A Wing)

~~13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.~~

Y.R.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

Y.R.

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C4324	Private	Hubert Balant LAWRENCE	Hastings & Prince Edward Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	times	10 times.
For AA Sec 40	times	1 times.
For ~~N.K.L.~~	~~times~~ N.K.L.	~~times~~ N.K.L.
For ~~N.K.L.~~	~~times~~ N.K.L.	~~times~~ N.K.L.
For ~~N.K.L.~~	~~times~~ N.K.L.	~~times~~ N.K.L.

~~Number of instances of gallantry or distinguished conduct~~ N.K.L.

~~There are no entries in the conduct sheets of the accused~~ N.K.L.

2. ~~The accused has not been previously convicted, or~~ N.K.L.

Previous convictions† of the accused by ~~a court martial or~~ a civil court, ~~summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act~~ N.K.L. are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ N.K.L.

~~, beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~N.K.L.~~ days in civil custody, and eight days in military custody, making a total of eight days, of which ~~N.K.L.~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 5 Sep 39

7. ~~The service which the accused is liable to undergo on his discharge or transfer to the reserve is~~ N.K.L.

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ N.K.L. ~~service.~~

9. ~~The accused is entitled to reckon~~ N.K.L. ~~service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to (state the military decoration or award))~~ N.K.L. C.V.S.M. & Clasp, 1939-45 Star.

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ N.K.L.

12. ~~(In the case of an officer.) The accused holds (or formerly held) the rank of~~ N.K.L. ~~, dated , and in his regiment (or corps or department) the rank of dated~~

(75)1000 W1.24498/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(2000) W1.25004/1499 12,000 2/44 " "

EX B
MM

SELECTION OF PERSONNEL REPORT

To M.O. - 10 CDN REPAT DEPOT Type of Referral Psychiatric

1. C.4324 (Regt No.) Pte (Rank) LAWRENCE, H.G. (Name (surname first)) 10 Cdn Repat Depot (Unit)

Total "M"	Sub-tests 1	2	3	4	5	6	7	8	Sub-totals 1-3	4-5	6-8

Form	English or French	YOB	P	U	L	H	E	M	S	Date
Age	Medical Category									

2. Educational, occupational, military background and other relevant information and appraisal.

C APPRAISAL: A quiet, hesitant soldier of sturdy build, Lawrence obviously is unstable and erratic. Aside from his sexual perversions he does not seem to have the ability to concentrate his attention or energy. Appears to live in a fog-world of his own and wanders about in it with little direction or meaning. Cannot explain his difference from the normal. Does not seem concerned about his acts themselves, although the consequences trouble him. Says that he has done wrong on several occasions, but as he speaks it seems the judgement is made because of the consequences of his acts rather than upon anything in the actions themselves. He does not seem to have a sharp focus upon events or his own thoughts. Bewitched, bewildered, and be-damned, he seems to be approaching the end of his mental tether.

RECOMMENDATION: Referral to psychiatrist, with M.O's concurrence.

[redacted]

10 Cdn Repat Depot (Station) 1 Oct 45 (Date) (SPO)

(J.P.O'F.WEBSTER) Capt,
Snr SPO 10 Cdn Repat Depot.

SELECTION OF PERSONNEL REPORT

To M.O. - 10 Cdn Repat Depot Type of Referral Psychiatric

C.4324 (Regt No.) Pte (Rank) LAWRENCE, H.G. (Name (surname first)) 10 Cdn Repat Depot (Unit)

Total "M"	Sub-tests 1 2 3 4 5 6 7 8	Sub-totals 1-3 4-5 6-8

Form	English or French	YOB	P	U	L	H	E	M	S	Date
Age	Medical Category									

2. Educational, occupational, military background and other relevant information and appraisal.

4. Military History: (Continued) 7 and 8 day stretches. During this time was sent to #1 Neuro (Basingstoke) for psychiatric observation and was boarded B-2. The reason for this was, he says, because the M.O. found him "writing queer things on the sick reports". Returned to employment at RAP he was again sentenced by a civil court this time for sodomy. His penalty was 3 years penal servitude. Two young boys, aged 9 and 10, preferred the charges. After completing this sentence he was transferred to #10 Repat Depot in Jul 45, where he was again employed at the unit RAPs. Anyway, because he wasn't given the corporal's promotion he thought he deserved he went AWL again, for 23 days. He is now awaiting trial under a G.C.M.

During his military career he has qualified as a stretcher-bearer and medical orderly. He has been, he estimates, AWL at least a dozen times, this last being the longest.

5. Present Status: Claims he is not responsible for his actions and is in an almost continual state of mental depression. Goes AWL with no particular reason, "I just can't seem to get my mind on soldiering". Fairly healthy physically but says he neither eats or sleeps well. In sleep claims he dreams sexual adventures with both boys and women, but does not go out with the latter. Admits to 40-50 perversions of the sexual act with young boys, "all under fourteen". Has tried to commit suicide four or five times. Several of his attempts were while he was in civil prison serving his 3 year sentence. Has used a rope to end his life, once tried choking himself with his bare hands and once, he claims, with poison. Each time either the rope was too weak or he was caught in the attempt. (It is interesting that his attempts were always "safe" ones.) Admits to persistent bedwetting, which habit still persists. Says he has no army friends and only a very few civilian ones. One normal enjoyment seems to be farm work, in which he indulges on his leaves and his periods of being AWL. Tries to be normal in his friends and does not consort with others who share his sexual perversions. Claims to have a violent temper which strikes without warning and often without reason.

(CONTINUED ON PAGE 3)

Recommendation:

(Station) (Date) (SPO)

SELECTION OF PERSONNEL REPORT

To M.O. - 10 Cdn Repat Depot Type of Referral Psychiatric

1. C.4324 (Regt No.) Pte (Rank) LAWRENCE, H.G. (Name (surname first)) 10 Cdn Repat Depot (Unit)

Total "M"	Sub-tests 1	2	3	4	5	6	7	8	Sub-totals 1-3	4-5	6-8

Form	English or French	YOB	P	U	L	H	E	M	S	Date
27 (Age)	B-2 (Medical Category)									

2. Educational, occupational, military background and other relevant information and appraisal.

A PRESENT PROBLEM: Referred by unit as personality problem.

B PERSONAL HISTORY:

1. Family History: This soldier is the youngest in a family of five. Three sisters are all considerably older than he, the eldest by 18 years. He and his brother are more nearly of an age but there is 5 years difference even there. Lawrence seems to have had a bitter and violent home life. Except for his eldest sister he quarrelled continually with his family. On several occasions he admits to having struck his father. He claims he was resentful of stern treatment.

His parents are living but in poor health. His father, a factory labourer, has a weak heart and his mother has dropsy. Lawrence very seldom writes them and there is little friendliness between the family and this soldier.

2. Educational History: Lawrence went through public school, "just skinned by", he says. He disliked school intensely and was glad to quit. Didn't get along well with either teachers or schoolmates and was continually bickering and fighting with them. Enjoyed rough physical sports like hockey, football, and boxing. The subject he disliked least was arithmetic. Had few friends and no girl friends. Began during these years the perverted sexual habits which have brought him trouble and jail sentence.

3. Occupational History: The longest period that Lawrence stayed at one job was two months. Says he "just drifted; I don't know why or what made me". Worked as a farm labourer and factory hand. Learned no skills and drifted farther into sexual perversion, being arrested for sodomy when about twenty. The charge was proved but he was placed on probation.

4. Military History: Volunteered 9 Sep 39. O/S Dec 39. Employed as RAP orderly at #1 CIRU and later with H & PE Regt. SOS Regt in 1942 when given 3 month's civil sentence of hard labour for accepting money under false pretences. (He was paid to supply clothing without ration tickets and never "produced".) On completion of sentence was employed at #1 CIRU RAP and was sent to #1 Base Hospital on guard duty for SUS. Enjoyed RAP and hospital work but had a series of AWLs during this period - going away for

Recommendation:

(CONTINUED ON PAGE 2)

(Station) (Date) (SPO)

The accused declined to cross examine.

Question to the Accused:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused:-

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

The foregoing Summary consisting of two (2) pages was taken down by me in the presence of the accused in the Field, this 25th day of September, 1945.

The Field,
25 Sep 45

P.A.R. Blaker
.....
(P.A.R. Blaker) Capt
A & S Highrs,
10 Cdn Repat Depot

EXA

M

S U M M A R Y O F E V I D E N C E

in the Case of

C4324 PTE Hubert LAWRENCE, 10 Cdn Repat Depot, a soldier of the Cdn Army Overseas.

Charge: Absent without leave (A.A. Sec 15(1))

The Commanding Officer directs that evidence be taken on oath

First Witness
For the Prosecution

D140141 Cpl WRIGHT, A.N.J., "C" Wing - 10 Cdn Repat Dep, having been duly sworn, states:-

"I am D140141 Cpl Wright, A.N.J., "C" Wing - 10 Cdn Repat Dep. On 31 Aug 45, I was Coy Orderly Sgt of HQ Coy, "C" Wing - 10 Cdn Repat Dep. The accused, C4324 Pte Lawrence, H., whom I now recognize, is on strength of the above Coy. At 2330 hrs, 31 Aug 45, I called the roll at the RAP where the accused is employed and where he is meant to sleep, and found the accused absent."

.....A.N.J. Wright.....
(A.N.J. Wright, Cpl)

The accused declined to cross examine.

Second Witness
For the Prosecution

H614679 L/Cpl COLEMAN, W.C., "C" Wing - 10 Cdn Repat Dep, having been duly sworn, states:-

"I am H614679 L/Cpl Coleman, W.C., a Regt Provost of "C" Wing - 10 Cdn Repat Dep. At 0600 hrs, 24 Sep 45, when I was on duty at the Guard Room, the accused, C4324 Pte Lawrence, H., whom I now recognize, surrendered to me from absence without leave."

.....W.C. Coleman.....
(W.C. Coleman, L/Cpl)

The accused declined to cross examine.

Third Witness
For the Prosecution

D71380 CSM GREGORY, A.M., "C" Wing - 10 Cdn Repat Dep, having been duly sworn, states:-

"I am D71380 CSM Gregory, A.M., CSM of HQ Coy, "C" Wing - 10 Cdn Repat Dep. The accused, C4324 Pte Lawrence, H., whom I now recognize, was reported absent without leave from 2300 hrs 31 Aug 45. He has failed to answer his name at any subsequent roll call until surrendering at 0600 hrs 24 Sep 45."

.....A.M. Gregory.....
(A.M. Gregory, CSM)

27

Sir:

I, Lawrence H.G., wish to make this statement on behalf of myself, concerning my charge of Absenting myself without leave from 2330 hrs 31 August 1945 to 0600 hrs 24 September 1945.

FIRST, I would like to state my reasons for being absent so many times in the Canadian Army.

1. First, I would like to say something about my health, I would like to say that I am not responsible for my actions up to the present day. I think that if the people concerned were to get in contact with #1 Cdn Neuro Hospital and they would find that I was put "B-2" in 1940 for Mental Stages; and I was to be transferred to a Pioneer Corps, which I was never transferred to.

During the last 2 years I have been getting worse and these have been the results. I have tried to commit suicide four (4) times, and I have done bad things with little boys. Also, at one time I have tried to poison myself and I have been getting violent, lately.

So, in this first reason, I wish that the Court be remanded for a week for a certificate from #1 Neuro Hospital, as I am quite sure that this is one of my reasons for going absent.

2. I told Capt P.A. R. Blaker that I would make a statement ONLY to my defending Offr.

3. Well, all I can say is, that if I am given a chance, I will soldier like a man, as I have never had a chance since I joined up in 1939.

H.G. Lawrence

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-4324	Pte		Hubert Galant	LAWRENCE - Hast & PER - 10 Cdn Repat Dep	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(been)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 1 Oct 45 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	DL REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by Comd	6 Cdn Repat Dep
Capt	to be detailed by Comd	6 Cdn Repat Dep

~~[illegible]~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

[signature] (Signed personally. RP 105 fn 2.) Brig (Rank.)

(K G Blackader) Brig

Date 1 Oct 45 Commanding D Gp CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. C43824
PTE. LAWRENCE D.E. of 10 CDN. REPAT. DEPOT
and in my opinion, he is fit to undergo trial by Court Martial.
Station 10 CDN. REPAT. DEPOT
Date 2.10.45. (Sgd.) Capt B. Rose
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. C4324
PTE. LAWRENCE D.E. of 10 CDN. REPAT. DEPOT
and in my opinion, he is fit to undergo trial by Court Martial.
Station 10 CDN. REPAT. DEPOT
Date 2.10.45 (Sgd.) P. A. B. Ross
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

CHARGE SHEET

The accused, C4324 Private Hubert Galant LAWRENCE, Hastings and Prince Edward Regiment, on the strength of No 10 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15(1) Army Act

in that he,

In the Field, absented himself without leave from 2330 hours 31 August 1945 until 0800 hours 24 September 1945. Total absence 23 days 6 hours 30 minutes.

W S Murdoch.

(W.S. Murdoch) Col
Comd
10 Cdn Repat Dep

IN THE FIELD
25 September 1945

To be tried by Field General Court Martial.

K Blackader.

(K G Blackader) Brig
Comd D Gp CRU

IN THE FIELD
1 October 1945

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C-4324 Pte Hubert Galant LAWRENCE - Hast & PER - 10 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of sixty (60) days

(Sgd) ..... Judge-Advocate, if any. 20 Oct 45 Date awarded. (Sgd) [signature] President. (RP 45, 53.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barrack until further orders (1).~~

(1. AA 57A. Delete if not used.)

Date 30 Oct 45

(Sgd) [signature]

(K. G. BLACKADER) Brig

Commanding Cond-D Gp Cdn Rft Units

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C4324 Pte Hubert Galant LAWRENCE	Promulgated 5 Oct 45 Extracts taken DO 62 d/6 Oct 45	A C Ross Lt Col (A.C. Ross) Lt-Col Officer Commanding "A" Wing 10 Cdn Repat Dep

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 54-59

FIELD GENERAL COURT-MARTIAL

CFAMF (To Use of AFAS) 4/38B

Convened by Order of Brig KG Blackader, DSO, MC, ED Comd D Gp CRU dated 1 Oct 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71; 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prsnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-4324	Pte		Hubert Galant	LAWRENCE Hast & PER	10 Cdn Repat Dep

PROCEEDINGS OF TRIAL.

Held in the Fd in (county) ENGLAND on (date(s)) 2 OCT 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ✓ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to C/4667 Sgt Smith, A.G.R.A.S. as shorthand writer? Ans NO. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ CRU
Member	CAPT	R R SMITH	6 REPAT
Member	CAPT	V J WALKER	6 REPAT
~~Judge Advocate~~			
Prosecutor	LIEUT	J H H SCANDERETT	10 REPAT
Defending Offr	LIEUT	M CAMLIS	10 REPAT

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (✓) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposing, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5-11-59

Pt. Lawrence, N.Z.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C-20928 Rank Pte Name Lawrence, G L of CH of O Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	19 Apr 43	AA 15(1) A.W.L. from 1200 hrs 7 Dec 42 till 1120 hrs 14 Jan 43. (37 days 23 hrs 20 mins)	60 days detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of Jan 44

Baldecon RX

OC, 8 Cdn Inf Bde HQ Def Pl

15. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years ..... Date of Promotion.

In the rank of ..... years .....

In the rank of N/A years .....

Exhibit "B"
10-1-44

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
C-20928	Pte	LAWRENCE, G L	HQ 8 Cdn Inf Bde Def Pl (CH of O)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial the summary must be compiled from the field conduct sheet.

The conduct sheet mentioned should be produced in court with this statement, but not inserted in the proceedings.

† See para. 427, K.R., 1940.

* The accused should be stated should correspond with the number of entries in the conduct sheets, punishment being given for the same offence on each entry, and to any recognized special acts of gallantry (b) or distinguished conduct.

Interpretation.—If the charge is for drunkenness the words in brackets are to be omitted.

		* Within last 12 months.	* Since Enlistment.
A.A. 15(1)	For absence without leave	3 times	7 times.
A.A. 10(4)	For breaking out of camp	1 times	2 times.
A.A. 40	For conduct to the prejudice of good order and military discipline	1 times	1 times.
	For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and 21 days in military custody, making a total of 23 days, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 years 7 months 6 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 11 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 years 121 days

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to the following decoration or award~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated and in his regiment (*or corps or department*) the rank of dated

(Pilcon) W.11602/144 120,000 8/42 A.& E.W.,Ltd. Gp.698

No. C-20928 Name **Lawrence, G.L.** Sqn., Battery, or Company | Corps **Cdn Inf Corps** | Date of enlistment **11-9-39** | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B.122) 40M-[illegible]/8136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. **Geo. L. Tripp Capt.** | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Oct 43	Pte	Nil	FGCM: AA 15(1) AWL 8 dys 30 min AA 15(1) AWL 42 dys 3 hrs 40 mins. AA 24(2) Kit Def $10.29 and Ll-4-9 cost of appr. Total forf 347 dys plus Ll-4-9 & $10.29	Cpl Bangs Pte Williams of appr Lt Casselman Ll-4-9 and Cpl Routledge $10.29 clothing def.	9 months detn & to pay cost	10 Jan 44	F.G.C.M. W. Lavigne Lt Major R de Chaud	

above entry certified correct 15 Jan 44

Caldecott Lt.
D.C.8 Cdn Inf Bde Dep Pl.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	24 Aug 43	Pte		Sec 15 (1) AA. WOAS absent without leave, in that he absented himself without leave from 2359 hrs on 24 Aug 43 until 0020 hrs on the 25 Aug 43 (Absent 21 mins)	Documentary	5 days CB	26 Aug 43	S. Caldecott Lt.	Confirmed by CO. SC
In the Field	27 Aug 43	Pte		(1) Sec 15 (1) AA AWL from 1400 hrs 27 Aug 43 to 1445 hrs 30 Aug 43. Absent 4 days 45 mins.	Sgt. Cazely L/Cpl. Leavere	21 days F.P.	31 Aug 43	Lt. Col. P.C. Klaehn.	

CERTIFEID TRUE COPY
10 Jan 44. Caldecott Lt.
Caldecott C.C. 8 Can Inf Bde HQ Def. Pl.

No. C-20928 Name Lawrence, G.L. Sqn., Battery, or Company — Corps Cdn Inf Corps — Date of enlistment 11 Sep 39 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B.122) 4[illegible]/8136 (2965)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	7 Aug 43	Pte		(1) Sec 15 (1) AA WOAS absenting himself without leave in that he absented himself at 2230 hrs 7 Aug 43 to 2350 hrs 7 Aug 43 (Total absence 1 hr 20 mins)	Sgt. McClure C-21426	7 days CB 3 charges	9 Aug 43	J.C. McBride, Capt.	(Had MC accident day previous.)
In the Field				(2) Sec 10 (4) AA WOAS breaking out of barracks in that he on 7 Aug 43 broke out of barracks after being put on light duty for medical attention.					
In the Field				(3) Sec 40 AA. WOAS Conduct to the Prejudice of good order and military Discipline in that he failed to attend church parade 8 Aug 43 after being duly warned					

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31 Oct 42	Pte.		AA Sec 15 (1) WOAS Absenting himself without leave from 2200 hrs 31 Oct 42 to 2000 hrs 1 Nov 42 (Absent 22 hrs)	RSM Stewart Sgt. Thomas	7 days CB	2 Nov 42	Geo. L. Tripp, Capt.	Forfeit. 1 days pay under Ar 149 1(1) FR&I for the CASF
In the Field	7 Dec 42	Pte		FGCM - Apr 19 AA Sec 15 (1) AWL from 1200 hrs 7 Dec 42 till 1120 hrs 14 Jan 43 (37 days 23 hrs 20 mins) Guilty. Confirmed by GOC 3 Cdn Inf Div. In close arrest 1120 hrs 14 Jan to date of trial. Forfeits. 38 days pay FR&I 149(1)(a) " 95 days pay " 149(1)(c)(1) " 60 days pay " 149(1)(b) " 193 days total forfeiture.		60 days Detention.			RELEASED FROM THE DETENTION BARRACKS HEADLEY DOWNS MAY 28 1943 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 20 DAYS. COMMANDANTS INITIALS H.W.C. F.G.C.M.

Exhibit "H"

No. C-20928 Name Lawrence, G.L. Sqn., Battery, or Company — Corps Cdn Inf Corps — Date of enlistment 11-9-39 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (F. B.122) 40 [illegible]/8136 (2965)

Date of last entry in Company Conduct Sheet 11 Aug 41 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. — Signature O.C. Company, etc. Geo. L. Tripp Capt. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET DESTROYED 11-9-41 LAST ENTRY 11 Aug 41 Geo. L. Tripp, Capt. 2nd Series					
CANADA	19 Sep 40	Pte		(1) AA Sec 15 (1) Absenting himself without Leave from 2400 hrs 19 Sep 40 to 0530 hrs 22 Sep 40 (Absent 2 days 5 hrs 30 mins)	CSM Heatherington)	14 days CB 14 hrs Pack drill	24 Jun 40	G.H. Rogers Lt.Col.	Forfeit. of 3 days pay under Art. 749 1(a) FR&I for the CASF
				(2) AA Sec 10 (4) breaking out of Camp. Contrary to Camp Standing Orders.	L/Sgt. O'Connell				
ICELAND	7 Feb 41	Pte.		AA Sec 15 (1) WOAS Absenting himself without leave from 2145 hrs 7 Feb 41 to 0500 hrs 8 Feb 41. (Absent 7 hrs 15 mins)	Cpl. Crosbie	14 days CB	8 Feb 41	ECN Browne Capt.	
In the Field	16 Jun 42	Pte.		AA Sec 15 (1) WOAS absenting himself without leave from 2200 hrs 16 Jun 42 to 0530 hrs. (Absent 7 hrs 30 MINS.)	L/Cpl. Huneault.	3 days CB 3 days Pay FR&I 149(2)	11 Jun 42	J.H. Christie. Lt.-Col.	Forfeit of 1 days pay under Art 149 1(a) FR&I for the CASF

In addition, the one blanket which was listed as a deficiency at the end of 21 days' absence has since been found, and was turned in to QM stores, HQ 8 Cdn Inf Bde by me."

K. Cazaly Sgt.
B-55142 Sgt CAZALY, K
8 Cdn Inf Bde Defence Pl.

The accused declines to cross-examine this witness.

SEVENTH WITNESS FOR THE PROSECUTION

G-22730 CQMS DuGuay R.F., HQ 8 Cdn Inf Bde, having been duly sworn, states:

"I have examined the list of deficiencies in the kit of C-20928 Pte Lawrence G.L. as given in the evidence of Capt. R.R. Logie, and I have checked against this list the items of kit given in the evidence of Sgt. Cazaly, as being still in the possession of Pte Lawrence.

The following is a priced list of the deficiencies still existing:-

Article	No. of Articles	Vocab rate	Unexpired Value (75%)
Blouses, battle dress	1	$ 5.25	$ 3.94
Bonnet, Tam-o-Shanter	1	.60	.45
Trousers, battle dress, prs	1	5.39	4.04
Badge, cap	1	.09	.07
Brush, clothes	1	.48	.36
Brush, hair	1	.34	.26
Discs, identity, set	1	.03	.03
Housewife	1	.17	.13
Knife, clasp	1	.86	.64
Patches, dist'ing, prs	1	.03	.03
Unit titles, prs	1	.03	.05
Bag, ration	1	.02	.02
Tins, mess rect, set	1	.35	.27
TOTAL			$ 10.29 "

R. F. DuGuay
G-22730 CQMS DuGuay R.F.
HQ 8 Cdn Inf Bde.

The accused declines to cross-examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Four pages have been taken down by me in the presence and hearing of the accused this 5th day of January, 1944, in the field.

Witness my hand
10-1-44

(V.G. Macdonald) Capt.,
HQ 8 Cdn Inf Bde.

Article	No. of Articles
Blouses, battle dress	2
Bonnet, Tam-o-Shanter	1
Shirts, angola, drab	1
Trousers, battle dress, prs	2
Vests, woolen	1
Badge, cap	1
Brush, clothes	1
Brush, hair	1
Comb, hair	1
Discs, identity, set	1
Housewife	1
Knife, clasp	1
Fork, NS, table	1
Patches, dist'ing, prs	2
Spoon, NS, dessert	1
Unit titles, prs	2
Bag, ration	1
Tins, mess rect, set	1
Blanket	1 ....."

On 10 Dec 43, this declaration was concurred in by Maj G.L. Boone.

With respect to the surrender to the Civil Police of Pte Lawrence, I submit the following documentary evidence:

(a) Army Form O.1617 - Certificate of surrender to the Civil Police of a deserter or absentee without leave.

(b) AFB 252 - Charge against C-20928 Pte Lawrence G.L. from Capt L.S. Grayson, DAPM London Area.

(c) Expense Voucher to the amount of £1:4:9 for cost of return of C-20928 Pte Lawrence G.L., signed by Capt L.S. Grayson, DAPM London Area.

(d) Covering letter to above documents from Capt. L.S. Grayson, DAPM London Area.

.....
(R.H. Logie) Captain,
SC, 8 Cdn Inf Bde.

The documents presented by this witness were examined by the accused, and are attached hereto as Exhibits "B" "C" "D" and "E" respectively.

The accused declines to cross-examine this witness.

SIXTH WITNESS FOR THE PROSECUTION

B-55142 Sgt. CAZALY, K, 8 Cdn Inf Bde Defence Pl, having been duly sworn, states:

"On 5 Jan 44, I checked the kit which C-20928 Pte Lawrence G.L. had with him in the N Shore R guard room, this being the kit which he had brought back with him on his return.

It consisted of the following articles:-

Article	No. of Articles
Blouses, battle dress	1
Shirts, angola, drab	1
Trousers, battle dress, prs	1
Vest, woolen	1
Comb, hair	1
Fork, NS, table	1
Spoon, NS, dessert	1

Article	No. of Articles
Blouses, battle dress	2
Bonnet, Tam-o-Shanter	1
Shirts, angola, drab	2
Trousers, battle dress, prs	1
Vests, woolen	1
Badge, cap	1
Brush, clothes	1
Brush, hair	1
Comb, hair	1
Discs, identity, set	1
Housewife	1
Knife, clasp	1
Fork, NS, table	1
Patches, dieting, prs	2
Spoon, NS, dessert	1
Unit titles, prs	2
Bag, ration	1
Tins, mess rect, set	1
Blanket	1

Maj G.L. Boone.

On 10 Dec 43, this declaration was concurred in by

With respect to the surrender to the Civil Police of Pte Lawrence, I submit the following documentary evidence:

(a) Army Form C.1617 - Certificate of surrender to the Civil Police of a deserter or absentee without leave.

(b) AFB 252 - Charge against C-2092g Pte Lawrence G.L. from Capt L.S. Greyson, DAPM London Area.

(c) Expense Voucher to the amount of £1:4:9 for cost of return of C-2092g Pte Lawrence G.L., signed by Capt L.S. Greyson, DAPM London Area.

(d) Covering letter to above documents from Capt. L.S. Greyson, DAPM London Area.

.....
(R.R. Logie) Captain,
SC, 8 Cdn Inf Bde.

The documents presented by this witness were examined by the accused, and are attached hereto as Exhibits "B" "C" "D" and "E" respectively.

The accused declines to cross-examine this witness.

SIXTH WITNESS FOR THE PROSECUTION

B-55142 Sgt. CAZALY, K, 8 Cdn Inf Bde Defence Pl, having been duly sworn, states:

"On 5 Jan 44, I locked the kit which C-2092g Pte Lawrence G.L. had with him in the N Shore R guard room, this being the kit which he had brought back with him on his return.

It consisted of the following articles:-

Article	No. of Articles
Blouses, battle dress	1
Shirts, drab	1
Trousers, battle dress, prs	1
Vests, woolen	1
Trousers	1
Vest, table	1
Knife, NS, dessert	1

back before the expiration of his privilege leave pass, and was thus A.W.L. from 1800 hours that date. He was reported absent from all subsequent roll calls between that time and 2230 hours 6 Nov 43, when he was reported in custody of the Civil Police at Winchester.

At approximately 1030 hours 7 Nov 43, the Duty Officer of the previous night informed me that Pte Lawrence was being held at the Police Station, Winchester. I told Cpl Bangs to arrange for a vehicle and escort to return Pte Lawrence to Bde HQ. At 1430 hours, Cpl Bangs reported to me that this had been done, and I then made arrangements to have Pte Lawrence held in close arrest by N Shore R Regt'l Police.

On 17 Nov 43, it was reported to me that Pte Lawrence had escaped from the N Shore R guard-room at approx 1930 hours the previous evening. I was S.O.S. 8 Cdn Inf Bde Def Pl on 2 Dec 43, and at that time Pte Lawrence, G.L. was still absent."

R.A. Casselman Lt.
(R.A. Casselman) Lieut.

The accused declines to cross-examine this witness.

FOURTH WITNESS FOR THE PROSECUTION

K-18059 Cpl ROUTLEDGE, D., #4 Cdn Provost Coy:-

A written statement of this witness' evidence on AFB 252 purporting to be signed by him, and corroborated by C-53094 L/Cpl Levalle, A.L. and F-77496 L/Cpl Tellum, T., #4 Cdn Provost Coy, has been read to the accused and is attached to this summary of evidence as Exhibit "A".

Due to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.

V.G. Macdonald Capt.
(V.G. Macdonald) Capt.
Officer taking summary.

The accused does not demand the attendance of this witness for cross-examination.

FIFTH WITNESS FOR THE PROSECUTION

Capt. R.R. LOGIE, SC 8 Cdn Inf Bde having been duly sworn, states:-

"I have been Staff Captain of this Bde since June 1943, and in that capacity have charge of all regimental books of this H.Q.

On 9 Dec 43 a Court of Inquiry was assembled by order of Major G.L. Boone, BM 8 Cdn Inf Bde to investigate the illegal absence and any deficiencies in clothing, equipment, arms, etc of C-20928 Pte Lawrence, G.L. of the Defence Pl attached to this HQ.

The declaration of the Court was as follows:-

1. C-20928 Pte Lawrence, G.L. escaped from custody at about 1900 hours on the 16 Nov 43.

2. C-20928 Pte Lawrence, G.L. has been continuously absent since the 16 Nov 43 and is still so absent.

3. The kit of C-20928 Pte Lawrence, G.L. was examined and found to be deficient the following items:-

Exhibit "F"

SUMMARY OF EVIDENCE in the case of C-20928 Pte Lawrence, G.L. 8 Cdn Inf Bde Defence Pl (CH of O), Canadian Army Overseas.

By direction of the Brigade Major, the summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

C-118540 Cpl BANGS, E.T., 8 Cdn Inf Bde Defence Pl (CH of O) having been duly sworn, states:

"On 29 Oct 43, as our Pl Sgt was on leave, I was acting in his place, and while in the performance of these duties, I noticed at 1800 hours that C-20928 Pte Lawrence, G.L. had failed to return from his privilege leave which expired at that time on that day. He remained absent from all roll calls and tattoo reports from that time until about 1430 hours 7 Nov 43 when he was returned under close arrest.

At approx 2200 hours 6 Nov 43, the Bde Orderly Sgt came to my room and asked me whether we had a Pte Lawrence in our platoon. I replied that he was A.W.L.

At about 0930 hours the following morning, I was given a message from the Duty Officer stating that Pte Lawrence was being held by the civil Police in Winchester and that we were to arrange to have him picked up. I accordingly made arrangements with the Bde Tpt Office for a vehicle and driver, and detailed B-52502 Pte Williams, C.J. as escort to accompany the driver. They arrived back at Bde HQ with Pte Lawrence at about 1430 hours, and I reported this to Lieut Casselman, our Pl Commander.

At about 1600 hours, Lieut Casselman told me to take Pte Lawrence to the N Shore R Guard Room, as he was to be held in close arrest there. Pte Williams and I did so, and turned Pte Lawrence over to the Guard Commander at about1630 hours."

C. T. Bangs Cpl.
C-118540 Cpl BANGS, E.T.
8 Cdn Inf Bde Def Pl (CH of O)

The accused declines to cross-examine this witness.

SECOND WITNESS FOR THE PROSECUTION

B-52502 Pte WILLIAMS, C.J., 8 Cdn Inf Bde Defence Pl (CH of O) having been duly sworn, states:

"At approx 1000 hours 7 Nov 43, Cpl Bangs of our Platoon detailed me to go with a vehicle driven by Pte Legacy and pick up Pte Lawrence from the Civil Police Station at Winchester. We picked Pte Lawrence up at the Guildhall Police Station at about 1200 hours, and returned to Bde HQ with him about 1430 hours. I remained with him as escort until about 1630 hours, when Cpl Bangs and I took him to the N Shore R guard room and turned him over under close arrest to the Guard Commander."

C.J. Williams
C-52502 Pte WILLIAMS, C.J.
8 Cdn Inf Bde Def Pl (CH of O)

The accused declines to cross-examine this witness.

THIRD WITNESS FOR THE PROSECUTION

Lieut. R.A. CASSELMAN, former O.C. 8 Cdn Inf Bde Defence Pl (CH of O) having been duly sworn, states:

"At 1830 hours 29 Oct 43, Cpl Bangs reported to me that C-20928 Pte Lawrence, G.L. had failed to report

Exhibit "D" to Summary of Evidence.

Expense Voucher Re—: Ref: K.R & O. (Can) 539

Reg. No. C20928 Rank Pte. Name Laurence, L. Unit C.W. of Ottawa

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
29 Dec 43	Escorts return fare from LONDON To Bournemouth		16	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bournemouth		8	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	4	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/43
40/P & S/482

Exhibit "C" to Summary of Evidence

CHARGE

Army Form B 252
(See King's Regulations)

8th. C.I.B. Defence Plt. Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. C-20928 Rank Pte.

Name LAWRENCE G.

Place LONDON Date of Offence 28-Dec.43

OFFENCE W.O.A.S. was A.W.L. from ?

until surrendering to the Civil Police at EALING

Police Station LONDON at about 2240 hrs. 28-Dec.43

Varied by Capt. L. S. Grayson

CAPT.
L. S. GRAYSON D.A.P.M.
LONDON AREA.

Names of Witnesses :—

P.S.35 T. Norman Ealing Police Station.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

20186 Wt.W31276/1961. 2,000,000 10/42 K. & B., Ltd. G657/47.

I CERTIFY that the man whose personal description is given below surrendered himself to* PS Norman

at Ealing at (hour) 10.40 P on

the 28th day of Dec. 1943 as being No. C2098

(Rank and Name) LAWRENCE Gilbert

a deserter (or absentee without leave) from 8th Brigade 3rd Division Canadian army

and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 8 Inches

Complexion Fair. Hair Fair.

Eyes blue.

Marks scar L forearm, scar top L little finger

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	11.9.39 Ottawa.
Probable Date of Desertion or beginning of absence, and from what place	15.11.43 Poole, Dorset

PS Norman

Signature of Officer of Police in charge of Ealing Station.

28.12.43 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case

of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

Exhibit "B" to Summary of Evidence

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

---

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

(22743) W. 32508/331 25,000 10/42 A. & E. W. Ltd. Gp. 698 Forms/O.1617/12

Exhibit "H"
to Summary of Evidence

Statement of EVIDENCE in the case of C-20928, Pte Lawrence, G.L. C.H.of O. att, 8 C.I.B. 3rd Cdn Div.

While on patrol on Southampton Rd. Winchester, at approx, 22.30 hrs 6-11-43 accompanied by L/Cpl.s, Tellum and Levallee I had the occassion to check the a/m soldier for a pass. The a/m soldier could not produce one so I placed him under Close arrest and escorted him to the Civilian Police Station, Winchester,

The a/m soldier was identified from his M.B.M.L. as, C-20928, Pte. Lawrence, G.L. A pass was found in his possession which was dated from the 22-11-43. to 1800 hrs 29-11-43. The a/m soldier then stated that he had been since 1800 hrs 29-11-43

His unit was notified and an escort was arranged for.

The a/m soldier was lodged under close arrest in the Civilian Police Station, Winchester.

D. Routledge

R-18059, Cpl. Routledge D.
#4 Cdn Provost Coy.

No 4 CDN PROVOST COMPANY NOV 7 1943 (A.F.)

REMARKS

I have read the above statement and corroborate it.

C-53094, L/cpl. Levallee A.L.

F-77496, L/Cpl. Tellum T.
#4 CDn Provost Coy
#4. Cdn Provost Coy

CHARGE WL Army Form B 252
(See King's Regulations)

Cameron High'rs of Ottawa Regiment
att, S.C.I.B. Battery Squadron Troop or Company

CHARGE against No. C-20928 Rank Pte.

Name Lawrence G.L.

Place Winchester, Hants. Date of Offence 6-11-43

OFFENCE W.O.A.S. Was A.W.L.

No. 4 CDN PROVOST COMPANY
NOV 7 1943
(A.F.)

J. Freakman Lieut



Names of Witnesses:—

K-18059, Cpl. Routledge, D. #4 Cdn Provost Coy.
F-77496, L/Cpl. Tellum, T. #4 Cdn Provost Coy.
C-53094, L/Cpl. Levallee, A.L. #4 Cdn Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

30188. Wt.W31374/1961. 2,000,000 10/42. K. & H. Ltd. G657/47. P.T.O.

F. G. C. M. Case of C-20928 Pte G. L. Lawrence

~~Officers under Instruction~~:

Q OR of C.	Maj. J. N. Gordon
	Lt. G. M. Clarke
R de Chaud.	Maj. G. Sevigny
	Capt. J. P. Martin
	Lt. J. P. Duhaime.
N. Shore R.	Capt. J. R. Ross
	Lt. L. Tetu
8 Cdn Inf. Bde Sp. Gp. (Ch. of O.)	Capt. L. V. Perry
	Lt. J. R. Kenmure.

W Lavigne, Maj.
pres.

10-1-44

Statement by the Defending Officer.

The accused has paid for his past offences which were not very big. He was in my platoon when I was in command of it- last June and was a very good worker. I ask the Court not to award a too big punishment.

W. Lanigan, Maj.
10-1-44 Pres.

Certificate of Medical Fitness

for

Trial by Court Martial

I certify that I, this morning examined No. C20928 Pte Lawrence G. L. and found that he is in my opinion fit to undergo trial by Court Martial

In the Field
10/Jan/44

[illegible] Maj
Pres.

[illegible] RCA 3C
2 Inst Field Amb

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/F&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-20928	Pte.		Gilbert Lesley	LAWRENCE	8 Cdn Inf Bde Def Pl (CHofO)

W Lavigne Maj pres.
10-1-44

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Jan 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	W. LAVIGNE	R de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lt.	T.E. HETHERINGTON	QOR of C
Lt.	S.A. HECKBERT	N Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt.	J.E. PARKER	8 Cdn Inf Bde SP Gp (CHofO)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country) — [signature] (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 8 Jan 44 — Commanding 8 Cdn Inf Bde. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused C-20928 Pte Gilbert Lesley LAWRENCE, 8 Canadian Infantry Brigade Defence Platoon (CH of O), a soldier of the Canadian Army (Overseas), being on active service, is charged with:-

FIRST CHARGE — ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1) A.A.

in that he

in the Field, absented himself without leave from 1800 hours 29 Oct 43 until apprehended by personnel of No. 4 Canadian Provost Coy. in Winchester, Hants, at 2230 hours 6 Nov 43.
(Total time absent 8 days 4 hours 30 minutes)

SECOND CHARGE — ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1) A.A.

in that he

in the Field, while under close arrest, absented himself without leave from approximately 1900 hours 16 Nov 43 until 2240 hours 28 Dec 43 when he surrendered himself to Civil Police at Ealing, London, thereby incurring costs of return to his unit of £ 1:4:9.
(Total time absent 42 days 3 hours 40 minutes)

THIRD CHARGE — LOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES

Sec 24 (2) A.A.

in that he

in the Field, on 5 Jan 44 was deficient of clothing and regimental necessaries on charge to him whose total value was $ 10.29. (unexpired wear value only).

In the Field,
6 Jan 44.

(G.L. BOONE) Major,
Brigade Major,
8 Cdn Inf Bde.

To be tried by Field General Court Martial.

In the Field
6 Jan 44.

(K.G. BLACKADER) Brigadier,
Commanding 8 Cdn Inf Bde

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-20928 Pte Gilbert Lesley Lawrence 8 Cdn Inf Bde Dep Pl. (CH 4 2).

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (1) A.A.	Guilty	Guilty	
2nd Sec 15 (1) A.A.	Guilty	Guilty	
3rd Sec 24 (2) A.A	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which no days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of nine months and to be put under stoppages of pay until he has made good the sums of $1-4-9, costs of return to his Unit, and of $10.29, unexpired wear value of clothing deficiencies.

~~(Sgd)~~ Judge-Advocate, if any. 10th Jan 1944 Date awarded. (Sgd) W. Lanigue, Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) R. Blackader Brig

Date 14 Jan 44 Commanding 8 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

C 20928 pte Lawrence, G.L. 15 Jan. 44 [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ■ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 'F', initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'G' and Ex 'H' respectively.(3)

(1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No. Just My Defending officer will speak. (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 90(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(4) (5), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Lawrence, war pres 1944 DDD 96

FIELD GENERAL COURT-MARTIAL

CFAM6 (1) (Sect. 47 AFA 3)
41/P & S/1658 (2864)

Convened by Order of Brig. K. G. Blackader Comd 8 Cdn Inf Bde dated 8 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 182, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 20928	Pte		Gilbert Lesley	Lawrence	8 Cdn Inf Bde Def Pl. (CH of O.)

PROCEEDINGS REVIEWED
J. Ruiz-Quilan Capt.
10 Mar 44
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 10 Jan 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AB5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes" as to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that ground thereof is Mr Trial by summarial method of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ~~as interpreter ? Ans~~

~~The Interpreter is sworn (1). Do you object to as shorthand writer ? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W. Lavigne	R. de Chaud
Member	~~Lt.~~ Capt	T. E. Herrington	Que. of C
Member	Lt	S. A. Heckbert	N. Shore R.
Judge-Advocate			
Prosecutor	Capt.	V. Y. MacDonald	8 Cdn. Inf. Bde
Defending Offr	Lt.	S. Calcott	8 Cdn Inf Bde Def. Pl. CH of O.

Questions by President: Is the Prosecutor a lawyer ? Ans Not Is the Defending Offr a lawyer ? Ans Not(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 2 3.)

A8. The accused Pte G. L. Lawrence before arraignment make(s) (no) ~~no~~ plea
~~_____~~(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB5 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DDD-96 (case #2)

PTE LAWRENCE G L

See CC-51 for 1st case

1 CANADI[redacted] (MG) REINFORCEMENT UNIT, C.A.O.

5-4

1 CMGR 5-4-A&D
15 Jan 1943

Officer Commanding,
Cameron Highlanders of Ottawa (MG),
Canadian Army, England.

Exhibit "A"

C 20928 Pte. Lawrence, G.

1. The above man, who we understand has been A.W.L. from your unit, reported to this unit yesterday. This morning he saw the Medical Officer, and this afternoon has been admitted to #15 Cdn Gen Hospital, under arrest, with V.D.

2. When he reported here, he had no kit whatsoever, therefore, please forward to #15 Cdn Gen Hospital, all the kit you are holding for him.

CAMERON HIGHLANDERS OF OTTAWA
ORDERLY ROOM
JAN 19 1943
C.A.S.F.

(J.H. Christie) Lt.-Col.,
Officer Commanding,
#1 Canadian (MG) Reinf Unit,
C.A.O.

DJF/LN

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing this pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence:

VISIT AND MILEAGE	Half-guinea charge within 1 mile of surgery	Greater distances
Day	4s. 0d.	In addition 6d. for each mile or part of
Night 9.00 to 6.00 hrs.	6s. 0d.	mile with a limit of 21s. visit.

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visit will be—in peacetime, the ordinary fee charged by the doctor to his private patients.

The soldier will also report the employment of the civilian doctor by a letter addressed to his Commanding Officer, to whom the civilian doctor will submit his claim on Army Form O-1267 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Reception Station or Medical Inspection Room, and failing that to his Commanding Officer, by whom arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will inform the [illegible] Officer of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable cause, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army, or of some place to which convenient reference may be made, or to a Justice of the Peace.

It is for him to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply as in the case of military, Royal Naval or Royal Air Force Hospitals or Dental Centres.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass, the dental practitioner will be paid only for emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O-1267, and forward it to the Deputy Director of Medical Services at the headquarters of the district in which the soldier is temporarily resident.

These instructions, where applicable, will also be held to [illegible] to a member [illegible] than an officer of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If on pass exceeding 24 hours a soldier must leave his address with the Captain of his company and he must at all times be prepared to rejoin on the shortest notice, or recall to do so.

Note.—The above instructions are not applicable to a soldier on Field Service overseas.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. "A" Coy Regiment CAMERON HIGHLANDERS OF OTTAWA, (M.G.)

Exhibit "B"

PASS

Army Form B295
(In pads of 100)

No. C 20928 (Rank) Pte (Name) Lawrence G.L.

has permission to be absent from his †quarters/duty, from

1200 hrs 30th Nov/42 to 1200 hrs 2nd Dec/42

for the purpose of proceeding to* Brecon Wales

(Station) In the Field

(Date) 26 Nov 1942

H. Boy Lt.
Commanding

CAMERON HIGHLANDERS OF OTTAWA (M.G.) DEDERE ROOM NOV 28 1942 C.A.S.F.

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

Wt. 29424/900. 350m. 10/40. D.P.W. 51-7963.

CROWN COPYRIGHT RESERVED

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number C-20928 Rank Pte

Name Lawrence, G.L. of C.H.of O.(MG) Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NIL			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~14th~~ 19th day of April, 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "J" signed by the president, and annexed to the proceedings.

Geo. L. Tripp

(Geo. L. Tripp) Capt & Adjt
1st Bn., C.H.of O.(MG)

M.F.B. 385
23M—5-41 (572-S)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-20928	Pte	Gilbert Leslie LAWRENCE	CHofO.(MG)

1. The following is a fair and true summary of the entries in the [redacted] Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Absent without leave	2 times	4 times
For Sec 10 (4)	times	1 times
For	times	times
For	times	times

[redacted]

or,

There are no entries in the conduct sheets of the accused.

NOTE.—[redacted]

2. The accused has not been previously convicted

or,

[redacted] Air Force Act / A.F.A. 73 [redacted]

3. The accused is not under sentence at the present time.

or,

[redacted] day of [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~38~~ 95 days in ~~Air Force~~ military custody, making a total of ~~38~~ 95 days in custody, of which 85 days were spent in hospital.

5. The present age of the accused according to his record of service is 27 yrs 10 mons

6. The date of his [redacted] attestation specified in his record of service is 11 Sept 39.

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military / military possession of or entitled to). State any air force decoration or reward. Nil
military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 June 1942	Pte		A.A.Sec.15(1)WOAS Absenting himself without leave from 2200 hrs 16 June 42 to 0530 hrs(Absent 7 hrs 30 mins)	XXXXXXXXX. XXXXXXXXX L/Cpl Huneault	3 days C.B. 3 days Pay	11 June 1942.	J.H.Christie Lt.-col	Forfeiture of 6 days pay under Article 1[illegible] F.R. & I for the C.A.S.F.
Field	31 Oct 1942	Pte		A.A.Sec 15(1) WOAS Absenting himself without leave from 2200 hrs 1 Oct 42 to 2000 hrs 1 Nov 42. (Absent 22 hrs	P.S.M. Stewart Sgt Thomas	7 days C.B.	2 Nov 42.	Geo. L. Tripp Capt.	Forfeiture of 1 days pay under Article 1[illegible] F.R. & I for the C.A.S.F.

CERTIFIED TRUE COPY Geo L Tripp

(Geo. L. Tripp) Capt & Adjt
for Officer Commanding
1st Bn., C.H.of O.(M.G.)

"I" 146

No. C-20928 Name LAWRENCE, G.L. Sqn., Battery, or Company 1 Corps C.H.OF O.(MG) Date of enlistment 11-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6

Date of last entry in Company Conduct Sheet 11-Aug 41 Number and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature O.C. Company, etc. Geo.L. Tripp Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
SHEET DESTROYED 11-9-41 LAST ENTRY 11 August 41 Geo. L. Tripp Capt 2nd Series									
Canada	19 Sept 40	Pte		(1)AA.Sec.15(1)Absenting himslef without leave from 2400 hrs 19 Sep 40,to 0530 hrs 22 Sept 40(Absent 2 days 5 hrs 30 mins) (11)A.A.Sec 10(4)Breaking out of Camp contrary to Camp Standing Orders.	C.S.M. Heatherington L/Sgt O'Connell	14 days C.B. 14 hrs Pack Drill	24 June 1940	G.H. Rogers Lt.-col	
Iceland	7 Feb 1941	Pte		AA.Sec.15(1)WOAS Absenting himself without leave from 2145 hrs 7 Feb 41, to 0500 hrs 8 Feb 41 (Absent 7 hrs 15 mins.)	Cpl Crosbie	14 days C.B.	8 Feb 41	E.C.N. Browne Capt	

Points for consideration re sentence of C 20928

Pte Lawrence S.

① The most serious crime committed previously was in Canada - for which he received 14 days C.B. plus 14 ~~days~~ hrs pack drill. This was committed with a large number of men all of whom went A.W.L. after being denied embarkation leave. Pte Lawrence contends that it was a well known fact that the unit would not move for at least one week and he voluntarily returned to the Unit after bidding his family farewell.

② Other A.W.L. charges, of which there were not a large number, were for short periods but on his last appearance before Coy commander he was told he would "get the book" on his next appearance. When at the termination of his leave he missed a train from Wales he, with reasoning peculiar to private soldiers, decided he was for it in any event so he decided to take further liberty.

③ Due to his time of A.W.L. and in hospital his pay will be affected until January next which in itself is considerable punishment.

④ He is married and has 2 children.

⑤ No Coy officers available to give character evidence, due to absence on training duty.

19 April

J B Scott
Lieut.

"H"

146

F

Sentence.

The Court sentence the accused C- 20925 Pte LAWRENCE G.L. Sentence.

To undergo detention for 60 days. 60 days det.

19 Apr 43.

H Young Smyth
President.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ 1/6

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~ 1/6

Lieut. G. A. HARRIS, Chg. O (Tr. G.) is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I have his MFM 6 and his MFB 355.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "I" and "J", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No. They are certified by the Adjutant

Question.

~~Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?~~ 1/6

Answer.

Cross-examined by the accused.

Nil.

[Instructions.—In the sentence of the nature of the service of the accused in a departmental [illegible] or otherwise the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir.

The Court is closed for the consideration of the sentence.

1/6

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.O.

WITNESSES

In the case of C-20928 Pte Lawrence, G., 1st Battalion Cameron Highlanders of Ottawa (MG) C.A.O.

FOR THE PROSECUTION

C-20926 Sgt Mitchell, C.J., No.5 Canadian Infantry Reinforcement Unit.
Lieut-col J.H. Christie, (documentary evidence)
C-20649 L/Cpl Manratty, J.L., 1st Bn., Cameron Highrs of Ottawa (MG).

FOR THE DEFENCE

The accused does not desire to call any witnesses in his defence.

Geo. L. Tripp

(Geo. L. Tripp) Capt & Adjt
for Officer Commanding
1st Bn., C.H. of O.(MG)

In the field
GLT/KLB

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.O.

DEFENCE COUNSEL

In the case of C-20928 Pte Lawrence, G., 1st Battalion Cameron Highlanders of Ottawa (MG) C.A.O.

The accused, C-20928 Pte Lawrence, G., 1st Bn. Cameron Highlanders of Ottawa (MG), desires to have Lieut G.H. O'Handley, of this Unit to represent him.

Geo. L. Tripp

(Geo. L. Tripp) Capt & Adjt
for Officer Commanding
1st Bn., C.H.of O.(M.G.)

I agree with above

G. Lawrence
.....
(Signature of Accused)

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.O.

LIST OF EXHIBITS

In the case of C-20928 Pte Lawrence, G., 1st Battalion Cameron Highlanders of Ottawa (M.G.) C.A.O.

Exhibit "A" - A letter from Lt.-col J.H. Christie, Officer Commanding No.5 C.I.R.U., formerly O.C. No.1 C.M.G.R.U.

Exhibit "B" - Pass submitted to Guard Room, No.1 C.M.G.R.U. by accused on return from Absent without Leave.

Geo. L. Tripp

(Geo. L. Tripp) Capt & Adjt
for Officer Commanding
1st Bn., C.H.of O.(MG)

In the field
GLT/KLB

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.C.

In the case of C-20928 Pte Lawrence, G.L., 1st Bn., Cameron Highlanders of Ottawa (MG) Canadian Army, England.

3rd Witness
C-20549 L/Cpl
Hanratty, J.L.

The third witness for the prosecution, C-20549 L/Cpl Hanratty, J.L., 1st Bn., Cameron Highlanders of Ottawa (MG) having been duly sworn, states:-

"I was attached to No.1 C.M.G.R.U. for a period of approximately a year, from June, 1941, to June 1942, I have seen the pass which was issued to Pte Lawrence, C-20928, and I recognize the writing on the reverse side (i.e. 1120 hrs 14 Jan 43, L/Cpl Labron, Reg Police 1 C.M.G.R.U.) I was employed at 1 C.M.G.R.U. as a Sergeant Assistant Instructor for some months and had cause to visit the Guard Room on several occasions to check the Leave Book and procedure".

The accused declines to cross-examine the witness.

J.L. Hanratty
(Signature of Witness)

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.O.

SUMMARY OF EVIDENCE

In the case of C-20928 Pte Lawrence, G.L., 1st Bn., Cameron Highlanders of Ottawa (M.G.) Canadian Army, Overseas.

By direction of the Commanding Officer, Lt.-col P.C. Klaehn, this summary was taken under oath:-

1ST Witness C-20976 Sgt Mitchell, C.J.

The first witness for the prosecution, C-20976 Sgt Mitchell, C.J. 1st Bn., Cameron Highrs of Ottawa (MG), having been duly sworn states:-

"I am C-20976 Sgt Mitchell, C.H.of O.(MG), on strength of No.5 C.I.R.U., attached as instructor to No.1 C.S.R.U. On 7 Dec 42, at Slinfold Manor Camp, while on strength of the Field Unit, C.H.of O.(MG), I was Orderly Sgt of "A" Coy, of which Coy Pte Lawrence, G.L., is a member. Pte Lawrence was due back from Privilege Leave at 1200 hrs 7 Dec 42. On checking the passes of men coming back from Leave at that time, I found that Pte Lawrence's pass had n not been turned in. I proceeded to look for him in the Coy area. I checked with the Guard Room to see if he had come in without a pass and when I learned he had not come in, I reported him as being A.W.L. and also reported to the Coy Orderly Room.

Question by accused - What do you call the Company Area?

Answer - All the Huts allotted to "A" Coy, is our Area.

C.J. Mitchell
.....
(Signature of Witness)

2nd Witness Lt.-col J.H. Christie.

The 2nd witness for the Prosecution, Lt.-col J.H. Christie, Officer Commanding, No.1 Cdn Machine Gun Reinforcement Unit.

A letter from Lt.-col J.H. Christie, Officer Commanding, No. 1 C.M.G.R.U. dated 15 Jan 43, was read to the accused and introduced as evidence and marked Exhibit "A". (with pass marked as exhibit "B")
Certified that due to the exigencies of the services, loss of time, and expense involved, it is not practicable to procure the attendance of this witness.

D.M. McClymont Lieut.
.....
(D.M. McClymont)

The Accused C-20928 Pte G.L. Lawrence.

The accused, C-20928 Pte Lawrence, G.L., having been duly warned in accordance with Rules of Procedure 4 (e) declines to make a statement.

G.L. Lawrence
.....
(Signature of accused)

Certified that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

Taken down by me, in the presence and hearing of the accused this 13th day of April, 1943.

D.M. McClymont Lieut.
.....
(D.M. McClymont)

In the field

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

No Sir, all my company Peers are unavailable. *Answer.*

Evidence as to character.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge — to which he has pleaded "Guilty" — read to him again.]~~ W.

The accused C 20928, Pte LAWRENCE, G., CA of O (Tm. G.) is found guilty of the charge

†The summary ~~(or abstract)~~ of evidence is read, marked "G" W. signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

My officer will do so.

Answer. W. The ~~accused~~ defending officer in mitigation of punishment ~~says~~ —

~~[or~~ hands in a written statement, which is read, marked H , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

W.

B

The President, members ~~and judge advocate~~ are duly sworn. [illegible]

The following officers under instruction are duly sworn.
Major F. J. GILMOUR, HQ, 3 Cdn Div.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to the accused.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Guilty Sir.

Answer.

Question.

~~Are you guilty or not guilty of the second charge against you, which you have heard read~~? [illegible]

Answer.

Question.

~~Are you guilty or not guilty of the third charge against you, which you have heard~~ read? [illegible]

Answer.

Question.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ [illegible]

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

[illegible]

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ In the field on the 19 day of April 1943 by order of Major General R. F. L. Keller

Commanding 3 Cdn Dir

dated the 17 day of April 1943

President.

L.E. Corrigan Major RCAMC

Members.

C.M. Robertson, Lieut., 3 Cdn Dir Sigs

J.E. Parker, Lieut., C.H. of O. (M.G.)

Trial of* C 20928 Pte LAWRENCE, G.L. CH of O (M.G.)

~~, Judge Advocate.~~ W.L.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that ..... is not available to serve owing to ..... , waiting member takes his place as a member of the Court.~~ W.L.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. G. A. HARRIS, CH of O (M.G.)

Counsel‡ or defending officer† Lieut. B.B. SCOTT, CH of O (M.G.)

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

W.L.

MEDICAL OFFICER'S CERTIFICATE

N.R. (Can.) Form 357

I certify that I have this morning examined

C 20928 Pte. LAWRENCE. G. and in my opinion

Number Rank Name

he is fit to undergo trial by Court Martial

19th April 1943.

Medical Officer - Capt. R.C.A.M.C.

1ST BATTALION CAMERON HIGHLANDERS OF OTTAWA (M.G.) C.A.O.

CHARGE SHEET

The accused, C-20928 Pte Lawrence, G.L., 1st Bn., Cameron Highlanders of Ottawa (MG), a soldier of the Canadian Army (Overseas), being on active service is charged with:-

1ST CHARGE
Sec 15 (1) AA

Absenting himself without leave,

in that he,

in the field, absented himself without leave from 1200 hrs 7 Dec 42, until 1120 hrs, 14 Jan 43. (Absent 37 days 23 hrs 20 mins).

Dated in the field this
14th day of April, 1943.

(P.C. Klaehn) Lt.-col
Officer Commanding
1st Bn., C.H.of O.(MG)

To be tried by Field General Court Martial.

In the field
17 Apr 43

(R F L Keller)
Major-General
GOC 3 Cdn Div

"B2"

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C/20928 Pte Gilbert Leslie LAWRENCE C E of C (MG)	Army Act Sec 15(1) (See charge sheet att)	Guilty	Guilty 60 days detention 19 Apr 43 W Murray Mayor President.	I confirm the Finding and Sentence of the Court. R.F.L.K.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) R.F.L.Keller (R F L Keller) Major-Gen
Commanding

(Signed) W Corrigan (C E Corrigan) Major DADMS 3 Cdn Div
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19 day of April, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) n/a
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 19 day of April 1943.

W Murray Mayor.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 30th day of April 1943,

R.F.L.Keller
R. F. L. KELLER, Major-General,
G.O.C. 3rd Cdn. Div.

Promulgated and extracts taken in the case of C 7 0928 Pte Lawrence Gilbert Leslie Lawrence Highlanders of Ottawa M.G.

(*a*) (Dated) 21 April 43 (Signed) P.K. Lawrence Lt Col
17-10L
CANADIAN MOTOR LAUNDRIES OF OTTAWA, LTD. G.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

S.C. 47567-1937 20 M. 3/41 K.P./1000(2) Gp. 688-2

CC-51

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A." ms.

Order convening the Court.

On Active Service, this 17th day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint :-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :-]~~

Proceedings Reviewed

Reviewing Officer (D.A.G.) L.M.H.Q.

28 Apr 43

135

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C E Corrigan	DADMS 3 Cdn Div

Members.

Rank.	Name.	Regiment.
Lieut	C M Robertson	3 Cdn Div Sigs
Lieut	J E Parker	C H of O (MG)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R. F. L. Keller

(R F L Keller) Major-Gen

Commanding 3 Cdn Div

Convening Officer.

CC-51

PTE LAWRENCE G.L.

XB.

Date: 10 May 45

B-58637 Pte LAWRENCE C E
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 14 May 45.
(Date)

2. (a) I request that _____ if available, be appointed. OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) C.E. Lawrence
(C.E. LAWRENCE) Pte B-58637

I hereby certify that Lt. J.A.M. LAMARCHE was appointed to defend B-58637 Pte Lawrence C.E. at his forthcoming trial by Court Martial and that the said Lt. J.A.M. LAMARCHE was notified that he was Defending Officer on 14 May 45
(Date)

C.R. Martel Lt
a/d. (Adjutant)
10 Cdn. Base Rft. Dn.,

66

LIST OF WITNESSES

FOR THE PROSECUTION

D-56228	Sgt	LEGUERRIER	J.L.	(A & SH of C (P.L.))	P.E.	19 Coy	10 CBR Bn
D-27156	C.S.M.	MacINTOSH	G.G.	(Q.O.R.)	P.E.	19 Coy	10 CBR Bn
B-46477	C.Q.M.S.	RICHARDSON	R.H.	(A & SH of C (P.L.))	P.E.	19 Coy	10 CBR Bn

FOR THE DEFENCE

NIL.

LIST OF EXHIBITS

Exhibit "A" - Certified True Copy of Hold Nine on which the accused name appears.

Exhibit "B" - Certificate of Surrender.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND THE LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

C.E. Lawrence

(C.E. LAWRENCE) Pte B-58637

SECOND WITNESS (Cont'd)
Prosecution

appeared in all Tattoo Reports as absent between the above mentioned dates, that is between 0730 hrs 22 Apr 45 and 2200 hrs 5 May 45.

R.P. 83 (b)-complied with.

The accused declines to cross-examine this witness.

(G.G. MacINTOSH) C.S.M. D-27156

THIRD WITNESS
Prosecution

B-46477 C.Q.M.S. RICHARDSON, R.H. (A & SH OF C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am B-46477 C.Q.M.S. RICHARDSON, R.H. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. I am in charged of Q.M. stores of 19 Coy, 10 C.B.R. Bn. On the 21 Apr 45 I had the occasion to fully equip an out-going draft. Pte. Lawrence, C.E., the accused, whom I now recognize, was issued with full kit ready to go on draft. That is all I know.

R.P. 83 (B) complied with.

The accused declines to cross-examine this witness.

(R.H. RICHARDSON) C.Q.M.S. B-46477

DOCUMENTARY EVIDENCE

The certificate of Surrender under AA Sec 163 (i)(j) produced as documentary evidence was read over to the accused, marked Exhibit "B", signed by me and attached hereto.

(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

The accused having been cautioned as follows : "Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence, unless you wish to do so, but what-so-ever you may say or any evidence you may give will be taken down in writing and may be used in evidence," declines to give any evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of Two (2) pages was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (C)(D)(E) and (F) have been complied with.

(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

SUMMARY OF EVIDENCE

In the case of B-58637 Pte. Charles Edward LAWRENCE (R.H.C.) on the strength of 19 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

D-56228 Sgt. LeGUERRIER, J.L. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. having been duly sworn states:

I am D-56228 Sgt. LeGUERRIER, J.L. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. I am permanent draft Sgt. At 1330 hrs on 21 Apr 45 I was ordered to form a draft for the R.H.C. (B.W.). I went on the noon parade and called out the draft. The accused, Pte. Lawrence, C.E. whom I now recognize, was not present, so I immediately set out to look for him. Upon finding him in his quarters I warned him by word of speak that he was on draft for the RHC (B.W.) and was to be cleared immediately. I also told him that he was to proceed to 13 C.B.R. Bn., the next morning at approx 0800 hrs and that the fall in was at 0730 hrs. Hold nines were made on which the accused name, Pte. Lawrence, C.E. was on, a certified true copy of which I produce here at evidence. At 0730 hrs 22 Apr 45 I mustered the draft. I called the roll. The accused failed to answer his name and the draft proceeded forward without him. He was immediately replaced by a spare man. Upon returning to the Coy Orderly Room I reported him immediately as absent to C.S.M. MacIntosh, G.G. and turned in his kit to Q.M. stores. That is all I know.

R.P. 83 (b) complied with.

The accused declines to cross-examine this witness.

John L. Le Guerrier

(J.L. LeGUERRIER) Sgt. D-56228

DOCUMENTARY EVIDENCE

The certified True Copy of the "Hold Nine" referred to in the evidence of the above witness, Sgt. LeGUERRIER, J.L. was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

P.E. Belanger Lieut.

(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

SECOND WITNESS
Prosecution

D-27156 C.S.M. MacINTOSH, G.G. (Q.C.R.) P.E. on the strength of 19 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am D-27156 C.S.M. MacINTOSH, G.G. (Q.C.R.) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. On 22 Apr 45 Sgt. LeGuerrier reported to me that Pte. Lawrence C.E. had failed to proceed on draft at 0730 hrs 22 Apr 45. At 0800 hrs 22 Apr 45 I called the roll of 19 Coy, parade, the accused, whom I now recognize, failed to answer his name and was absent. From this date on, until the accused surrendered himself at 2200 hrs 5 May 45, the accused failed to answer to his name on all 19 Coy parades, and has

Exhibit "C" Barclaygeon President

No B-58637 Name LAWRENCE Charles Edward | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 25 Feb 42 GC Badges | Service of Proficiency Pay 1.50 | MFM 6 (AFB 122) 40/P&S/126 (3438).

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc P.E. Calderall Capt. | Character

Place	Date of offence 1944	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield Ont.	25 Feb	Pte.		CERTIFIES NIL ENTRIES ON COMPLETION OF TWO YEARS CONSECUTIVE SERVICE			P. E. CALDERALL		CAPT.
Field	20Oct44	Pte.		GRANTED 7 Days Priv Leave with T.W.					
Field	19Apr45	Pte.		A.A.Sec 15(1) AWL from 2230 hrs 19 Apr 45 until 2315 hrs 19 Apr 45(Absent 45mins.)	Sgt.Shirley Doc Evid.	Forf 3 Days Pay FR&I 149(2)	21 Apr 45	Lt-Col J. Runcie	Total Forf of 3 Days Pay
Field	4 Apr45	Pte.		A.A.Sec 15(1)AWL from 1030 hrs 4 Apr 45 until 0445 hrs 6 Apr 45.(Absent 1 day 18 hrs. 15 mins.)	D-12019 Sjt. SHIRLEY, A.W. Doc Evid.	28 Days Pay. FR&I 149(2)	14 Apr 45	Lt-Col J. Runcie.	Aut. Forf 2 Days Pay FR&I 149(1) (a) Total Forf 30 Days Pay.
				CERTIFIED TRUE COPY.					

Duncan Arthur Capt Adjt.

Officer i/c Regimental Books.

(PTO)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of		
In the rank of	years,	.....
In the rank of	years,	.....
	years,	.....

(INSTRUCTIONS.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No..... Rank..... Name..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A.47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of May 45

[signature] Arthur Capt. Reg.

Officer 4c Reg. + 1 Bodn.

Exhibit "B"
A. Daillargeon President

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED. ARMY FORM B.

Number	Rank	Name	Regiment (or as the case may be)
B-58637	Pte	Charles Edward LAWRENCE	10 C.B.R. Bn.

The following is a fair and true summary of the entries in the regimental and squadr[illegible] battery or company conduct sheets of the accused, exclusive of convictions by a court martial a civil court, of summary awards under section 47 of the Army Act, and of cases in which tria[illegible] has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For	AA Sec 15(1) 2 times	2 times

2. Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time,

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 530 days in military custody, making a total of 530 days of which NIL days were spent in hospital.

5. The present age of accused according to his record of service is 23 yrs, 6 mths, 6 dys.

6. The date of his attestation specified in his record of service is 25 Feb 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the [illegible] is 3 yrs, 2 mths, 15 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 3yrs, 2mths, 15dys. service

9. The accused is entitled to reckon 3 yrs, 2 mths, 15 dys. service for the purpose of determining his pension, etc.

10. The accused is in possession of,

11. CVSM & CLASP

12.

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

Certified that No. B58637 Rank PTE Name LAWRENCE C.E.

of the 19 COY (RHR&C) Rec't, surrendered to No. B46834

Rank L/CPL Name SCARR M of the 10 C.B.R.Bn. R.R.

2 C.B.R.G. at LEOPOLD BARRACKS 2200 hrs, on the 5th

day of MAY 1945 as an absentee without leave.

He was wearing Military Uniform at time of his Surrender.

~~Arrest.~~

Place LEOPOLD BARRACKS

Date 5-5-45

Exhibit "B"
Pvt. E. Belanger first
Offr. detailed to take
summary of evidence

(J. RUNCIE) Lt-Col.,
O. C., 10 C.B.R.Bn.

Exhibit "B"
Lt Bailliargeon
Major
President

MOVEMENT ORDER & NOMINAL ROLL

Exhibit "A" J Baillargeon Major President

To; O.C. 13 CBR Bn
Au thority; ARS/ 292
Date of auth; 21 Apr 45
Offrs deman ded; Nil
Offrs despatched; Nil
O.R's demanded; 25
O.R's despatched; 25

From ; O.C. 19 Coy 10 CBR Bn
Ration taken; unexpended portion
Date pf SOS ; 22 Apr 45
Departure date; 22 Apr 45
SOS From; X-4 list 10 CBR Bn
SOS to; X-4 list 13 CBR Bn
MBM 1 Part 1 completed to date; yes.

"B" OTHER RANKS DESPATCHED

REGT NO	RANK	NAME & INITIAL	UNIT	TRADE	MFM6	MFM 14
D 71477	Sgt	CARTON R.	RHC	Gen duty	Org	1
B 113429L/	Sgt	WHEATLEY C.M.	RHC	Gen duty	Org	1
B 158072A/	Cpl	BARTON G.E.	RHC	Gen duty	Temp	1
A 107274	Pte	BELL B.I.	RHC	Gen duty	Org	1
D 82234	Pte	CLYNCH B.J.	RHC	Gen duty	Org	1
A 114015	Pte	CUIMAN M.J.	RHC	Gen duty	Temp	1
D 142469	Pte	DESJARDINS E.	RHC	Gen duty	Temp	1
D 14978	Pte	FINCH J.W.	RHC	Gen duty	Org	1
C 1494	Pte	FRIVALT M.P.	RHC	Gen duty	Org	1
B 2427	Pte	HART W.F.	RHC	Gen duty	Temp	1
B 159108	Pte	KIMBER G.E.	RHC	Gen duty	Temp	1
B 58637	Pte	LAWRENCE C.E.	RHC	Gen duty	Temp	1
D 81139	Pte	MALONEY R.	RHC	Genduty	Org	1
D 144000	Pte	MARSHALL F.	RHC	Gen duty	Org	1
A 22890	Pte	O'NEIL M.	RHC	Gen duty	Org	1
D 81613	Pte	WATSON A.C.	RHC	Gen duty	Org	1
D 83786	Pte	CALLAHAN R.F.	RHC	Dvr M/C	Temp	1
D 83002	Sgt	SCOTT W.E.	CIC(R)	Gen duty	Org	1
D 146384	Pte	BAKER W.G.	CIC(R)	Gen duty	Org	1
D 93726	Pte	BARTLETT N.W.	CIC(R)	Gen duty	Org	1
D 496063	Pte	BERTRAND R.	CIC(R)	Gen duty	Org	1
D 83208	Pte	LAPINE G.	CIC(R)	Gen duty	Org	1
D 129798	Pte	LYNCH J.R.	CIC(R)	Gen duty	Org	1
D 144433	Pte	Mac DONALD A.	CIC(R)	Gen duty	Org	1
D 11255	Pte	POITRAS H.	CIC(R)	Gen duty	Org	1
D 144267	Pte	LOGAN NA	CIC(R)	Gen Duty	Org	

MEDICAL INSPECTION. ~~D 142 164 Pte Bars~~

Certify that the a/m personnel have been medically examined and are free from infection and contageous diseases and vermin.

CAPT.
M.O.

DENTAL INSPECTION.

Certify that the a/m personnel have been dentally inspected and are fit to proceed on draft.

CAPT.
D.O.

KIT & EQUIPMENT INSPECTION.

Certify that the a/m personnel have been fully equiped according to scale 111 and are in possession of MBM 1 Part 11 completed.

[redacted]
C.Q.M.S.

MBM 1 PART 11

Certify that the a/m personnel's MBM 1 PART 11 are up-to-date and that MFM 14's are enclosed herewith.

PNR.

DOCUMENTS.

Certify that the a/m personnel's MFM 6's are enclosed herewith.

CAPT.
O.C. 19 Coy 10 CBR

ONE RECEIPTED COPY TO BE RETURNED BY RECEIVING UNIT ON DAY FOLLOWING RECEIPT OF DRAFT

Despatched at 0830 hrs
22 Apr 45 [signature]

16.

E3 Plea in Mitigation – Lawrence. AB.

Lawrence came to France in Nov 44, and was with the RHC from late Nov until Mar 45 when he went to hospital.

His conduct sheet has only two very minor entries on it after 3½ years of service.

He has been under close arrest for one month.

He is single, but supports his mother and I suggest that a light sentence would be appropriate now that the war is over.

P J Osler

A Baillargeon
President

AB.

Summing up by Defence - Lawrence

Lawrence states that he did not know he was on a draft on 21 Apr 45. The three men whom he states were with him at the relevant time have not appeared, although an effort was made to procure them. The case thus remains one of conflicting evidence and it is submitted that Lawrence's version is the more accurate.

Tending to confirm this are the facts that he was not absent very long and surrendered himself before the fighting was over.

PJ Osler maj



Summing up by Defence - Lawrence

15.

AB.

Lawrence states that he did not know he was on a draft on 21 Apr 45. The three men whom he states were with him at the relevant time have not appeared, although an effort was made to procure them. The case thus remains one of conflicting evidence and it is submitted that Lawrence's version is the more accurate.

Tending to confirm this are the facts that he was not absent very long and surrendered himself before the fighting was over.

PJ Oleary

14.

Summing Up. by

Prosecution

AB

This case is one of conflict of evidence. The pros. has brought before you to witnesses who have given clear evidence of their dealing with the accused.

The permanent draft sergent told you how he had occasion to single out the accused and so knew him well. He says he warned him individually. Took him on an individual parade to the M.O. & 2.M. ~~To such~~ after that warning & that conduct there could be little doubt in any soldiers mind that he was warned for draft.

The 2.M. Sgt. collaborates this evidence regarding the parade. The defence is a wholesale denial. He denies hearing the warning though a parade seems to have been called. He tells of shouting from the rear to query what was going on. Then apparently lacks curiosity to ask what had occured. Denys too the individual parades, & denies knowledge of the parades to MO lay 2M & Dentist might t mean.

He is not a new soldier. He went through the same bn. previously. There is ample evidence to support a conviction of desertion. His story hardly asks for credulity on your part.

L.A. Kim LD

AB

to me and we had a slight argument. Denied then he has had it in for me. My eye was cleared satisfactorily when I left 2 CCD. I am sure the draft Sgt did not warn me at any time.

RP (83) B complied with.

In view of the evidence produced at the trial the defending officer requests an adjournment to ascertain if the two soldiers Pte Bell and Privalt are available as witnesses for the accused.

The request of the defending officer is granted and Court is adjourned sine die.

The Court re-assembles at 1030 hrs 4 Jun 46. Same members present.

The defending officer produces copy of letter attempting to locate witnesses to which there has been no reply. (Copy of letter attached to summary for information but not to form part of the proceedings)

The defence is prepared to proceed and requires no further adjournment

[illegible]

KB

I left my unit 5 Mar. went to hospital was there for 2 days - then to 2 C E D for one week and from there to 10 Bn. It was around middle of March I arrived there and not middle of Apr as I had previously stated. The draft Sgt never spoke to me about sec 12(1) AA. or desertion. He never spoke to me about drafts. I first heard about desertion when I came back. The C S M. did know me through orderly room. The first two charges on my crime sheet. The draft Sgt was mistaken because I believe he is prejudiced against me. because before I was a runner at B O R and I came to 19 Coy A R. with some documents, and Sgt Liguerner was busy at the time and I did not want to bother him then and he called me over and asked me if I was a runner. I said yes and he told me I shouldn't have wanted I should have given the documents right away because they might have been important. I did not like the way he talked

My home is Midland, Ont. I went to senior 4th. I went absent on 21 Apr 45. The following morning I went to Knocke. I liked it there and stayed at 2 C C D. I slept in lounge that night and most the time. I came back to Ghent and slept at barracks 2 nights. At Knocke I ate at 2 C C D & JB "Ghent" ~~here~~ at the NAAFI. It was a surprise to me when I heard a draft had gone forward. I didn't want to go back to front. I don't think anyone wants to go back there. I did not know I was supposed to go.

By the Court.

I just waited in Pay Office and when Sgt Shirley brought my pay JB book, "which" ~~it~~ was not there. When the pay book was brought down the Pay Sgt marked in 3 days pay I had lost. I believe I received the pay book and then left. I did not see my friends after the parade. I don't believe anyone in my room was called out on the draft parade. At Q.M. I told them what I was short and it was given to me. No kit inspection. I was not short very much

HB

I did not talk to them afterwards. I got used to be supposed to not know what's going on in army so I was not curious to know what was going on. I have been in army 3 yrs. The visits to QM. MO and Pay aroused no curiosity in my mind. I thought it ordinary routine. I could not say if I went through that routine last nov when I went on draft through 10 Bn. I can't remember. I never asked my friends what it was all about. They did not say anything and I didn't either. ~~The~~ Sgt B Leguerrier has not told the truth. I was on the parade. He did not come into the room while I was there. I saw him on parade and when he paraded us to MO + QM stores but I did not speak to him. CQMS Richardson is certainly wrong when he says I was paraded alone by Sgt Leguerrier to QM stores. I believed that if I did not sign a draft warning I could not be ~~[illegible]~~ charged with desertion. I did not know I was going on a move. I knew nothing.

minutes of that period that I was waiting. There were several people in the room but I did not talk to anyone. No one came in to speak to me at all. I didn't see any NCO's in room. I then went ~~then~~ back to QM stores and from there to Pay. I was with the group at QM stores. I believe it was Sgt Shirley who conducted the group to QM. He was there all the time. I did not go through the dental officer. When I finished at Pay Office that was as far as I went. I don't know why my name was called out on Coy parade. Sgt Legarrier gave no reason why names were called out.

I arrived in UK. Jul 44. I came to Canada in Nov 45. I am single but sole support of my mother. There was one other lad who was on parade and went on draft. I did not know him very well, he was Pte Hart.

Cross-examination

I was fairly friendly with Trimmell and Bell had known them for about 2 months. They were in parade. I did not hear what was said.

the army and for the Q M parade I had a few kit shortages at the time and thought it was an ordinary Q M parade. I have only gone out on the one draft from Leopold Bks which was last Nov. and at that time I was not with the Black Watch. At that time I was more or less C I C. I went to the Black Watch at that time I served with that unit in action for 4 months. I left with eye trouble and went to 12 Can Gen Hosp from there to 2 C C D. and then to 10 Bn. after the middle of Apr. I was on only one previous draft for which I had not been warned. That was in Apr. previous to the one in question. I was A W L for 3 days and when I came back I found out that I had been on draft. The draft had gone out when I came back. I did not know about the draft when I went A W L. When I got to Q M stores on 21 Apr 45 with the group I waited in the hallway for about 1/2 hr. I was in my room for about 10

all 14 Coy personnel were to be on
noon parade. I was on the noon
parade (1330 hr parade) I was on
the parade along with Pte Bell
and Pte Grivault when my name
was called out I joined the
group that had already been
called out before me and as
I was in rear file I could
not hear what Sgt was saying
I called to him to speak
louder. He could not have
heard me as we were immediately
marched off the parade square.
We went to M.O. and had a
"shot arm" and from there
to the A.M. stores and the Pay
Office. I was with the group
and not by myself. I did not
sign any draft notice which I have
done in the past and believed
was necessary. Ptes Bell and
Grivault were with this group
& and ~~if necessary~~ they went on
the draft. and they can prove
I was with the group. There are
no others that I know of who
knew I was with this group. I
did not know what the shot
arm was for as I believe we
have them every so often in

HB.

By the Court

accused was on strength, 19 Coy period of weeks before his absence. He had proceeded from 19 Coy before on draft. I knew the accused very well.

Def. Officer through Court

He proceeded on draft previously from 19 Coy or 42 Coy same personnel just change over in re-organization.

R.P. 83(B) complied with

3rd witness for the prosecution

B 46477 CQMS Richardson R.H. A+SH of C, PE 19 Coy 10 CBR Bn. being duly sworn states.

No examination by prosecutor.

Cross-examination

I remember completing equipment for group men on 21 Apr 45. I remember equiping accused Pte Lawrence I equipped by himself after the main group. He was accompanied by Sgt Leguerrier.

R.P. 83(B) complied with.

Prosecution produces certificate of surrender marked exhibit "B"

Dk

1st witness for the defence.

The accused B 58637 Pte Lawrence CE (RHC) on strength 19 Coy 10 CBR Bn being duly sworn is examined by the defending officer.

I remember 21 Apr 45. On that morning I was warned that

No one else was absent from parade. 10 CBR Bn is reinforcements for Infantry units. 13 CBR Bn. was a forward ~~"area transient camp"~~ ~~where~~ reinforcement Bn at that time. Accused had previously to my knowledge served with R.H.C and that was the reason he was being sent to R.H.C.* The other name crossed off on Nominal roll exhibit "A" was not an A.W.L. but that man had just returned from Italy and was due for Italy leave.

*D.O. through Court

R.P. 83(B) complied with

2nd witness for the prosecution

D 27156 CSM Mac Intosh G.G. Q.O.R. on strength 19 Coy. 10 CBR Bn. being duly sworn is examined by the prosecutor.

Pte Laurence C.E. was reported absent. ~~[illegible]~~ At 0800 hrs 22 Apr 45 I called roll the accused. Pte Laurence whom I recognize was absent. Pte Laurence C.E. the accused has failed to answer his name on all Coy parades and has appeared in all tattoo reports until 5th or 6 May 45 I took accused name off absentee list on 6 May 45.

Cross-examination

I called all these roll calls on Coy parades myself.

as you enter the door. I turned accused over to Assistant "draft sgt" to be taken to Dental Officer and M.O. He was not escorted to M.O. they all go as a whole. The other men on draft went to quarters to check equipment then to Q.M. and Pay. The accused had missed two drafts within a week previous. One time he was AWL and the other time we couldn't find him. The drafts moved quickly. It was never more than 24 hrs from time I received a demand for a draft until the time it went out.

By the Court

The accused was not waived for the 2 previous drafts because he could not be found. No orders ~~plan~~ published that would indicate to accused that he was going to a fighting unit. I told accused that if he ~~did~~ "was" not present to go on this draft he would be charged under AA 12(1) I believe I told him that was desertion. It was laid down that required signatures "on" draft warning order but demands were coming through so fast that we did not have time to obtain signatures

personally. That was not the normal routine. I took him to Pay Office. Then I turned him over to Assistant draft Sgt. for completion of clearances. I told him the next parade would be at 0730 hrs 22 Apr 45 and it would be a muster parade. I had a roll call at that time. I called the roll myself the accused failed to answer. I produce Nominal roll that I used at the time. It is called "Roll 4". Marked exhibit "A". I then got a replacement for the accused. The accused was on strength of 19 Coy at the time. I reported the accused's absence to S.M. of 19 Coy.

Cross-examination

When there is a draft a Coy parade is called. I call out names of the draft. Leaving two groups. The draft group and remainder of Coy. I went off to look for accused as soon as last draft name had been called. I found accused in his room 36 or 38 with several others in there.

I think accused was in 3rd or 4th bed on left-hand side

2. B 58637 Pte Lawrence CE (RHC) 19 Coy CBR Bn.

D3

1st witness for the prosecution

D 56228 ~~B 58637~~ Sgt Leguerrier J.L. A & SH of C (PL) 19 Coy 10 CBR Bn having been duly sworn is examined by the prosecutor.

I am on P.E. 19 Coy 10 CBR Bn. permanent draft Sgt. At 1300 hrs 21 Apr 45 I received draft demand ~~from~~ for RHC. I called a parade at 1330 hrs. There was one absentee on that parade, the accused Pte Lawrence. I immediately went to look for accused and found him in his quarters. I told him he was on the draft for RHC and that I would clear him through the proper channels that afternoon. I told him he was to proceed to 13 Bn as reinforcement for "Black Watch". I had accused on draft twice previously but he did not go. That fact influenced me to explain this draft to accused. I then took him to QM store to be fully equipped. The accused was alone. I took him

2. Opening Address by Prosecution

Mr. President & Gentlemen,

The accused is charged with a particular form of desertion of avoiding a draft to the Field.

I shall bring first hand evidence that the accused was warned by word of mouth, was paraded through the clearances and was ~~went~~ absent ~~from~~ the next morning at 0730 hrs. 27 Apr 45 and evidence will be given that he was absent till 2200 hrs. 5 May 45.

CHARGE SHEET

The accused B-58637 Pte. Charles Edward LAWRENCE (R.H.C.) on the strength of 19 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

is charged with

FIRST CHARGE
AA Sec 12(1)

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field at 0730 hrs 22 Apr 45 having been duly warned to proceed on draft to the Field absented himself without leave with intent to avoid so proceeding until surrendering himself at 2200 hrs 5 May 45.
Total absence: 13 days, 14 hrs, 30 mins.

(J. MUNCIE) Lt.-Col.
O.C., 10 C.B.R. Bn.

In the Field
10 May 45

To be tried by FIELD GENERAL COURT MARTIAL

(J. [illegible]) Brigadier,
Commander
2 Cdn Base Ref Gp

In the Field
15 May 45

10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
B-58637	Pte		Charles Edward	LAWRENCE	RHC 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F A BATTLEGOOD	Gen List Cdn CM Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R M R DALE	Cdn CM Centre
Capt	K S AUER	Cdn CM Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in	(Country.)	(Cmd formerly RP 105 fn 2.)	(Rank.)
BELGIUM		(J. M. Wragge Lt-Col)	Brigadier

Date 15 May 45 Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA&S (In lieu of AFA&S 60-9 & S.1607 (4801))

(See overleaf for oaths and notes for use on trial.)

I certify that I have this day examined B 58637 Pte [illegible]

Lawrence C.E. and in my opinion he is fit/unfit to undergo trial by

Court Martial.

Station Field

Date 22 May 45

V. E. Jones Capt
Medical Officer

[illegible]
Unit

AB

MEDICAL OFFICER'S REPORT

I certify that No. B 58637 Pte Lawrence C.E.
of 10 C B R Bn is in a fit state of health,
and Able to undergo Trial by Court martial.

V. E. Smith Capt
Medical Officer

Station Field

Date 4 June 45

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-58637 Pte Charles Edward LAWRENCE RHC 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12 (1)	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 713, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 30 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR NINE (9) MONTHS

~~Sgd~~ Judge Advocate, if any

4 JUN 45 Date awarded.

(Sgd) C Ballagh President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) J G Spry (J G Spry) Brigadier

Date 6 JUN 45 Commanding ~~2 CDN ARMD BDE~~ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B58637 PTE CHARLES EDWARD LAWRENCE	14 JUN 45	J.D. Richmond Lieut Comdg 1 Can Armd Fd Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without outby from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 85, 86 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc. see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP 37(B).* 2. *RP 37(2) fn 4.* 3. *RP 37(B) fn 3 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 23(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(2).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(4) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~short~~ opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Evidence as a witness. Do you intend to call witnesses on your behalf ? Ans NO SIR . ~~Are they witnesses as to character only ? Ans .....~~

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(6).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) ~~or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (1).~~

(1. *AA 34(2) (6), RP 45, 120(A).* 2. *AA 34(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B C and Ex C D respectively.(3)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES THROUGH MY DEFENDING OFFICER .....(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 34(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA if any.~~(2)

(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 88, 118, 119(4), KR Con 308, 330, Sch3-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 50-27.

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA31 40/P & S/1698 (6930) 4/3BB

RECEIVED 28 JUN 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig J G Spragge DSO OBE ED Comd 2 CBRG dated 15 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) oppmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R. ~~(b) Appmt, A/R or A/Appmt~~	Full Christian Names.	Surname.	Unit
B-58637 Pte	Charles Edward	LAWRENCE	Cd Sec BPC 21 Army Gp.

PROCEEDINGS REVIEWED
[illegible]
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
[illegible]
3 Jun 45
21 Army Gp.

PROCEEDINGS OF TRIAL.

Trial of the Pd in ~~custody~~ BEDBURN on ~~(date(s))~~ 22 May 45 [illegible] JUNE 15.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. B.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.) 33/127

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) B
The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) B

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0945 hours trial commences. B

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) B
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~ B

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~ B.
~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~ B.
~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N/A [illegible] (2) B

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: B

President	Major	P A BAILLARGEON	Gen List Cdn CM Centre
Member	CAPT	M.R.M. DALE	RCA CDN CM CENTRE
Member	CAPT	K.S. AUER	RCA CDN CM CENTRE
~~Judge Advocate~~			
Prosecutor	LIEUT	L.A. MITZ	PLFS CDN CM CENTRE
Defending Offr	MAJOR	P.S. OSLER	RCA CDN CM CENTRE

Questions by President: Is the Prosecutor a lawyer? Ans YES. Is the Defending Offr a lawyer? Ans YES (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-58637 Pte Charles Edward LAWRENCE before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on ~~all~~ charge~~s~~ in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. B

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol. 7 p 99

FAB

LIST OF WITNESSES

FOR THE PROSECUTION

D-56223	Sgt	LAWRENCE	J.L.	(A & SI of C (P.L.))	P.W.	19 Coy 10 CHR Bn
D-27156	C.S.M.	MacEWEN	G.G.	(C.O.M.)	P.W.	19 Coy 10 CHR Bn
D-49477	C.Q.M.S.	RICHARDSON	R.H.	(A & SI of C (P.L.))	P.W.	19 Coy 10 CHR Bn

FOR THE DEFENCE

NIL.

LIST OF EXHIBITS

Exhibit "A" - Certified True Copy of Nominal Roll on which the accused name appears.

Exhibit "B" - Certificate of Surrender.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND THE LIST OF EXHIBITS.

I DO REQUIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY FIELD GENERAL COURT MARTIAL.

C.E. Lawrence

(C.E. LAWRENCE) Pte D-56237

FAB

SECOND WITNESS (Cont'd)
Prosecution

appeared in all Tattoo Reports as absent between the above mention dates, that is between 0730 hrs 22 Apr 45 and 2200 hrs 5 May 45.

R.P. 83 (b) complied with.

The accused declines to cross-examine this witness.

Geo G MacIntosh
(G.G. MacINTOSH) C.S.M. D-27156

THIRD WITNESS
Prosecution

B-46477 C.Q.M.S. RICHARDSON, R.H. (A & SH OF C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am B-46477 C.Q.M.S. RICHARDSON, R.H. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. I am in charged of Q.M. stores of 19 Coy, 10 C.B.R. Bn. On the 21 Apr 45 I had the occasion to fully equip an out-going draft. Pte. Lawrence, C.E., the accused, whom I now recognize, was issued with full kit ready to go on draft. That is all I know.

R.P. 83 (B) complied with.

The accused declines to cross-examine this witness.

R H Richardson
(R.H. RICHARDSON) C.Q.M.S. B-46477

DOCUMENTARY EVIDENCE

The certificate of Surrender under AA Sec 163 (i)(j) produced as documentary evidence was read over to the accused, marked Exhibit "B", signed by me and attached hereto.

Paul E. Bélanger Lieut
(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

The accused having been cautioned as follows : "Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give any evidence, unless you wish to do so, but what-so-ever you may say or any evidence you may give will be taken down in writing and may be used in evidence," declines to give any evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of Two (2) pages was taken down in writing by me, in the presence and hearing of the accused.

I certify that R.P. 4 (C)(D)(E) and (F) have been complied with.

Paul E Bélanger Lieut
(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

FAB

SUMMARY OF EVIDENCE

In the case of D-58637 Pte. Charles Edward LAWRENCE (R.H.C.) on the strength of 19 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

D-56228 Sgt. LeGUERRIER, J.L. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. having been duly sworn states:

I am D-56228 Sgt. LeGUERRIER, J.L. (A & SH of C (P.L.)) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. I am permanent draft Sgt. At 1330 hrs on 21 Apr 45 I was ordered to form a draft for the R.H.C. (B.W.). I went on the noon parade and called out the draft. The accused, Pte. Lawrence, C.E. whom I now recognize, was not present, so I immediately set out to look for him. Upon finding him in his quarters I warned him by word of mouth that he was on draft for the RHC (B.W.) and was to be cleared immediately. I also told him that he was to proceed to 13 C.B.R. Bn., the next morning at approx 0800 hrs and that the fall in was at 0730 hrs. Hold nines were made on which the accused name, Pte. Lawrence, C.E. was on, a certified true copy of which I produce here at evidence. At 0730 hrs 22 Apr 45 I mustered the draft. I called the roll. The accused failed to answer his name and the draft proceeded forward without him. He was immediately replaced by a spare man. Upon returning to the Coy Orderly Room I reported him immediately as absent to C.S.M. MacIntosh, C.G. and turned in his kit to Q.M. stores. That is all I know.

R.P. 83 (b) complied with.

The accused declines to cross-examine this witness.

John L. LeGuerrier Sgt

(J.L. LeGUERRIER) Sgt. D-56228

DOCUMENTARY EVIDENCE

The certified True Copy of the "Hold Nine" referred to in the evidence of the above witness, Sgt. LeGUERRIER, J.L. was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

P.E. Belanger Lieut

(P.E. BELANGER) Lieut.
Officer detailed to take
Summary of Evidence

SECOND WITNESS
Prosecution

D-27156 C.S.M. MacINTOSH, C.G. (Q.C.R.) P.E. on the strength of 19 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am D-27156 C.S.M. MacINTOSH, C.G. (Q.C.R.) P.E. on the strength of 19 Coy, 10 C.B.R. Bn. On 22 Apr 45 Sgt. LeGuerrier reported to me that Pte. Lawrence C.E. had failed to proceed on draft at 0730 hrs 22 Apr 45. At 0800 hrs 22 Apr 45 I called the roll of 19 Coy, parade, the accused, whom I now recognize, failed to answer his name and was absent. From this date on, until the accused surrendered himself at 2200 hrs 5 May 45, the accused failed to answer to his name on all 19 Coy parades, and has

Exhibit "C" " F A Baillargeon " President

MFM 6 (AFB 122) 40/PAS/136 (3438)

No B-58637 Name LAWRENCE Charles Edward | Sqn, Battery, or Company | Corp C.I.C. | Date of enlistment 25 Feb 42 | GC Badges | Service or Proficiency Pay ---

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc P.E. Caldwell Capt. | Character

Place	Date of 1942	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barrie Ont.	25 Feb	Pte.		CERTIFIES NIL ENTRIES ON COMPLETION OF TWO YEARS CONSECUTIVE SERVICE			P. E. CALDERALL CAPT.		
Field	20 Oct 44	Pte.		GRANTED 7 Days Priv Leave with T.W.					
Field	19 Apr 45	Pte.		A.A.Sec 15(1) AWL from 2230 hrs 19 Apr 45 until 2315 hrs 19 Apr 45 (Absent 45 mins.)	Sgt. Shirley Doc Evid.	Forf 3 Days Pay FRAI 149(2)	21 Apr 45	Lt-Col J. Runcie	Total Forf of 3 Days Pay
Field	4 Apr 45	Pte.		A.A.Sec 15(1) A L from 1030 hrs 4 Apr 45 until 0445 hrs 6 Apr 45. (Absent 1 Day 18 hrs. 15 mins.)	D-12019 Sjt. SHIRLEY, A.W. Doc Evid.	28 Days Pay. FRAI 149(2)	14 Apr 45	Lt-Col J. Runcie.	Aut. Forf 2 Days Pay FRAI 149(1) (a) Total Forf 30 Days Pay.

CERTIFIED TRUE COPY.

Officer i/c Regimental Books.

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with or accused.

No..... Rank..... Name..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A.47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this...10.....day of.....May 45.....

[signature] Capt Adjt

Given in Charge Regt'l Book

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	years,	.....
In the rank of	years,	.....
In the rank of	years,	.....

(INSTRUCTIONS.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Exhibit,"B" " F A Baillargeon " President.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED. ARMY FORM B.2

Number	Rank	Name	Regiment (or as the case may be)
[redacted]	[redacted]	[redacted]	[redacted]

1. The following is a fair and true summary of the entries in the regimental and squadron battery or company conduct sheets of the accused, exclusive of convictions by a court martial and of court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For [redacted]	2 times	2 times
For [redacted]	[redacted]	[redacted]
For [redacted]	[redacted]	[redacted]
For [redacted]	[redacted]	[redacted]

[redacted]

[redacted]

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for [redacted] days in civil custody, and 30 days in military custody, making a total of 30 days of which [redacted] days were spent in hospital.

5. The present age of accused according to his record of service is 25 yrs. 6 mths. 6 dys.

6. The date of his attestation specified in his record of service is 25 Feb. 40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs. 2 mths. 15 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs. 2 mths. 15 dys. service.

9. The accused is entitled to reckon 3 yrs. 2 mths. 15 dys. service for the purpose of determining his pension, etc.

10. The accused is in possession of, [redacted]

11. [redacted]

[redacted]

CERTIFICATE UNDER AARMY ACT SECTION 163 (1) (1)

Certified that B58637 Pte LAWRENCE C.E. of the 19 Coy (RHR) of C surrendered to B46834 L/Cpl Scarr M of the 10 CBR Bn RP 2 CBRG at Leopold Barracks at 2200 hrs on the 5th day of May 1945, as an absentee without leave. He was wearing military uniform at the time of his surrender.

" J Runcie "

Leopold Barracks

5-5-45

(J Runcie) Lt col
O.C., 10 C.B.R.Bn.

Exhibit B
"Paul E Belanger " Lieut
Offr detailed to take
Summary of Evidence.

Exhibit "B"
" F A Baillargeon "
Major
President.

MOVEMENT ORDER & NOMINAL ROLL

TO: OC 13 CBR Bn
Authority: ARS/292
Date of auth; 21 Apr 45
Offrs demanded; Nil
Offrs despatched; Nil
O.R.'s demanded; 25
O.R.'s despatched; 25

From; OC 19 Coy 10 CBR Bn
Ration taken; unexpended portion
Date of SOS: 22 Apr 45
Departure xx Date: 22 Apr 45
SOS from: X-4 List 10 CBR Bn
SOS To: X-4 List 13 CBR Bn
MBM 1 Part 1 completed to date; Yes.

"B" OTHER RANKS DESPATCHED

REGT NO	RANK	NAME & INITIAL	UNIT	TRADE	MFM6	MFM14
B58637	Pte	LAWRENCE C.E.	RHC	Gen Duty	Temp	1

Medical Inspection
Certify that the a/m personnel have been medically examined and are free from infection and contageous diseases and vermin.

Capt
MO

Dental Inspection
Certify that the a/m personnel have been dentally inspected and are fit to proceed on draft.

Capt
D.O.

Kit & Equipment Inspection
Certify that the a/m personnel have been fully equipped according to scale 111 and are in possession of MBM 1 Part 11 completed.

C.Q.M.S.

MFM 1 Part 11.
Certify that the a/m personnel's MFM 1 Part 11 are up-to-date and that MFM 14's are enclosed herewith.

PMR

Documents
Certify that the a/m personnel's MFM 6's are enclosed herewith.

Capt
OC 19 Coy 10 CBR Bn

ONE RECIPTED COPY TO BE RETURNED BY RECEIVING UNIT ON DAY FOLLOWING RECEIPT OF DRAFT.

Despatched at 0830 hrs 22 Apr 45 " John L "

Exhibit "A" " F A Baillargeon " Major
President

E-3 Plea in Mitigation - Lawrence FAB

Lawrence came to France in Nov 44, and was with the RHC from late Nov until Mar 45 when he went to hospital.

His conduct shet has only two very minor entries on it after 3½ yrs of service.

He has been under close arrest for one month. He is single, but supports his mother and I suggest that light sentence would be appropriate now that the war is over.

" P S Osler "

" F A Baillargeon "

President.

Summing up by Defence - Lawrence FAB

Lawrence states that he did not know he was on a draft on 21 Apr 45. The three men whom he states were with him at the relevant times have not appeared, although an effort was made to procure them. The case thus remains one of conflicting evidence and it is submitted that Lawrence's version is the more accurate.

Tending to confirm this are the facts that he was not absent very long and surrendered himself before the fighting was over.

" P S Osler " Maj.

Summing up by Prosecution

FAB

This case is one of conflict of evidence. The pros has brought before you to witnesses who have given clear evidence of their dealing with the accused.

The permanent draft sergeant told you how he had occasion to single out the accused and so knew him well. He says he warned him individually. Took him on an individual parade to the MO & QM. After that warning and that conduct there could be little doubt in any soldiers mind that he was warned for draft.

The QM Sgt collaberates this evidence regarding the parade. The defence is a wholesale denial. He denies hearing the warning though a parade seems to have been called. He tills of shourting from the rear to find out what was going on. Then apparently lacks curiosity to ask what had occurred. Denys too the individual parades and denies knowledge of the parades to MO Pay QM & Dentist might mean.

He is not a new soldier. He went through the same bn previously There is ample evidence to support a conviction of desertion. His story hardly asks for credibility on your part.

" L A Kitz " Lt.

In view of the evidence produced at the trial the defending officer requests an adjournment to ascertain if the two soldiers ptes Bell and Frivault are available as witnesses for the accused.

The request of the defending officer is granted and court is adjourned siene die

The court re-assembles at 1030 hrs 4 Jun 45, same members present.

The defending officer produces copy of letter attempting to locate witnesses to which there had benn no reply. (Copy of letter attached to Summary for information but not to form part of the proceedings.)

The defence is prepared to proceed and requires no further adjournment.

At that time I was more or less CIC. I went to the Black Watch at that time. I served with that unit in action for 4 months. I left with eye trouble and went to 12 Cdn Gen Hosp from there to 2 C.C.D. and then to 10 Bn. After the middle of Apr. I was on only one previous draft for which I had not been warned. That was in apr previous to the one in question, I was AWL for 3 days and when I came back I found out that I had been on draft. The draft had gone out when I came back. I did not know about the draft when I went AWL. When I got to QM stores on 21 Apr 45 with the group I waited in the hallway for about ½ hour. I was in my room for about 5 or 10 minutes of that period just waiting. There were several people in the room but I did not talk to anyone. No one came in to speak to me at all. I didnt see any NCO's in room. I then went back to QM Stores and from there to Pay. I was with the group at QM Stores. I believe it was Sgt Shirley who conducted the group to QM He was there all the time. I did not go through the dental officer. When I finished at Pay Office that was as far as I went. I don't know why my name was called out on coy parade. Sgt Legeurrier gave no reasnn why names were called out.

I arrived in UK Jul 44. I came to continent in Nov 45. I am single but sole support of my mother. There was one other lad who was on parade and went on draft. I did not know him very well, he was pte Hart.

Cross examination.

I was fairly friendly with Frivault and Bell had known them for about 2 months. They were in parade. I did not hear what was said. I did not talk to them aftereards. I got used to be supposed to not know whats going on in army so I was not curious to know what was going on. I have been in army 3 yrs. The visits to QM, MO and Pay aroused no curiosity in my mind. I thought it ordinary routine. I could not say if I went through that routine, last nov when I went on draft throug 10 Bn. I can't remember. I never asked my friends what it was all bout They did not say anything and I didn't either. Sgt Leguerrier has not told the truth. I was on the parade. He did not come into the room while I was there. I saw him on parade and when he paraded us to MO & QM stores but I did not speak to him. CQMS Richardson is certainly wrong when he says I was paraded alone by Sgt Leguerrier to QM Stores. I believed that If I did not sign a draft warning I could not be charged with desertion. I did not know I was going on a move. I knew nothing. My home is Midland, Ont. I went to Senior 4th. I went absent on 21 Apr 45. The following morning I went to Knocke. I liked it there and stayed at 2 CCD. I slept in lounge that night and most the time. I came back to Ghent and slept at barracks 2 nights. At Knocke I ate at 2 CCD & at Ghent at the NAAFI. It was a surprise to me when I heard a draft had gone forward. I didn't want to go back to front. I dont think anyone wants to go back there. I did not know I was supposed to go.

By the court

I just waited in Pay Office and when Sgt Shirley brought my pay book which was not there. When the pay book was brought down the pay sgt marked in 3 days pay I had lost. I believe I received the pay book and then left. I did no see my friends after the parade. I dont believe anyone in my room was called out on the draft parade. At QM I told them what I was short and it was given to me. No kit inspection I was not short very much. I left my unit 5 Mar went to hospital and was there for 2 days then to 2 C.C.D. for one week and from there to 10 Bn. It was around middle of March I arrived there and not middle of Apr as I had previously stated. The draft sgt never spoke to me about sec 12(1) A.A. or desertion. He never spoke to me about drafts. I first heard about desertion when I came back. The CSM did know me through orderly room. The first two charges on my crime sheet. The draft sgt was mistaken because I believe he is prejudiced against me, because before I was a runner at BOR and I came to 19 Coy O.R. with some documents and Sgt Leguerrier was busy at the time and I did not want to bother him then and he called me over and asked me if I was a runner. I said yes, and he told me I shouldn't have waited I should have given the documents right away because they might have been important. I did not like the way he talked to me and we had a slight argument. Since then he has had it in for me. My eye was cleared satisfactorily when I left 2 C.C.D. I am surethe draft Sgt did not warn me at any time. RP 83 (b) complied with.

2nd Witness for
the prosecution

FAB

D27156 CSM MacIntosh G.G., QOR on strength of 19 Coy 10 CBR Bn being duly sworn is examined by the prosecutor.

Pte Lawrence C.E. was reported absent at 0800 hrs 22 Apr 45 I called roll the accused Pte Lawrence whom I recognize was absent. Pte Lawrence C.E. the accused has failed to answer his name on all Coy parades and has appeared in all tattoo reports until 5th or 6 May 45. I took accused name off absentee list on 6 May 45.

Cross examination

I called all these roll calls on coy parades myself.

By the Court

Accused was on strength of 19 Coy period of weeks before his absence. He had proceeded from 19 Coy before on draft. I knew the accused very well.

Def Officer through Court

He proceeded on draft previously from 19 Coy or 42 Coy same personnel just change over in re-organization.

RP 83 (b) complied with.

3rd Witness for
the prosecution

B46477 CQMS Richardson RH A&SH of C, PE 19 Coy 10 CBR Bn having been duly sworn states:

No examination by prosecutor

Cross Examination

I remember completing equipment for group men on 21 Apr 45. I remember I equipping accused pte Lawrence. I equipped by himself after the main group. He was accompanied by Sgt Leguerrier.

RP 83 (b) complied with.

Prosecution produces certificate of surrender marked Exhibit "B".

D6

1st Witness for
the Defence.

The accused B58637 Pte Lawrence C.E. (RHC) on strength of 19 Coy 10 CBR Bn being duly sworn is examined by the Defending Officer.

I remember 21 Apr 45. On that morning I was warned that all 19 Coy personnel were to be on noon parade. I was on the noon parade (1330 hrs Parade). I was on the parade along with Pte Bell and Pte Frivault when my name was called out I joined the group that had already been called out before me and as I was in rear file I could not hear what Sgt was saying. I called to him to speak louder. He could not have heard me as we were immediately marched off the parade square. We went to MO and had a "short arm" and from there to the QM Stores and the Pay Office. I was with the group and not by myself. I did not sign any draft notice which I have done in the past and believed was necessary. Pte Bell and Frivault were with his group and they went on the draft and they can prove I was with the group. There are no others that I know of who knew I was with this group. I did not know what the short arm was for as I believe we have them every so often in the army and as for the QM parade I had a few kit shortages at the time and thought it was an ordinary QM parade. I have only gone out on the one draft from Leopold Bks which was last November and at that time I was not with the Black Watch.

B58637 Pte Lawrence C.E. (RHC) 19 Coy 10 CBR Bn. FAB

D3
1st Witness for
the prosecution

D56228 Sgt Leguerrier J.L. A&SH of C (PL) 19 Coy 10 CBR Bn having been duly sworn is examined by the Prosecutor.

I am on P.E. 19 Coy 10 CBR Bn permanent draft sgt. At 1300 hrs 21 Apr 45 I received a draft demand for RHC. I called a parade at 1330 hrs. There was one absentee on that parade, the accused Pte Lawrence. I immediately went to look for accused and found him in his quarters. I told him he was on the draft for RHC and that I would clear him through the proper channels that afternoon. I told him he was to proceed to 13 Bn as reinforcement for "Black Watch." I had accused on draft twice previously but he did not go. That fact influenced me to explain this draft to accused. I then took him to QM Stores to be fully equipped. The accused was alone. I took him personally. That was not the normal routine. I took him to Pay Office. Then I turned him over to Assistant draft sgt for completion of clearances. I told him the next parade would be at 0730 hrs 22 Apr 45 and it would be a muster parade. I had a roll call at that time. I called the roll myself the accused failed to answer. I produce nominal roll that I used at the time. It is called "hold 9". Marked Exhibit "A". I then got a replacement for the accused. The accused was on strength of 19 Coy at the time. I reported the accused's absence to S.M. of 19 Coy.

Cross examination

When there is a draft a coy parade is called. I call out names of the draft, leaving two groups. The draft group and remainder, of coy I went off to look for accused as soon as last draft name had been called. I found accused in his room 36 or 38 with several others in there.

I think accused was in 3rd of 4th bed on left hand side as you enter the door. I turned accused over to Assistant draft sgt to be taken to Dental officer and M.O. He was not escorted to M.O. They all go as a whole. The other men on draft went to quarters to check equipment then to QM and Pay. The accused had missed two drafts within a week previous. One time he was AWL and the other time we couldnt find him. The drafts moved quickly. It was never more than 24 hrs from time I received a demand for a draft until the time it went out.

By the Court

The accused was not warned for the 2 previous drafts because he could not be found. No orders published that would indicate to accused that he was going to a fighting unit. I told accused that if he was not present to go on this draft he would be charged under AA 12(1) I believe I told him that was desertion. It was laid down that required signatures on draft warning order but demands were coming through so fast that we did not have time to obtain signatures. No one else was absent from parade. 10 CBRBn is reinforcements from Infantry units. 13 CBR Bn was a forward reinforcement Bn at that time. Accused had previously to my knowledge served with RHC and that was the reason he was being sent to RHC.

DO through Court

The other name crossed off on nominal roll exhibit "A" was not an AWL but that man had just returned from Italy and was due for Italy leave.

RP 83 (b) complied with.

D2

Mr President & Gentlemen:

The accused is charged with a particular form of desertion of avoiding a draft to the field.

I shall bring first hand evidence that the accused was warned by word of mouth, was paraded through clearances and was absent the next morning at 0730 hrs 22 Apr 45, and evidence will be given that he was still absent till 2200 hrs 5 May 1945.

D2 **Opening Address by Prosecution** FAB

Mr President & Gentlemen:

The accused is charged with a particular form of desertion of avoiding a draft to the field.

I shall bring first hand evidence that the accused was warned by word of mouth, was paraded through clearances and was absent the next morning at 0730 hrs 22 Apr 45, and evidence will be given that he was still absent till 2200 hrs 5 May 1945.

FAB

CHARGE SHEET

The accused D-58637 Pte. Charles Edward LAWRENCE (R.H.C.) on the strength of 19 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

is charged with

FIRST CHARGE
AA Sec 12(1)

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field at 0730 hrs 22 Apr 45 having been duly warned to proceed on draft to the Field absented himself without leave with intent to avoid so proceeding until surrendering himself at 2200 hrs 5 May 45.
Total absence: 13 days, 14 hrs, 30 mins.

(J. RUNCIE) Lt.-Col.
O.C., 10 C.B.R. Bn.

In the Field
10 May 45

To be tried by FIELD GENERAL COURT MARTIAL

" J G Spragge " Brig

In the Field
15 May 45

(J G Spragge) Brigadier
Commander
2 Cdn Base Rft Gp

FAB

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40)FAB/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B58637	Pte		Charles Edward	LAWRENCE	RHC 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 15 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. JGS

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F A Baillargeon	Gen List	Cdn C M Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	M R M Dale	Cdn C M Centre
Capt	K S Auer	Cdn C M Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

" J G Spragge " (Signed personally. RP 105 fn 2.)

(J G Spragge)

Brigadier (Rank.)

Date 15 May 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

FAB

MEDICAL OFFICER'S CERTIFICATE

(KR(Can)Para 557)

I certify that I have this day examined B58637 Pte Lawrence C.E.

of 10 CBR Bn ~~xxxxx~~ in my opinion he is fit ~~xxxxxx~~ to undergo trial by Court Martial.

Station Field

Date 4 June 45

" V E Smith " Capt (Sgd)
Medical Officer

Unit

FAB

MEDICAL OFFICER'S CERTIFICATE (KR(Can)Para 587)

I certify that I have this day examined B58637 Pte Lawrence C.E.

and in my opinion he is fit/~~unfit~~ to undergo

trial by Court Martial.

Station Field

Date 22 May 45

" V E Smith " Capt (Sgd)
Medical Officer

10 C.B.R.Bn
Unit

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B58637 Pte Charles Edward LAWRENCE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present undergoing PD/~~ ~~beginning on (date)~~ (1) B

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial:—a total of 30 days, of which no days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for nine months.

~~Recommendation as to~~ B ~~Reduction (if any)~~

4 Jun 45 (Sgd)" F A Baillargeon " Maj
Date awarded. President. (RP 45, 50.) Pres

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.4th(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 127, MML p 94. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) JGS

(1. AA 57A. Delete if not used.)

(Sgd) " J G Spragge "
(J G Spragge) Brigadier
Date 6 Jun 45 Commanding 2 CDN BASE RPT GP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B58637 Pte Charles Edward LAWRENCE	14 Jun 45	" V S J Richmond " Lt Col Comdg, 1 Cdn Disciplinary Centre

CR#546
d/13 Jun 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1) B
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ B
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Evidence on oath endorsed. Do you intend to call witnesses on your behalf ? Ans NO SIR ~~Are they witnesses as to character only ? Ans.....~~ B
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fn* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 492. *Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. B
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) B
~~He, the President, announces that the accused is found Not Guilty on the charge and he is released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is ruled and signed.(2)~~ B
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~nil~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 180(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3) B B B
(1. *MFB* 353 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 338. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans You thought my defending officer on both anything here or previously stated which would affect the amount of punishment. *RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.(2)~~ B
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 360-366, *Overseas RO* 309, 2323, *MML p* 66, 707-719. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*B*), 68(7), *KR Con* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

50-27

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1655 ~~40/40~~ 4/38B

Convened by Order of Brig JC Spragge DSO OBE ED Comd 2 CBRG dated 15 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B58637	Pte		Charles Edward	LAWRENCE	RHC 10 CBR Bn

CERTIFIED TRUE COPY
[signature]

PROCEEDINGS OF TRIAL.

Held in the Fd in ~~(country)~~ BELGIUM on ~~(date(s))~~ 22 May & 4 Jun 45 B

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 33/127

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. B

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet~~(s)~~ attached thereto.(1) B
The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) B

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0945 hours trial commences. B

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) B
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ B

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~ B
~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~ B
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: B

President	Major	F A Baillargeon	Gen List	Cdn C M Centre
Member	Capt	M R M Dale	RCA	Cdn C M Centre
Member	Capt	K S Auer	RCA	Cdn C M Centre
Judge-Advocate				
Prosecutor	Lieut	L A Kitz	PL Fus	Cdn C M Centre
Defending Offr	Major	P S Osler	RCA	Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B58637 Pte Charles Edward LAWRENCE ~~before~~ arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on ~~all~~ THE charge~~s~~ in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. B

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 61; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG VOL 7 P 99

50-27.

Pt. Laurence, B.C.

Ex p RLM

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/6-44	Pte		AA 15(1) Awl from 1200 hrs 4 Jun 44 to 1500 hrs 4 Jun 44 (3 Hrs)	Capt. A.J.G. Leighton Pte Robertson	21 days F.P. 21 days pay FR&I 149(2)	7 Jun 44	LT-col F.J. Thorne.	

Certified true copy from the regtl books in my custody.

J.R. Dent A/Capt

(J.R. Dent)

No | Name | Sqn, Battery or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay

MFM 6 (AFB 122) 60/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
O.A.S.	22 Nov 43	Pte		AA 11 WOAS conduct to the prejudice of good order and military discipline in that he did disobey unit orders by not remaining in the guard room while awaiting tour of duty. Absent from Guard Room at approx 2100 hrs 22 Nov 43	Doct'y	14 Extra guards	23/11/43	Major S.J. Deery	
O.A.S.	5 Dec 43	"		AA 15 (1) AW1 inthat he was absent from camp from 1330 hrs 5 Dec 43 until 1530 hrs 5 Dec 43 without proper authority (2 hrs)	Sgt Gaillard,	7 day pay FR&I 149 1 (e)	9/12/43	Major S.J. Deery	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Haymill Camp Burnham. Bucks.	23-3 43	Pte		Sec15(1)A.A.WOAS AWL,i.e.he was absent from Tattoo at 2300hrs 23-3-43 until 2345 hrs 23-3-43 when he was found by the Regt'l Police entering Camp by the Back Bridge. Total time absent 45 mins.	Pte Foster W.J. Pte Dicks W.H.	Forf 2 days pay FR&I 149 (2)			
Haymill Camp Burnham Bucks	2-4-43	Pte		Sec 9 (2) AA WOAS disobeying an lawful Command given by his superior officer i.e. he at 1630 hrs 2 Apr 43 was given a command verbally by N.C.O.i/c Camp details to report on parade at 1830 hrs 2 Apr 43 for fatigues duty to help unloading a carload of coal Pte Lawrence immediatley replied that he would not report and would not do this duty.	S/Sgt Webster, J. Pte Chowns, W. Pte Spooner, J.	14 days C.B.	5 Apr 43	Maj. H.W. Thomas	

Ex R.A.M.F.

No D-114503 Name Lawrence B.F. | Sqn, Battery or Company M.T. | Corps R.C.O.C. | Date of enlistment 14-8-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Haymill Camp Burnham, Bucks.	3-1-43	Pte		(1)Secl5(1)A.A.W.O.A.S AWL i.e. he was absent without leave from tattoo at 2200hrs 3-1-43 until 0015hrs 4-1-43. Total time absent 2 hours & 15 mins.	Cpl Pearce C.S. Cpl Beebe P.C. L/Cpl Welburn E.F.	Forf.10 days pay FP&I 149(2)			Total forf. 10 days pay.
				(2)Secl5(3)A.A.W.O.A.S AWL i.e.he whilst under sentence of C.B. by his Officer Commanding broke out of barracks & broke into barracks, being absent from 2200hrs 3-1-43 until 0015hrs 4-1-43. Total absent 2 hours and 15 minutes.			8-1-43	W.L.Thompson Lt-Col C.O.	

(P.T.O.)

Exh. RCM.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(2)SecB(2)A.A.WOAS-Striking his superior Officer. (3)Sec40A.A.WOAS Conduct to the prejudice of Good Order &Military Disc.		RELEASED from DETENTION BARRACKS WHITLEY on Oct 8,1941 SENTENCE HAVING EXPIRED. Remission earned under"Rules for Detention Barrackx and Military Prisons"30days. Commandand's initials:G.B.			Pay FR&I149(1
Haymill Camp Burnham Bucks.	30-12-42	Pte		Sec15(1)A.A.WOAS AWLi.e.,he was absent without leave from tattoo at 2200hrs 30-12-42 until 0100hr 31-12-43 after being duly warned as per Part I Order #59 para5-viz Personnel attending Sick Parade will be C.B. until 0730hrs the following A.M.This is also contrary to Part I Order#84 para5 viz Personnel below the rank of Sgt must have a Late Pass to be out of Camp after Tattoo Total time absent 3 hours.	Sgt Jones G.H. Cpl Pearce, G.S.	5 days C.B.	31-12-42	(W.L.Thompson) Lt-Col.	

No D-114503 Name Lawrence B.F. Sqn, Battery or Company — Corps R.C.O.C. — Date of enlistment 14-8-40 — GC Badges — Service or Proficiency Pay 1.30

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No -1- — Signature OC Company, etc — Character

MFM 6 (AFB 122) 40/P&S/136 (3488)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
New sheet in accordance with C.A.O.R.O.2084 upon completion of six months service.									
New Mart-Bks	6-5-41	Pte		Sec.40 A.A.-WOAS- Conduct to the prejudice of Good Order,etc.i.e. He did appear before the Command. Post as a sentry.(1)No bolt in his rifle.(2)No haversack.(3)Web equipment badly adjusted.	A/RSM W. Musylo	14 days C.B.	13-541	Major K. Thompson	
New Mart ique Bks Bordon,Hants	13-6-41	Pte		Sec.40 A.A.-WOAS/ He did appear on the Parade Ground impropery dressed.(1)No gas cape.(2)No water bottle.	S/Sgt Fisher	7 days C.B.	13-6-41	C.Gibb Capt	
Bordon Hants	25-7-41	Pte		Was found guilty by F.G.C.M. of the following:(1)Sec.9 (2)A.A.WOAS Disobeying a lawful command given by his superior Officer.		1 year detention 9 months remit by Brig J.R. Pherlan	2-8-41		Forf 93 days Pay FR&I 149 (1)(b) Forf 39 (Pro) days

Ex C Kem

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of Sept 44

J. Dent Capt & Adj.

IX. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Ex C Rcm

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-114503	Pte	Lawrence, B.F.	17 Cdn Spec Emp Coy

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions* by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The accounts herein stated should correspond with the number of entries in the conduct sheets, produced, having given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 8(2)	times 1	times.
For A.A. 9(2)	times 2	times.
For A.A. 15 (1)	1 time 5	times.
For A.A. 15 (3)	times 1	times.
For A.A. 11	times 1	times.
For A.A. 40		3

Number of instances of gallantry or distinguished conduct,

or N/A

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* N/A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and 4 days in military custody, making a total of 4 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~XXXXXXXXX~~ attestation paper is 21

6. The date of his ~~XXXXXXX~~ attestation specified in his ~~XXXXXXXXX~~ attestation paper is 14 Aug 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). CVSM AND CLASP

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated ____ and in his regiment (*or corps or department*) the rank of N/A dated ____

(*18200) W1.10602/144 125,000 8/42 A.E.F.W. Ltd. Gp.698

Ex A

RR 4

The accused was warned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in Evidence.

The accused.
I have nothing to say at this time

The accused declines to call witnesses in his own behalf.

I certify that R. P. 4. has been complied with.

Taken by me in the Field in the presence and hearing of the accused. this 4 day of Sept. 1944.

H. A. Ricord Lt.

Ex A

RCM

3rd WITNESS
3rd PROSECUTION.

A 11928 4/cpl Daniels W. J. Regt Police 17 Cdn Spec Emp. Coy. C.A.O.S. Sworn, states:

I am A 11928 4/cpl Daniels W. J. of the Regt. Police 17 Cdn Spec Emp. Coy. At approx 1530 hrs. while at the Guard tent. I was asked by Sgt Crook to place Pte Lawrence under "Close Arrest." I went down to his tent, accompanied by ~~the~~ Sgt Crook. I told Pte Lawrence he was under Close Arrest and to come to the Guard Room with me. He immediately asked to see the Cocksucking Major. I told him the Major was out at that time. I also told him that the Adj was in. He then said: He didnt want to see the "Cocksucking" Adj. I then took him to the Guard Room. That is all.

W J Daniel
W. J. DANIELS.

The accused declines to cross-examine this witness.

called the R.P. Exa Cpl. I told him to place Pte Lawrence under "Close Arrest." When he was told he was under "Close Arrest." He came out of his tent saying, "I've had enough of this bullshit." Where is the cocksucking Major? When told the Major was not around, He said then I will see the "Cocksucking" 2 1/c. The Cpl. then escorted him to the Guard-Room. That is all.

J. Cronk
S. CRONK

The accused declines to Cross Examine this witness.

2d WITNESS.
Prosecution.

B-114206 Pte. Martin O.E. of the Regt. Police 17 Cdn Spec. Emp. Coy. C.A.O.S. Sworn, states: I am B-114206 Pte Martin O.E. of the Regt Police 17 Cdn. Spec. Emp. Coy. On the afternoon of the 3rd Sept. 1944 Sgt Cronk came down to our lines and ordered us, to put up a tent. ~~[illegible]~~ I heard Pte Lawrence say I had a temperature, "I won't go." The group then went up to put up the tent. Pte Lawrence stayed behind. That is all.

O.E. Martin
O.E. MARTIN

Ex A

KCM

Summary of Evidence in the case of D-114503 Pte Lawrence, B.F. 17th Cdn. Spec. Emp. Coy. Cdn. Army Overseas, Charged with 1st charge: Refusing to obey an order given by his Superior Officer in the execution of his Duty. 2nd Charge: W.O.A.S. Using insubordinate language ~~[illegible]~~.

The Commanding Officer directs that the Evidence be taken on oath.

First Witness
Prosecution.

H 20172 Sgt. Cronk, S. 17 Cdn. Spec. Emp. Coy. C.A.O.S. Sworn, states: I am H 20172 Sgt Cronk, S. Orderly Room Sgt of 17 Cdn. Spec. Emp. Coy. C.A.O.S. At approx 1500 hrs. on the 3 Sept. 44 I was directed by the Adj to put up the Orderly Room tent and to use the Regt. Police as my help. I went to the Regt. Police Lines. I saw the Cpl. there, he was busy. So I went down myself to get some men. Pte Lawrence was there along with some others. I asked them to come up and help put up the Orderly Room tent. Pte Lawrence replied "Fuck It" ~~[illegible]~~ This is my day off. H.A.R. I'm not doing anymore. I then went back to put up the tent. Approx one half hour later I went to Pte Lawrence. I ordered him again. He answered "No." I then

Ex A 164

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

In the Field
9 Sept 1944

H. A. Record, Lt.
Officer detailed to take Summary of Evidence.

List of Witnesses.
Prosecution.

C.S.M. Mordy, L. H.
Pte. McNeil, L.
~~Sgt. Daniels, W. J.~~

Defense. Nil.

List of Exhibits

Nil.

Ex A 114

Question to the accused.

Do you wish to make any statement or to give evidence on oath? You are not obliged to do so but any statement you make or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.

I desire to give Evidence
Having been duly sworn state:
I am B114503 Pte Lawrence, B F Ct approx 10.20 hrs 8 Sept. C. S. M. Morley came to the Guard Room and asked me to go over to the Officer's and Sgt's mess and dig a swill hole, I told the C. S. M. to give me something to eat first and I would go and dig a hole. He then ~~replied~~ ordered me once again to dig the hole. I then asked him to take me over and see the M. O. and asked him. If a man can dig a hole ~~on~~ a empty stomach, He did not reply, ~~and~~ He then returned to the Orderly Room. That is all, May I add. That I was on hard tac and tea, Which isn't sufficient for a person to do manual labour.

[signature]
Lawrence, B. F.

I desire the services of ~~an Officer at my trial~~.

Capt Pratt.
1 Corps Workshops
Stores Section
at my trial

I repeated the order several times. On Pte Lawrence not carrying out this final order. I instructed S/Cpl. Daniels that if Pte Lawrence should change his mind and wish to carry out the order. He would be permitted to do so. These instructions were given in Pte Lawrence's presence. He failed to comply with the order. That is all.

The accused declines to cross-examine this witness.

L.H. Morley
L.H. Morley

2nd Witness.
Prosecution.

F45059 Pte McNeil, L. of the 17 Cdn Spec. Emp. Coy. C.A.C.M. Fr. Having been duly sworn states. I am F45059 Pte McNeil, L. a member of the Regt. Police of the 17 Cdn. Spec. Emp. Coy. At approx 10-45 8 Sept. C.S.M. Morley came to the guard tent and asked for Pte Lawrence. He ordered Pte Lawrence to go to the Officers and Sgts Witchen to dig a hole. The C.S.M. indicated where he wanted the hole dug. Pte Lawrence answered he couldn't work unless he had something to eat. At approx 10 or 20 minutes later the C.S.M. returned and asked Pte Lawrence whether he refused to dig the hole or not. Pte Lawrence said he would not dig the hole until he had something to eat. Pte Lawrence also said. Let us go down to the M.O. together and see whether or not a man can work on a empty stomach. The C.S.M. then returned to the Orderly Room.

The accused declines to cross-examine this witness.

McNeil, L.

Ex. A

Summary of Evidence in the case of: KRM

D-114503 Pte Lawrence, B.F. a soldier of the Cdn. Army Overseas on the strength of 17 Cdn. Spec. Emp. Coy. C.A.C.R.F.

The Commanding Officer directs that the evidence be taken on oath.

First Witness
Prosecution.

L7122. C.S.R. Morley L.H. of the 17 Cdn Spec. Emp Coy. C.A.C.R.F. having been duly sworn states. I am L7122. C.S.R. Morley L.H. C.S.R. of 17 Cdn. Spec. Emp. Coy. C.A.C.R.F. At approx 10.00 hrs 8 Sept, 1944 on O.C.'s orders, When Pte Lawrence was paraded to the C.O. for 24 hr remand, awaiting application for court-Martial, Pte Lawrence was definitely told by the C.O. that he would be available for any duties required. At approx 10-30 hrs. I went to the guard-room, and ordered Pte Lawrence to dig a hole at the Officers & Sgts kitchen by saying, Pte Lawrence you will dig a hole at the Officers and Sgts kitchen, indicating the position, by the pick and shovel I had already placed there. At approx 10.45 hrs. I investigated and found that Pte Lawrence had not carried out the order. I again ordered Pte Lawrence to work by saying "You will dig a hole at the Officers and Sgts kitchen now."

The Accused declares to Cross Examine the witness.

The accused was warned as follows:

Do you wish to make any statement or to give evidence on oath You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in Evidence.

The accused:
I have nothing to say at this time.

The accused declares to call witnesses in his own behalf.

I certify that R.P.4 has been complied with.

Taken by me on the Field in the presence and hearing of the accused the 4 day of September 1944.

.....Lieut,
(H.A.Record,Lt)

List of the witnesses in the case of D-114503 Pte Lawrence B.F.

PROSECUTION

Sgt Cronk S.E.
Pte Martin C.E.
L/Cpl Daniel W.J.

DEFENSE

N I L

EXHIBITS

N I L

Ex A RFM.

SUMMARY OF EVIDENCE
IN THE CASE OF

D-114503 Pte Lawrence B.F., a soldier of the Canadain Army Overseas, on strenght of 17 Cdn Spec Emp Coy.,C.A.,CMF.
Charged with;
First Charge: Refusing to obey an order given by his Superior Officer in the execution of his duty.
Second Charge:WOAS Using insubordinate language.

The Commanding Officer directs that the evidence be taken on Oath.

First Witness Prosection. H-20172 Sgt Cronk S.T.17 Cdn Spec Emp Coy;C.A.O.S. Sworn states

I am H-20172 Sgt Cronk S. Orderly Room Sgt of 17 Cdn Spec Emp Coy, C.A.O.S., at approx 1500 hrs on the 3 Sept 44, I was directed by the Adj to put up the Orderly Room tent and to use the Regt Police as my help. I went to the Regt Police Lines I saw the Cpl there, he was busy. So I went down myself to get some men. Pte Lawrence was there along with some others. I asked them to come up and help put up the Orderly Room tent. Pte Lawrence replied:"Fuck it. This is my day off.I'm not doing anymore." I went back to put up the tent. Approx one half hour later I went to Pte Lawrence I ordered him again. He naswered:"No." I then called the R.P. Cpl. I told him to place Pte Lawrence under Close Arrest. When he was told he was under Close Arrest, he came out of his tent saying:"I've had enough of the bulshit". Where is the cocksucking Major? When told the Major was not around. He said then I will see the Cocksucking 2 i/c. The Cpl then escorted him to the Guard Room. That is all.

.....
(Sgt Cronk)

The accused declares to Cross Examine the witness.

Second Witness Prosection B-114206 Pte Martin O.E. of the Regt Police of 17 Cdn Spec Emp Coy C.A.O.S. Sworn states:

I am B-114206 Pte Martin O.E. of the Regt Police of the 17 Cdn Spec Emp Coy. On the afternoon of the 3rd Sept 1944, Sgt Cronk came down to our lines and ordered us to put up a tent. I heard Pte Lawrence say I had a temperature I won't go. The group then went up to pur up the tent. Pte Lawrence stayed behind. That is all.

.....
(O.E.Martin)

3rd Witness Prosection A-11928 L/Cpl DanielsW.J. Regt Police of 17 Cdn Spec Emp Coy, C.A.O.S., Sworn States:

I am A-11928 L/Cpl Daniels W.J. of the Regt Police of the 17 Cdn Spec Emp Coy. At approx 1530hrs while at the Guard tent I was asked by Sgt Cronk to place Pte Lawrence under Close Arrest, I went down to his tent accompaneed by Sgt Cronk. I told Pte Lawrence he was under Close Arrest and to come to the Guard Room with me. He immediately asked to see the Cocksucking Major. I told him the Major was out at that time. I also told him that the Adj was in. He then said:"He didn't want to see the Cocksucking Adj. I then took him to the Guard Room. That is all.

.....
(W.J.Daniels)

Ex A Ack

I am D-114502 Pte Lawrence B.F. at approx 1030 hrs, 8 Sept 1944, CSM Morley came to the Guard Room and asked me to go over to the Officers' and Sgts Mess and dig a swill hole. He then ordered me once again to dig the hole. I then asked him to take me over and see the M.O. and ask him if a man can dig a hole on a empty stomach. He did not reply. He then returned to the Orderly Room. That is all. May I add that I was on hardtack and tea, which isn't sufficient for a person to do manual labour.

.....
(B.F.Lawrence)

I desire the services of:
Capt Pratt,
1 Corps Workshops,
Stores Section at my trial.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

In the Field,
9 Sept 1944.

.....Lieut.
(H.A.Record) Lieut.

Officer detailed to take
Summary of Evidence.

List of Witnesses:
Prosecution- C.S.M. Morley L.H.
Pte McNeil L.

Defense- N I L

List of Exhibits- N I L

//////////////////////////

Ex A ACM

SUMMARY OF EVIDENCE
IN THE CASE OF

D-114503 Pte Lawrence B.F. a soldier of the Cdn Army Overseas on strength of 17 Cdn Spec Emp Coy, C.A., C.M.F.

The Commanding Officer directs that the evidence be taken on Oath.

First Witness Prosection — L-7122 C.S.M. Morley L.H. of the 17 Cdn Spec Emp Coy, C.A., C.M.F., having been duly sworn states:

I am L-7122 C.S.M. Morley L.H., C.S.M. of 17 Cdn Spec Emp Coy, C.A., C.M.F., at approx 1000 hrs, 8 Sept 1944, on O.C.'s orders when Pte Lawrence was paraded to the O.C. for 24 hours remand, awaiting applic tion for Court-Martial, Pte Lawrence was definitily told by the O.C. that he would be available for any duties required. At approx 1030 hrs, I went to the Guard Room and ordered Pte Lawrence to dig a hole at the Officers's and Sgts kitchen by saying:"Pte Lawrence you will dig a hole at the Officers's and Sgts kitchen" indicating the position by the pick and shovel I had already placed there. At approx 1045 hrs I investigated and found that Pte Lawrence had not carried out the order. I again ordered Pte Lawrence to work by saying:"You will dig a hole at the Officers's and Sgts kitchen now." I repeated the order several times. On Pte Lawrence not carrying out this final order. I instructed L/Cpl Daniels that if Pte Lawrence should change his mind and wish to carry out the order, he would be permitted to do so. These instructions were given in Pte Lawrence presence. He failed to comply with the order. That is all.

.....
(L.H.Morley, CSM)

The accused declines to Cross-Examine this Witness.

Second Witness Prosection: F-45509 Pte McNeil L. of the 17 Cdn Spec EmpCoy, C.A., C.M.F. Having been duly sworn states:

I am F-45509 Pte McNeil L., a member of the Regt Police of the 17 Cdn Spec Emp Coy at approx 1045hrs, 8 Sept 1944, CSM Morley came to the Guard Room tent and asked for Pte Lawrence to go to the Officers's and Sgts kitchen to dig a hole. The CSM indicated where he wanted the hole dug. Pte Lawrence answered he couldn't work unless he had something to eat. Approx 10 or 20 minutes later, the CSM returned and asked Pte Lawrence whether he refused to dig the hole or not. Pte Lawrence said he would not dig the holeuntil he had something to eat. Pte Lawrence also said:"Let us go down to the M.O. together and see whether or not a man can work on a empty stomach. The CSM then returned to the Orderly Room.

.....
(McNeil L.)

The accused declines to Cross-Examine this Witness.

Question to the accused.

Do you wish to make any statement or to give Evidence on Oath? You are not obliged to do so but any statement you make or any Evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.
"I desire to give Evidence."
Having been duly sworn states:

RLM (4)

Defence Statement in Mitigation of punishment.

Two or three days previous to 3 Sep 44 Pte Lawrence requested an interview with the C.O. 17 Cdn Spec Emp Coy. This interview couldn't be granted at the time and had not taken place up until 3 Sep 44. The result was that when Pte Lawrence was put under arrest he came out with the statement as charged. He meant of course that now it was even more vital than that he see the C.O. I suggest that the use of the objectionable word was not meant in an insubordinate manner but rather was a common place Army Adjective. We've all heard that word used in connection with almost anything or anybody that comes into a soldier's life.

On 8 Sep 44 Pte Lawrence is charged with refusing to dig a hole. On 7 Sep 44 Pte Lawrence was placed on a diet of hard-tack and water; consequently he missed supper on the 7th and breakfast on the 8th. According to the evidence in the summary of F45509 Pte McMil, L, Pte Lawrence on refusing to dig the hole said "Let us go down to the M.O. and see whether or not a man can work on an empty stomach". The accused finally saw the M.O. later that morning and was put back on normal diet.

Finally I would like to point out that the accused has had a lot of service in the army, well over 3 yrs overseas, and he has been 14 mos. in this theatre of war. His last leave was 15 Oct 42. He has been categorized and is now S-3, which means of course that he is nervous, and the type of man that will jump at even a wrong decision. And I feel the court should take these matters into consideration

Firstbitness for the Defence. Cross-Examination by Prosecution R.L.M. (3)

Q. You had a V.D. treatment the night before
A. Yes sir but the temperature was not from that
Q. Did you report to the R.A.P.
A. Yes Sir; the Cpl took my temperature
Q. Did he tell you to come back
A. No Sir
Q. Did he say it was serious.
A. He didn't say.
R.P. 35(b) complied with.

Second Witness for the Defence. G43071 Cpl Niles H.O. 17 Cdn Spec Emp Coy.

Having been duly sworn states,—
I am G43071 Cpl Niles H.O. 17 Cdn Spec Emp Coy. I am R.A.P. Cpl. Pte Lawrence reported to me on the morning of 3 Sep 44 and said he wasn't feeling well. I checked his temperature. He had a fever of 100.4. I then told him to report back when we reached our next camp if he wasn't feeling any better.

Cross-examination by prosecution
Q. When a person is taking a V.D. treatment he runs a temperature?
A. Not always.
Q. Did the V.D. treatment of the previous night cause that temperature or could you state that?
A. It might have been
Q. Did you definitely tell the accused to return?
A. I said if he wasn't feeling better he would return.

Questioned by the Court.

Q. Did the accused report back to you when you reached the new area?
A. No Sir
Q. What time did you reach the new area?
A. Some time in the afternoon.
~~R.P. 35(b)~~ R.P. 35(b) complied with

Defending Officer's Address.
- circumstances favorable to accused (1) temperature (2) didn't know Sgt as such.
- no evidence of wilful disobedience.

Prosecuting Officer's Address.
- ~~Last 2 Cay on petrol dump. RP's not as~~
- He may have been ill or he may not.

Second Witness for the Prosecution

A11928 L/Cpl DANIEL W.J.

having been duly sworn, states,—

I am A11928 L/Cpl DANIEL, W.J. 17 Cdn Spec Emp Coy. Sgt Crook came up to the guard tent and asked me to go down and place Pte Lawrence under close arrest. I went down and told Pte Lawrence to come to the tent with me and that he was under close arrest. Pte Lawrence then asked to see the "cocksucking major". I thinked him the major was out.

R.P. 35(b) complied with.

Third Witness for the Prosecution

B114206 Pte MARTIN O.E.

having been duly sworn states,—

I am B114206 Pte Martin, O.E. 17 Cdn Spec Emp Coy. On the day and date mentioned Sgt Crook came to our lines and asked us to put up a tent. As I was passing Pte Lawrence's tent I heard him say "I have a temperature, I won't go" or words to that effect. I went up and helped with the tent. Pte Lawrence did not go up to the tent.

R.P. 35(b) complied with.

First Witness for the Defence

The accused D114503 Pte Lawrence B.F. 17 Cdn Spec Emp Coy. having been duly sworn states.

I am D114503 Pte Lawrence B.F. 17 Cdn Spec Emp Coy. On 3 Sep 44 at approx 1500 hrs Sgt Crook came in to the R.P. lines and ordered the RP's to erect a tent. I told him that I had a temperature in the morning and that I was not feeling well then. He asked me again if I was going to go down and I told him "No I'm not feeling well." He then went away and came back about 30 mins later I was laying inside my tent. He asked me one again to help put up the tent and again I told him I wasn't feeling well. He went away and brought back L/Cpl Daniels of the R.P. who placed me under close arrest.

Cross-Examination by Prosecution

Q Did you recognize Sgt Crook when he came down to the lines?

A No Sir.

Q You said "Sgt Crook came down to the lines"

A Yes Sir but I didn't recognize him as such at the time

Q You were running a temperature?

A Yes Sir.

1 & 3 (1)

~~Prosecution~~
Defending offr's statement

When Sgt Cronk asked the accused to erect a tent, Sgt Cronk had no badges of rank displayed and the accused at that time had been with 17 Spec Emp Coy a matter of some eleven days. The accused is prepared to swear that he did not recognize Cronk as his superior offr and that Sgt Cronk did, at no time, declare himself to the accused. The first intimation the accused had of Cronk's rank was when he was placed under arrest by the Sgt and a Pro. Cpl.

With regard to the second charge, Pte Lawrence had applied for an interview with Maj. Day, Comd, 17 Cdn Spec Emp Coy, two or three days previous to the incident. When this incident occurred he felt that the time had come to see the C.O.

First witness for the prosecution

H20172 SGT CRONK, S.E. having been duly sworn, states,

I am H20172 Sgt. Cronk, S.E. 17 Cdn Spec Emp Coy. On the day and date mentioned I was ordered by the Adjutant to put up the Orderly Room tent using the R.P. as fatigues. I asked the Cpl. ic R.P. to have his men sent over. He said at the time he was quite busy and asked me if I could mind getting them myself. I went down to the R.P. lines and as a general order to all the R.P.s there I instructed them to come up and erect the tent. Pte Lawrence was the only one that refused. I had an argument with the accused and asked him if he was coming and he answered "No". I went back up and erected the tent with what help I had and approx 30 mins later I went back and asked Pte Lawrence if he still refused to go. He answered "No". I then went to the L/Cpl ic R.P.s and asked him to place Pte Lawrence under close arrest. I accompanied the L/Cpl down and he escorted him to the guard room.

Cross-Examination by Defence.

Q. Were you wearing badges of rank when you gave this order?
A. No Sir.
Q. Did Pte Lawrence say that he had a temperature?
A. He said he wasn't feeling well.

Re-examination by prosecution

Q. How did the group re-act to your order?
A. They immediately dropped what they were doing and went with me.
Q. Did the accused ask you what authority you had?
A. No Sir
Q. Was your name mentioned?
A. I don't think so sir.

Rd. 3514 complied with

17 Cdn Spec Emp Coy 30 Sep 44

I have this day examined D-114503 Pte Lawrence, B.F. and find him fit to undergo trial by Field General Court Martial.

C. A. Berjansley Capt M.O.
(C.A. Berjansley)

R.C.M.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-114503	Private		Bruce Fuller	LAWRENCE	17 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 29 Sep 44. endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R I Mummery	RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	G I Bastedo	Sask I I
Captain	C D Beatty	Sask I I

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	J B Mills	Perth R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	NIL	

On Active Service in the Fd

in ITALY (Country.)

J H Ziegler Lt-Col. (Signed personally. RP 105 fn 2.) (Rank.)

Date 29 Sep 44

Commanding 1 Cdn Corps Lt Col.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

R.C.M.

CHARGE SHEET

The accused, No D-114503 Private Bruce Fuller LAWRENCE, of 17 Canadian Special Employment Company, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, in Italy, on 3 SEP 44, when told by H-20172 Sgt S.E. Cronk, his superior officer, that he would have to help erect a tent refused to do so, and did not do so.

Second Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, in Italy, on 3 SEP 44, after being placed under arrest said: "Where is that cocksucking major" referring to his commanding officer, and "I will see the cocksucking 2 i/c" or words to that effect, in the presence of other soldiers.

Third Charge
Section 9(2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

in the Field, in Italy, on 8 SEP 44, when ordered by L-7122 CSM L.H. Morley, his superior officer, to dig a hole at the officers' kitchen, refused to obey and did not do so.

(E.W.Day) Major
Comd 17 Cdn Spec Emp Coy

In the Field,
10 SEP 44

To be tried by Field General Court Martial.

In the Field
10 Sept 44

J.A. Ziegler Lt-Col.
1 Cdn Corps Sept Col.

FGCM - 30 Sep 44
D114503 Pte Lawrence BF
17 Cdn Spec Emp Coy

Charges (1) AA 40, (2) AA 40 (3) AA 9(2).
Findings - Guilty on all three charges.
Confirmed sentence - 6 months detention.

The Judge Advocate-General, Canadian Army Overseas, having advised that the undated petition of the accused be allowed in respect of the finding on the first charge in the above described proceedings, I, being a superior military authority, hereby direct, under the authority vested in me by KR (Can) 574, that the record of the conviction on the first charge in the said proceedings be and the same is hereby removed and the accused relieved from all consequences of his trial thereon, and having regard to the findings on the second and third charges, ~~I do remit~~ ~~detention.~~ I do not mitigate, remit or commute the punishment as awarded ~~by~~ the court and commuted and confirmed by the confirming officer.

Charles Foulkes
Lieut-Gen
GOC I Cdn Corps.

..12..Dec..44.

PROMULGATED AND EXTRACTS TAKEN

In the Field - ITALY

(Date) 3rd. January 1945 (Signed) William Cornelius Capreone (Name)
Captain RAMC (Rank)
M.O. i/c Noble Block (Appt)
104 British General Hospital (Unit)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : Pte. [illegible] Pierre Emile Lawrence

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge 1st	Guilty	Guilty	
2nd	Charge	Guilty	Guilty	
3rd	Charge	Guilty	Guilty	
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo imprisonment for a period of six months with hard labour.

(Sgd) ..... Judge-Advocate, if any. 30 Sept 1944 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I do not approve of the finding of the Court, & confirm the finding & sentence to undergo detention for six months & confirm the suspension of the sentence for a period of six months.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 3 Oct 44 Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused	Date.	Signature of Offr.
D 114503 Pte Lawrence P.F. 17 Cdn Spare Emp Coy	4 Oct 1944	[illegible] Maj. OC 17 Cdn Spare Emp Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No sir (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (~~not~~) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the first charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the first charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Yes sir
Do you intend to call witnesses on your behalf ?
Ans Yes sir. Are they witnesses as to character only ? Ans No sir
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 7, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)
Or ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No sir (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(180), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 4F-93

RECEIVED 29 NOV 1944

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40, P & S 1608 (2804)

Convened by Order (dated) Lt Col. T.H. Ziegler Comd 1 Can Corps Sqn RCASC dated 29 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D114503	PRIVATE (a)	BRUCE FULLER	LAWRENCE	17 Can Spec Emp Coy.

PROCEEDINGS QUASHED
Hd Qrs Fifth Army
19 Jan 45
ALVIEW, JUDGE ADVOCATE, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 30 Sept 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2C 50

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1715 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused~~: Do you object to ..... as interpreter ? Ans .....

~~The Interpreter is sworn.(1)~~ Do you object to ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans ~~No~~ (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.E. Grammond	R.C.A.S.C.
Member	Capt	J.L. Cooke	Can S.C.
Member	Capt	C.B. Reilly	Can S.C.
Judge-Advocate			
Prosecutor	Lieut	A.T. Record	17 Can Spec Emp Coy.
Defending Offr	Lieut	R.E. Semple	Can Inf Corps

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans ~~No~~ (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D114503 Pte Lawrence Fuller before arraignment make(s) (no) (~~a~~) plea

~~(1)~~ N.G.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. 2C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4F-93
Pte Laurence L. L.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with (its)	By whom awarded	Remarks
				1. No bolt in rifle 2. No Hair cut. 3. Web equipment badly adjusted contary to Sec. A.A. 40 4. Did appear on guard duty not properly dressed . No gas cape No water bottle. contart to Sec. 40 A.A.	R.C.M. Muzylo	14 days C.B.	13-5-41	Major K.K. Thompson	

Certified true copy of MEMO.

J.F.H. Clare

J.F.H. Clare Officer in charge of records
R.C.A.S.C Holding Unit.

No. D110503 Lawrence Bruce Fuller Sqn., Battery, or Company | Corps July 1st. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 132) 50074 8-39 (17033) H.Q. 1772-43-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	13-6-41	Boy		Conduct to the prejudice of good order and military discipline	S/Sgt. Fisher	7 days C B	15-6-41	GGibb	Capt.
New Martinique Bks. Bordon	3-5-41	Boy		The accused, a soldier of no 1 R C A S C Holding Unit. WOAS is charged with conduct to the prejudice of good order and military discipline. He was found to be improperly dressed while on guard when inspected by his field officer.	Cpl. Poulist	Admonished	5-6-41	Maj. K.K.	Thompson
New Martinique Bks,	6-5-41	Pte.		Is charged WOAS of an act to the prejudice of good order and military discipline in that he did appear as a sentry before Commanding post.					

(P.T.O.)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st 10 day of July 1940

[illegible signature]

#1 ROASC. H.U. CA(O)

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~ B
~~beginning on the ..... day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for 0 days in Civil Custody,

and 8 days in Military Custody.

Total 8 days.

Of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ B / attestation paper is 17 yrs 11 mths

6. The date of his ~~commission~~ B / attestation specified in his ~~record of service~~ B / attestation paper is 14th Aug 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... years' service.

9. The accused is entitled to reckon ..... years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or is in possession of or entitled to* .....]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or corps or department*) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ....., years, ...

In the rank of ....., years, ...

In the rank of ....., years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name D114503 Bdg. LAWRENCE B F of the #1 RCASC. HQ. CA. (C)

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

B

(*Continued overleaf.*)

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

D114503 Rfn LAWRENCE. BF of the #1 R.C.A.S.C. H.Q. BORDON HANTS CA.(O)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 604, K.R., 1935.

	*Within last 12 months.	*Since Enlistment.
For See 40. Found to the prej.	4 times	4 times.
For	times	times.
For	times	times.
For	times	times.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct, Nil

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

or,

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.~~

- C - O - P - Y -

DEPARTMENT OF NEURO - PSYCHIATRY REPORT

D-114503 Pte. Lawrence, B.F., #1 RCASC H.U.
(Age 18)

July 21, 1941.

REPORT:-

COMPLAINTS Under Court-martial and brother states "he is not responsible because of a head injury 1937". He was struck on head by a piece of wood and was unconscious about a half hour. He did not go to hospital for several days, then because of an infected scalp was kep at home for about six weeks. In 1939 he was admitted to the Montreal General for headaches, and what sounds to have been an encephalogram was done and he was told that no cause for these headaches could be found. He says that he has had frequent headaches since then which were treated at 15th Gen.Hospital.

PAST School 6-14, one failure; childhood essentially normal but rather nervous and afraid of dark; Work - on leaving school worked 3 years as delivery boy for one man. Army - enlisted Aug.1940, working until enlistment, joined for adventure, England March, 1941; has had 4 - 5 minor charges, working on fatigues, feels his N.C.Os. have it in for him because he is young.

MENTAL Low average normal, no disturbance of memory, calculation or discrimination.

NEUROLOGICAL Fundi normal; cranial nerves, reflexes, motor and sensory normal.

X - RAYS Report to follow(Nothing abnormal on wet films.)

IMPRESSION Head injury was probably minor concussion and later scalp infection. If X-rays are negative I would thing that his head injury has nothing to do with conduct disorders, and was of a minor character. No evidence of mental disturbance or deficiencies at present.

Signed (F.R. Hanson, Capt.)
Specialist, R.C.A.M.C.

Date August 9 1941

This is to certify that Regt. No D-114503 Pte. Name Lawrence B.F. is fit to undergo Court-Martial.

Signed B. Hunter Lieut
RCAMC.

SWORN STATEMENT (UNDER OATH) BY D-114503 BOY LAWRENCE, B.F.

D-114503 Boy Lawrence, B.F., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, I was coming in to the Barrack block when I was stopped by Sgt. O'Grady and asked to go down to the M.T. Garage for a vehicle. I told Sgt. O'Grady that there were not any vehicles available because of the coming inspection. Sgt. O'Grady insisted that I still go and I told him for the second time it would be useless to go. Sgt. Gale then came along and told me about two buttons missing on my greatcoat. I answered him that I had already been told by C.S.M. Jones and that I was waiting to get other ones to replace the missing ones. I was about to leave when Sgt. O'Grady checked me up on not standing to attention while being spoken to by Sgt. Gale. I did not think it necessary to do so as I was just ready to go away. He then placed me under open arrest because I failed to stand to attention. I went outside and was ordered by the Company Sergeant Major (C.S.M. Jones) to sweep the hall-ways. On re-entering the Barrack block Sgt. O'Grady told me to put my equipment on to go over to the Guard Room.. I called to the C.S.M. but apparently he did not hear me. Sgt. O'Grady then said to me in a very low voice that could only be heard by myself, "If I did not have these three stripes, I would punch you in the jaw". This upset me and I replied, "If I had a bayonet I would put it in you". I was then placed under close arrest by Sgt. O'Grady and escorted to the Guard Room by Cpl. Barry.

B.F. Lawrence

Certified that Rules of Procedure 4 (c) (d) (e) & (f) have been complied with.

Officer i/c taking summary.

3rd Witness

D-91935 Cpl. Barry, J.B., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, while on duty in Barrack block, assisting in fatigue work, I was in the hall-way talking to Sgt. O'Grady and Sgt. Gale, when Pte. Lawrence came along. Sgt. O'Grady asked him if he would go to the M.T. Garage for a vehicle. A discussion arose between Sgt. O'Grady and Pte. Lawrence. Pte. Lawrence stated, (or words to that effect), that it would be impossible to get a vehicle that day because of M.T. maintenance. As Pte. Lawrence was leaving, Sgt. Gale told him that the buttons of his greatcoat had not been polished, Pte. Lawrence answered back, in a hot-headed manner, that C.S.M. Jones had already checked him on this point. Sgt. O'Grady then pointed out to Pte. Lawrence that he should stand to attention while, either talking to or listening to a Senior N.C.O. Sgt. O'Grady warned Pte. Lawrence at least twice to comply with this order. I did not pay very much attention to the ensuing conversation until I heard Pte. Lawrence say, (or words to that effect), "If I had a bayonet I would run it through you" (meaning Sgt. O'Grady). Sgt. O'Grady placed Pte. Lawrence under close arrest and ordered me to escort him to the Guard Room.

J.B. Barry.

Accused declined to cross-examine witness.

4th Witness

D-91663 Pte. Kirkman, W.G., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, I was in the Barrack block, off duty, when I heard Sgt. O'Grady tell Pte. Lawrence to go and get a vehicle from the M.T. Garage. Pte. Lawrence said he was employed as runner at the Company Orderly Room, and did not have time to go over there, or words to that effect. Sgt. O'Grady seemed displeased over these remarks and had to check up on Pte. Lawrence for not standing to attention when spoken to by a Senior N.C.O. I did not hear Pte. Lawrence definitely refuse to stand to attention but Pte. Lawrence evidently did not obey same as Sgt. O'Grady placed him under open arrest. At this, Pte. Lawrence, apparently losing his temper said "If I had a bayonet I would run it through you" (meaning Sgt. O'Grady). Sgt. O'Grady then placed him under close arrest.

George Kirkman.

Accused declined to cross-examine witness.

5th Witness

D-91654 Pte. Smith, J.J.L., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, I was on fatigue in hall-ways when Sgt. O'Grady asked Pte. Lawrence to go to the M.T. Garage for a vehicle. Pte. Lawrence told Sgt. O'Grady it would be useless because it was impossible to get one. Later on I saw Pte. Lawrence talking to Sgt. Gale. Sgt. O'Grady ordered him, at least twice, to stand to attention.

This is all I know or can say in this case.

J.J.L. Smith

Accused declined to cross-examine witness.

SUMMARY OF EVIDENCE IN THE CASE OF D-114503 BOY LAWRENCE, R.F.

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE SHALL BE TAKEN ON OATH.

1st Witness P-3148 Sgt. O'Grady, D., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, I was N.C.O. in charge of fatigue party. I met Pte. Lawrence coming along hall-way. I stopped the said soldier and asked him, being the Orderly Room runner, would he go over to the M.T.Garage and see Cpl. Ireland, i/c M.T., to find out if a vehicle was available for work being undertaken. Pte. Lawrence replied very insolently when asked to do this. I then warned Pte. Lawrence that his manner of speaking was incorrect. I then returned to my fatigue party which was approximately a few feet away. I turned around and noticed Sgt. Gale and Pte. Lawrence in conversation. Pte. Lawrence was standing with his hands in his pockets, an unsoldierly-like attitude. I commanded Pte. Lawrence to stand to attention when talking to a Senior N.C.O. He refused. I then commanded him to stand to attention. He again refused. I then placed Pte. Lawrence under open arrest. As I left him Pte. Lawrence remarked, "If I had a bayonet in my hand I would run it through you". I then placed Pte. Lawrence under close arrest.

At no time did I use any threatening language to the accused.

Sgt D O'Grady

Accused declined to cross-examine witness.

2nd Witness

R-82997 Sgt. Gale, M.R., having been duly sworn states:-

On June 25th, 1941, at approximately 1330 hours, I was in the hall with fatigue party, near wash-room, when Sgt. O'Grady accosted Pte. Lawrence. I did not pay much attention to conversation between Sgt. O'Grady and Pte. Lawrence but was waiting to inform Pte. Lawrence on instruction of C.S.M. Jones, of his minor defects in lay-out of equipment prior to inspection. Pte. Lawrence replied "I have already been informed by the Sergeant Major". Sgt. O'Grady checked him for not standing to attention while being spoken to by a senior N.C.O. Our conversation was finished. Pte. Lawrence walked out towards the main hall-way and stopped there. Sgt. O'Grady continued his remarks about Pte. Lawrence not standing to attention. I heard Pte. Lawrence make the statement "That if I did have my bayonet I would run it through you". (meaning Sgt. O'Grady). Sgt. O'Grady then placed Pte. Lawrence under close arrest.

Sgt M R Gale

Accused declined to cross-examine witness.

III.

SWORN STATEMENT (UNDER OATH) BY D-114503 BOY LAWRENCE, B.F.

I, D-114503 Boy Lawrence, B.F. having been duly cautioned under R.P. 4(c) wish to make the following statement under oath.

"About ten days previous to 2-7-41 I was lying behind the Dental Clinic. I saw something shining on the ground and picked up a belt with badges on it which I now recognize as Exhibits "A", "B" and "C". I took it back to Barracks and put it in my kit bag. Pte. Kuzak asked me if I knew anyone with any badges. I said, "I have some", so I sold him three and gave him one. Just as Pte. Kuzak was going Cpl. Berry came over and asked me to let him see the belt. I showed him the belt. We were scuffling around and I ran down into the Air Raid Shelter, where the belt dropped out of my hand. I was excited so I just told Pte. Clarke who had come over and asked me about it that it was in Barracks. He asked to let him see it and I went into the Barrack Room to get it. Then I remembered I had dropped it and came out of the Barrack Room as Pte. Clarke came out of the Shelter with the belt. He asked me where the missing badges were. I told Him Pte Kuzak had four. The next day having tried to locate Pte. Kuzak the previous night I turned the remaining two badges into Cpl. Kocourek

B.F. Lawrence
D-114503 Boy Lawrence,B.F.

July 9th 1941,
Bordon, Hants.

We certify that the foregoing summary of evidence consisting of three pages taken down by us in writing in the presence of the accused and under rules of procedure four (c),(d), and (f) have been complied with.

R.A. MacDonald
(R.A. MacDonald) 2/Lieut.
No.1 R.C.A.S.C. Holding Unit

L.V. Galway
(L.V. Galway) 2/Lieut.
No.1 R.C.A.S.C. Holding Unit.

July 9th, 1941.
Bordon, Hants.

III.

3rd Witness:- B-81735 Pte. Kazuk, W., No.1 R.C.A.S.C., N.W., C.A.(O)
Having been duly sworn states:-

On approximately 2220 hours, 2-7-41, I bought three badges for the sum of 1/6 from Boy Lawrence and was given one by him. The said badges have been turned in by me to No.2 Company Orderly Room and I now recognise them as Exhibit "C".

W. Kazuk
B-81735 Pte. Kazuk, W.

The accused declines to cross-examine the witness.

4th Witness:- M-20937 Cpl. Kocourek, W.C., No.1 R.C.A.S.C., N.W., C.A.(O)
Having been duly sworn states:-

On 3-7-41, I asked Boy Lawrence what he had done with two R.C.A.S.C. shoulder badges which Pte. Clarke reported still missing from his belt. Boy Lawrence replied that "he had them in his Barrack Room". I then asked him to get them which he did, and I now recognise them as Exhibit "B".

Cpl. W.C. Kocourek
M-20937 Cpl. Kocourek, W.C.

The accused declines to cross-examine the witness.

SUMMARY OF EVIDENCE IN THE CASE OF D-114505 BOY LAWRENCE, R.F.

NO. 1 R.C.A.S.C., HOLDING UNIT, C.A. (O)

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE SHALL BE TAKEN ON OATH

1st Witness:- M-48009 Pte. Clarke, J.H., No. 1 R.C.A.S.C., H.U., C.A.(O)
Having been duly sworn states:-

I lost a belt studed with 19 badges about the middle of June, A.D. 1941 and reported it to Cpl. Kossuvek in No. 2 Orderly Room. At 2330 hours, 2-7-41 I heard Cpl. Barry and Boy Lawrence discussing badges. Cpl. Barry said that Boy Lawrence had a belt with badges on it. Just then Boy Lawrence ran into an Air Raid Shelter. He came out and I asked to see the belt and he said, "that it was in the Barrack Room". I asked him to get it and he said it was his but went to get it. Then I went into the Shelter and found my belt and showed it to Cpl. Barry who said it was the one Boy Lawrence had a few minutes previously. I found six badges missing. I turned the belt into Hd Qrs Orderly Room. I found four of the badges in possession of Pte. Kozak who said he purchased them from Boy Lawrence for 1/6. I have been shown a belt and nineteen badges entered as Exhibits "A", "B" and "C" which I recognize as my own.

Jas. H. Clarke Pte.
M-48009 Pte Clarke, J.H.

The accused declines to cross-examine the witness.

2nd Witness:- D-91935 Cpl. Barry, J.B., No. 1 R.C.A.S.C., H.U., C.A.(O)
Having been duly sworn states:-

On July 2nd at approximately 2330 hours, I saw Boy Lawrence standing outside Barrack Block "C". He had a belt in his hand with badges on it. I asked to look at it. Just then Pte. Clarke came over. He asked me, "did anyone have a belt with badges on it?" I said yes. Boy Lawrence has one and we were just looking at it. Pte. Clarke asked Boy Lawrence if he could see the belt. Then Boy Lawrence stated that the belt was in the Barrack Room Block.. Then Boy Lawrence ran into the air raid shelter and came out again. Pte. Clarke asked Boy Lawrence to get the belt and Lawrence went into the Barrack Room. Pte. Clarke then went into the shelter and came up with the belt and asked me if it was the belt that Boy Lawrence had and I answered yes. I now recognize the belt as Exhibit "A".

D-91935 Cpl. Barry, J.B.
D-91935 Cpl. Barry, J.B.

The accused declines to cross-examine the witness.

Department of Neuro-Psychiatry be admitted in evidence. Defending officer states there is no objection on the part of the defence to the admission of AF B296 and certified true copy of MFM-6 in view of the fact they are signed respectively by the Courts-Martial Officer and the Officer i/c Records of the accused's unit).

THE COURT: Is that satisfactory?

DEFENCE: That is perfectly satisfactory, sir.

THE COURT: Do you wish to address the Court?

DEFENCE: No, sir. I believe every fact in regard to the youth of the accused and his army character has already been brought to the attention of the Court. I have nothing further to add, sir.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

Q285. Is that the sports field?
A285. Yes, sir.
Q286. Some other witness said you had indicated the fact you got it behind or near the dental clinic?
A286. Yes sir, that is on the edge of the sports field?
Q287. That was alongside the dental clinic?
A287. Yes, sir.
Q288. Did you know whose it was?
A288. I didn't; I had never seen it before.
Q289. How long had you had it before 2 Jul 41?
A289. About a week and a half.
Q290. Have you ever been charged in civilian life or in army life for any offence having to do with theft?
A290. No, sir.
Q291. Where do your people live?
A291. On Sherbrooke Street, Montreal.

CROSS EXAMINED BY THE PROSECUTOR

Q292. Lawrence, did you know that that belt belonged to anybody else?
A292. I knew it must have belonged to somebody.
Q293. Did you know that it belonged to anybody you knew?
A293. No, sir.
Q294. Had you heard Clarke or anybody else inquiring about a belt similar to that?
A294. No sir, it was never mentioned in the orderly room so far as I know.
Q295. Did you know Clarke?
A295. Yes sir, very well.
Q296. Have you been in his quarters?
A296. I used to go in and get different things for him. He used to borrow things from us in the orderly room and I would have to go and get them back, to retrieve things he had left there.
Q297. Do you recognise this belt (Exhibit A)?
A297. Yes, sir.
Q298. Is it as you found it?
A298. I took some badges off the belt.
Q299. When you were in Clarke's quarters did you ever see a belt anything like that belt?
A299. I never saw that belt before, not even in his quarters. The first time I knew it was his was when he mentioned it.
Q300. Am I to take it that after having that belt in your possession for two weeks, you considered after that length of time you were at liberty to do what you wanted with it?
A300. No, sir.
Q301. Is that what you thought about it?
A301. No, sir.
Q302. Did you sell Pte Kazuk four badges?
A302. Three badges, and I gave him one.
Q303. The witness Clarke testified there were six badges missing?
A303. The others fell off; they were loose and they fell off.
Q304. The whole thing adds up to the fact you did not know who the belt belonged to?
A304. No sir, I didn't; I never saw it before until the day I picked it up.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE FINDING.

The Court being re-opened, the accused is again brought before it.

(The Prosecutor, in reply to questions by the Court, states that he has for submission to the Court AF B-296 signed by Lt. Ruddell, Courts-Martial Officer, No. 1 RCASC H.U. and certified true copy of MFM-6 relating to the accused, signed by Lt. J.F.H. Clair, Officer i/c Records, No. 1 RCASC H.U. The Court consider that as the prosecutor is not the officer who prepared the entries in these documents and did not compare the said entries with the regimental books, there is no object in swearing him before their production. Defending officer requests that the unsigned statement by the

Q263. What was Sgt O'Grady's reaction to that?
A263. He insisted I go and get one and I said it was useless and a waste of time going down because I wouldn't get one.
Q264. What was the next thing that occurred?
A264. I turned away and I saw Sgt Gale about a foot and a half away and he told me there were a couple of buttons missing from my greatcoat, and that my equipment was not properly laid out on the bed. I said I knew about it and the Sgt-Major said he would get me a couple of buttons for it, that I was waiting for two buttons which the Sgt-Major had promised to give me.
Q265. Was there any unpleasantness between you and Sgt Gale?
A265. No, sir.
Q266. What next happened?
A266. I took about two or three steps away from Sgt Gale, we were finished, then I turned to the left and I was two or three paces away when Sgt O'Grady said, "Stand to attention when talking to a senior NCO."
Q267. You were not at that time talking to any NCO but walking away?
A267. Yes, sir.
Q268. What did you do?
A268. I kept on walking and he called after me.
Q269. Did you say anything to him?
A269. No, he called after me and said, "Consider yourself under open arrest." Then I met the Sgt-Major just outside the barrack room door and he told me, he said, "Lawrence, go and sweep out the barrack room," and I got as far as my own barrack room and Sgt O'Grady said, "Put your equipment on, you are going to the guard room."
Q270. All right. What happened after that?
A270. So when he told me that I called for the Sgt-Major who was in one of the rooms off the hallway and I said, "Sgt-Major, come here," and he didn't hear me. That is when Sgt O'Grady threatened me.
Q271. You were apparently calling for the Sgt-Major to have him intervene for you?
A271. Yes, and the Sgt-Major didn't hear me, and Sgt O'Grady threatened to punch me in the jaw; he said, "You little bastard, if I didn't have these three stripes I would punch you in the jaw."
Q272. What shape was Sgt O'Grady in?
A272. All right; he was not mad or anything like that. (sic)
Q273. How far did you go in school?
A273. First year High.
Q274. How old were you when you left?
A274. 14.
Q275. Were you examined mentally by some neurologist?
A275. Yes, sir.
Q276. While you have been awaiting this trial?
A276. Yes, sir.
Q277. Did you see his report on you?
A277. No, sir.
Q278. Did he tell you what it was?
A278. As far as I know he said I was normal.
Q279. What did Sgt O'Grady act like when he said, "You little bastard, if I didn't have these three stripes I would punch you in the jaw?"
A279. Well, he did act a little sore, but with those rosy cheeks it is hard to tell.
Q280. What did you do then?
A280. I got mad and said, "If I had a bayonet I would put it in you."
Q281. Did you have a bayonet?
A281. No sir, you say things you don't mean when you are mad.
Q282. A bit silly, wasn't it?
A282. Yes, it was; I realised that after thinking it over; I realised it was silly.
Q283. Are you sorry you said it?
A283. Yes, sir.
Q284. Now about this belt, where did you get the belt?
A284. I found it on the football field behind the dental clinic.

Q242. Please continue?
A242. Later on Clarke advised me he had located four of the badges, so on the following morning I found out there were still two RCASC shoulder badges missing, so I asked Pte Lawrence where they were and he said they were in his barrack room. I asked him to go and get them and he did so, and I then turned him over to the C.O.
Q243. Tell the court what these are (producing two RCASC shoulder badges)?
A243. RCASC shoulder badges.
Q244. Can you tell the court anything further about them?
A244. They appear similar to the badges Lawrence turned in to me.
Q245. They were turned in to you?
A245. Yes sir, and I turned them over to Major Gibb, O.C. No. 2 Coy.
Q246. Who ordered Lawrence into close arrest?
A246. Cpl Barry.
Q247. At what time?
A247. He was brought into the orderly room and placed under close arrest, and on instructions from Sgt-Major Jones he was released under open arrest and then, when he appeared before the Coy Comdr, he was placed under close arrest.

Defending Officer declines to cross-examine this witness.
The prosecution is closed.
Q248. THE COURT: Do you apply to give evidence yourself as a witness?
A248. THE ACCUSED: Yes, sir.
Q249. Do you intend to call any other witness in your defence?
A249. No, sir.

R.P. 40 & 41 complied with by the Court, and the accused elects to give evidence under oath.

The Accused, No. D-114503, BOY B.F. LAWRENCE, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined by the defending officer:-

Q250. When did you join the army?
A250. 14 Aug 40.
Q251. You have been in the army now for a year?
A251. Yes, sir.
Q252. When did you arrive in England?
A252. 1 Mar 41.
Q253. How many times have you been charged with any offences since your arrival in England?
A253. I think twice.
Q254. What were the nature of the offences?
A254. Improperly dressed on guard.
Q255. On both occasions?
A255. Yes, sir.
Q256. It has been said you were with this particular unit about four months before these charges arose, and during that time had you been charged?
A256. Yes, I was.
Q257. On how many occasions?
A257. Twice.
Q258. How old are you, Lawrence?
A258. I am 18 now.
Q259. When were you 18?
A259. 19 Jul 41.
Q260. On 25 Jun it has been said you were acting as orderly room runner?
A260. That is correct.
Q261. And Sgt O'Grady, who was i/c of the fatigue party, asked you to go to the M.T. garage to get a lorry; is that right?
A261. That's right.
Q262. What did you say to that?
A262. I told him there were no vehicles available that day because of the Major General's inspection the following day; I heard that through the orderly room.

Q230. Did you place Boy Lawrence under arrest?
A230. No sir, I didn't know anything about that until the next day.
Q231. Will you tell the court what you know about the ownership of the belt?
A231. Boy Lawrence said he did own the belt, because I asked whose it was and he said it was his.
Q232. Tell the court what this is (Exhibit A)?
A232. This is the belt and there are the ATS and AMC badges, and this badge here; I identify it by those badges, sir.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q233. Following the finding of the belt in the air raid shelter, did you use any words to Lawrence capable of being understood as to putting Lawrence under either open or close arrest?
A233. I did; I said to Pte Clarke, "Do you want me to put the man under arrest?"
Q234. Go on?
A234. That is all, sir.
Q235. That is all that was said about arrest?
A235. Yes, sir.
Q236. By you?
A236. Yes, sir.
Q237. I wish you would finish your evidence. You asked Clarke a question; what was his answer?
A237. He said he would see the Sgt-Major first.
Q238. Were you aware of the proposition Clarke put up to Lawrence that evening about Clarke getting back all of his badges by noon the next day, in which event there would be no charge?
A238. I heard some talk about that but I heard one of the boys say it; we had a new draft in and I don't know who it was ---

THE COURT: That is absolutely hearsay, but if you wish it in as evidence, all right.

DEFENCE: I appreciate that; thank you, sir.

THE COURT: It is straight hearsay.

DEFENCE: Actually, he volunteered that. That is all, sir.

(Prosecutor states that at this stage he would like to have called No. B-81735, Pte KAZUK, W., No. 1 RCASC H.U. but is unable to do so owing to the fact Pte KAZUK is in hospital. Prosecutor granted permission to read into evidence the sworn statement of Pte KAZUK given at the taking of summary of evidence 9 Jul 41. Said evidence on summary duly read).

7th witness for prosecution) No. M-20937, CPL W.C. KOCOUREK, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined by the prosecutor:-

Q239. You are No. M20937, Cpl W.C. Kocourek of No. 1 RCASC H.U.?
A239. Yes, sir.
Q240. Tell the court your duties?
A240. I am Cpl i/c No. 2 Coy orderly room.
Q241. Will you tell the court what you know about this case?
A241. On the night of 2 Jul 41 about approximately 2245 hrs Pte Lawrence came into the orderly room with Cpl Barry and Pte Clarke. In Clarke's possession was a leather belt with some badges on it. I was in bed at the time because I slept in the orderly room, and Pte Clarke preferred charges against Pte Lawrence as to the theft of his belt. He was placed under open arrest that night and the following morning he was tried before the Coy Comdr. At that time on bringing him into the office Clarke asked him where the six badges missing off the belt were and Pte Lawrence declared he had found the belt the week or so previous behind the dental clinic, and that the belt was the way he found it, with no badges missing.

Q218. I thought you said this Cpl Barry had placed him under arrest?
A218. He did, on his own initiative.
Q219. Did you have Cpl Barry's authority to make this proposition to Boy Lawrence?
A219. No, sir.
Q220. Your intention was not to prosecute the matter if you got your articles back?
A220. Yes, sir
Q221. How long have you known Lawrence?
A221. Since he arrived from Canada, I think some time in March.
Q222. Do you know his age?
A222. I don't know, but I knew he was a boy at the time.
Q223. How did you get along with him?
A223. Fine.
Q224. What sort of a soldier is he?
A224. I don't know, sir, I am in the QM stores and don't know anything about the parade square at all.

Q225. PROSECUTOR: Under what circumstances did you see your belt before you missed it?

DEFENCE: He already swore to that, sir - on his bed in the QM stores.

COURT: I don't think this is a new matter arising out of cross-examination. It is in the examination in chief that the belt disappeared from the barrack room bed.

Q226. PROSECUTOR: One other question. You are under oath. Are you prepared to say in the light of that, that Cpl Barry placed Lawrence under arrest at the moment you stated?

THE COURT: That is already in evidence.

PROSECUTOR: It is in evidence, but I am trying to find out if he is absolutely sure of this. Is the witness sure Cpl Barry did this, because I am not satisfied he did.

DEFENCE: I doubt very much if the prosecution is in the position of being able to challenge the sworn testimony of his own witness.

THE COURT: The shorthand reporter will read that eglience.

(Previous evidence read by the shorthand reporter).

Q227. THE COURT: Is there anything wrong or incorrect in that?
A227. No sir, only in the first place I believe Cpl Barry was going to place him under close arrest and then it was changed to open arrest.:
Q228. Is this (Exhibit A) the belt that you found in the air raid shelter?
A228. Yes, sir.

3rd witness) for prosecution) No. D-91935, CPL. J.B. BARRY, No. 1 Royal Canadian Army Service Corps Holding Unit, previously sworn, recalled and examined by the prosecutor:-

Q229. Tell the court what you know about this third charge?
A229. On the day and date mentioned about 2230 hrs I was returning home from Kingston and I saw Boy Lawrence showing a belt to a few friends. I was looking at the belt and calling the names of the badges out. In the meantime Pte Clarke was on the orderly room balcony and he happened to hear us and he came over and said to Cpl Barry, "Is there somebody here with a belt with some badges on it?" I said, "Yes, Boy Lawrence has." Just then Boy Lawrence disappeared down the air raid shelter and came back up again, and Pte Clarke said, "Can I see your belt?" He replied that it was in the barrack room, that he did not have it there. I said to Pte Clarke, "Go down the air raid shelter, it may be down there." Pte Clarke went down and found it and I identified it as the one Boy Lawrence just had. The next thing I knew he was under arrest.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q200. Is it true that as a result of a conversation you had with Lawrence you told Lawrence you would give him until the following day at noon to find the missing badges?
A200. I told him that evening if he returned the badges by the next day I would drop the charges.
Q201. On what date was this?
A201. When I told him this?
Q202. I mean the date you have just described, the evening of this deal, what date was that?
A202. 2 Jul 41.
Q203. On 2 Jul 41 you found out about the belt?
A203. Yes, sir.

DEFENCE: Mr. Prosecutor, will you please tell me the date of the charge sheet. For my own satisfaction I want to know whether the accused man was facing court martial at the time the question of this belt arose. I am interested in knowing whether Lawrence was already remanded for court martial on the first two charges at the time this incident with the belt arose. The other offences were on 25 Jun 41; what does it show on the original charge sheet as the date of remand?

PROSECUTOR: Remanded on 26 Jun 41 for summary of evidence.

Q204. DEFENCE: Did you know on 2 Jul 41 that Lawrence was already under arrest awaiting trial by court martial?
A204. I wouldn't swear to it, but I believe I did.
Q205. In the conversation you had with him on the evening of 2 Jul 41 what explanation if any did Lawrence made as to the manner in which he had come into possession of this belt?
A205. He said he found it on the sports field.
Q206. Is that the sports field adjoining the Martinique Bks?
A206. Yes, sir.
Q207. Did he tell you under what circumstances he found it?
A207. He said he had been lying on the grass in the afternoon, sleeping, and when he got up he found this belt a few feet from him.
Q208. Was your name on the belt?
A208. No sir, but my initials were on the buckle.
Q209. I take it you reported the matter to your orderly room?
A209. Yes, sir.
Q210. Did any notification appear in the coy or unit orders regarding the loss of the belt?
A210. Not to my knowledge.
Q211. You would be interested surely?
A211. Yes, sir.
Q212. Well, did it or didn't it?
A212. It didn't, as far as I know.
Q213. Did Lawrence have anything further to say about the belt?
A213. He said that the belt, as he gave it back to me on the evening of 2 Jul 41, was just as he had found it, and the following day he returned the two shoulder badges to the Cpl in the orderly room.
Q214. This is all very important, and it was left out before. The fact is, he did go out and recover some of these badges; did he get them all?
A214. No, sir, he returned two he had in his possession.
Q215. Did he give you any information as to whether the others had gone to?
A215. No sir, but other witnesses told me ---
Q216. Never mind that. What did Lawrence say about meeting your wish?
A216. He went out after that to get the badges, but was unable to get them.
Q217. What authority did you have to tell Lawrence if he did what you wanted him to do by noon the following day, you would drop the charges?
A217. At that time I had not laid any charge against him. I told him I would not press any charges if the badges were returned.

approximately two weeks before I had lost a belt containing a number of badges. I walked over to where Cpl Barry and Boy Lawrence were and when I got there there was no sign of any badges or belt. Just after I got there Boy Lawrence went into an air raid shelter and when he went down the air raid shelter I asked Cpl Barry if he had a belt there and he said Lawrence did.

THE COURT: Just a minute. You can only give evidence of what was said when the accused was present, in fairness to the accused.

THE WITNESS: Yes, sir. Boy Lawrence came out of the air raid shelter and I asked him if he had a belt there and he said No, that it was in his room. I asked him if he would let me see it and he said it was his belt. I said I had lost one previously and I would like to see it and if it was his belt there was nothing to worry about. He went into the barrack room to get the belt and I went down the air raid shelter in the presence of Cpl Barry and found the belt there. When Lawrence came out of the room Cpl Barry placed him under open arrest. Previous to this, in the absence of Boy Lawrence, I described the belt to Cpl Barry, naming the number of badges on it and describing the buckle.

Q193. THE PROSECUTOR: Can you describe this belt to the court?

DEFENCE: I am quite prepared if you show the witness the belt and he recognises it, that settles it.

Q194. BY PROSECUTOR: What is this (producing belt)?
A194. The belt that disappeared from my bed in the QM stores in Martinique Barracks.
Q195. BY THE COURT: That is the belt which disappeared about two weeks prior to the 2 Jul 41?
A195. Yes, sir.
Q196. BY PROSECUTOR: Is that belt as it was when it disappeared from your bed?
A196. No sir, there were six other badges on it.
Q197. Can you remember the badges which are missing?
A197. Two RCASC shoulder badges, one HLI badge, one badge I don't know what unit it was, and there was a badge of the Australian Forces and some other badge.

EXHIBIT 'A' - Belt identified by witness Pte J.H. Clark as being his property.

PROSECUTOR: I submit to the court the six badges.
COURT: Have the witness identify them.
PROSECUTOR: Yes, sir.

Q198. Tell the court what these are (producing badges)?
A198. Two RCASC shoulder badges; a badge of the Australian Forces; a badge with a bugle on it, I don't know what unit that is; the Royal Fusiliers; and the H.L.I. - they are the badges that were missing from the belt when I received it back.

EXHIBIT 'B' - Six misceallenous military badges.

Q199. When you picked the belt up from the air raid shelter did you know where the six missing badges were?
A199. No sir, I did not.

(Cross-Examination follows)

Q173. That has nothing to do with my question. I am going to insist upon you thinking about just what occurred. You have already sworn that you heard Lawrence tell Sgt O'Grady that it was impossible to get a vehicle that day; do you remember swearing that?

A173. Yes, sir.

Q174. Just keep that conversation in your mind. Now I ask you again, when Lawrence told Sgt O'Grady it was impossible to get a vehicle that day what explanation did Lawrence make as to why a vehicle could not be got that day?

A174. I can't remember that. All I know is Pte Lawrence told him he could not get a vehicle because he said there was none over there to get, that they were all out or busy or something.

Q175. You are just making that up out of whole cloth. You don't have to try that hard. Did you get along all right with Lawrence?

A175. Yes, sir.

Q176. What sort of a chap is he?

A176. He is all right with me.

Q177. Do you know how old he is?

A177. Yes, sir.

Q178. Is he pretty well liked among the boys?

A178. Yes, sir.

Q179. Is he the smart aleck type, or does he do his best to be a good soldier?

A179. All I know is he is all right and a good soldier as far as I am concerned.

Q180. Did he appear to be upset this morning after talking to Sgt O'Grady?

A180. No sir, he was not upset; he was normal.

Q181. Was Sgt O'Grady?

A181. He was normal, too.

Q182. How does he act when he is normal?

A182. Like anybody else, I guess, when anybody else is normal.

Q183. Did you hear Sgt O'Grady say to this youngster here, "I will fix you, you little bastard?"

A183. No, sir.

Q184. Was any profanity used?

A184. No sir, I didn't hear anything like that. All I know is what I have told the court.

Q185. THE COURT: I would like to refresh all our minds on what you actually did about 1330 hrs on 25 Jun 41. There is a lot of confusion it seems to me among all of us. I think you said you heard Sgt O'Grady either tell or order or request Boy Lawrence to stand to attention when he was talking to a senior NCO?

A185. Yes, sir, I heard that.

Q186. What did Sgt O'Grady say? What words were used?

A186. He said, "Stand to attention when talking to a NCO."

Q187. You are on oath, you know?

A187. Yes, sir.

Q188. And you can swear definitely that Sgt O'Grady used those words? You see what I am trying to get down to?

A188. Yes, sir, it was something like that.

Q189. To the best of your ability, what words were used by Sgt O'Grady?

A189. All I can recall is, "Stand to attention when talking to a NCO."

Q190. Then you said after that Boy Lawrence refused to do so?

A190. He didn't say anything; he just didn't stand to attention.

6th witness for prosecution) No. M-42009, PTE. J.H. CLARKE, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined by the prosecutor:-

Q191. You are No. M42009, Pte J.H. Clarke, No. 1 RCASC H.U.?

A191. Yes, sir.

Q192. Tell the court what you know about this case?

A192. Sir, on the 2 Jul at approximately 2230 hrs I was standing in front of the orderly room in New Martinique Bks when I heard Cpl Barry and Boy Lawrence talking about badges. Previous to this, at about

Q156. Did you hear Sgt O'Grady say to Lawrence, "I will fix you, you little bastard?"
A156. No, sir.
Q157. Was any profanity used at all?
A157. No, sir.
Q158. It is not unusual for a man to get flushed and angry and start handing out orders and to use a little profanity?
A158. No, sir.
Q159. That has happened?
A159. Yes, sir.
Q160. You didn't hear anything like, "I will fix you, you little bastard?"
A160. No, sir.

5th witness for prosecution) No. D-81654, PTE. J.J.L. SMITH, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined by the prosecutor:-

Q161. You are No. D81654, Pte J.J.L. Smith, 1 RCASC H.U.?
A161. Yes, sir.
Q162. Tell the court what you know about this case?
A162. On 25 Jun 41 at 1330 hrs I was on a fatigue party with Sgt O'Grady and Sgt Gale. Sgt O'Grady asked Pte Lawrence to go to the M.T. garage and get a vehicle. Pte Lawrence answered that it was impossible to get one. Then Pte Lawrence was talking to Sgt Gale and Sgt O'Grady told him to stand to attention when talking to a NCO. Pte Lawrence refused to stand to attention and he checked him once, then he was put under open arrest. That is all I know about it.
Q163. What did you do then?
A163. I went back to my barrack room.
Q164. And he was put in open arrest, was he?
A164. Yes, sir.
Q165. How far away were you from all these proceedings?
A165. About five ft.
Q166. You could hear the conversation quite easily, could you?
A166. Yes, sir.
Q167. Were both Sgt O'Grady and Boy Lawrence talking in a loud tone of voice?
A167. Quite loud, sir.
Q168. Shouting?

DEFENCE: Everything you are asking is suggesting the answers to this witness and all he is saying is "Yes." It goes right to the root of the whole matter. My learned friend readily understands and the court appreciates, for whatever value it is worth, that there is some attempt being made on the part of the defence to show that there was some provocation.

THE COURT: (To prosecutor) Your questions are leading.

THE PROSECUTOR: I am sorry.
Q169. How was the conversation between Lawrence and Sgt O'Grady carried on?
A169. Quite clear - not too loud.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q170. How far away from Lawrence were you at the time he made reference to the bayonet?
A170. I was not in that. I didn't hear that part of it at all. That was done after I left for my barrack room. I don't know anything about the bayonet part.
Q171. Then we will go back to the beginning. You heard Lawrence say there was not a vehicle available; is that right?
A171. Yes, sir.
Q172. I want you to think for a moment and see if you can remember what explanation Lawrence made about why it was not possible to get a lorry on this particular day?
A172. I don't know anything about that. All I know is that Lawrence was a runner at the orderly room.

4th witness for prosecution) No. D-91663, PTE. W.G. KIRKMAN, 1st Corps Tps Ammn Coy, Royal Canadian Army Service Corps, being duly sworn, is examined by the prosecutor:-

Q136. You are No. D-91663, Pte W.G. Kirkman, 1 Corps Tps Amn Coy, RCASC?
A136. Yes, sir.
Q137. Tell the court what you know of this case?
A137. On the 25 Jun 41 at approximately 1330 hrs I was in the barrack block off duty when I heard Sgt O'Grady tell Boy Lawrence to go to the M.T. garage and get a vehicle. Boy Lawrence stated that he was employed in the orderly room as runner and would not have time to go. Sgt O'Grady seemed to be displeased with this and ordered Boy Lawrence to stand to attention, but he did not do so and Sgt O'Grady said he would place him on a charge.
Q138. Did Sgt O'Grady order Lawrence to stand to attention while talking to him?
A138. I can't say definitely, sir, it is so long ago, but I remember him telling Lawrence to stand to attention when talking to a senior NCO. Pte Lawrence got mad when Sgt O'Grady placed him on a charge and he said if he had a bayonet he would run it through him, and then Sgt O'Grady placed him under close arrest.
Q139. At this time was any other NCO involved in the conversation at all?
A139. I could not state definitely, but I believe Sgt Gale was there, sir.
Q140. Just tell the court how Sgt Gale was involved in the conversation?
A140. I don't know; I was passing through to the washroom because I was off duty.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q141. How far away were you from Lawrence when you heard Lawrence make this remark about the bayonet?
A141. Four or five ft.
Q142. Before he made the remark about the bayonet was there some further conversation between Sgt O'Grady and Lawrence?
A142. Yes, sir.
Q143. What was it all about?
A143. That was when Sgt O'Grady was ordering Lawrence to get the vehicle.
Q144. That was the first conversation you heard?
A144. Yes, sir.
Q145. And you heard Lawrence say he was the runner at the orderly room?
A145. Yes, sir.
Q146. Did you also hear Lawrence say the vehicles were going to maintenance getting ready for some inspection?
A146. No, sir.
Q147. You indicated Sgt O'Grady was displeased. How did Sgt O'Grady indicate he was displeased?
A147. He seemed to be getting mad because Lawrence was not carrying out the order.
Q148. I am quite interested in the demonstration that Sgt O'Grady would put on in order to have it register in your mind that he was displeased?
A148. By his tone of voice.
Q149. Describe that?
A149. He told Lawrence to stand to attention while talking to a senior NCO, and from the tone of his voice I gathered he was getting mad.
Q150. Describe it as what - would you describe it as an angry tone?
A150. Yes, sir.
Q151. Did his appearance indicate he was angry?
A151. He was sort of flushed.
Q152. What time of the day was it?
A152. 1330 hrs.
Q153. Did you hear Sgt Gale refer to Lawrence's buttons?
A153. No, sir.
Q154. You missed that part of the conversation, if it did take place?
A154. I don't know, sir.
Q155. You were going through, just passing through at the time?
A155. Yes, sir.

III.

this explanation about the trucks undergoing maintenance. Then was Sgt Gale involved in that conversation?

A114. He was talking, sir.

Q115. Your impression is that all three of them were together throughout?

A115. Yes sir, they were all standing in the hallway within three feet of each other.

Q116. What were they discussing?

A116. There was a discussion between Boy Lawrence and Sgt O'Grady about the truck, and there was a discussion after between Lawrence and Sgt Gale about buttons, and then it came to the question of his not standing to attention, Sgt O'Grady bringing that up.

Q117. Is it a standing order in your coy that a private soldier at all times stands to attention when speaking to a NCO?

A117. It is an army rule.

Q118. I am quite aware of army rules. Is it the standard custom in your coy?

A118. It is the custom in the army, sir.

Q119. I think I will stick to the question I am asking you. Is it the standard custom in your coy for private soldiers to stand to attention to NCOs of all ranks?

A119. They do so, sir.

Q120. To L/Cpls?

A120. We have none now, sir.

Q121. To Corporals?

A121. Yes, sir.

Q122. To Sgts?

A122. Yes, sir.

Q123. At all times?

A123. At all times on the parade square or anywhere on duty.

Q124. In barrack rooms?

A124. If we are on duty, sir.

Q125. When reference is made to the refusal to obey this order, I take it Lawrence didn't say, "I won't do it," did he?

A125. No sir, he just stood there and just wouldn't do it. The second time he said he would not do it.

Q126. This is interesting. He said, "I will not do it?"

A126. He said something to the effect, "I will not stand to attention."

Q127. Would it strike you as being very amazing that neither O'Grady nor Gale can recall the definite words of refusal, but only you can remember?

A127. I was a witness to it, but I was not in the discussion.

Q128. You are now swearing to something you say you heard, and you say something neither of the others could swear to, and that is that Lawrence made a definite verbal refusal to carry out the order?

A128. He did.

Q129. How long have you known Lawrence?

A129. Ever since he came over here,

Q130. You don't think much of him, do you?

A130. I do.

Q131. Why?

A131. I have never seen him do anything wrong before this.

Q132. He is a pretty good soldier?

A132. Yes, sir.

Q133. Was he a little upset on this morning?

A133. I think he was.

Q134. Was Sgt O'Grady?

A134. I don't know, but I know Lawrence was. I called him that morning the same as before because I always considered him as a boy.

Q135. You tell the court Lawrence was upset. Why hesitate when it involves O'Grady? Was Sgt O'Grady upset?

A135. I don't know him that well, sir; he is a man who changes a lot.

(Page 10 follows)

111.

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(Page 10 follows)

came along and Sgt O'Grady cautioned him to get a truck from the M.T. He answered back by saying there were no MTs available that day on account of maintenance. During the discussion Sgt Gale told Boy Lawrence his buttons were not shined on his greatcoat. Boy Lawrence said he knew about it, that the Sgt-Major had told him about it. Sgt O'Grady told him to stand to attention when talking to a senior NCO. He didn't do so. He was cautioned twice. A couple of minutes later Boy Lawrence threatened to run Sgt O'Grady through with a bayonet. I was then told to take Boy Lawrence to the guard room and he was placed under arrest on the orders of Sgt O'Grady.

Q99. You say he threatened to run Sgt O'Grady through with a bayonet, but did he have a bayonet with him at the time?
A99. No, sir, he didn't. He said if he had a bayonet he would run it through Sgt O'Grady. He said that twice, sir.
Q100. How close were you to them?
A100. Between four and six ft away, sir.
Q101. Did Sgt O'Grady say anything that would make Lawrence make a remark like that?

DEFENCE: I object. The prosecutor may ask the witness what was said but he cannot possibly suggest anything to the witness.

THE COURT: Your question, Mr. Prosecutor, is a matter of opinion.

Q102. BY THE PROSECUTOR: Did Sgt O'Grady say anything to Boy Lawrence?
A102. He didn't say anything, sir.
Q103. Immediately previous to Lawrence making that remark?
A103. No sir, I never heard anything like that, sir.

Q104. BY THE COURT: Don't misunderstand. Did Sgt O'Grady say anything to Boy Lawrence?
A104. The only thing he said ---
Q105. Then he did say something. Now, be careful; you are under oath. You are asked if Sgt O'Grady said anything to Boy Lawrence?
A105. He was just telling him that if he didn't do what he was told he would be placed under arrest.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q106. You were on a fatigue party with Sgt O'Grady?
A106. Yes, sir.
Q107. And you were present when Sgt O'Grady told Lawrence to go and get a M.T. truck?
A107. Yes, sir.
Q108. You heard Lawrence's explanation about the fact that the trucks were undergoing maintenance or inspection?
A108. Yes, sir.
Q109. If Sgt O'Grady swears that Lawrence did not make any such explanation to him, then Sgt O'Grady would be in error?
A109. Yes, sir.
Q110. Do you recall Lawrence being engaged in conversation with Sgt Gale?
A110. Yes sir, he was engaged in conversation with Sgt Gale and also with Sgt O'Grady.
Q111. Is it fair for the court to understand that this first conversation about the truck between Lawrence and Sgt O'Grady was over with and finished when the next conversation between Lawrence and Sgt Gale took place; is that right?
A111. They were still discussing it, sir.
Q112. I am a little confused ---
A112. There was a sort of argument, discussing it between Sgt Gale and Sgt O'Grady and Boy Lawrence, but I was not paying much attention to it at the moment because they seemed to be rather talking in a mess and everybody between the three of them was butting in on it.
Q113. What was it all about?
A113. I was not paying much attention to it. It was, as I thought, just another conversation.
Q114. Well, does this assist you in any way - Sgt O'Grady asked Lawrence to run an errand for him and get a lorry, then you hear Lawrence give

Q81. You had instructions from the Sgt-Major to point out certain defects of kit to Lawrence?
A81. Yes, sir.
Q82. And Lawrence informed you that the Sgt-Major had already drawn his attention to it?
A82. Yes, sir.
Q83. At that point you might tell us what was Lawrence's manner to you when he made that explanation?
A83. Well, more or less off-hand; he was quite heated up about Sgt O'Grady asking him to do something about some truck.
Q84. When Lawrence left that conversation he was quite upset, was he?
A84. He was flushed in the face; he did not give me a very decisive answer and I said, "Now look, I asked you a decent question and I want a decent answer," and he turned around but did not stand to attention.
Q85. Now you have told us what the reaction of Lawrence was after this first conversation with Sgt O'Grady, and one realises the risk of asking you this question when it affects another of the same rank as yourself, but would you kindly indicate to the court whether Sgt O'Grady was not a little upset, too? Remember the oath you took on the bible, and that is a fair question. What about Sgt O'Grady?
A85. I wouldn't say that he ---
Q86. Just take the smile off your face. It is a fair question and I want your answer under oath?
A86. I would say he was upset in this respect, that when he asked Pte Lawrence to get this truck or find out about it Pte Lawrence said, "There is no use going, there is no use going," and he gave some explanation about his not being able to go and yet Sgt O'Grady suggested he should still go.
Q87. Then it is a fact Lawrence said to O'Grady, "There isn't much use going," and made some explanation?
A87. He said something about the trucks, but I didn't pay much attention to it, but I do know an explanation of some kind was made but I could not tell you what the explanation was.
Q88. Even if Sgt O'Grady denies that Lawrence made any explanation about the impossibility of getting a truck, you will still say under oath that Lawrence did give a reason?
A88. He gave some reason, yes sir.
Q89. How long have you known this soldier, Lawrence?
A89. I have been Pte Lawrence's Sec Sgt for some time.
Q90. It has been said he was in the sec for about four months before this incident arose?
A90. Yes, sir.
Q91. Did you ever have occasion to charge him with any offence?
A91. No, sir.
Q92. Or have you had occasion to have him up on a report?
A92. No sir, but I have checked him personally.
Q93. Did you know his age?
A93. I knew he was a boy soldier, but his age I did not know.
Q94. It is a fact he was the orderly room runner on that particular date?
A94. Yes, sir.
Q95. You say you could not hear what conversation went on finally between Sgt O'Grady and Lawrence and there was quite a commotion?
A95. I did not pay any attention to it; I was busy at the time.
Q96. Now this matter about the bayonet, did Lawrence have a bayonet with him?
A96. No, sir.

3rd witness for prosecution) No. D-91935, CPL. J.B. BARRY, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined by the prosecutor:-

Q97. You are No. D91935, Cpl J.B. Barry of No. 1 RCASC H.U.?
A97. Yes, sir.
Q98. Tell the court what you know about this matter?
A98. Sir, on the 25 Jun 41 at approximately 1330 hrs, while assisting on fatigue work in New Martinique Bks, we were discussing the question of men, we were pretty short of men, when Pte Lawrence or Boy Lawrence

THE COURT: I would like to hear that question first. I do not want the witness to answer the question, but what were you going to ask him?
THE PROSECUTOR: If Sgt O'Grady had said what Mr. Haney said he might have said or was supposed to have said, that is, called Lawrence a little bastard or words to that effect.
THE COURT: I think you are off on the wrong foot.
DEFENCE: The question I put to Sgt O'Grady was, "If Lawrence gives testimony later on here to the effect that you said, 'I will fix you, you little bastard,' would that be correct or not?"
THE COURT: Oh, I see.

Q77. BY THE PROSECUTOR: If Sgt O'Grady had said words to that effect -- you say you heard the conversation but were not paying much attention to it -- if those words were uttered by a NCO would you not prick up your ears?

THE COURT: Don't answer.

DEFENCE: Would you mind noting my objection to that? I will put it on another ground. This witness has already sworn a few minutes ago that "O'Grady might have said words I could not hear," so I am going to take full advantage, whatever there may be, of that sworn evidence of this witness.

THE COURT: I do not think that question should be answered anyway. It is impossible to answer conscientiously and it has no relevancy, whether he would have pricked up his ears.

Q78. THE PROSECUTOR: You did not hear Sgt O'Grady say anything, but did you hear anything else?
A78. That is all I heard, the statement of Boy Lawrence to the effect that if he had his bayonet he would put it through Sgt O'Grady. There was quite a commotion there at the time and I was interested in getting this work done. I could not help hearing that, but outside of that I paid no more attention to what was going on. I let Sgt O'Grady perform his duty and I performed mine.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q79. Before questioning you on one particular point I might, with the court's permission, draw attention to one feature of your evidence that you gave on the summary. I will read what you said then to you, this is midway through the evidence you gave on that occasion:

> "Sgt O'Grady checked him for not standing to attention while being spoken to by a senior NCO. Our conversation was finished. Pte Lawrence walked out towards the main hallway and stopped there. Sgt O'Grady continued his remarks about Pte Lawrence not standing to attention."

Now the evidence you have put on the record this morning, at least the impression I got was that you were still continuing your business with Pte Lawrence at the time Sgt O'Grady came to the two of you and went into the whole business of Lawrence not standing to attention, and I suggest there is a difference between the interpreation you gave on the other occasion and that which you gave this morning?
A79. I wished to imply in that statement on the summary of evidence what I meant by my conversation being finished with Pte Lawrence, what I meant was that Sgt O'Grady continued the conversation in respect to his having been checked in the first place. He checked him once and then after I had finished the conversation, I said our conversation was finished, and Sgt O'Grady then continued on in regard to him not standing to attention, but as far as I am concerned I meant that so far as Pte Lawrence was concerned I had finished my conversation with him and Sgt O'Grady took it up from there on.
Q80. You had finished it completely?
A80. Yes.

Q63. What was the order you gave him?
A63. I told Sgt Gale, first I said, "Is that the way you let a soldier speak to you?" Sgt Gale didn't do much about it.
Q64. What did he do, if anything?
A64. Nothing, sir.
Q65. Your first comment was directed to the Sergeant, was it?
A65. Yes, sir.
Q66. And the Sgt didn't take any action?
A66. I couldn't say whether he did or didn't, but I warned Boy Lawrence to take his hands out of his pockets and stand to attention when talking to a senior NCO, but he made no move to do so and stood there just the same and I warned him again and he did it in a very slovenly manner.
Q67. What words did you employ when you warned him?
A67. I called him by his proper name, but I called him "Pte Lawrence" then. I said, "Pte Lawrence, is that the way you have been taught to talk to a NCO?" and I told him to take his hands out of his pockets and he refused and on the second warning he took them out as though he didn't care, and then I put him under open arrest.
Q68. If Lawrence swears that you said to him, "You little bastard, I will fix you," or, "I will fix you, you little bastard," what would you say about that?
A68. I would say it is a false statement, sir.
Q69. That would be definitely false, would it?
A69. Yes, sir.

2nd witness) No. B-82997, SGT. M.E. GALE, No. 1 Royal Canadian
for) Army Service Corps Holding Unit, being duly sworn, is examined
prosecution) by the prosecutor:-

Q70. You are No. B82997, Sgt M.E. Gale, of No. 1 RCASC H.U.?
A70. Yes, sir.
Q71. Will you tell the court what you know about this case?
A71. Sir, on the 25 Jun 41, which I believe was on a Wednesday, I was with a fatigue party, I was i/c of a fatigue party. There was quite a shortage of men at the time.
Q72. Approximately what time is this you are telling us about?
A72. About 1330 or 1345 hrs, and Pte Lawrence was in conversation with Sgt O'Grady at the time and I was waiting to see him. The Sgt-Major gave me instructions to check Pte Lawrence in regard to minor deficiencies in his equipment, such as a couple of buttons off his coat and so on. Pte Lawrence started coming through the hall and I stopped him about a foot or two away from Sgt O'Grady and I said, "The Sgt-Major told me to tell you about these difficulties with your equipment," and he said, "I know about that, the Sgt-Major saw me about it, I am going to get some buttons," and he was standing more or less at ease position. Sgt O'Grady checked him up for not standing to attention when talking to a NCO and requested him to stand to attention. Pte Lawrence ignored Sgt O'Grady entirely.
Q73. Did Pte Lawrence say anything then to Sgt O'Grady?
A73. He never opened his mouth. At that moment the conversation I had had with Pte Lawrence, right after he had been told to stand to attention, was finished and he went to the end of the hall, about five or six ft away from the end of the hall, and Sgt O'Grady took up the conversation from then on. While I was getting Pte Smith at the window and one other, Sgt O'Grady was in conversation with Lawrence again, and I distinctly heard Lawrence say that if he had his bayonet he would shove it through him.
Q74. How far were you away from them at the time?
A74. About four or five ft.
Q75. Would it have been possible for Sgt O'Grady to have made any statement which you would not hear?
A75. Quite possible because I was more interested in my own work.
Q76. If Sgt O'Grady had said ---

DEFENCE: Watch that now; I might object to it.

of the business and there was no grief up to then?
A44. No, sir.
Q45. Then you turned around and saw Lawrence talking to Sgt Gale?
A45. Yes, sir.
Q46. Sgt Gale being senior to you in your company?
A46. Yes, sir.
Q47. Did you know what they were talking about?
A47. I didn't know.
Q48. Splendid. Then you elected to butt into their business?
A48. It is my job as a NCO.
Q49. When he is talking to a senior Sgt do you say it is your job to butt into their business?
A49. My job is to check a man up if he is not standing to attention when talking to a NCO.
Q50. Did it occur to you it might be the job of the senior NCO to check him up?
A50. I realised it then and mentioned it to the Sgt-Major. He was there.
Q51. Was the Sgt-Major there?
A51. He was around the area.
Q52. What is his name?
A52. Sgt-Major Jones, No. 2 Coy.
Q53. How far away was he?
A53. He was around the area.
Q54. You said he was there?
A54. He was in the wash-house right near my area.
Q55. All I want to know is, was the Sgt-Major in such a position to see this whole incident?
A55. He couldn't see it; he was around the area, though.
Q56. You saw Sgt Gale and Lawrence in conversation?
A56. Yes, sir.
Q57. Suddenly you let a roar out of you and said, "Stand to attention!"
A57. I didn't let a roar out of me. I walked up and said, "Stand to attention."
Q58. Did you excuse yourself to the Sgt?
A58. I told Sgt Gale, I said, "Have that man stand to attention."
Q59. You issued the order to Sgt Gale to have that man stand to attention?
A59. It seems I had to.

THE COURT: Sgt O'Grady is not on a charge here. It is Boy Lawrence who is charged with an offence. I have let you go because I thought you were building up to something.

DEFENCE: I will be glad to explain my point. One of the ingredients of the charge brings in a superior officer, and I thought ---

THE COURT: It is within the military knowledge of the court that a NCO is the superior officer of a private soldier or a boy, and I do not think it matters if there was a Brig present. Sgt O'Grady is the superior officer of Boy Lawrence.

DEFENCE: I express my regret to the court.

THE COURT: You have great latitude in defence, but I fail to see what you are arriving at.

Q60. DEFENCE: When you say Lawrence refused did he utter any words to indicate he was refusing to obey your command?
A60. No sir, he paid no attention to my order to stand to attention but just stood there with his hands in his pockets. I warned him a second time and then he took his hands out in an unsoldier-like manner.
Q61. If Lawrence swears he was in the act of walking away from Sgt Gale when you told him to stand to attention, is that correct?
A61. No, sir.
Q62. Your evidence is he was still in conversation with Sgt Gale?
A62. Yes, sir.

Q21. I didn't ask you for that, and thanks for throwing that in. Had you had him on a report before his Coy Comdr?
A21. No, sir.
Q22. Did any NCO under your charge act on your instructions to have him paraded before his Coy Comdr on report?
A22. No, sir.
Q23. Might it be fairly inferred by the Court that any things he might have done that did not suit you were of such a minor character you did not feel it proper to lay any charge against him or have him up on report?
A23. I have warned ---
Q24. Is it a fair proposition for the court to infer that his conduct was such that you did not feel you were justified in having him up even on report, let alone a charge?
A24. I think I did have him up on report through the Sgt-Major. I cannot remember all the times in the orderly room, but I am not the senior Sgt in the coy.
Q25. Who is?
A26. Sgt Gale is senior to me in this country; I don't know the way seniority goes. If it goes by service I would be senior to him, but I think the way they count seniority is by the time you have been in this country.
Q27. After all that, are you senior to Sgt Gale?
A27. No, in my estimation he is senior to me.
Q28. It has taken a long time to get that out. On the morning in question you were short someone and had some sort of a job to do which was to be done by M.T. truck; is that right?
A28. Yes, sir.
Q29. As I understand it, Lawrence was the orderly room runner?
A29. Yes, sir.
Q30. Did you mention that to my friend?
A30. I didn't think there was any need of mentioning it.
Q31. He was not in your fatigue party?
A31. He was in the area.
Q32. I would like you to take one of my questions and give me a true answer. Lawrence, being the orderly room runner, was not part of your fatigue party?
A32. No, sir.
Q33. Consequently he was not directly under your control?
A33. I think it is my job to check any man up.
Q34. When you first spoke to Lawrence it had nothing to do with Lawrence committing any crime against the army; is that correct?
A34. I don't get that question.
Q35. When you first spoke to Lawrence it was to have him carry out an errand you wanted him to do?
A35. It was a duty; he was on call for all jobs as a runner.
Q36. I suggest to you, as orderly room runner he was directly under the orderly room staff and not directly under you i/c fatigue party?
A36. He was under my jurisdiction; if he is in the barrack block he is under my jurisdiction.
Q37. When you are i/c fatigue party you say the orderly room runner is under your discipline?
A37. Yes, sir.
Q38. You can grab him and order him to run off after a truck or something?
A38. I didn't order him; I requested him to go.
Q39. Is it a fact that Lawrence told you all the vehicles were going through maintenance and he had heard no vehicles were available?
A39. No sir, he did not make that statement.
Q40. Are you quite sure about that?
A40. Yes, sir.
Q41. Then you turned around to your fatigue party some six ft away?
A41. Five or six ft, sir.
Q42. There is no grief up to that point?
A42. No, sir.
Q43. Then you turned around and saw Lawrence talking to who?
A43. To Sgt Gale. First, sir, I turned around and walked to the fatigue party, though.
Q44. All right; you are at the fatigue party. That finishes the first part

PROSECUTOR: The prosecution will take the first two charges together, sir, and the last one after.
THE COURT: Is that satisfactory to you?
DEFENCE: Yes, sir.

Q7. Just tell the court what you know about this case?
A7. Sir, at approximately 1345 hrs on the 26 Jun 41 I was Sgt i/c of a fatigue party then stationed in Martinique Bks. We were very short of men at the time.

Q8. THE COURT: What date?
A8. The 25th, sir; my mistake; I am sorry. I was i/c of a fatigue party in Martinique Bks and we were very much down on strength for men. I met the said soldier walking down the hallway in D block at Martinique Barracks.
Q9. What 'said soldier?'
A9. Boy Lawrence, the accused. I stopped Boy Lawrence, sir, and requested him to go to the M.T. Corporal and see if it was possible to get a truck to remove straw that had to be burnt. Boy Lawrence spoke to me in a very insolent manner. I warned him.

DEFENCE: I might draw the court's attention to the fact that on a charge of this particular nature it would be the function of the court to judge whether the manner was insolent or not, and I think the witness should state just what did occur. He is not a judge of whether it was insolence or not; that is the function of the court.

Q10. BY PROSECUTOR: I suggest you withdraw that statement and put a little softer term on it?
A10. He did not speak in a very soldier-like manner, sir. I warned him and turned around. When I went to my fatigue party about six feet away I was carrying on with the job and I turned around again and saw Boy Lawrence in conversation with a Sergeant; he was standing in a very slovenly-like manner, with his hands in his pocket, and I checked him up and told him to stand to attention when talking to a NCO. He refused to do so. I warned him again. He still refused to stand to attention. I placed Boy Lawrence under arrest and just as I was leaving Boy Lawrence he passed the remark that if he had a bayonet he would run it through me. I then fell in an escort and put Boy Lawrence in the guard room.
Q11. Did you at any time use any language one could call threatening to the accused?
A11. No, sir.
Q12. When you said, "Lawrence, stand to attention," did he say anything or simply not act?
A12. He simply did not carry out the order, sir. He just stood there, sir.

CROSS EXAMINATION BY THE DEFENDING OFFICER

Q13. How long had the accused prior to 25 Jun 41 been in your company?
A13. I couldn't say that, sir. The only place where you could get that information would be our own orderly room.
Q14. A short time or some months?
A14. To my estimation, about four months.
Q15. Are you aware of the fact that Lawrence had his eighteenth birthday last month?
A15. Yes, sir.
Q16. So that at the time, say four months before this incident you referred to, you knew you were dealing with a 17-year old, did you?
A16. No, sir.
Q17. You assumed he was the proper army age?
A17. Yes, sir.
Q18. Even on the 25 Jun when you were involved in this matter with him?
A18. Yes, sir.
Q19. You thought he was how old?
A19. I understood sir, by the orderly room report, that he was 18.
Q20. Had you had any previous occasion during the four months to lay any charge against him?
A20. No, but I had previous occasion to check Boy Lawrence up.

No. D114503, Boy B.F. LAWRENCE, No. 1 Royal Canadian Army Service Corps Holding Unit, tried by Field General Court Martial at ALDERSHOT, Hants. on the 9th day of August, 1941.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The Accused is brought before the Court.

Prosecutor:-	2/Lt. P.J. Ivey,	1 RCASC H.U.
Defending Officer:-	2/Lt. W.S. Haney,	1 RCASC H.U.

At 1300 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No, sir.

The President and members are duly sworn.
The officers under instruction are duly sworn.

Q2. Do you object to B66944, Sgt. T. Pyburn, R.Regt.C., acting as shorthand writer?
A2. No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the first charge against you, which you have heard read?
A3. Not guilty, sir.
Q4. Are you guilty or not guilty of the second charge against you, which you have heard read?
A4. Not guilty, sir.
Q5. Are you guilty or not guilty of the third charge against you, which you have heard read?
A5. Not guilty, sir.
Q6. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A6. No, sir.

The prosecutor makes no opening address.

1st witness for prosecution) No. P-3148, SGT. D. O'GRADY, No. 1 Royal Canadian Army Service Corps Holding Unit, being duly sworn, is examined.

DEFENCE: Sir, is the evidence affecting all three charges being taken at the same time?
COURT: Just as the prosecutor sees fit to bring it out. The court has no objection as to how it is produced.
DEFENCE: I was not raising any objection, but simply wished to know as a guide.

CHARGE SHEET

The accused, D-114503 Boy Lawrence, E.F., No.1 R.C.A.S.C. Holding Unit, C.A.(O), is charged with W.O.A.S.

First Charge
Sect 9 (2) Army Act

Disobeying a lawful command given by his superior officer

in that he, at New Martinique Barracks, Bordon, Hants, on 25 Jun 41 refused to stand to attention when talking to Sgt. Gale, M.E., his superior officer. when commanded to do so by his superior officer Sgt. O'Grady,D

Second Charge
Sect 9 (2) Army Act

Using threatening language to his superior officer

in that he, on 25 Jun 41, at New Martinique Barracks, Bordon, Hants, said to his superior officer, Sgt. O'Grady, D., "If I had a bayonet in my hand I would run it through you."

Third Charge
Sect 40 Army Act

Conduct to the prejudice of good order and Military discipline

in that he, at New Martinique Barracks, Bordon, Hants, on 2 Jul 41, was in improper possession of a leather belt and army badges belonging to a comrade.

(J.M.Pocock) Lt. Col.
Commanding
No.1 R.C.A.S.C. Holding Unit
Canadian Army (Overseas)

Bordon, Hants.
10 July, 1941.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Bordon, Hants
This 2nd day of August 41.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-114503 RIT LAWRENCE, B.F. No. 1 R.C.A.S.C. Hldg Unit.	First Charge A.A. sec 9(2)	Not Guilty	Guilty	Finding and sentence confirmed but commuted the sentence of three months remitted. H.H. Nelson Brig
	Second Charge A.A. sec 6(2)	Not Guilty	Guilty	
	Third Charge A.A. sec 40	Not Guilty	Guilty To undergo detention for one year. The Court recommend the accused to mercy on the ground that he has only just reached the age of "man", service, that is has had nearly one years service, and seems to have not a bad military record. The Court is of the opinion that the accused is a "slack" soldier rather than a bad one. W.L. Mayo Major President	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

Signed H.H. Nelson Brigadier (Signed) W.L. Mayo Major.

Commanding Cdn Base Units Cdn Army. *President.*
Convening Officer (d)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of August 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~) The shorthand writer
4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 9th day of August 1941.

W.L. Mayo Major
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with~~

U.C. Certificate in case of death sentences.

~~Signed this day of~~ ~~19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 25th day of August 1941.

H.H. Nelson Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 27/8/41 (Signed) for A.R. MacFarlane Lt
OFFICER I/C RECORDS
No. 1 R.C.A.S.C. HOLDING UNIT.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[44239] 50,000—8/41 400 H. Kiel P.B. G. 6a.

D-114503 Boy Lawrence, B.F.
No.1 R.C.A.S.C. Hldg Unit

816

Army

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 2nd day of August, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]:—

*(1. [illegible])

*(2. [illegible])

*(3. [illegible])

[illegible]

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	W.E. Andrewes	No.1 Cdn Eng Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	C.M. Longbotham	No.1 RCASC Hldg Unit
Lieutenant	W.J. Fordyce	No.1 Cdn Gen Hldg Unit
Lieutenant	D.[illegible]. Stewart	No.1 Cdn Sigs Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [illegible] Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

81 b. Bay Lawrence. B.P.

[illegible]

81 b. Bay Lawrence. B.P.

16 Dec. 41 [illegible]

Appx "D"

STATEMENT OF D 3127 Sgt. B rown, F.T.
"A" Squadron
7 Cdn Recce Regt (17 DYRCH)

1 Oct 44.
1600 Hrs. (A)

Statement begins:

"Officer of the French Air Force in town on Special Mission while at the officeofthe Civil Affairs, their car was stolen which was reported to us. About an hour later the car was reported found. I was ordered to go down and investigate and I found in a house in G uines, K 85415 Sgt. Lawrason, H.A. and he appeared to be under the influence ofliquor. At the request of Lieut. Clement Albert of the French Air Force, Sgt.Lawrason and I entered another house where Madame Raymonde Duquenne identified Sgt. Lawrason as being one of the soldiers who gave her cigarettes(American). Whilst in this house Pte. Big Charles M 65647 entered the house and was also identified by the same person as being the other soldier who gave them cigarettes. Madame Raymonde Duquenne also stated that these were the two soldiers who were seen around the car. These two soldiers were brought back to the Squadron headquarters of the above Regt. and were held here waiting for the arrival of a member of the 3 Cdn Inf Div Provost Corps, and while these men were waiting here at the 7 Recce SHQ they left on their own and returned to their Unit. B 11517 Sgt. Wells, H.A. and myself went to the # 7 Mobile Laundry and Bath and found the two above mentioned soldiers there.

Frank Brown

(F.T. Brown) Sgt. D. 3127.
7 Cdn Recce Regt (17 DYRCH)

Je soussigné Raymonde Dangueuse 31 Rue du Château avoir vu deux soldats avec une auto dans la dite rue. et demandait à deux de mes voisins pour coucher les gars ont accepté et en remerciement ils leur ont dit de prendre ce qu'il y avait dans la voiture

Ces gars sont allés prévenir les camarades pensant que c'était des Allemands et les soldats ont reconnu que c'était des Canadiens.
Peu de temps après un de ces soldats est venu nous mettre l'auto qui était garé un peu plus loin en marche n'arrivant pas à ce qu'il voulait je l'ai vu saboté.

N'ayant pas sorti vu que le métis était toujours sur le coin de la rue avec son révolver je n'ai pas pu prévenir les autorités mais malgré tout je suis resté à ma fenêtre pour voir ce qu'ils allaient faire.

A moi-même il m'ont donné une petite épingle à cravate en métal et 3 cigarettes dont la marque est Lucky Strike.

A Gaines le 1er Octobre 1944

Raymonde Dangueuse.

Je soussigné Loucher Ernest résidant
a Guînes certifie que hier vers
9 H. 30 deux soldat canadien
logé chez moi c'est soldat
était dans une voiture allemande
qu'ils ont laissez a coté de la
maison il nous ont offert
en remerciement quelque service
et divers objet de toilette et
puis quelque cigarettes françaises,
c'est deux soldat était porteur
d'une petite caisse en bois
contenant un livret militaire
au nom de Robino yves,
et deux couverture et une veste
cuir

M. Loucher Ernest

30 Rue du Chateau

Guînes PDC

Manquant:

1 valise de toilette et divers objets de toilette
savon, savon, 1 musette, 1 brosse

2 stylographes, 1 en noir genre Parker,
un bleu marbré plume or -

Divers papiers un ordre de mission
Cigarettes, tabac
Bourse dans un "carré"

Je soussigné Clément Albert lieutenant de l'Armée de l'Air certifie sur l'honneur que les objets précédents ont disparu de la voiture militaire 10083 et qu'ils n'ont pas été retrouvé

A Clément

Lt Clément Albert
9e Cie de D.P.
35 Rue St Didier Paris

CERTIFICATE:

"I certify that in my opinion the attendance of D-3127 Sgt.Brown.F.T. of 7 Cdn Recce Regt (17 DWRCH) is, owing to the tactical situation, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as EXHIBIT "D"

.....Lieut.
Officer detailed to take the Summary.

FIFTH WITNESS FOR THE PROSECUTION..continued.....

.....

I placed Sgt.Lawrason and Pte Bigcharles under arrest as both men admitted having been in GUINES and I believe them therefore to be out of bounds, as neither of these men had authority from me at any time to leave their Camp site except on duty.. The following morning Pte Bigcharles was awarded summary punishment. I spoke to Sgt.Lawrason releasing him from arrest without prejudice to re-arrest, informing him that I would seek advice before proceeding with charges or otherwise. After discussing the matter with the DAAG and ADJA 3 Cdn Inf Div I decidedmto submit a report in accordance with KR&O (CM)1939, para 329(c)(i). This report together with relevant documents including a statement by Sgt. Lawrason was submitted to "A" Branch 3 Cdn Inf Div and was subsequently returned to me with instructions to take Summary of Evidence. I will submit my statement and Sgt Lawrason's statement as evidence that this was done.

Question by Officer detailed to take the Summary-

Q- "Sgt Lawrason is this your signature on both statements ?

A- Yes Sir.

Witness continues:-

"On 21 Oct 44 Sgt. Lawrason was paraded to me and charged under AA Sec 15.1. and AA Sec 11 and Lieut. H.Browning was detailed to take the Summary of Evidence.

Question by Officer detailed to take the Summary-

Q- Will you produce Part I Order stating all towns and villages are out of bounds.

A- Yes D.O. Part I #20 para 3 dated 19 July 44.

The accused declines to cross-examine this witness.

.....
Capt. W.F.Rannie.

The accused having been duly cautioned in accordance with R.P. (E) says "I wan't to be sworn".

The accused K-85415 Sgt Lawrason.G.A. having been duly sworn states:-

I left my Bath section at approximately 2030 hrs 30 Sept 44, I received a ride into Guines. Missing my ride back I was offered a place to sleep, where I was awakened by Sgt.Brown of 7 Cdn Recce Regt (17DYRCH) at 2230 hrs and was detained overnight and part of the next day by his officer Capt.Duncan. Not being under arrest I left the Recce lines at approximately 1445 hrs 1 Oct 44 and proceeded to my Bath Section. I arrived there at 1550 hrs and was picked up by Sgt Wells of #4 Provost Coy and Sgt Brown at 1600 hrs and was returned to my unit HQ reporting to my OC Capt. Rannie.

.....Sgt.
K-85415 Sgt. Lawrason. G.A.

Certified that R P 4 complied with.
In the Field
22 Oct 44.

.....Lieut.
Lieut. H.Browning.
Officer detailed to take the Summary.

THIRD WITNESS FOR THE PROSECUTION- continued.....

Madame Duquenne also stated that these were the two soldiers who were seen around the car. These two soldiers were brought back to the Squadron Headquarters of 7 Cdn Recce Regt and were held there waiting for the arrival of a member of the 3 Cdn Inf Div Provost Corps, and while these men were waiting here at the 7 Cdn Recce Regt they left on their own and returned to their unit. B-11517 Sgt. Wells.H.A. and myself went to the #7 Mobile Laundry & Bath Unit and found the two above mentioned soldiers there.

Signed. (F.T.Brown) Sgt. D-3127
7 Cdn Recce Regt.(17 DYRCH)

Certified true copy.....Capt.

..... 22 Oct 44.

Question to the Accused by Officer detailed to take the Summary,-

Q- Do you wish to ask Sgt Brown any questions ?

A- NO but I wish to repute two statements of Sgt Brown, mainly :

(a) I repute the fact that I was under the influence of liquor. I definitely was not.

(b) Madame Raymonde Duquenne stated that she wasn't sure I was the party mentioned in Sgt Brown's statement.

FOURTH WITNESS FOR THE PROSECUTION: B11517 Sgt.Wells. H.A. #4 Provost Coy, having been duly sworn, states:

" On the afternoon of 1 Oct 44 my O.C. instructed me to go to the unit lines of the 7 Cdn Recce Regt to make investigations of 2 Canadian soldiers who were held in custody by that unit. When I arrived at the Hussars approximately 1500 to 1530 hrs I interviewed Sgt.Brown of 7 Cdn Recce Regt and got his statement of what had happened. On looking for Sgt.Lawrason and Pte Bigcharles found they were missing and in company with Sgt Brown wen't to the Bath Section and Sgt Brown pointed out the two soldiers who were Sgt.Lawrason and Pte Bigcharles. I then drove to my unit lines for a meal, with the two soldiers mentioned, then drove to the Mobile Laundry HQ and turned Sgt.Lawrason and Pte Bigcharles over to the Officer Commanding, Capt. Rannie. Having insufficient evidence I did NOT lay a charge.

The accused declines to cross-examine this witness.

CERTIFIED TRUE COPY OF STATEMENT MADE BY B-11517 Sgt.Wells. H.A. #4 Provost Coy.

.....Capt.

FIFTH WITNESS FOR THE PROSECUTION: Capt. W.F.Rannie,Officer Commanding 7 Cdn Mobile Laundry & Bath Unit (Type B) RCOC, having been duly sworn states:

" At approximately 1800 hrs 1 Oct 44, Sgt.Wells, of #4 Provost Coy reported to me at the Unit orderly room that he had with him Sgt.Lawrason and Pte Bigcharles and that he was turning them over to me and NOT laying charges. He handed me statements purported to be signed by Sgt. F.T.Brown, 7 Cdn Recce Regt and also 3 statements in French. These statements are hereby presented as Exhibits together with my translation of the statements.

.....3

SUMMARY OF EVIDENCE in the case of K-85415 Sgt.Lawrason.G.A., 7 Cdn Mobile Laundry & Bath Unit (Type B) RCOC, a soldier of the Cdn Army Overseas.

The accused is informed of his rights.
The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION: B-83474 L/Cpl McKenna.W.J. having been duly sworn states:

"I did not see Sgt.Lawrason after 1700 hrs 30 Sep 44. I didn't actually miss him until 0700 hrs 1 Oct 44. I continued work at the Bath section intending to report to the Officer Commanding after work was through for the day. At approximately 1600 hrs 1 Oct 44 a Provost Sgt came to the unit for Sgt Lawrason and Pte Bigcharles, arriving shortly after Sgt.Lawrason and Pte Bigcharles had returned, and it was then that I reported at once to my OC Capt.Rannie that they had been absent and I hadn't seen them from 1700 hrs 30 Sep 44 until 1600 hrs 1 Oct 44."

The accused declines to cross-examine this witness.

Certified true copy of statement K Bowman Lieut.

.....
B-83474 L/Cpl McKenna.W.J.

SECOND WITNESS FOR THE PROSECUTION: M-65647 Pte Bigcharles. J.E., having been duly sworn states:

" I left the Bath Section lines at approximately 1745 hrs to see my nephew who was stationed about 1½ miles from GUINES. On returning at approximately 2300 hrs I was walking through GUINES when I saw a lighted house with an open doorway, in the house I saw Sgt.Lawrason and went in to see him. He was with a Sgt from the 7 Recce Regt (Sgt Brown) who asked me to go with him and Sgt.Lawrason to his unit lines. When we got there an Officer told us to stay there overnight.
At approximately 1445 hrs the next day, not having been put under arrest, and getting tired of waiting around, we left the Recce Regt lines and returned to our Bath sections, arriving there at 1550 hrs. We were only there about 10 minutes when Sgt Brown and a Provost Sgt came along and asked us to go with him. He returned us to our unit HQ and reported to our OC Capt.Rannie.

The accused declines to cross-examine this witness.

Bigcharles. JE
.....
M-65647 Pte Bigcharles.J.E.

THIRD WITNESS FOR THE PROSECUTION: Certified true statement made and signed by D-3127 Sgt. Brown. F.T. of 7 Cdn Recce Regt(17DYRCH) statement begins:

" Officer of the Franch Air Force in town on Special Mission while at the office of the Civil Affairs, their car was stolen which was reported to me. About an hour the car was reported found. I was ordered to go down and investigate and I found in a house in GUINES, K-85415 Sgt.Lawrason.G.A. and he appeared to be under the influence of liquor. At the request of Lieut Clement Albert of the French Air Force, Sgt Lawrason and I entered another house where Madame Raymonde Duquenne identified Sgt Lawrason as being one of the soldiers who gave her cigarettes (American). Whilst in this house Pte Bigcharles, M-65647 entered the house and was also identified by the same person as being the other soldier who gave them cigarettes. Madame Duquenne also stated.....

CERTIFIED TRUE EXTRACT FROM 7 CDN MOBILE LAUNDRY & BATH UNIT RCOC PART I ORDER # 20 dated 19 July 44.

Para 3 OUT OF BOUNDS

1. All towns and villages in 3 Cdn Inf Div Area are OUT OF BOUNDS to tps except on duty.

(3 Cdn Inf Div Order # 60.)

~~EXHIBIT "A"~~

Exhibit "C"

Exhibit "A"

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-85415	Sgt	Lawrason, G.A.	7 Cdn Mobile Laundry & Bath Unit (RCOC)

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	NIL	times	NIL	times
For		times	Previous sheets destroyed	times
For		times	on attaining confirmed rank of	times
For		times	SGT	times

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the conduct sheets of the accused. NIL

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately. N.A.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N.A. beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for NO days in civil custody, and NO days in military custody, making a total of NIL days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 30 yrs 8 months

6. The date of his ~~commission~~ attestation specified in his record of service is attestation paper

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 7 months

8. The accused is entitled to reckon 4 yrs 7 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward. Cdn Volunteer Service Medal & Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

Exhibit "B"

K-85415 Sgt. Lawrason G.A.
No Name

Sqn, Battery, or Company | Corps RCOC | Date of enlistment 17 Mar 1940 GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) (AAS/136 (3438))

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Four | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field (England)				Old Sheet Destroyed on attaining the confirmed rank of SGT. wef 1 Jun 44. (DO II #22 d/9 Jun 44) Cases of Drunkeness.....NIL..					

CERTIFIED TRUE COPY

.....Capt.
Capt. W.F. Rannie,
OC 7 Cdn Mob Ldry & Bath Unit RCOC.

(PTO)

would have retired to camp and
nothing more would have occured.
Lyt Lawson was perfectly right in
looking after the affairs of his men.
Under these circumstances Lyt Lawson
could not be guilty of being A.W.L."

section would be making out, and not being under arrest thought it would be an easy matter for the Provost, if they wanted me, to come to the bath section. I returned to the bath section with Pte Bigchorles, arriving at 1550 hrs. Ten minutes later the Provost arrived and escuted me to my unit hq."

Cross-examination by the Prosecution

Q1. "Did you inform L Cpl McKenna where you were going?"

A. "No Sir. We were in the habit of going to this small pub each night and I met this chap from 7 Cdn Recce there. He offered me a ride to Quinnes and I did not have time to inform L Cpl McKenna. Knowing him to be a capable N.C.O. I thought it would be alright."

Q2. "Why did you go to the house in Quinnes?"

A. "I was asked in by the lady, whom I presumed owned the house."

Closing address by Defending Officer.

"I am sure that you can readily see that the charge against Sgt Lawrason would never have been laid had he not happened to be in the village of Quinnes at such a time as there appeared to be some trouble over stolen property. Had Sgt Lawrason located Pte Bigchorles they

do anything with him if he was drinking, thought it my duty to go to Yvonnes and look for him. Arriving in Yvonnes I walked around the places he might be when I was apprehended by Sjt Brown of the 7th Cdn Recce. Apparently there were two French officers who had had their car and a considerable amount of personal property stolen. Sjt Brown remarked that he thought I never had anything to do with it and that I had better leave town, but I heard one of the French officers say that I was one of the men that was seen around the car. Being innocent of any theft I decided to stay and see this officer to try and get the matter straightened out and was asked by Sjt Brown's officer Capt Duncan of 7 Cdn Recce to stay overnight and see how things turned out in the morning. In the morning Sjt Brown went down town and received statements from the people that thought they recognized me. When he arrived back he asked me to wait for the Provost. Waiting all morning until about 1430 in the afternoon, I was worried about how the lath

Evidence for the Defense.
Opening address of the Defending Officer.

"You heard the evidence for the prosecution trying to prove Sgt Lawrason with being A.H.L. You heard the evidence given by Capt Rannie, stating that one Pte Bigcharles was A.H.L and duly charged and crimed for this offence. I am going to call the accused, as a witness, to tell the Court why he was in the village of Yuinnes and to prove to the Court that he was there on duty."

The Accused, as a witness, having been duly sworn states:

"On the evening of the 30th of Sept 1944 I was at the quarters of the bath site making my bed when Pte Bigcharles came down and informed me that he was going to see his nephew somewhere near Yuinnes. Not thinking at the time that it was important, I went for a walk and stopped at a small pub a couple of hundred yards from the bath site where I met a chap from the 7 Cdn Reme. He warned me that the town was strictly out of bounds. Knowing Bigcharles temperament and that I was the only one that could

A. "Only on duty."

Q4. "Can the prosecuting officer submit a copy of orders showing the surrounding towns out of bounds?"

A. "Yes it is submitted as evidence."

Cross examination by the Defense

Q1 "Do you consider men in a bath section in the same status as a prisoner, that is confined to barracks?"

A. "No, but routine orders, area orders and unit orders of that time confined men to their camp area."

Q2. "Has Sgt Lawrence record as a bath Sgt been good?"

A. "Yes."

Q3. "What charges were laid against Pte Bigsharles?"

A. "A.W.L. and being out of bounds."

Q4. "Was he tried and found guilty?"

A. "Yes."

connection with D.A.A.G. and A.D.C. I submitted an adverse report. Following this submission I received instructions to lay charges and apply for Court Martial."

Questions by the Prosecution

Q1. "How far would Tunnicliffe be from the Bath Unit?"

A. "About seven miles."

Q2. "Had Lt. Cameron any reason to be in Tunnicliffe on duty?"

A. "Not that I know of."

Q3. "Was any order to the effect that the surrounding towns were out of bounds published?"

A. "Yes."

Q4. "Did Lt. Shelly give you any statements?"

A. "Yes. There were four. One by Lt. Brown and I believe three in French."

Questions by the Court.

Q1. "When Lt. Cameron was paraded before you had a charge been laid?"

A. "No."

Q2. "Was Lt. Cameron in charge of the Bath Unit?"

A. "There were two victims, the Lt being in charge of one and L/Cpl. McKenna the other but Lt. Cameron was senior rank."

Q3. "Was it in order for him to leave without permission?"

Fifth Witness: Capt H. F. Rannie O.C.
7 Cdn Mobile Laundry & Bath Unit
(Type B) R.C.O.C having been duly
sworn states:

"About 1700 hrs 30 Sept 44 L Cpl
McKenna reported to the unit
orderly room which was then
situated near Cremarest. He told
me that Sgt Lawrason had left
the bath site where he was in
charge of a Bath Sec. the previous
evening. L Cpl McKenna stated
that he had not seen Sgt
Lawrason after supper. The
following afternoon Sgt Lawrason
reported back to his bath sec
about 1600 hrs and shortly there-
after Sgt Wells of 3 Cdn Div
Provost Coy and Sgt Wells of
7. Reve Regt went to the bath
section and took Sgt Lawrason
away with them. Later that
evening Sgt Wells reported to
me with Sgt Lawrason and
stated that he was turning
Sgt Lawrason over to me but
was not laying charges. I
placed Sgt Lawrason under
arrest and had him paraded
to me the following morning
when I released him from
arrest without prejudice to
rearrest. I enquired of DAAG
and ADJA as to the best
course of action. Following

Cross examination by the Defense.

Q. "When you visited Sgt Brown of the 7 Cdn Reve Regt did he tell you why the men were being held?"

A. "Not the exact details"

Q2. "Were they being held on suspicion?"

A. "He was holding them for me to return to the unit along with documentary evidence."

Fourth Witness: ~~Documentary evidence attached hereto~~:

J 3127 Sgt Brown F.T. was not present to give evidence and the defence did not demand his attendance.

and a Pte and also gave me some statements. Sgt Brown and myself went into the quarters where the men of the regt were staying and found that the Sgt and the Pte were not there. Accompanied by Sgt Brown I proceeded to the Bath Section and found the Sgt and the Pte that Sgt Brown had retained the previous night. The Sgt and the Pte were asked to get in the jeep and accompany us. I went to Quinnes where I left Sgt Brown and from there to my coy hq where we had supper. At approx 2230 hrs I took the Sgt and the Pte to their unit and turned them over to Capt. Rannie of the unit."

Questions by the Prosecution:

Q1 "What did you do with the documentary evidence?"

A. "It was turned over to Capt Rannie".

Questions by the Court.

Q1. "Why did you take them away from the Bath Sec and then return them?"

A. "Because they had left the Rescue lines without permission and because Sgt Lawrason was the senior man at the Bath Sec".

Q2. "Did you charge Sgt Lawrason with being Rd L"

A. "No Sir."

time for certain."

Q2 "In what town did you see Sgt Lawrason?"

A. "Quinnes."

Q3. "How far was your unit from Quinnes?"

A. "I do not know."

Q4. "Did you return to your unit from the Reece lines?"

A. "Yes we were not under escort."

Cross examination by the Defence.

Q1. "When you left camp to see your nephew did you have a pass or have permission to leave?"

A. "I mentioned it to Sgt Lawrason."

Q2. "Did you mention going to this town of Quinnes?"

A. "Yes Sir."

Third Witness: B11517 Sgt Wells, W. A. #4 Brown Coy, having been duly sworn states:

"On Sunday Oct 1st at around noon my C.O. instructed me to go to Quinnes to see about two Canadian soldiers who had been involved in some trouble the previous night and were being held by 7 Cdn Reece Regt. At approximately 1530 hrs I arrived in Quinnes and interviewed Sgt Brown of the Reece Regt. Sgt Brown told me of the two men a Sgt

A. "Certainly Sir. I was in charge."

Second Witness: M65647 Pte Bigcharles J. E. having been duly sworn, states:

"I left camp after duty to see my nephew at about 1745 hrs. I walked and it took me about an hour. I came back through Guinnes. I saw a house where a light was showing through an open door. I saw Sgt Lawrason in the house. He was under escort of Sgt Brown from the 7th Recce. Sgt Brown asked us to go to his unit lines. He told us to stay there all night and to wait for the Provosts. He became tired of waiting so returned to the Bath Sec. Ten minutes after we returned the Provost came and got us and took us to hq."

Questions by the Prosecution.

Q. "Did you make any arrangements with Sgt Lawrason to meet him in Guinnes"?

A. "No Sir."

Questions by the Court.

Q. "At what time did you return to the Bath Unit?"

A. "1600 or 1630 hrs but I do not know the

Evidence for the Prosecution.

First Witness: B 83474 L Cpl McKenna H. J., having been duly sworn states:

"The last time I saw Sjt Lawrason was at supper time at approximately 1700 hrs. I did not miss him until the next morning at breakfast at around 0700 hrs. I inquired as to his whereabouts and could not locate him. Around 0900 hrs I began to wonder but did not report as I was the only N.C.O. At approximately 1530 or 1600 hrs Sjt Lawrason showed up. Then the M.P.'s came and on their advice I closed down the bath and reported the matter to my C.O."

Questions by the Court:

Q1. "How does the Provost Sjt fit in this picture?"

A. "I do not know except for the fact that the Provost Sjt came and took him away."

Q2. "Do you know why Sjt Lawrason was taken away by the Provost?"

A. "No Sir."

Crossexamination by the Defence.

Q1. "When Sjt Lawrason showed up at approximately 1430 hrs was there any sign that he had been drinking?"

A. "Not to my knowledge Sir."

Q2. "Was the bath not functioning in a proper manner while Sjt Lawrason was away?"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K/85415	Sgt		George Alfred	LAWRASON	7 Cdn Mob Ldry & Bath Unit, RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Nov 44 endorsed by me, ~~or by an offr of my staff for that purpose~~, he (they) be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr;~~ MG
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason(s) I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) MG

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	R M Medland		QOR of C

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	N R Edwards		Regina Rifles
Capt	P H S Paterson		S D & G H

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
An officer to be detailed by the CRA 3 Cdn Inf Div			

~~JUDGE ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Dat 7 Nov 44

D C Spry

(Signed personally. RP 105 fn 2.)

(D C SPRY) Major-Gen (Rank.)

Commanding 3 Cdn Inf Div

Convening Offr.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

(K.R.(CAN) para 557)

I certify that I have this morning examined No- K-85415 Sgt. Lawrason. G.A. ..... and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station St Peters Barracks.

Date 3 Nov 44

Medical Officer
12 Bn 2 C B R C.

Rfls

CHARGE SHEET

The accused K-85415 Sgt.Lawrason.G.A., 7 Cdn Mobile Laundry & Bath Unit (Type B) RCOC, a soldier of the Cdn Army Overseas, placed on Active service, is charged with:

1

AA Sec 15(1). ABSENTING HIMSELF WITHOUT LEAVE:

In that he WOAS, in the Field, in France, did absent himself without leave from 2030 hrs 30 Sep 44 until 2230 hrs 30 Sep 44. Time absent 2 hrs.

2

AA Sec 11. NEGLECTING TO OBEY PART I ORDERS:

In that he WOAS, in the Field, in France, visited an area Out Of Bounds, contrary to Part I Order #20 para 3, dated 19 Jul 44.

W.F.Rannie.....Capt.
Capt. W.F.Rannie.
Officer Commanding.

Signed in the Field, in Belguim, this 22nd day of October 1944.

To be tried by Field General Court Martial.

D.C. Spry

In the field
7 Nov 44

(D C SPRY) Major-Gen
GOC 3 Cdn Inf Div

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K/85415 Sgt George Alfred LAWRASON, 7 Cdn Mob Ldry & Bath Unit GOC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Not Guilty	Not Guilty	
2nd AA 11	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be Severely Reprimanded

(Sgd) [signature] 9 Nov 44 (Sgd) [signature] Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) D. C. Spry

Date 15 Nov 44

Commanding (D C Spry) Maj-Gen. GOC. 3 Cdn Inf Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K85415 Sgt. G A Lawrason	19 Nov 44	W A Lannie Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 155. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. wish to give evidence on oath. Do you intend to call witnesses on your behalf?
Ans. No. Are they witnesses as to character only? Ans. n/a.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd Charge charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECEIVED 20 DEC 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160, 41-100

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) (D/P & R/1068 (2804))

Convened by Order of Major-Gen D C SPRY Comd 3 Cdn Inf Div Dated 7 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) eppmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname	Unit.
K/85415	Sgt		George Alfred	LAWRASON	7 Cdn Mob Ldry & Bath Unit, RCOC

PROCEEDINGS REVIEWED
Acting Assistant Judge Advocate
21 Dec 44
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 11 Jan 45 Cdn Sec GHQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date*) 9 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13|136

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R D Medland	QOR of C
Member	Capt	N R Edwards	Regina Rifles
Member	Capt	P H S Paterson	S D & G H
Judge-Advocate		a/a	
Prosecutor	Lieut	H Browning	#7 Mob L & B U.
Defending Offr	Lieut	W G E Fish	#7 M L & B U.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused K/85415 Sgt G A LAWRASON before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. France L

page 132

4I-100

SGT- LAWRASON GA.

Ex CCL

Plea in Mitigation of Punishment.

The Defending Officer, Capt. D.R. Forbes.

States: In the records which you have just heard read, I would like to draw to the attention of the Court the fact that the accused at one time was an A/Cpl and also the fact that both charges of A.W.L. in past record are for short times in both instances. All the other charges on his Conduct Sheet are for purely military crimes, such as sleeping in late, etc. I would also like to draw the attention of the Court to this man's appearance, his age 25 and also the fact that he has been waiting 8 days in custody before Court-martial.

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... ~~dated~~ ....., ~~and in his regiment for corpsh the rank~~ of

..... ~~dated~~ .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

..... ~~Date of promotion~~

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

~~In the rank of~~ ..... ~~years~~

NOTE.—~~If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NIL			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15th day of November 1943

18

[illegible] A/Capt & Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Exhibit "G"
[illegible]

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-37865	Pte	Lawlor, T.M.	H.L.I. of Canada

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec. 15 (1)	Two times	Two times
For A.A. Sec. 40	One times	Three times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ yf

~~or~~

There are ~~no~~ entries in the conduct sheets of the accused.

NOTE.—~~If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~ yf

2. ~~The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ yf

3. ~~The accused is not under sentence at the present time.~~ yf

or,

~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~ yf

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~8~~ 11 days in ~~Air Force~~ military custody, making a total of ~~8~~ 11 days in custody, of which nil days were spent in hospital. yf

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25 years, 235 days

6. ~~The date of his commission specified in his record of service is~~ ~~attestation~~ ~~attestation paper~~ yf

7. ~~The service which the accused is allowed to reckon towards discharge is~~ yf

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~ yf

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward for is in possession of or entitled to: State any air force decoration or reward~~ military military yf

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force yf

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Re[illegible]
Field	1943 23 Aug	Pte.		A.A. Sec.15(1) AWL from 2235 hrs 23 Aug 43 to 0530 hrs 24 Aug 43 (Abs. 6 hrs 55 min)	Documentary	14 dys C.B. 21 dys F. of P	25 Aug 43	Lt.-col., Shantz	Forf. 1 days pay by FR&I 149)1)(a) Forf. 21 days pay by FR&I 149(2)
Field	1943 2 Sep	Pte.		A.A. Sec. 40 Conduct to the prej etc.	Cpl. McFarlane	3 days F. of Pay 5 dys C.B.	4 Sep 43	Capt. A. Stewart	Forf. 3 days pay by FR&I 149(2)

CERTIFIED TRUE COPY... [signature illegible] a/Capt.
(C.J. Polzin) Capt. & Adjt.
15 Nov 43

M.F.M. 6
(A.F.B. 122)

No. 37865 Name Lawlor, T.M. Sqn., Battery, or Company — Corps HLI of C. Date of enlistment 15 Nov 40 C.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	1941			Last sheet destroyed 15 May 41					
Aldershot									
Aldershot	1941 18 Aug	Pte		A.A. Sec. 40 Conduct to the prej etc. Did not arise at reveille when ordered.	Sgt. Dunham	5 days C.B.	21 Aug 41	Maj. Lynn	
	1942								
The Field	5 Oct	A/C.		A.A. Sec. 40 W.O.A.S. Conduct to the prej. etc. At approx 1610 hrs 5 Oct 42 the A.A. Piquet in his charge were not carrying out their duties in a proper manner	R.S.M. J Ferguson Sgt. H.E. Francis	Reprimanded	7 Oct 42	Lt.-col. J. A. McIntosh	
Field	15/8/43	L/C		A.A. Sec. 15(1) AWL from 0715 hrs 15 Aug 43 to 2200 hrs 15 Aug 43 (Abs. 14 hrs 45 min)	Documentary	Reduced to Permanent Grade	19 Aug 43	Lt.-col. R.F. Shantz	Forf 1 days pay by FRAI 14B(1)(a)

P.T.O.

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass No. 71 Date 1-11-43

No. [redacted] Rank Pte. Name Lawlor T.M.

has permission to be absent from his unit from 1700 hrs 1-11-43

to 2359 hrs 8-11-43 for the purpose of proceeding to

London

"H" WING
NOV 1943

Orderly Room Stamp

A. H. Watson
Capt.

(Unit Signature Stamp)

Statement of **EVIDENCE** in the case of
A.37865 Pte. Lawlor, C.M.
W.L.I. of C.

Sir,

At LONDON, at about 1430 hrs, 8 Nov. 43, I was on duty at GERARD ST., LONDON, in company with Sgt. Nelson, when I saw the a/m soldier.

I requested to see his pass and he produced the attached document. Not being satisfied with same I questioned him further and he admitted that it was not genuine.

I placed him under arrest and escorted him to No. 6 (Area) Provost Coy., Cdn. Provost Corps, Detention Room and handed him over to the N.C.O. i/c of Cells, to be detained.

London
8 Nov. 43.

J.R.R. Carriere .....Sgt.
(C.41986 Carriere, J.R.)
S.I.S., Cdn. Provost Corps.

Sir,

I have read over and corroborate the above statement.

London
8 Nov. 43.

Fred R. Nelson .....Sgt.
(M.1089 Nelson, F.R.)

REMARKS

CHARGE

Army Form B 252
(See King's Regulations)

Highland Light Infantry of Canada Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. A.37865 Rank Pte.

Name LAWLOR, C.M.

Place LONDON Date of Offence 8 Nov. 43.

OFFENCE W.O.A.S. was A.W.L. from..?.. until apprehended by the S.I.S., Cdn. Provost Corps at GERARD ST., LONDON, at about 1430 hrs, 8 Nov. 43.

(2) Did produce a document purporting it to be a genuine leave pass well knowing same to be false, same time, place and date.

L. S. Grayson
CAPT.
L. S. GRAYSON D.A.P.M.
LONDON AREA.

Names of Witnesses :—

Sgt. Carriere, J.R. S.I.S., Cdn. Provost Corps.

Sgt. Nelson, F.R. S.I.S., Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

[illegible] 2,000,000 7/41 R. & H. Ltd. [illegible]

EXHIBIT 'C'

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. A37865 Rank Pte. Name Lawley C.M. Unit H.L.I. of Canada

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From

Date	Particulars	Amount		
9 Nov 43	Escorts return fare from LONDON To Winchester		10	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Winchester	Own Ticket		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	1.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000(5)
40/P & S/483(3287)

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42.

I Certify that No.A.37865. .Rank .Pte.. .Name Lawler, C.M. . . . . .

Unit . H.L.I. . . . . .was arrested at London . . . . (Place)

at 1430 . . .(hour) on 8 Nov. 43. .(date) and that at the time of his arrest he was wearing (Military Uniform) ~~or (Civilian Clothes)~~. Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
8 Nov. 43.

L.S. Grayson . . . . . .Capt.,
(L.S. Grayson), D.A.P.M.,
London Area.

EXHIBIT 'B'

Nov 5 Pres

G Polzin, a/Capt & Adjt

EXHIBIT 'A'
namobia

Record of the Declaration of a Court of Inquiry assembled at In the Field on the 29th day of October 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A. 37865 Pte. LAWLOR, T.M.

D E C L A R A T I O N

The Court declares that No. A. 37865 Pte. LAWLOR, T.M. of THE HIGHLAND LIGHT INFANTRY OF CANADA illegally absented himself without leave In the Field at 2359 hrs on the 7th day of October 1943, that he is still absent and that on the 26 October 43, he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE £	s	d
Drawers, Cellular shorts prs	2		4	1
Drawers, Woolen, prs	2		10	6
Pullover, Jersey,	1		6	9
Blouses, battledress,	1	1	7	8
Trousers, battledress,	1	1	7	11
Vests, Woolen,	2		10	2
Badges, Cap,	1			9½
Comforters, Cap,	1		1	1½
Fork, N.S. Table,	1			5
Knife, N.S. Table,	1			9½
Razor, Safety,	1		1	10½
Spoon, N.S. Table,	1			4½
Haversack, Respirator,	1		5	8
Outfit, Anti-Dimming,	1			1½
Ointment, Anti-Gas, tins	2		1	2
Eyeshields, Anti-Gas (6)	1		4	8
Detectors, Prs,	1		1	3
	Total	£ 5	6	6

Capt. N.A.E. Roelofson President
A/Capt. L.C. Winhold Member
Lieut. R.C. Stauffer Member

Signed at In the Field
this 29th day of Oct 1943

Signature of Commanding Officer R.P. Shantz Lt.-col.,

CERTIFIED TRUE COPY N. Roelofson, A/Capt & Adjt
14 Nov 43

Third Witness for Prosecution

A.37893 L/Cpl. Johnston, G.F., The Highland Light Infantry of Canada having been duly sworn states:-

" The pass which Pte. Lawlor carried was neither made out by myself nor issued by our office.

The accused declines to cross examine this witness.

L/Cpl. G. F. Johnston A37893
The Highland Light Infantry of Canada

The accused having been duly cautioned in accordance with Rules of Procedure 4 (e) reserves his defence.

I certify that the foregoing Summary of evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

In the Field
12 Nov 42

D. S. Barrie Lieut
The Highland Light Infantry of Canada

Second Witness for Prosecution

A.37640 Sgt. Johnston, R., The Highland Light Infantry of Canada having been duly sworn states:-

"I am Platoon Sergeant of No. 17 Platoon "D" Coy, The Highland Light Infantry of Canada. From the morning of 8 October 1943 Pte Lawlor has been absent from the platoon.

The accused declines to cross examine this witness.

Sgt. Johnston R. A37640
The Highland Light Infantry of Canada

Exhibit "C"
WWS Pte

SUMMARY OF EVIDENCE in the case of

No.A.37865 Pte. Lawlor, T.M., The Highland Light Infantry of Canada

The Commanding Officer directs that the evidence be taken on oath.

First Witness for prosecution — Lieut./(A/Capt) C.J. Polzin, Adjutant, The Highland Light Infantry of Canada having been duly sworn states:-

" I present Record of Declaration of a Court of Inquiry(attached as exhibit "A") Certificate of apprehension purporting to be signed by the D.A.P.M., London Area (attached as exhibit "B") Certificate of cost of return purporting to be signed by the D.A.P.M., London Area (attached as exhibit "C") all of which relate to the accused whom I recognize."

The accused declines to cross examine this witness.

C.J. Polzin a/Capt.
.....
The Highland Light Infantry of Canada

F

Sentence

The Court sentence the accused A 27865 Pte Fowler, Leslie Sentence. To undergo detention for 180 days and placed under stoppages of pay for £ 0.10.1 cost of apprehension.

Wm Semmens Major
Pres.
18 November 1943.

E

Finding

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

The Court is closed for the consideration of the finding.

The Court find that the accused

N.M.G. Pres

Proceedings on Conviction *before Sentence*

**When the Court is already open this sentence will be struck out.*

Evidence of character, &c.

*~~The Court being re-opened, the accused is again brought before~~ it. N.M.G. Pres

Lieut D. S. Barrie Highland Light Infantry of Canada is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Sir MFB 355 MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "G", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes Sir.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Yes Sir

The defending officer declines to cross-examine this witness.

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir

The Court is closed for the consideration of the sentence.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~] NMB Pres

The accused 1937865 Pte Theodore Maurice Lawlor Highland Light Infantry of Canada

is found guilty of the charge of absence without Leave AA Sec 15(1)(a) second. the charge of Conduct to the Prejudice of Good Order & Military Discipline AA Sec 40

*The summary ~~(or abstract)~~ of evidence is read, marked Exhibit CC,1 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes Sir

Answer. The accused in mitigation of punishment ~~says~~:— NMB Pres

NMB Pres ~~[or~~ hands in a written statement, which is read, marked CC1 signed by the President, and attached to the proceedings.]

NMB

Instruction. * If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

B

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General ~~and District~~ Field Court-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 18 day of November 1943 by order of Lieut-Col C. Petch officer Commanding 9 Cdn Inf Bde dated the 17 day of November 1943

N.M. Gemmell a/major S.D.&G. Highrs President.

Capt A.J. Wilson Nth N.S. Highrs Members.

Lieut C.E. McGuire S.D.&G. Highrs

, ~~Judge Advocate~~. Mgr Pres

Trial of* A 37865 Private Theodore Maurice Lawlor The Highland Light Infantry of Canada

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

Mgr Pres

~~The Court satisfy themselves that _____ is not available to serve owing to~~ Mgr Pres

~~_____, waiting member takes his place as a member of the Court.~~ Mgr Pres

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut O.S. Barrie Highland Light Infantry of Canada

Mgr Pres ~~Counsel~~ or defending officer† Capt O.R. Porter ~~[illegible]~~ Highland Light Infantry of Canada

At 1400 ~~o'clock~~ hrs the Trial commences.

The order convening the Court is read, and is marked Exhibit A1 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—8-41 (1318)
H.Q. 1772-39-224

MMB Rev

This is to certify that I have this day examined A-37965 Pte. Lawler, T. M., and have found him physically fit to undergo Trial by Court-Martial

Field
18 Nov 43

John B. Sam Capt
R.M.O. H Wt. of Cam

Exhibit B2

CHARGE SHEET

The accused Regimental No. A.37865 Private Theodore Maurice LAWLOR, The Highland Light Infantry of Canada, a Canadian soldier on active service is charged with:-

FIRST CHARGE
SECTION 15(1)(a)
ARMY ACT

ABSENCE WITHOUT LEAVE

in that he

in the Field, at 2359 hours 7 October 1943 absented himself without leave until apprehended by the S.I.S. Canadian Provost Corps at Gerard St. London at 1430 hours 8 November 1943 (Absent 31 days 14 hours 31 minutes) thereby incurring cost of apprehension to the amount of £0.10.1.

SECOND CHARGE
SECTION 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at 1430 hours 8 November 1943 he did produce a document purporting it to be a genuine leave pass well knowing same to be false.

In the Field
15 Nov 43

P.P. Hantz Lt.-col.
C.O. The Highland Light Infantry of Canada

To be tried by Field General Court Martial

(C. Petch) Lt-col
A/Comd 9 Cdn Inf Bde

In The Field
17 Nov 43

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.37865 Pte LAWLOR, Theodore Maurice HLI of C	First Charge Absence Without Leave Sec 15(1)(a) A.A.	Guilty	Guilty	I confirm the findings but remit 60 days detention and confirm sentence of 120 days detention and stoppages.
	Second Charge Conduct to the Prejudice of Good Order and Military Discipline Sec 40 A.A. Exhibit B 2. N.M.G. Pres	Guilty	Guilty A37865 Pte Lawlor, Theodore Maurice HLI of C to undergo detention for 180 days and placed under stoppages of pay for £0.10.1 cost of apprehension N.M. Gemmell Major President 18 Nov 1943	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (Signed) N.M. Gemmell Major

(C. Petch) Lt-col
A/Commanding 9 Cdn Inf Bde
Convening Officer (e)

(N.M. Gemmell) Major
SD & G Highrs
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of ~~November~~ 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~3. The Interpreter)~~ N.M.G. Pres
~~4. The officers under instruction)~~ N.M.G. Pres

were duly sworn.

*Cancel if not applicable.

Signed this 18th day of November 1943

N.M. Gemmell Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.L. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~ N.M.G. Pres

President of the Court Martial.

*See footnote (b) on page 702 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19th day of November 1943

[signature]
Confirming Officer. A/Comd 9 Cdn Inf Bde

Promulgated and extracts taken into the case of A37865 Pte. Lawlor, T.M.

(a) (Dated) 20 Nov. 43 (Signed) [signature], Capt & Adjt HLI of C

Promulgated and extracts taken into the case of

(Dated) (Signed)

Promulgated and extracts taken into the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

WW-125

Exhibits A1
pmb Pres

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Seventeenth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in A/ Command of 9 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint~~ ~~A~~.

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President~~

~~as the following~~ ~~A~~

Proceedings Reviewed

14 Dec 43 Lieut Branch

Reviewing Officer (J.A.G.) C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	N.M. Gemmell	SD & G Highrs

Members.

Rank.	Name.	Regiment.
Capt	A.J. Wilson	Nth NS Highrs
Lieut	C.E. McQuire	SD & G Highrs

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]

(C. Petch) Lt-col

A/Commanding 9 Cdn Inf Bde

Convening Officer.

WW-125

PTE LANGLOR T.M.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

~~I desire the services of .....~~
~~if he is available.~~

J.H.G. Lawley
(J.H.G. Lawley) Gnr.

LIST OF EXHIBITS

Exhibit "A" - No.1 Cdn Gen Rft Unit Supplement to Daily Part I Order No.232 dated 19 Aug 44. (Warning Order)

I hereby request that the Convening Off
Officer to represent me at my trial.

I ~~desire the services of ....~~
~~if he is available.~~

LIST OF EXHIBITS

Exhibit "A" - No.1 Cdn Gen Rft Unit Sup
Daily Part I Order No.232
19 Aug 44. (Warning Order)

Fourth Witness for Prosecution

B74386 Trooper Ashton, J.A., General Company., 1 Cdn General Reinforcement Unit, having been duly sworn, states:

While on duty at the reception office, General Company, 1 Cdn General Reinforcement Unit at approximately 1400 hrs, 30 Aug 44, Gunner Lawley reported in to me sober and properly dressed. I reported this to Lieutenant Simister who then instructed me to escort Gunner Lawley to the Guard Room where I turned him over to the Provost Corporal on duty.

[signature] TROOPER
No. 1 CGRU

The accused declined to cross-examine the witness.

The accused was cautioned in accordance with R.P. 4(E)

First Witness for Defence

K52183 Gunner Lawley, John Henry Gorden, General Company, 1 Cdn General Reinforcement Unit, having been duly sworn, states:

EY 2 MY

I returned from Italy to England in August, 1944 as escort to a prisoner and was sent to No. 1 Cdn General Reinforcement Unit where I applied for leave. I was on the Warning Parade held by Major Lawrence at 1030 hrs, 19 Aug 44. Having been granted no leave I left to see my brother who was stationed at 1 Cdn Artillery Reinforcement Unit, Borden, Hants. I returned to No. 1 Cdn General Reinforcement Unit and reported to Trooper Ashton at 1400 hrs, 30 Aug 44. While serving in Sicily, Italy and Africa I was in hospital twice with malaria and once with dysentery and did not want to go back.

J.H.G. Lawley
(J.H.G. Lawley) Gunner.

I certify that this foregoing Summary of Evidence was taken down by me in the hearing and presence of the accused and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

[signature] Captain,
No. 1 Cdn General
Reinforcement Unit
Officer detailed to take Summary

MY

Summary of Evidence in the case of
K52183 Gunner John Henry Gorden LAWLEY,
General Company, 1 Canadian General
Reinforcement Unit, Cdn Army Overseas

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

First Witness for Prosecution — Maj E.J. Lawrence, Clerks Company, 1 Cdn General Reinforcement Unit, having been duly sworn, states:

I was appointed by the Adjutant, 1 Cdn General Reinforcement Unit as Officer i/c Warning Parade for an out-going Special Draft. As Warning Officer at approximately 1030 hrs, 19 Aug 44 at the Stanhope Theatre, 1 Cdn General Reinforcement Unit, I directed that as the names of personnel on the nominal roll were called that they would stand up and give their regimental number. Gunner Lawley's name was called and his regimental number was answered. The warning order was read to all personnel present. (here submits warning order). Attached as exhibit "A".

My next parade was called for 2030 hrs, 20 Aug 44 at Maida Barracks. On checking the personnel, Gunner Lawley was found to be absent. I directed the Records Officer to withdraw his documents from the documents of the draft. He was still absent when the draft proceeded.

E.J. Lawrence
MAJOR
No. 1 CGRU

The accused declined to cross-examine the witness.

Second Witness for Prosecution — Lieut J. Sinister, General Company, 1 Cdn General Reinforcement Unit, having been duly sworn, states:

I was one of the witnesses for this Warning Parade for draft U/KIT 3, and was present when Major Lawrence read the Warning Order at 1030 hrs, 19 Aug 44. Gunner Lawley, whom I recognize, was present and answered his name. On final parade at 2030 hrs, 20 Aug 44 at the muster roll that was called, Gunner Lawley was not present. He did not leave when the draft proceeded.

J. Sinister
LIEUT
No. 1 CGRU

The accused declined to cross-examine the witness.

Third Witness for Prosecution — K53315 S/Sgt Wraight, A.P. Provost Company, No. 1 Cdn General Reinforcement Unit, having been duly sworn, states:

At approximately 1030 hrs, 19 Aug 44, I attended a Warning Parade held in the Stanhope Theatre for an overseas draft. The names of the personnel on the draft were called by Major Lawrence. As he called their names they stood up so that we could see them. All the other ranks answered to their names.

A. Wraight
S/SGT
No. 1 CGRU

The accused declined to cross-examine the witness.

No. K-82182 Name LAWLEY J.H.G. Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 12-9-39 | G.C. Badges one | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /5136 (2965)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SUPPLEMENTARY SHEET					
FIELD 2	Sep 44	Gnr		No entries					
					(W.E. McNaughton) Capt & Adjt No. 1 Cdn Gen Rft Unit, C.A.O.				
				CERTIFIED true extract from original MFM 4 in my possession.					
					(W.E. McNaughton) Capt & Adjt No. 1 Cdn Gen Rft Unit, C.A.O.				
						5 Sep 45			

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
N/A	N/A	N/A	N/A	N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of September 1944

Capt & Adjt.,
No. 1 Cdn Gen Rft Unit, C.A.O.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-52183	Gnr	LAWLEY J.H.G.	No.1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For N/A ____ times.

For N/A ____ times.

For N/A ____ times.

For N/A ____ times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*Strike out if not applicable.

~~The accused is not subject to Military Law.~~

~~has not~~ days.

4. The accused has been awaiting trial on the present charges for — days in civil custody; and for 5 days in military custody, *i.e.*, — days in open arrest, 5 days in close arrest; of which — days were spent in hospital.

5. The present age of the accused is 23

6. The date of his attestation is 12 Sep 39

~~The accused is not subject to Military Law.~~

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of: N/A

Strike the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.4670/668 100,000 4/42 A. & E.W.Ltd. Gp.698
(22459) W.L.29250/1872 80,000 9/42 Forms/B.296(War)/2

D-166030	Pte	Trincer, H.E.	F-86680	Pte	Turner, C.R.
C-30091	Pte	Turpin, H.F.	M-16551	Pte	Van Stockum, G.L.
U-2149	Gnr	Wells, S.C.	H-24166	Bdr	Warren, R.O.
D-81518	A/Cpl	White, C.H.	S-9685	Gnr	Willis, N.B.
K-35042	Sgmn	Willoughby, K.A.	H-2292	Pte	Wilson, C.L.
B-361	Cpl	Workman, J.J.			

Officer i/c Warning Parade: Major E.J.M. Lawrence

Witnesses Not Proceeding on Draft:

Officers:	J.R. Ramsay	Lieut	(Sgd)
	J. Sinister	Lieut	(Sgd)
NCO's	A.R. Thomson,	Sjt	(Sgd)
	A.S. Wraight	S/Sjt	(Sgd)

Witnesses Proceeding on Draft:

Officers	C.R. Forbes	Col	(Sgd)
	J.N. Medhurst	Lt-Col	(Sgd)
NCO's	R.T. O'Brien	A/SM	(Sgd)
	W.I. Lawson	CSM	(Sgd)

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT IN MY POSSESSION THIS 19th DAY OF AUG 1944.

(W.E. McNaughton) Capt
Adjt No.1 Canadian General Rft Unit
Canadian Army Overseas.

Sheet 2.

H/Capt. R. Simpson
Lieut. W.D. Sproule
Lieut P. Stinson
Lieut. R.P. StPierre
Capt. L.F. Van Gorder
Supvr. C.G. Warford
Capt. W.B.R. Whitehead
Capt. G.W. Wolfe
2/Lieut(N/S) H.E. Wright

Lieut. J.B. Spencer
Supvr. G.R. Stephens
Capt. M.V. Swick
Major W.P. Taylor
Capt. A. Walton
Major J.F. Westhead
Supvr. W.C. Wilson
H/Capt. E. Wright
Capt. O.F. Wright

H.2005 A/SM O'Brien, R.T.
B-3224 A/S/Sjt Baker, H.W.
B-76663 Sjt Flanagan, H.N.
H-3188 A/Sjt Greig, M.
C-27251 A/Sjt Lalonde, L.
C-29653 Sjt Loverock, K.W.
C-72758 A/Sjt Muir, R.L.
P-40114 Cpl Ainsley, T.R.J.
C-64611 Sgmn Arnold, D.A.
M-56502 Sgmn Barclay, A.G.
H-9188 Gnr Bergman, H.E.J.
B-45458 Gnr Burger, R.A.
B-139663 Pte Byrne, P.J.
G-8038 Gnr Cassidy, R.D.
M-104597 Sgmn Charvinski, S.J.
M-16704 Pte Clark, W.J.
C-41900 Cpl Currie, A.S.
F-51100 Sgmn Emery, E.
B-91728 Pte Foad, A.W.
B-39302 Sgmn Fox, D.J.
M-66034 Gnr Gardam, C.M.
B-21761 Gnr Gray, M.L.
F-28452 Sgmn Haggart, J.G.
M-16375 A/Cpl Hodson, F.C.
B-7136 Gnr Hollingworth, P
B-118534 Sgmn Ingram, A.G.
C-77018 Tpr Kemp, W.A.
H-16633 Pte King, L.H.W.
K-52183 Gnr Lawley, J.H.G.
E-101525 Sgmn Nichon, J.G.
D-116806 Sgmn Morgan, W.H.
H-102916 Gnr MacKay, D.H.
F-28429 Sgmn McNeil, J.S.
D-118239 Gnr Newman, H.A.
B-89519 Cpl Parker, E.D.
D-140121 Sgmn Perry, K.A.
H-45640 Cpl Polhill, L.C.
A-3699 Cpl Roberts, M.J.
D-141416 Gnr Smelton, J.P.
K-34773 Sgmn Slipec, M.
L-1489 Pte. Snider, J.H.
A-16401 Pte Spencer, T.R.
H-10341 Sgmn Surguy, E.G.
B-82977 Gnr Taylor, H.
G-64575 Cpl Taylor, S.G.
M-55223 Sgmn Thompson, R.T.

G.10087 CSM Lawson, W.I.
P.9276 Sjt Connolly, H.
F-76752 Sjt Fletcher, F.T.
K-85437 Sjt Johnson, S.L.
A-59769 Sjt Lashbrook, R.E.
C-41806 Sjt Mullen, W.J.
A-116927 Pte Adair, S.H.
D-135214 Pte Arlin, K.
F-30602 Sgmn Babcock, T.E.
B-110734 Sgmn Bedford, W.
L-105218 Sgmn Bodnarchuk, J.M.
M-16346 A/L/Cpl Burns, C.W.
B-9558 Bdr Carr, J.B.
M-7333 Spr Cherrill, A.G.
C-96 A/Bdr Christmas, W.G.
H-12114 Gnr Cole, H.D.
B-130065 Bdr Donohoe, E.F.
H-10332 Gnr Finch, J. St C.
D-57869 Pte Forget
H-102698 Sgmn Fullerton, A.
A-103010 Pte Gates, B.R.
B-136207 Sgmn Griffin, S.J.
E-52642 Sgmn Harris, M.W.
H-101427 Gnr Hoffman, W.R.
B-38731 Sgmn Hunt, J.L.
B-70134 Tpr Kemp, W.A.
C-77018 Sgmn Kiley, H.P.
B-133440 Sgmn Knight, H.F.
A-37556 Pte Markarian, S.K.
D-118941 Gnr Mooney, T.L.
F-28383 Sgmn MacEachern, [illegible]
F-28453 Sgmn McKenzie, J.W.
F-28434 Sgmn McNeil, R.J.
H-40942 Sgmn Nicolson, D.J.
B-32132 Sgmn Pearce, W.T.
M-7646 Gnr Pilon, L.H.
D-135686 Sgmn Reid, H.C.
H-59706 Gnr Sharp, R.J.
B-16556 Sgmn Sledmere, A.J.
A-37816 Pte Smith, W.R.
B-150235 Gnr Spence, G.C.
M-37654 Gnr Stefanik, G.
B-145420 Sgmn Taylor, D.S.
M-16376 A/L/Cpl Taylor, J.A.
C-96198 Cpl Thompson, O.D.
A-3284 Pte Thomlinson, W.

Exhibit "A"

Ex 1

NO.1 CANADIAN GENERAL REINFORCEMENT UNIT
SUPPLEMENT TO DAILY PART I ORDER # 232
FIELD dated 19 Aug 44
by
COLONEL R.R. KER, ED -- COMMANDING OFFICER

1. WARNING ORDER

The u/m personnel will proceed on draft at times and dates indicated below, having been duly warned on 19 Aug 44.

(i) 'You have been selected to proceed on draft and you are now warned that you must be present and ready to go when the draft is sent off'

(ii) Any unauthorized failure on your part to go with the draft when it leaves will result in you being charged with desertion on active service.

(iii) If you are convicted of desertion the Court has the power to sentence you to a maximum of penal servitude for life.

(iv) You have been, or are in the process of being fully equipped with kit and equipment. You are now warned that if you arrive at your destination deficient any item of kit and equipment, which you have been issued, you will be required to replace the deficiency on repayment and disciplinary action will be taken."

(v) You will parade ready to move off from the Maida Men's Mess, Maida Barracks, at 2030 hrs, 20 Aug 1944.

SERIAL 8002/3/A

Capt. D.E. Acal
Lieut A.J. Adams
Lieut. W.M. Arnett
Capt. J.C.D. Blaine
Capt. W.W. Bradley
Capt. R.D. Bright
Supvr. A.G. Builder
Lieut.(N/S) A.V. Bush
Lieut.(N/S) M.G. Carter
Lieut.(N/S) J. Cooney
Lieut J.W. Crosby
Capt. G.M. Davies
Lieut. J.R. Edgar
Lieut.(N/S) J.E. Fontana
Capt. J.T.M. Fraser
Lieut.(N/S) M.I. Grant
Lieut(N/S) M.W. Haley
Capt. L.B. Harvey
Lieut. J. Ironside
Capt. G.C. Jarvis
Lieut. F.J. Lane
Capt. A.B. Laver
Capt. A.W. Leach
A/Capt. M.J. Maley
Lt.Col J.N. Medhurst
Maj. J.C.P. Mills
Supvr. R. MacArthur
Capt. W. McChesney
Lieut. R.E. McDermott
Capt. H.K. MacIntosh
Capt. F.H. Nuttall
Capt. J.E. Pollak
Capt. W.A. Robb

Lieut. H.N. Acker
Capt. T.R.B. Adams
Lieut.(N/S) H.J. Battram
Capt. P. de L. Boudreau
Lieut.(N/S) M.L. Briggs
Capt O.E. Brunet
Lieut.D.H. Burgess
Lieut.(N/S) E.B. Campbell
Lieut. J.A. Chivers
Lieut F.H. Craig
Lieut.(N/S) G. Curtis
Lieut. J.R. Davis
Capt. E.N. Edwards
Col. G.R. Forbes
Capt. J.M. Garrett
Lieut. D.I. Greensides
A/Major P. Hart
Capt N.L. Hillary
Capt. D.M. Irwin
Capt. J.N. Labelle
Supvr. A.A. Lauzon
Capt. J.B. Law
Capt. J.M. Malcolm
Lieut.(N/S) M.G. Marquette
Supvr. M.J. Mellon
Capt. J. Moscovich
Supvr. O.C. McCarthy.
Lieut.(N/S) E. M.A. McCrank
Lieut. R.E. MacDonald
Lieut. H.N. MacKitchie
Capt. J.J. Pickering
Capt. A.E. Pye
Capt K.J. Rutherford

PROSECUTOR ON THE FINDING

The accused notwithstanding the warning order absented himself without leave, knowing the consequences. I submit that in these times of emergency the accused was aware that he was avoiding an important military duty in as much as he did absent himself after having received a warning for overseas duty, and that he should therefore be found guilty of desertion. If the Court cannot agree that this charge is one of desertion I would ask that under AA 56 subsection 3 that he be found guilty of absence without leave.

DEFENDING OFFICER ON THE FINDING

I submit that the accused did not absent himself for the purposes of avoiding an overseas draft. His intention was to see his brother who was returning to Canada. He had every intention of returning and did in fact return to CCRU of his own free will in time for the next draft or the present one if it had not gone. The accused has said in his own statement that he did not intend avoiding service in Italy by absenting himself. While serving in Sicily and Italy he was in hospital 4 times. He served in the Mediterranean from Jul 43 to the end of Jul 44 with the Cdn Corps and during that time was in hospital twice with malaria, once with dyssentery and once by an accident. The MVM 6 of the accused is absolutely clear despite the fact that he has had 5 yrs service less one week. The accused is 23 yrs of age and is not married. I submit that the case was aggravated, that the accused had no leave for 18 months and his brother being returned to Canada he wanted to see him. The reason he absented himself was to see his brother - he did not absent himself with intent to avoid the draft.

THE COURT IS CLOSED TO CONSIDER THE FINDING

PLEA IN MITIGATION

THE DEFENDING OFFR STATED THAT HE HAD COVERED MITIGATING CIRCUMSTANCES IN WHAT HE HAD SAID TO THE COURT ON THE FINDING.

D-5 - D E F E N C E -

FIRST WITNESS

The accused, K.52183 Cnr LAWLEY, J.H.L., 1 CGRU, having been duly sworn, states:

Q. You stated that you intended to go back to the next draft?
A. Yes, Sir.

Q. You knew that when you left and absented yourself what the probable consequences might be?
A. We had them read out to us.

Q. You were properly warned what the consequences might be?
A. The warning order was read out to us but it was pretty noisy in there at the time my name was called out in there, sir, by Maj Lawrence. I was told by one of my chums that my name was called.

Q. Did you hear the statement that you were liable to be charged with desertion?
A. Yes, sir, I did.

Q. And you did answer to your name and give your regimental number?
A. Yes, sir.

Q. You have stated that when you went on this leave of absence without permission that you didn' want to go back to
A. Sir, I didn't know how long it would take. I had gone to 1 CARU and found out that he had gone to NETD., I went down there and found him. We got talking, and we didn't take any notice of the time at all but I figured that I would be home in time for the draft.

Q. Is it a fact though, that you went on leave with the thought in your mind that you didn't want to go back to Italy.
A. No, sir. I had every intention, but I was late in getting back, but when I found that the draft was gone, I thought that I might as well take my seven days leave.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE DEFENCE IS CLOSED

Office 1 CGRU. At approx 1400 hrs 30 Aug 44 the accused reported in from AWL. He was sober and properly dressed. I reported this to Lt Simister who then instructed me to escort the accused to the Gd Room where I turned him over to the Provost Cpl on duty.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FOURTH WITNESS

Capt S.T. STRATHY, 1 CGRU, having been duly sworn, states:

I recognize the accused. On 31 Aug 44 the Adjt 1 CGRU warned me to take a Summary of Evidence in the case of Pte Lawley and accordingly that afternoon I called together the witnesses and Pte Lawley. Before taking the Summary I called in the accused and informed him of the reason for taking the Summary and told him that he could question the witnesses after they had given their evidence and that after all the witnesses had been called that he could make a statement if he so desired, but that he did not have to, and that he could make the statement on oath or not on oath as he desired. The CO 1 CGRU had directed that the evidence be taken on oath. The witnesses were called in order and sworn and each witness gave his evidence. After each witness had given his evidence the accused was asked if he wished to ask any question of the witness and in each case he said no. After they all had given evidence I then cautioned Lawley in accordance with RP 4(E) and asked him if he would like to make a statement which he did on oath. The statement is in the Summary of Evidence.

Q. Do you recognize this as the Summary of Evidence (Prosecutor hands the witness all of Summary of Evidence).
A. Yes, this is the statement I took and this on page two is the statement by the accused. I saw him sign it and I offer it in evidence.

STATEMENT MADE UNDER OATH BY THE ACCUSED AT THE SUMMARY ADMITTED IN EVIDENCE AND MARKED EXHIBIT 2.

THE WITNESS THEN READ THE STATEMENT TO THE COURT.

CROSS-EXAMINED

Q. Can you explain the just of RP 4(E).
A. Yes. When I cautioned the accused under RP 4(E) I used the following words "do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

Q. In your mind did you believe the accused understood the nature of that warning?
A. Yes, because I warned the accused before the witnesses were called. I explained to him in simple language after the witnesses had been called why he would be given a chance to make a statement.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

Q. WHAT happened when you got there?
A. As Warning Offr I was present and the accused Ite Lawley was absent. The roll was called by the Records Offr and Lawley was not present The draft left approx an hr later on 20 Aug 44.

Q. Did the draft go overseas?
A. It was a special draft for overseas.

Q. Did the draft return?
A. No, it did not. The accused was still absent when the draft went and did not go with it.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

Lt J. SINISTER, Gen Coy 1 CGRU, having been duly sworn, states:

On the date in question t e 19 Aug I was the Admin Offr of Gen Coy 1 CGRU. I attended the warning parade on UKIT 3 as a witnessing offr at 1030 hrs 19 Aug 44. Maj Lawrence called the roll at that parade and the accused Gnr Lawley answered his name. I knew the accused because he had been paraded to me a few minutes before the prade and I actually noticed that the accused did answer his name.

Q. The next parade?
A. The next parade was called for 2030 hrs 20 Aug 44 and I was present, and when the names were called the accused was not present and did not answer his name. The accused did not proceed with the draft. Gnr Lawley came to me as I said just before, before the first parade. His brother was a Sjt in one of the Arty RUs. He requested to be posted to the Arty RU with his elder brother. I got in touch with the Adjt of 1 CGRU to find if it was possible and he assured me that nothing could be done and the accused was so informed.

Q. Did the accused bring up any question asking for leave?
A. Yes, I forget the exact date he came to me. He paraded with another soldier who had returned from Italy with him and asked for leave. This would be a day or two before the first warning of this draft. I again talked to the Adjt of 1 CGRU and was told that nothing more than a 24 hr pass could be given him. The last time he paraded to me he did not ask for leave.

CROSS-EXAMINED

Q. Would you say again that the accused applied for when he came in about 15 mins before the draft was warned?
A. He asked to get his transfer affected to the Arty RU as his brother had put in a claim for him.

Q. The accused applied for a 48 hr leave at that time?
A. No, not at that time, he did apply 2-3 days beforehand. I particularly remember that his brother was with him when he saw me 15 mins before the draft was warned.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTOR AT THIS POINT STATED THAT HE FELT IT UNNECESSARY TO CALL THE THIRD WITNESS S/SJT NRAIGHT AND THE DEFENDING OFFICER SAID HE DID NOT WISH HIS PRESENCE FOR PURPOSES OF CROSS-EXAMINATION

THIRD WITNESS

B.74386 Tpr ASHTON, JA, Gen Coy 1 CGRU, having been duly sworn, states:

I recognize the accused. On 30 Aug 44 I was on duty at the Reception

CASE OF

K.52183 Gnr LAWLEY J.H.L., 1 CGRU

- PROSECUTION -

FIRST WITNESS

Maj E.J.L. LAWRENCE, OC Clerks' Coy 1 CGRU, having been duly sworn, states:

I was appointed as Officer in charge of a warning parade for a special draft UKIT 3. The warning parade was held in the Stanhope Theatre at approx 1030 hrs on 19 Aug 44. All personnel of the draft were assembled and I checked the personnel against the nominal roll. It was done by calling the names in the case of offrs, the offrs stood up and showed themselves and in the case of ORs I instructed them to stand up, answer to their name and repeat their regtl number. The accused's name was called, an OR stood up and answered and repeated the correct regtl number. On that parade there were several who failed to answer their names but the accused did not fail to answer his name. I then read the following warning to the members of the draft.

"The u/m personnel will proceed on draft at times and dates indicated below, having been duly warned on 19 Aug 44. You have been selected to proceed on draft and you are now warned that you must be present and ready to go when the draft is sent off. Any unauthorized failure on your part to go with the draft when it leaves will result in you being charged with desertion on active service. If you are convicted of desertion the Court has the power to sentence you to a maximum of penal servitude for life. You have been, or are in the process of being fully equipped with kit and equipment. You are now warned that if you arrive at your destination deficient any item of kit and equipment which you have been issued, you will be required to replace the deficiency on repayment and disciplinary action will be taken. You will parade ready to move off from the Maida Men's Mess Maida Bks at 2030 hrs, 20 Aug 44".

I offer in evidence Pt 1 Order of 1 CGRU No 232 dated 19 Aug 44 which contains the words of the warning and the nominal roll of the members of the draft.

PT 1 ORDER OF 1 CGRU 232 DATED 19 AUG 44 OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 1.

(Witness continues)

The accoustics in the Stanhope Theatre are average, and I am satisfied that everyone on the draft could hear everything that I had said. The next parade was at 2030 hrs the 20 Aug 44 at the Mens Mess at Corunna Barracks.

Q. What notice was given of the change?

A. The offrs in charge of the draft had been informed of the change, and they had been instructed to inform all members of the draft.

No 1 CANADIAN GENERAL HOSPITAL
CANADIAN ARMY OVERSEAS

Medical Officer's Certificate
K.R.(Can) para.557.

I certify that I have this day examined,

No. K-52183 Rank: Gnr. Name LAWLEY T.H.

and in my opinion is ~~Unfit~~ Fit to undergo trial by Court Martial.

Field
Date: 5 Sept 44

P.C. Henry Capt.
Medical Officer.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAR/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-50183	Gnr		John Henry Gordon	LAWLEY	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Sep 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, V.D.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	3 CACRU
Lieutenant	to be detailed by	1 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 4 Sep 44

(F.R. Shields) Brig Commanding Cond "B" Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, K.52183, Gunner John Henry Gordon LAWLEY, General Company, No.1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

First CHARGE
Sec. 12(1) A.A.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

At Aldershot, Hants. on 20 Aug 44 after having been warned at 1030 hours on 19 Aug 44 to proceed on special draft, with intent to avoid so proceeding, absented himself without leave from General Company, No.1 Canadian General Reinforcement Unit, from 2030 hours 20 Aug 44 until surrendering himself to B.74386, Tpr. Ashton, J.A. at General Company, No.1 Canadian General Reinforcement Unit, at 1400 hours 30 Aug 44.

Total absence 9 days, 17 hours, 30 minutes.

(B.R. Ker) Colonel
Commander, No.1 Cdn Gen Rft Unit
Canadian Army Overseas

Field

4 Sep 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R. Shields) Brigadier
Comd "B" Gp
Cdn Rft Units

4 Sep 44

NO I CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

5-4-6/Lawley, JHG/1
4 Sep 44.

HQ
Cdn Rft Units (Col i/c Adm)

IN REPLY PLEASE QUOTE
FCHQ 5-6-2/659

K-52183 Gnr. LAWLEY, JHG

1. Confirming conversation this date (Col i/c Adm - CO 1 CGRU) herewith particulars re the m/n soldier:

(a) Proceeded to A.A.I. on 29 Jun 43.
(b) Returned to United Kingdom on escort duty on 13 Aug 44(Date TOS on arrival at 1 Cdn Reception Depot)
(c) Posted to 1 Cdn Gen Rft Unit to proceed to A.A.I. on draft UKIT/3 on 16 Aug 44.
(d) AWL at time of departure of draft UKIT/3 after having been duly warned to proceed on Overseas Draft.

2. The m/n soldier returned to United Kingdom, along with three others, on escort duty. On arrival at 1 CGRU the soldier requested that he be granted leave while in the United Kingdom. This request was referred to DAAG(ORG) CRU who advised that the soldier would have to return to A.A.I. on UKIT/3, Therefore, no leave was possible.

3. According to information available this soldier last had leave on 1 Feb 43, in United Kingdom, prior to service in A.A.I.

4. In accordance with the standard procedure this soldier was charged with DESERTION under Section 12(1) Army Act and is being tried by FGCM on 5 Aug 44.

5. Further to the above the documents of this soldier show 4 yrs., 11 months service with a clear conduct sheet.

(B.R. Ker) Colonel,
Comd
1 Cdn Gen Rft Unit
Canadian Army Overseas.

Copy to B Gp - infmn.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-52183 Gnr John Henry Gordon LAWLEY 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.12(1)	not Guilty	not Guilty of Desertion but guilty of absence without leave	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of One (1) year.

(Sgd) Judge-Advocate, if any. 5 Sep/44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ [initials]

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig

Date 8 Sep 44

Commanding 3 Gp CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. K52183 Gnr LAWLEY, SHG 1CGRU

Date. 11 Sep 44

Signature of Offr. [signature] Adjutant. No. 1 Cdn. Gen. Rein. Gnr. C.A. (b.s.)

Promulgated in O.O. 219 dated 13 Sep 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 paro 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 27(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 27(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - SIR .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes [redacted] (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 90(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans TO Give Evidence Do you intend to call witnesses on your behalf ?

Ans NO - SIR Any other witnesses as to character apply ? Ans .....

(1. *RP 105.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding.(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.~~(1)

Or, The President announces that the accused is found NOT GUILTY on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (4), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement [redacted] as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *AFB 255 or AFB 256.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(1) and Conduct Sheet(2), and in mitigation of punishment ?(3) Ans By Def Off & NOTE-ATT .....(3)

(1. *RP 27(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 26(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas RO 309, 2323, MML p 62, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECEIVED 18SEP 1944 AG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160. VVV-142.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1608 (2864)

by Order of Brig P.R. Shields Comd "D" Gp CRU dated 4 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
K-52183	Gnr	John Henry Gordon	LAWLEY	1 CHCRU

PROCEEDINGS REVIEWED 19 Sep 44

JCFC A.C. Ewels Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) NETHERLANDS on (date(s)) 5 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A. if any~~ and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p. 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instns on how to record addresses, evidence, etc., which instns are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused. Do you object to the interpreter? Ans~~ P 2026 Sgt CHARLAND J.-P.

~~The Interpreter is sworn.~~ Do you object to as shorthand writer(2)? Ans No

The shorthand writer is sworn.(1) P 90526 CPL PILKINGTON R.C.

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~J.A. if any~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redman V.D.,	HS CRU
Member	CAPT	G.F. COLEMAN	3 CHCRU
Member	LT	R.J. GUEST	1 CHCRU
~~Judge Advocate~~			
Prosecutor	CAPT	G.A. HART	1 CGRU
Defending Offr	CAPT	F.L. WOOD	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (are) (a) plea

(2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFs to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VVV-142

GNR LAWLEY JH-G.

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

NO F95110 RANK Pte NAME LAWLESS, W.J. UNIT C.B.Highrs

AGE 21 MARRIED or SINGLE Single No of Dependents None

Date of Attestation 21 Dec 41

Number of Days in Close Arrest awaiting trial.....

Civil.....Military 3 days.....Hospital.....Total 3 days

Dates of Appointments, promotions etc, (if any).....

.....

.....

Decorations Canadian Volunteer Service Medal

In the Field
6 Apr 44
Date

T. Bourque Capt.
Officer i/c Regtl Books
Cape Breton Highlanders
Unit

Note: Certified true copy of MFM 6 must accompany this form.

"B"
WDMWSS

MFM 6
(AFB 122)
40/P&S/136 (3428)

No F95110 Name Lawless, W.J. Sqn, Battery, or Company C Corps Infantry Date of enlistment 31-12-41 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet nil No and date of last drunk nil Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc H.J. Frizzell Capt Character good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
I.T.F.	7-11-42	Pte		Neglect to the prejudice of good order and military discipline, failed to appear for duty in the kitchen.	Cpl. Dalks	3 days C.B.	7-11-42	Capt JW Douglass	

Certified true copy S.G.L. Fraser Lieut

(PTO)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F95110 Pte.Lawless,W.J.,"C" Coy., Cape Breton Highlanders,Canadiam Army Overseas,charged with one offence unfer A.A.Sec 9 (2) and one offence (alternative) under A.A. Sec 40.

The Commanding Officer directs that the evidence be taken on oath.

First Witness: F88230 Cpl.Donovan,J.J.,C Coy.,Cape Breton Highlanders duly sworn states;
On the 3 Apr 44 at approx 0340 hrs I went to Pte.Lawless's tent and told Pte.Lawless to get ready for parade. Pte.Lawless told me he was going on sick parade as he had a headache and sore chest. I went and inquired as to what would be done about anyone that was sick and intending to go on sick parade that morning. I was informed by F54689 CSM MacIntyre,J.C.,CSM of "C" Coy. that there would be no sick parade held for "C" Coy. until we returned from the exercise we were about to go on. I went back and informed Pte. Lawless he would have to go on parade as there were no sick parade being held until we returned from the scheme. Pte Lawless told me at that time that he was not going on parade. I ordered him on parade in two minutes time, I gave him this order at approx 0343 hrs. I then went back when he didnot appear on parade and told him once again to go on parade. He then told me he was not going on parade. I immediately placed him under close arrest.

Signed J.J. Donovan.....

The accused declines to cross examine the witness.

The accused was warned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

Signed W.J. Lawless.....

I certify that R.P.4 has been complied with.

Taken by me in the field, in the presence and hearing of the accused,this 4th day of April 1944.

D.C.L. Fraser (D.C.L.Fraser)Lieut.
Officer Taking Summary

"A"

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial.

I desire the services of Lieut H.B.Boates, C.B.Highrs, if he is available.

W. Lawless

Character Evidence -

Lt O J Price - C B Highrs duly sworn states:
" Recognize accd as Pte Lawless. Known him over 6 mos. during time found him sincere & trustworthy soldier. Was my batman for four months. In Italy I was 2½c Coy and accd asked if he might join a pl to go into action. During time in line he acted as sec comd and volunteered for numerous patrols. Always willing to do any task and did it well.

No Cross Examination

R.P. 83(B) complied with. Witness withdraws.

Plea in mitigation of punishment by Def Offr.
" Accd is 21 yrs of age. enlisted 1940 discharged. again enlisted in Canada. came to England 42 and joined CBH in 43. four brothers in service - one minor offence - request leniency for accused."

W M W Shaw
capt

Date April 6th 1944

I certify that I have examined this day 795110 Pt. Lowless W.J.

of the Cape Breton Highlanders and find him ~~[illegible]~~ fit to

undergo trial by Court Martial.

WMWS

R. W. Boyden
Medical Officer /CDH. Capt.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAS/1697 (2468)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 181, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.52379			James Benedict	POWER	C B Highrs
F-95110			William James	LAWLESS	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 APR 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I [illegible] to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have marked / have not.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	W M HINSHULL (Must be named. RP 106.)	11 CIB Sp Gp (Unit.)

MEMBERS.

Capt	W A STANDING	C B Highrs
Capt (Rank.)	Smith E CAMERON (Named or detailed. RP 106.)	Ir R C (Unit.)

WAITING MEMBER.

Capt (Rank.)	L N METLLAUFFER (Named or detailed, if any. RP 106.)	Perth R (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W H H STAIN (Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 5 APR 44.

E Snow (Signed personally. RP 105 fn 2.)

T E Snow

Commanding 11 Canadian Infantry Brigade

Brig (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

WMM

CHARGE SHEET

The accused F95110 Pte.William James LAWLESS, "C" Coy Cape Breton Highlanders CMF, is charged with:

First Charge:
A.A.Sec 9(2) DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER,

in that he, EJ

in the field,at 0343 hrs 3 Apr 44 ~~refused to~~ DID NOT go on parade when ordered to do so by F88230 Cpl.Donovan,J.J.

~~Second Charge:~~
~~A.A.Sec 40~~ ~~(Alternative to first charge)~~ ~~NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLIN~~

~~in that he,~~

EJ ~~in the field,at 0343 hrs 3 Apr 44 neglected to go on parade when ordered to do so by his superior officer F88230 Cpl. Donovan,J.J.~~

In the Field,
4 Apr 44

.....(J.B.Weir)Lt.Col.,
Officer Commanding,
Cape Breton Highlanders

TO BE TRIED BY F.G.C.M.

5 APR 44

(T.E.SNOW) BRIG
COMD, II CDN INF CDE

comds
nfm

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F95110 Pte William James LAWLESS, C.B. Hughes

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Not present under sentence fm~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 3 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer field punishment for 90 days and to forfeit 90 days pay.

(Sgd) Wm Shaw Capt — 6 Apr 44 — F Minshull Maj

Judge-Advocate, if any — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the Finding and Sentence of the Court

~~I direct that the accused be retained in prison or detention barracks until further orders~~ (1) Es.

(1. AA 57A. Delete if not used.)

(Sgd) E Shaw Brig

Date 9th April 44 — Commanding 11th Edwy Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F 95110 Pte William James Lawless	23 May 44	H Reddington Capt.

20 14 days Field Punishment Rehm

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 39, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No, sir (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s).~~ ~~The accused is (are) so informed, and he (they) answer his (their) plea(s) on charge(s).~~ ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded Guilty are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans [illegible]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes, Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes I have the offr (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 106. One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of recruit after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AB 160 mmm-124

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA3) 40/P.A.S.(1608) (1864)

Convened by Order of Brig T E Snow Comd 11 Cdn Inf Bde dated 6 Apr 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.95110	Pte		William James	LAWLESS	C B Highrs

PROCEEDINGS REVIEWED BY [illegible] 9 June 44 M.C. [illegible] Secretary

ACTING OFFICER, JAG BRANCH, CMHQ

G145

PROCEEDINGS OF TRIAL.

Held in the Fd in *(country)* Italy on *(date(s))* 6 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 33, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~the interpreter~~ ~~Ans~~

~~The interpreter is sworn.~~(1) Do you object to RS7385 Sgt Hendaffer R W as shorthand writer ? Ans No. Sir

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No. Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N H Minshall	11 C I B H. Q. (P & F)
Member	Capt	W A Standing	C B Hughes
Member	Capt	A E Cameron	2nd RC
Judge-Advocate	Capt	W M W Shaw	H Q 5 Cdn Armd Div
Prosecutor	Lt	D G L Fraser	C B Hughes
Defending Offr	Lt	H B Bokes	C B Hughes

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ~~stands~~ before arraignment make(s) (no) ~~[illegible]~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MMM-124
PTE LAWLESS W.J.

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

C-27423 Private LAWLER, S.D., Carleton & York Regiment,
No. 1 Canadian Division Infantry Reinforcement Unit.

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
Absence without leave (Sec.15(1) Army Act)	8	9
Drunkenness	1	2

Number of instances of gallantry or distinguished conduct: NIL

2. The accused is not under sentence at the present time.

3. ~~The accused has not been previously convicted by a Court-Martial~~ EK EK ~~of a civil court.~~ EK

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years.

6. The date of his attestation specified in his attestation paper is 10 October 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year, 80 days.

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr. 80 days service.

9. The accused is entitled to reckon 1 yr. 80days service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

On the 4th March 1941, tried by F.G.C.M. for absence without leave, A.A. 15 (1), and sentenced to 60 days detention. Released from Detention Bks. Aldershot, 12 April 1941, sentence having expired. Remission earned: 20 days.

On the 12th November 1941, tried by F.G.C.M. for absence without leave, A.A. 15 (1), and sentenced to undergo detention for 9 months. Sentence remitted to 6 months detention by Brigadier Phelan. Released from Detention 12 March 1942, sentence having expired. Remission earned: 60 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

E.J. Rider Lieut.,
(E.J. Rider), Officer i/c Records,
No. 1 Cdn. Div. Inf. Reinf. Unit.

Algonquin Camp,
Witley, Surrey.
7 day of April 1942.

Exhibit D.

E.J. Rider

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	27-6-41	Pte.		1. A.W.L. from 0730 hrs.27-6-41 until apprehended,Croydon, 1515 hours, 30-6-41; A.A. Sec.15(1).	Sgt Coates	14 days Detention	2-7-41	Lt-Col.F.S. Mathewson	Forfeits 4 days pay.
			2nd	2. Drunkenness; AA. Sec. 19.	Documentary				
Witley	11-8-41	Pte.		A.W.L.from 1200 hrs.11-8-41 to 0700 hrs.15-8-41. AA.Sec.15(1).	CSM.Fournier Cpl.Orr,J.A.	10 days Detention	15-8-41	Lt-Col.F.S. Mathewson	Forfeits 4 days pay.
Witley	26-8-41	Pte.		A.W.L. from 2200 hrs.26-8-41 to 1415 hrs. 28-8-41. AA.Sec.15(1).	C.P.C.	168 hours Detention	30-8-41	Lt-Col.F.S. Mathewson	Forfeits 2 days pay.
Witley	8-9-41	Pte.		A.W.L. from 1330 hrs.8-9-41 to 1130 hrs. 12-9-41. AA.Sec.15(1).	C.P.C.	14 days Detention	16-9-41	Lt-Col.F.S. Mathewson	Forfeits 4 days pay.
Witley	12-10-41	Pte.		A.W.L. from 0900 hrs.12-10-41 to until surrendering himself at 0012 hrs. 23-10-41.		9 Mths.Detn. remitted to 6 mths.Detn.by Brig.F.R.Phelan	12-11-41	F.C.C.M.	Forfeits 11 days pay.

CERTIFIED TRUE COPY: (two pages)

E. Rider Lieut.

E.J.Rider, Officer i/c Records, # 1 CDIRU.

No G-27423 Name Lawler, S.D. Sqn., Battery, or Company HQ Corps C&YR Date of enlistment 10-10-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1793) H.Q. (772-45-18)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Two Signature O.C. Company, etc. A.D.Watersch Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	13-4-41	Pte.		A.W.L. from 2230 hrs. 13-4-41 to 2300 hrs,14-4-41, A.A. Sec.15(1)	Cpl.Legere	14 days C.B.	15-4-41	Lt-Col.F.S. Mathewson	Forfeits 2 days pay
Witley	17-4-41	Pte.		A.W.L. from 0630 hrs. 17-4-41 to 0945 hrs.23-4-41. AA. Sec.15(1)	Sgt.McGairn L/C.Craig	21 days Detention	25-4-41	Lt-Col.F.S. Mathewson	Forfeits 7 days pay
Witley	19-5-41	Pte.		A.W.L. from 0530 hrs. 19-5-41 to 1830 hrs.22-5-41. AA.Sec.15(1).	Cpl.Firlotte Lt.Leadbeater	168 hours Detention	27-5-41	Major P.[illegible] Belanger	Forfeits 4 days pay
Witley	7-6-41	Pte.		A.W.L. from 0600 hrs.7-6-41 until apprehended at Peterborough at at about 1540 hrs.9-6-41.AA.15(1)	Cpl.Giberson C.P.C.	14 days Detention	12-6-41	Lt-Col.F.S. Mathewson	Forfeits 3 days pay Stoppages of £1:10:5 cost of apprehension

[illegible signature]

CERTIFIED TRUE COPY:

E.J.Rider, Off. i/C Records
1 C.D.I.R.U.
Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Effingham	13-7-40	Pte.		A.W.L. from 2230 hrs.13-7-40 to 0900 hours 14-7-40	C.S.M. H.E. Belyea	1 day pay 3 days C.B.	15-7-40	Capt. W.R. Neworth	
Effingham	25-7-40	Pte.		A.W.L. from 2230 hrs.24-7-40 to 0500 hrs. 25-7-40	Cpl. J. Crandalle	1 day pay 3 days C.B.	26-7-40	Lieut. Cushen	
Taplow, Eng.	29-1-41	Pte.	1st	1. Breaking out of 5th Gen.Hosp. while a patient from 2000 hours to 2130 hours, 29-1-41. 2. Drunk in Maidenhead.	Reprimanded 5 days forfeiture of pay.	Reprimanded, 5 days forfeiture of Pay.	30-1-41	D.O. 29 d/4-2-41 para. 9(d) 2 C.I.H.U.	
Field	15-8-40	Pte.		1A.W.L. from 2230 hrs 15-8-40 to 1915 hours, 26-9-40. 2. Escaped confinement and remained A.W.L. 1905 hrs.5-11-40 - 2030hr.10-11-40. 3.Losing by neglect, equipment valued at £1:1:3½.		60 days Detention.	4-3-41	F.G.C.M.	

Released from the Detention Barrack, Aldershot, on 12-4-41, sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 20 days. Commandants Initials: A.D.S.

No K-27423 Name LAWLER, S. Sqn., Battery, or Company HQ Corps C.& Y.R. Date of enlistment 10-10-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.P.B. 132) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. A.D.Waterson, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debuille Brks.	31-1-40	Pte.		A.W.L. from 0600 hrs. to 2100 hrs 31-1-40.	A/Cpl. Flemming	1days pay. 5 days C.B.	1-2-40	R.M. Clark Capt.	
Debuille Brks.	19-2-40	Pte.		A.W.L. from 0600 hrs. 17-2-40 to 0600 hrs, 19-2-40.	C.S.M. Reilly W.D.	7 days C.B.	20-2-40	R.M. Clark Capt.	Forfeits 2 days pay
Debuille Brks.	1-3-40	Pte.		A.W.L. 1200 hrs. 29-2-40 to 1200 hrs. 1-3-40	Sgt. J.B. Wallace	168 hours Detention	4-3-40	H.N.Ganong Lt-Col.	Forfeits
Saint John	1-11-39	Pte.		A.W.L. from Tattoo Parade 2200 hours 1-11-39 to 2010 hours 4-11-39	C.O.S. R. Northrup Cpl. Irving, J.	7 days C.B.	6-11-39	Lt-Col. F.C.West	Forfeits 3 days pay

Exhibit E. [illegible]

(P.T.O.)

MEDICAL OFFICER'S CERTIFICATE

- A.M.C. (Can') Para. 557 -

I certify that I have this morning examined No. G-27243

Private S. G. Lawlor, Carlton and York Reg't.

No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion,

he is ~~fit~~ ~~unfit~~ to undergo trial by Court-Martial.

Algonquin Camp, Witley,
April 7th, 1942.

~~Lieutenant~~ Captain
(Medical Officer)

Exhibit B.

SUMMARY OF EVIDENCE

In the case of G-27423 Private Lawler, S.D. (Carleton and York Company), No. 1 Canadian Division Infantry Reinforcement Unit.

By direction of the Commanding Officer, this Summary is taken on oath.

1st Witness G-17815 Cpl. Richard, J.A., having been duly sworn, states:

For the week ending 2400 hours, March 22, 1942, I was acting Orderly Sergeant for the Carleton and York Company, No. 1 Cdn. Div. Inf. Reinf. Unit. On March 22, 1942, G-27423 Pte. Lawler, S.D., the accused, whom I now recognize, had a pass permitting him to be absent from camp till 2359 hours on this date. I was on duty till 2400 hours on this date, but the accused had not reported in up to this time.

I called the roll at 0630 hours on the 23rd March, 1942, and found that the accused was absent. From this time on, until the 29th March 1942, I was acting Orderly Sergeant, but as there was a night N.C.O. on duty from 1800 hours till 0630 hours each day, I did not call the roll again, but I fell in the parade every morning, and frequently checked the huts. The accused was not on any parade, nor did I see him at any time from about 1200 hours on the 22nd of March until after he returned to camp on the 29th of March.

The accused declines to cross-examine this witness.

Cpl. Richard J.A.

2nd Witness G-23017 Cpl. Huard, C., Carleton and York Regt. No. 1 Cdn. Div. Inf. Reinf. Unit, having been duly sworn, states:

I started my tour of duty as night N.C.O. for the Carleton & York Coy. at 1800 hours on the 29th of March 1942. I called the Roll at 2200 hours on this date and found that G-27423 Pte. Lawler, S.D., the accused, whom I now recognize, was absent. At about 2359 hours on this date I was in the Coy. Orderly Room and the accused came in and reported to me.

The accused declines to cross-examine this witness.

Cpl. Huard C.

The accused having been duly warned in accordance with Rule of Procedure 4(E), reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) has been complied with.

Taken down by me in the presence and hearing of the accused, this 1st day of April 1942, at Algonquin Camp, Witley, Surrey.

Exhibit C.

J R Turner Lieut.
Officer Taking Summary

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT WITLEY, Surrey, ON THE 7th DAY OF APR 42

TRIAL OF:- No. G-27423, PTE LAWLER S.D. Unit 1 CDIRU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. J.R. Turner, (Unit) 1 CDIRU.

Defending Officer:- (Name) Lt. W.C. Ott, (Unit) 1 CDIRU.

At 0920 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No, sir.

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President . Major G.G. Pirie.....(Unit) 2 CDIRU.

Members ... Capt. F.J. Fleury.....(Unit) 3 CDIRU.

.... Lieut. E.F. Klugman.....(Unit) 3 CDIRU.

The officers under instruction are duly sworn.

Q2 Do you object to ... Sgt. T. Pyburn .....acting as shorthand writer? A2.- No, sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name.... Lt. J.R. Turner...(Unit)..1 CDIRU..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - No, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

DEFENDING OFFICER: "On or about 20 Oct 41 accused was AWL seeing his girl friend. At that time girl friend pregnant; on return was sentenced by FGCM to four mos in Aldershot. While there he recd several letters from girl stating she was pregnant, and on release on 12 Mar 42 recd another letter to that effect. Applied about 20 Mar 42 for leave, which was denied, and therefore in order make arrangements for marriage went AWL again. Girl friend pregnant almost six mos. Father will finance marriage."

RECOMMENDATION OF COURT: If possible for accused to marry, in or out of detention, it will help his future conduct in army.

CERTIFIED A TRUE AND CORRECT
RECORD OF THE PROCEEDINGS:-

T. Pyburn Sgt.
Shorthand Writer.

CHARGE SHEET

The accused, No. G-27423 Private S. D. Lawler, (Carleton and York Regiment), on the strength of No. 1 Canadian Division Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:

1st Charge
Sec. 15 (1)
Army Act.

When on Active Service, absenting himself without leave,

in that he

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 2359 hours on the 22nd day of March 1942, until reporting to G-23017 Cpl. Huard, C. in the Orderly Room of the Carleton and York Company, Algonquin Camp at about 2359 hours on the 29th day of March, 1942.

(Total absence: 7 days)

C.C. Ferrie, Lt-Col., A/Cmdr.,
No 1 Cdn. Div. Inf. Reinf. Unit

Algonquin Camp,
Witley, Surrey,
2nd day of April,
1942.

Exhibit A

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units
Convening Officer

Farnborough, Hants
This 5th day of April 42.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-27423 Pte. LAWLER, S.D. Hastings & Prince Regt. C.D.I.R.U.	FIRST CHARGE. A.A. 15 (1)	Guilty	Guilty 4 months detention	Confirmed A.T.M. Nelson Brig C.J. Pitts Lt-Col
	See attached Charge Sheet.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) A.T.M. Nelson Brigadier (Signed) C.J. Pitts Lt-Col
Commanding Cdn. Reinf. Units. Convening Officer (a) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Short Hand writer C.J.S.
*(4. ~~The officers under instruction~~) C.J.S.
were duly sworn.

* Omit if not applicable.

Signed this 7th day of April 1942.
C.J. Pitts Lt-Col
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8th day of April 1942
A.T.M. Nelson Brig
Confirming Officer.

Promulgated and extracts taken in the case of C-27423 Pte. Lawler, S.D. - No. 1 CDIRU

(a) (Dated) 10-4-42 (Signed) L.W.W. Slack Lt-Col.
D.O. 85 of 14 Apr 42 (L.W.W. Slack) A/Commander
No. 1 Cdn. Div. Inf. Reinf. Unit

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

6/LAWLER,S.D./O
G-27423, Pte. Lawler, S.D.
1C.D.I.R.U.

97 G

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this day of APRIL, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
MAJOR	C.G.PIRIE, R.H.L.I.	2 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	from	3 C.D.I.R.U.
A Lieutenant	from	3 C.D.I.R.U.
A Lieutenant	from WAITING MEMBER	2 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn. Reinforcement Units.
Convening Officer.

97 G Pte LAWLER, SD

O. H. M. S.

M. F. B. 270

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	7-6-41	Pte	(1)	AWL from 0730hrs 27-6-41 until apprehended in Croydon at1 515hrs 30-6-41	Sgt.Coates Documentary	14 days detention Forfeits 4 days pay	12-6-41	Lt-Col Mathewson	
			(2)	Drunkenness					
Witley	11-8-41	Pte		AWL from 1200hrs 11-8-41 to 0700hrs 15-8-41	CSM Fournier Cpl. Orr?J.A.	10 days detention	15-8-41	Lt-Col Mathewson Forfeits four days pay	
Witley	26-8-41	Pte		AWL from 2200hrs 26-8-41 to 1415hrs 28-8-41	C.P.C.	168hrs Detention	30-8-41	Lt-Col Mathewson Frofeits 2 days Pay	
Witley	8-9-41	Pte		AWL from 1330hrs 8-9-41 to 1130 hrs 12-9-41	C.P.C.	14 days Detention	16-9-41	Lt-Col Mathewson Forfeits 4 days pay.	

Certified true Copy
J. Fournier

No G27423 Name Pte. Lawlor, S. Sqn., Battery, or Company H.Q. Corps C.Y.R. Date of enlistment 10-10-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	13-4-41	Pte		AWL from 2230hrs 13-4-41 to 2100hrs 14-4-41	Cpl.Legere	14 days C.B. Forfeits 2 days pay.	15-4-41	Lt-Col Mathewson F.S.	
Witley	17-4-41	Pte		AWL from 0630hrs 17-4-41 to 2145hrs 23-4-41 L/	SgtMcCain Cpl Craig	21 days detention Forfeits 7 days pay.	25-4-41	Lt-Col Mathewson, F.S.	
Witley	19-5-41	Pte		AWL from 0530hrs 19-5-41 to 1830hrs 22-5-41	Cpl.Pirlotta Lt.Leadbeater	168hrs detention Forfeits 4 days pay	27-5-41	Major P.E.Belanger	
Witley	7-6-41	Pte		AWL from 0600hrs 7-6-41 until apprehended at Peterborough at about 1540hrs 9-6-41	Cpl.Giberson C.P.C.	14 days detention Forfeits 3 days pay stoppages of £1-10-5 cost of apprehension	12-6-41	Lt-Col Mathewson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Effingham	25-7-40	Pte		A.W.L. from 2230hrs 24-7-40 to 0500hrs 25-7-40	Cpl.Crandall J.M.	1 days pay 3 days C.B.	26-7-40	C. White, Lieut.	
Taplow Eng.	29-1-41	Pte	(1)	Breaking out of 5th Gen Hosp while a patient from 2000hrs 29-1-41		Reprimanded 5 days forfieture of pay	30-1-41	D.O.29 d/4-2-41 Para 9(d) 2 C.I.H.U.	
			(2)	Drunk in Maidenhead					
Field	15-8-40	Pte	(1)	A.W.L. from 2230hrs 15-8-40 to 1915hrs 26-9-40					
			(2)	Escaped from close confinement and remained A.W.L. from 1905hrs 5-11-40 to 2030hrs 10-11-40	60 days detention	60 days detention	4-3-41	F.G.C.M.	
			(3)	Losing by neglect equipment valued at £1-1-3½					
						Released from Detention Barrack Aldershot on the 12th April, 1941 Sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons 20 days.		A.D.S.	

M.F.M. 6
(A.F.B.122)
500M—8.39 (1703)
H.Q. 1772-45-18

No. G27423 Name Pte. Lawlor, S Sqn., Battery, or Company H.Q. Corps C.Y.R. Date of enlistment 10-10-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Delville Brks.	31-1-40	Pte		A.W.L. from 0600hrs to 2100hrs 31-1-40	A/Cpl Fleming	1 days pay 5 days C.B.	1-2-40	R.W. Clark Capt.	
Delville Bks	19-2-40	Pte		A.W.L. 0600hrs 17-2-40 to 0600hrs 19-2-40	CSM Reilly W.D.	7 days C.B. forfeits 2 days.	20-2-40	R.W. Clark Capt.	
Delville Bks.	1-3-40	Pte		A.W.L 1700hrs 29-2-40 to 1200hrs 1-3-40	Sgt. Wallace J.B.	168hrs detention	4-3-40	W.W. Gavery Lt-Col	
St.John	1-11-39	Pte		A.W.L. from Tatoo Parade 2200hrs 1-11-39 to 2000hrs 4-11-39	COS Northrys Cpl.Irving,J.	7 days C.B.	6-11-39	F.L. West Lt-Col	
Effingham	13-7-40	Pte		~~A.W.L from 2230hrs 0600hrs 14-7-40~~ 13-7-40 to	CSM Belgea H.L.	1 days pay 3 days C.B.	15-7-40	W.J.R. Hewitts Capt.	

(P.T.O.)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of Oct 21

D. Lamegichiert Jr. Adjutant,
No. 2 Canadian Infantry Holding Unit,
C. A. (O.)

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for _____
beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges for _____ days in Civil Custody,
and _____ days in Military Custody.

Total _____ days.

Of which _____ days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 22

6. The date of his ~~commission~~ record of service attestation specified in his attestation paper is 20-10-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil

8. The accused is entitled to deferred pay or gratuity in respect of one years' service.

9. The accused is entitled to reckon two years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or is in possession of or entitled to*

11. ~~*(If the accused is a warrant officer.)*~~ The accused before he was made a warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of
; dated , and in his regiment (*or corps or department*) the rank of
dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of _____ years, _____

In the rank of _____ years, _____

~~In the rank of~~ _____ years.

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked _____, signed by the president and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name G27423 Pte Lawler, S.D. of the Carleton & York Regiment (#2 C.I.H.U.)

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Witley 4-3-41	A.A. 15 (1) A.W.L. from 2230 hours 15-8-40 to 1915 hours 26-9-40 A.A. 15 (1) A.W.L. from 1905 hours 5-11-40 to 2030 hours 10-11-40 A.A. 24 (2) Losing by neglect his clothing, equipment and regimental necessaries to the amount of £1.1.3½	To undergo 60 days detention and to be put under stoppages of pay to the amount of £1.1.3½	20 days remitted

(Continued overleaf.

M Daletin

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G27423 Pte Lawler, S.D. of the Carleton & York Regiment (#2 C.I.H.U.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 666, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. 15 (1)	8	times	14	times.
For A.A. 19	1	times	2	times.
For A.A. 10 (4)		times	1	times.
For		times		times.

Number of instances of gallantry or distinguished conduct, nil

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. [illegible] 50,000 2/40 W. S. Ltd. [illegible]

LIST OF EXHIBITS

in the case of

No. G27423, Pte Lawler, S.D., Carleton & York Regiment reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas):

NIL

Laurentide Camp,
Witley, Surrey,
25th October 1941.

K Dakotas

LIST OF WITNESSES
in the case of

G27423 Private Lawler, S.D., Carleton & York Regiment, Reinforcements, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

PROSECUTION

a) G23002 L/C Vienneau, J.M. C & Y R - #2 C.I.H.U.

b) F40168 L/C Jollimore, E.R. W.N.S.R. - #2 C.I.H.U.

DEFENCE

nil

Laurentide Camp
Witley, Surrey
31 October 1941

SUMMARY OF EVIDENCE
In the case of

I Skelton

G27423 Private Lawler, S.D., Carleton & York Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness Prosecution: G23002 L/C Vienneau, J.M. Carleton & York Company, No. 2 Canadian Infantry Holding Unit, having been duly sworn, states:

"On the 12th October 1941, I had instructions to fall in my platoon for Church Parade at 0900 hours. Upon checking the men I found that Pte. Lawler was absent. I reported his absence to the Orderly Corporal. He remained absent until reporting back to the Regimental Police on 23 October 1941.

J. M. Vienneau L/C
J.M. Vienneau

Accused declines to cross-examine this witness.

Second Witness Prosecution: F40168 L/C Jollimore, E.R. West Nova Scotia Company, #2 Canadian Infantry Holding Unit, having been duly sworn, states:

"On 23rd October 1941 I was in charge in #1 Guard-Detention Room from 2400 to 0800 hours. At about 0012 hours Private Lawler reported himself to me as being A.W.L. I placed him under arrest and notified his company of the fact.

Jollimore L/C
F40168 E.R. Jollimore

Accused declines to cross-examine this witness.

The Accused having been duly warned under R.P. 4 (e) reserves his Defence.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 31st day of October 1941 at Laurentide Camp, Witley, Surrey.

Lieut.
Officer detailed by O.C. No. 2 C.I.H.U. to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
31 October 1941

MEDICAL OFFICER'S CERTIFICATE

H

Dateline Mag

M.R. (CAN) PARA 557

I certify that I have this morning examined

No. G27423 Pte Sawlor S.D.

of Cart. & York Regmt. and in my opinion he

is fit to undergo Trial by Court Martial.

Station Laurentide Camp.

Date 12-11-41

Lucius Ostrom
Medical Officer Capt.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AtLaurentide Camp ON THE 12th DAY OF Nov 41.

TRIAL OF:- No. G27423 Pte. Lawler, S. D. (Carl. Y. Reinf., No 2 CIHU)
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lieut. J.E. Fox (Unit) No 2 CIHU
Defending Officer:- (Name) " H.E. Belyea (Unit) No 2 CIHU
At 1030 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1- No
The President, members and judge-advocate (if any) are duly sworn.
The officers under instruction are duly sworn.
Q2. Do you object to M15888 Pte / acting as shorthand writer?
A2.- No Gottselig, P.
The shorthand writer is duly sworn.
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
Q3. Do you wish to make any statement in mitigation of punishment?
A3.- Yes.
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- No

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Lieut. H.E. Belyea (Defending Officer) makes the following statement:

Gentlemen, the accused first enlisted in the Cdn. Army on 9th of Sept. 39 he joined just like the rest of us with the intention of going overseas and to get into action. At that time gentlemen I was C.S.M. in H.Q. Coy of the New Brunswick Rangers, and the Platoon Commander of the accused. Pte. Lawler was with us 2 months, all that time he gave us no trouble, except one case of 4 days AWL, the reason for this was because his Mother was sick and he was refused leave to go and see her. A few days later he received another letter from his brother stating that his Mother was still sick, so he went A.W.L. When he returned he was brought before the Col. who was very easy on him, and only gave him 7 days CB. The accused, Pte. Lawler, was picked as one of our best drilled and smartest soldiers, as far as our training went at that time, and he was sent to the Carlton York Regt., at Woodstock, N.B., and came overseas. After being here for some time he went, via hospital, to the Holding Unit, this seems to be where the accused's troubles started. I would like to say to the Gentlemen of the Court that some of you might not be familiar with a Holding Unit, there are lots of fatigues, work parties etc. which are very tedious and tiring to a soldier. I was also C.SM of the Carl. Y. Reinf Coy., (No 1 CIHU) and was in close contact with the accused, and I think he was one of the smartest and best soldiers in the company, and I ask leniency before the Court passes sentence.

Prosecutor, sworn, produced AF B-09 and copy of NFM-6.

"B"

CHARGE SHEET

The accused, G27423, Private Lawler, S.D., Carleton & York Regiment Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 15
Army Act

When on active service, absenting himself without leave,

in that he,

at Laurentide Camp, Witley, Surrey, at about 0900 hours on the 12th October 1941, absented himself without leave until surrendering to the Regimental Police at his Unit at about 0012 hours on the 23rd October 1941

(F.S. MATHEWSON) Lieut-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Laurentide Camp
Witley, Surrey
31 October 1941

Farnborough, Hants
This 6th day of Nov 41.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-27423 PTE. LAWLER, S.D. No. 2 Cdn Inf Hldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty 9 months Detention	Finding and sentence of Court confirmed but sentence remitted to six months detention J.W. Whelan Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.W. Whelan Brigadier (Signed) D. Aktrumaj

Commanding Cdn Base Units, Cdn Army. *Convening Officer (e)* Edmn R. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twelfth day of November 41 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Twelfth day of November 19 41.

D. Aktrumaj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this 15th day of November 1941.

J.W. Whelan Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of G. 27423 Pte Lawler S.D.

(a) (Dated) 20 Nov 41 (Signed) [signature] Lieut. Col. Officer Commanding, No. 2 Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

G-27423 Pte. Lawlor, S.D.
No.2 C.I.H.U.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 5th day of November, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint~~ :—

*(1. ~~Three Officers to form the Court.~~

*(2. ~~A Field Officer as President.~~

*(3. ~~Three Officers having more than one year's service.~~)

~~for the following reasons, namely~~ :—]

PROCEEDINGS REVIEWED.

4/12/41

President.

Rank.	Name.	Regiment.
Major	D.A. Petrie	No.3 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.J. Green	No.1 Armoured Corps H.U.
Lieutenant	F.G. Woolsey	No.1 Cdn Eng Hldg Unit
Lieutenant	R.H. Robillard	No.2 Cdn Inf Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

201 D

G. 27423 Pte Lawler S.D.

COUNTER NUMBER 76212

HOUR 1025

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

Description of Court by which Trial, or Name of Officer, Disposing of the charge, or Dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental book of my custody.

Signed this 20th. day of February 1941

Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

Army Form ~~B200.~~

Statement as to Character and Particulars of Service of Accused.

G-27423 Pte. Lawler, S.D. of the 3rd, Recce Squardron(Field Lieut) No. 2 Cdn. Inf. Holding Unit.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 604, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given in the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	3 times	6 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 78 of the Army Act, are set out in the Schedule annexed to this statement.~~

[illegible]

3 The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....
beginning on the ..... day of .....

4 The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 142 days in Military Custody.

Total 142 days.

Of which 36 days were spent in hospital.

5 The present age of the accused according to his record of service attestation paper is 21 Years

6 The date of his ~~XXXXXXXXX~~ attestation specified in his ~~XXXXXX OF XXXXX~~ attestation paper is 10-10-39

7 The service which the accused is allowed to reckon towards discharge or transfer to the reserve is XXXXXXXXX

8 The accused is entitled to deferred pay or gratuity in respect of XXXXXXXXXXX years' service.

9 The accused is entitled to reckon XXXXXXX years' service for the purpose of determining his pension, &c.

10 The accused is in possession of, or entitled to, no military decoration or military reward [~~XXXXXXXXXX

No. G27423 Name Pte Lawler, S. ~~Sqn. Battery~~ or Company H. Q. Coy Corps C. Y. Regiment Date of enlistment G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.P.B. 122) (SSPH-6-19-1703) H.Q. 1070-46-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order depending with trial	By whom awarded	Remarks
Dehville Bks	31-1-40	Pte		A.W.L. from 0600 hrs to 2100 hrs 31-1-40	A.Cpl. Flemming	1 day pay 5 days C.B.	1-2-40	A.M. Dark Capt.	
" "	19-2-40	"		A.W.L. 0600 hrs 19-2-40 to 0600 hrs 19-2-40	C.S.M. Reilly	7 days C.B.	20-2-40	A.M. Dark Capt.	Forfeits 2 days pay
" Corps	1-3-40	"		A.W.L. 1700 hrs 27-2-40 to 1200 hrs 1-3-40	Sgt. Hollis	168 hrs detention	4-3-40	H.M. Gaming Lt. Col.	
St. John	1-11-39	"		A.W.L. from Tattoo Parade 2200 hrs 1-11-39	C.O.S. Northey, R.				
	4-11-39	"		to 2010 hrs 11-11-39	Cpl. Irving, J.	7 days C.B.	6-11-39	H.Cd. Mesh	Forfeits 3 days pay
Effingham	13 Jul. 40	"		A.W.L. from 2230 hrs 13 Jul. 40 to 0900 hrs 14 Jul. 40	C.S.M. Belyea, H.F.	1 day pay 3 days C.B.	15 Jul. 40	Capt. E.R. Nash	
Effingham	25-7-40	"		A.W.L. from 2230 hrs 24-7-40 to 0500 hrs 25-7-40	Cpl. J. M. Crandall	1 day pay 3 days C.B.	26-7-40	W. Berg Lieut.	

Certified to be a Copy

[signature]

(P.T.O.)

SUMMARY OF EVIDENCE (CONT'D).

Fourth Witness for Prosecution.

G-45503, C.Q.M.S. Brennan, C.E., being duly sworn, states:

I am Company Quartermaster Sergeant of No. 3 Company, No. 2 Canadian Infantry Holding Unit. On the 19th February, 1941, I made an inspection of the clothing, equipment and regimental necessaries of G-27423, Pte. Lawler, S.D., and found that, among the articles mentioned in a declaration of a Court of Inquiry held at Caterham on the 21st September, 1940, he was still deficient of: 1 steel helmet, 7s; 1 cap field service, 2s 2d; 1 water bottle, 2s 9d; 1 belt waist, 5s 4d; 1 frog bayonet, 1s 9½d; 1 messtin, 2s 3d. Total value £1. 1. 3½.

.....C.Q.M.S.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Camp 102,
Witley, Surrey,
20th February, 1941.

.....Lieut.,
Officer detailed by O.C. # 2 CIHU
to take Summary of Evidence.

SUMMARY OF EVIDENCE

in the case of

No. G-26423, Pte. Steven Daniel Lawler, 3rd Cdn. Recce Sqn.
(No. 2 Cdn. Inf. Holding Unit)

First Witness for Prosecution — Lieut. H. DeVeber, being duly sworn, states:

I am Acting Records Officer of # 2 C.I.H.U. I produce herewith:

(a) Statements by L/Cpl Ogg and Sgt. Cobb, C.M. Police, London

(b) Declaration of Court of Inquiry

(c) Statements of L/Cpl Crowe and L/Cpl Potter, C.M. Police, London.

H.DeVeber, Lieut

Second Witness for Prosecution — P-48813, Sgt. Couture, H.P., having been duly sworn, states:

On the 5th day of November, 1940, I was Guard Commander. At about 1905 hours, Pte. Carbonne was coming back from the washroom, escorting Pte. Lecompte, when Pte. Carbonne opened the door to the Guard Room, he was passed by two men. The two men them ran from the Guard Room. Pte. Lawler was one of those who escaped. I discovered this by calling the roll.

...Sgt. H.P. Couture.

The accused declines to cross-examine this witness.

Third Witness for Prosecution — D-51064, Pte. Carbonne, R., having been duly sworn, states:

At about 1905 hours, 5th November, 1940, I was escorting a prisoner to the washroom when I came back to unlock the door to the Guard Room, two of the prisoners in the Guard Room pushed me aside and then ran from the Guard Room. I did not know who had escaped until the roll of the prisoners was called and Lawler was one of them.

...R. Carbonne, Pte...

The accused declines to cross-examine this witness.

R.P. 4 (c) (d) (e) have been complied with.

30th December, 1940.

H.H. Graham .....Lieut.,
Officer detailed by C.O. # 2 C.I.H.U.
to take Summary of Evidence.

Q12 - (Defending Officer): Tell us why you broke arrest?
A12 - The guard room wasn't in good condition and we were being treated very bad. The condition of the guard room was vermonous. We got a bath every two weeks.

President: Q13 - Will you answer some questions I wish to put to you?
A13 - Yes, sir.
Q14 - How old?
A14 - 19 years, sir.
Q15 - When did you come over to England?
A15 - 16th of December 1939.
Q16 - What Regiment?
A16 - Carleton & Yorke, Sir.
Q17 - When did you go to the Recce Squadron?
A17 - About eight months ago.
Q18 - How long before you first went A.W.O.L.
A18 - I was in the Recce Squadron about two months before the 15th of August, when I went A.W.O.L.
Q19 - Didn't you like that job?
A19 - Yes, sir.
Q20 - Motor cycles to run around with, pretty good sort of a job, eh?
A20 - Yes, sir.
Q21 - What made you go A.W.O.L.?
A21 - I was having trouble with a sergeant.
Q22 - What was the trouble with your sergeant?
A22 - I wanted a pass once in a while and he told me I couldn't get one.
Q23 - You didn't think that this conduct sheet of yours would have anything to do with that, did you?
A23 - I don't know, sir.
Q24 - There are A.W.O.L.'s in your conduct sheet as long as your arm, six charges.
A24 - I don't think it was that, sir.
Q25 - You admit you have had quite a bit of unauthorized leave?
A25 - Any I had before this was for only two or three days, sir.
Q26 - You would think that it was almost a right to go A.W.O.L. any time you wanted?
A26 - No, sir.
Q27 - You have had no training practically since the 15th of August, have you?
A27 - No, sir.
Q28 - Haven't done a bit of soldiering at all, have you?
A28 - No, sir.
Q29 - So you have lost all that training since that time, haven't you?
A29 - Yes, sir.
Q30 - Anything else to say?
A30 - No, sir.

President: Apparently you are a young man who got the bit in your teeth and thought you could beat the army game. Let me warn you that it can't be done. Since you have been in this country you have gone A.W.O.L. a number of times and then just because you felt that some sergeant wasn't giving you enough leave you decided to go absent for 41 days. You had this interesting job in the Recce Squadron and you chose to throw it away. In the first instance when you joined the Army you felt you wanted to do a good job, didn't you?
Accused: Yes, sir.
President: If you ever get out in civil life this long crime sheet will follow you. You wont be able to get a job because of your record in the army. You realize that, don't you?
Accused: Yes, sir.
President: When you come out of detention you will have lost all that training. Will you behave yourself from now on?
Accused: Yes, sir.

The Court was closed to consider the sentence.

C 27423 Pte. Lawler, S. D. No. 2 Can Infantry Holding Unit, tried by Field General Court-Martial at Whitley, March 4, 1941.

The order convening the Court, the charge sheet and the summary of evidence are laid before the Court.

Prosecutor: Lieut. G. A. Addy,
Defending Officer, Lieut. L. J. Kronger.

At 1000 hours the trial commences.

The names of the President and members of the Court are read over to the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have just heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to B 88581 Sgt. James Lonergan, Royal Canadian Artillery, C.M.H.Q., acting as Court Reporter?
A2 - No, sir.

The Court Reporter is sworn.

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon the charges in the above-mentioned charge sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.

R.P. 35(B) complied with.

Q6 - Is there any evidence as to the character and particulars of service of the accused?
Prosecutor is duly sworn.
A6 - Yes, sir, I produce A.F.B. 296 and certified true copy of M.F.M. 6.
Q7 - Is the accused the person named in the statement which you have read?
A7 - He is, sir.
Q8 - Have you compared the contents of the above statement with the regimental books?
A8 - Yes, sir.
Q9 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A9 - Yes, sir.
The accused declines to cross-examine.

Q10 - Do you wish to make a statement in mitigation of punishment?
A10 - Yes, sir, under oath.
Q11 - Do you wish to produce any witness as to character?
A11 - No, sir.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. G 27423 Rank Pte. RWh

Name Lauler S. T. Regiment C. Y. R.

is fit

to undergo trial by Court-Martial.

Date 4 Mar 1941

W. C. Boulter Major
M.O. Signature. Bettme

CHARGE SHEET

The accused, G-27423, Private Steven Daniel Lawler, 3rd Canadian Reconnaissance Squadron, now on strength of No. 2 Canadian Infantry Holding Unit as a reinforcement for his regiment, a soldier of the Canadian Army (Overseas), is charged with:

First Charge
Sec. 15 (1)
Army Act.

While on active service, absenting himself without leave,

in that he,

while with his unit in the Field, absented himself without leave from 2230 hours, 15th August, 1940, until apprehended by the Military Police in London, at about 1915 hours, 26th September, 1940.
(Total absence 41 days 20 hours 45 minutes).

Second Charge
Sec. 15 (1)
Army Act.

While on active service, absenting himself without leave,

in that he,

when in close confinement at Louisburg Barracks, Bordon, Hants, at about 1905 hours, 5th November, 1940, escaped from the Guard Room and remained absent without leave until he surrendered himself to the Military Police in London, at about 2030 hours, 10th November, 1940.
(Total absence 5 days 1 hour 25 minutes).

Third Charge
Sec. 24 (2)
Army Act.

Losing by neglect his equipment, clothing and regimental necessaries,

in that he,

at Witley, Surrey, on 20th February, 1941, was deficient of: 1 steel helmet, 7s; 1 cap field service, 2s 2d; 1 water bottle, 2s 9d; 1 belt waist, 5s 4d; 1 frog bayonet, 1s 9d; 1 messtin, 2s 3d.
(Total value £1. 1. 3½.).

Camp 102,
Witley, Surrey,
20th February, 1941.

(P.E. BELANGER), Major,
Commanding
No. 2 Cdn. Inf. Holding Unit.

To be tried by Field General Court Martial

.....Brigadier
Commanding Cdn Base Units

Bordon, Hants
This 3rd day of March 41

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-27423				
PTE. LAWLER, S.D.	First Charge			
No.3 Cdn Recce Squadron Fd Unit.)	A.A. Sec.15 (1) as per charge sheet	Guilty	Guilty	
No.2 Cdn Inf Hldg Unit.	Second Charge			
	A.A. Sec.15 (1) as per charge sheet	Guilty	Guilty	Confirmed
	Third Charge			
	A.A. Sec.24 (2) as per charge sheet	Guilty	Guilty	

SENTENCE

TO UNDERGO DETENTION FOR SIXTY DAYS AND TO BE PUT UNDER STOPPAGE OF PAY UNTIL HE HAS MADE UP THE SUM OF £1. 1. 3½ IN RESPECT OF LOSS OF KIT.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) L. F. Page Brigadier (Signed) [signature] Maj

Commanding Canadian Base Units. *Convening Officer (e)* [signature] *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Fourth day of March /41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~ Stenographer - Rwh
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 4th day of March 1941.

[signature] Major

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 7th day of March 1941.

L. F. Page Brigadier

Confirming Officer.

Promulgated and extracts taken in the case of G 27425 Pte Lawler S.D.

(a) (Dated) 11 Mar 41 (Signed) [signature] Lieut. Col. Officer Commanding, No. 2. Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Correspondence to be PINNED here.

3 Cdn

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 3rd day of March, 1941

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]

*(1. [illegible]

*(2. [illegible] President.)

*(3. [illegible] service)

[illegible]

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Major	H.W. Lent	Lorne Scots

Members.

Rank.	Name.	Regiment.
Captain	F.H. Clarke	No.1 Cdn Arty Hldg Unit
Lieutenant	H.D.G. Crooks	No.1 Cdn Arty Hldg Unit
Lieutenant	G.H. Hall	No.1 Cdn Sigs Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed L. F. Page, Brigadier

Commanding Canadian Base Units.

Convening Officer.

99a

10/2/1361

J-27423 Pte Lawler J.D
No 2 Cdn Inf N. Unit

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13-2-43	Tpr		A.A. Sec 15(1) AWL from 2550 hrs 13-2-43 to 1900 hrs 14-2-43 (Absent 19 hrs 1 minute)	Sgt Hucnuck	2 days pay	15-2-43	J.D. Pearson Capt	
Field	8-3-43	Tpr		AWL from 2200 hrs 8 Mar 43 to 0650 hrs 9 Mar 43 (Absent 8 hrs 30 min) A.A. Sec 15(1)	Cpl Morton	3 days pay	9-3-43	D.C. Taylor, Lieut	
Field	10-7-43	Tpr		A.A. Sec 11 W.O.A.S. Not complying with Standing Orders for No 8 Cdn Gen Hosp in that en absented himself without leave from his ward on the evening of 10 Jul 43	Documentary	1 days pay	23-7-43	D.C. O'Brien	

Certified True Copy of MFM 6 from the regt'l books in my custody

J. Evans Capt.
42 Sqn 1 Cdn Armd Bde.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-2-45	Tpr		A.A. Sec 15(1) AWL from 2550 hrs 15-2-45 to 1900 hrs 14-2-45 (Absent 19 hrs 1 minute)	Sgt Huchuck	2 days pay	15-2-45	J.D. Pesrson Capt	
Field	8-5-45	Tpr		AWL from 2200 hrs 8 Mar 45 to 0650 hrs 9 Mar 45 (Absent 8 hrs 50 min) A.A. Sec 15(1)	Cpl Morton	3 days pay	9-5-45	D.C. Taylor, Lieut	
Field	10-7-45	Tpr		A.A. Sec 11 W.O.A.S. Not complying with Standing Orders for No 8 Cdn Gen Hosp in that sh absented himself without leave from his ward on the evening of 10 Jul 45	Documentary	1 days pay	25-7-45	D.C. O'Brien	

Certified True Copy of MFM 6 from the regt'l books in my custody

J Evans Capt
HQ Sqn 1 Cdn Armd Bde.

B.

Exhibit B. J.C.D.

No U-1856 Name Lawford, L.J. Sqn. Battery, or Company | Corps C.A.C. | Date of enlistment 19 Feb 42 GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25-10-1942	Tpr		AWL from 0050 hrs 25-10-42 to 0055 (absent 25 min) A.A. Sec 15 (1) On 25-10-42 in possession of W.D. vehicle CF-61665 without proper authority A.A. Sec 40 On 25-10-42 did use Govt petrol for his own private use.	A/Cpl Davis, J.R.	15 days pay	24-10-42	Humber, C.H. Major	
Field	14-11-42	Tpr		A.A. Sec 15(1) AWL from 2500 hrs 14-11-42 to 2250 hrs 15-11-42 (absent 25 hrs 50 mins)	Sgt Kitson, J. L/Cpl Mason DD	7 days pay	17-11-42	Humber, C.H. Major	
Field	29-11-42	Tpr		A.A. Sec 15(1) AWL from 2500 hrs 29-11-42 to 0255 hrs 30-11-42 (Absent 5 hrs 55 min)	Cpl Cadden, J.F.	14 days CB	1-12-42	Humber, C.H. Major	

(PTO)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 21st day of April 1945

J. Lucas Capt.
(W.H. Payne) Major,
C.O. H.Q. Sqn, 1 Can Arm'd Bde.

Exhibit A JCD

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
U-1656	Tpr	Lawford, L.J.	H.Q. Sqn, 1 Can Arm'd Bd

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Nil Nil times.

For Nil Nil times.

For Nil Nil times.

For Nil Nil times.

Date of first entry in Field Conduct Sheet 27 Oct 42

Date of last entry in Field Conduct Sheet 10 Jul 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~xx~~ Nil days in military custody, i.e., ~~xx~~ ~~days in open arrest;~~ Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 years 10 months 8 days.

6. The date of his attestation ~~calling up for military service~~ is ~~[illegible]~~ 19 Feb 42.

7. The service which the accused is allowed to reckon is

8. The accused is in possession of† C V S M + Clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4761. Forms/B.296(War)/2

Plea for Mitigation

Sirs:

The defense pleads of leeniency for Tpr. Lawford in that this is the first time that he has been brought up on a charge of drunkeness and if he were drunk on 15 Feb 45 his state was certainly not serious.

I myself can also vouch for the fact that Tpr. Lawford is on of the best dressed and smartest soldiers Fin H.Q. Lgn. He rarely does a guard duty when there is a stick man for he is nearly always chosen as such.

Also Tpr. Lawford was in the air-force at the outbreak of war and while returning from operations he crash because his plane was so badly damaged by enemy action. He was a pilot. This crash led to almost a year in hospital and to final discharge from the air-force. Only one year after this Tpr. Lawford enlisted in the army and came overseas.

D. C. Hickey Lt.

Defense

J.C.D.

by going on the stand and stating that he was first told to rove through the harbour, and that while he was doing this the O.O. came and could not find him. In fact, the O.O. states that when he asked the accused where he had been he indicated that he had been outside the harbour altogether.

The salient points are, then, that the accused was warned for guard, and did in fact relieve the former guard. He was therefor properly posted. At 2310 hrs or thereabouts, he was not at his post, and could not offer any reason why he had left it. Quite properly he was immediately placed under open arrest. The O.O., the guard NCO, and the Cpl on guard with him all state that they did not order or give him permission to leave his post, except that later Sgt Hastings was forced to pull him off as unfit for duty.

What happened is plain to see. He went on guard, having had a few drinks, and then went off to get some more to drink. He must have got hold of plenty of it because not long afterwards Sgt Hastings had to relieve him of his duty because he was drunk.

On the second charge there is no defence whatsoever. The man was unfit for duty and could not be trusted to carry on. You will note that while on duty if a man is merely under the influence, the charge of drunkenness is proven.

I ask the court to find the accused guilty on both charges. The security angle involved is quite obvious.

J.R. Evans Capt.

Closing Address - Prosecution. JOD

Gentlemen. The accused is charged, first, with "When on active service leaving his post without orders from his superior officer". You will note that section 6(2) f includes "guard, piquet, patrol, or post". Now, in a tank park such as this one in Florence, a 'post' is undoubtedly some part of this park from where a proper view can be had of the park. This, according to two witnesses, Lieut O'Dell and Sgt Hatforge, was at each end of the street in which the tanks were parked. The NCO of the guard for that night, Sgt Hatforge, is quite definite that his instructions did not refer in any way to a roving piquet. That was not the idea at all. The Orderly officer for the night is equally definite — there were to be two guards posted at each end of the park, and nothing was said regarding their roving through the park. One witness for the defense claims that he was told it was a roving duty — but when he was told this, the accused was not present. Evidently, there was some misunderstanding at the time, because there is no doubt about Sgt Hatforge's evidence - he was recalled, and re-affirmed that the instructions he gave said nothing of roving at all, and he gave a logical reason for the order - They were to prevent any civilians from coming into the tank park from nearby streets.

2 If the accused was told his duty was to rove, why did he not give evidence to that effect? No explanation of his absence was offered at all — where was he? He does not even try to defend himself

accused must have ~~left~~ gone somewhere with his permission for no evidence has been brought to show that Cpl. Stewart even attempted to detain him.

The only proof of drunkenness brought forward by the prosecutor is that the accused was belligerant and thick of speech. Surely every man who is belligerant is not drunk or there would be a lot of drunkenness charges. If the court also listens to the accused speech they will find that at normal it is not exactly clear or ~~thin~~ sharp. This is also the first time Tpr. Lawford has been so charged.

The defense would like to point out to the Court that Tpr. Lawford has spent much of his time in the air force and has few close contacts in the army among commissioned ranks. The only character witness that the defense feels would bear any weight with the Court is at present on leave in England and unobtainable.

D. C. Waddington Lt
Defense
J.C.O.

Jeo

Sirs:

The prosecution has put before you the evidence that is supposed to prove Tpr. Lawford guilty leaving his post without orders from a superior officer.

First of all the prosecution cannot establish where the post was or whether it was a post or a beat. Also he has failed to prove where Tpr. Lawford was except that he was not with Cpl. Stewart and Cpl. Stewart certainly was not his post. You have heard Cpl. Hildrith say he was ordered to do roving guard and that he did it that night. You have hear Tpr. Smith state that the guard he relieved told him he was to rove half way down the tank and that he did this. Therefore the defence fails to see how the Court can find Tpr. Lawford guilty of leaving his post when his whereabouts are not know nor was he looked for and also when there has been no post established.

The evidence brought forward by the defence is very conflicting. Sgt. Lafforge says all guards were present at meal parade and warned by him. It has been proved that Tpr. Smith was not there and that no roll was called.

Mr. O'Dell states that Cpl. Stewart said that he knew where Tpr. Lawford was while Cpl. Stewart himself has two stories. One that he told Lieut O'Dell that he did not know where ~~he~~ Tpr. Lawford was, and two, that he said he thought he knew where Tpr. Lawford was.

How can the Court possibly find Tpr. Lawford guilty of leaving without permission when it has not been proved. If the Cpl. knew where Tpr. Lawford was or even thought he knew, the

(12) JCD

Cross Examination

Q Did Sgt Laforge give you any instructions as to personnel arriving at tank park

A. No Sir

Q What orders were you given as to roving by Sgt Laforge pickets

A. I was warned to rove the full distance of the parking lot.

Q. Where was the accused when you were warned

A. I don't know Sir, we were warned individually

(11) JOD

Q Do you know if any of the previous guards had acted as a roving picket

A No Sir

~~Q~~ No Cross examination

Question by the court.

Q Did you receive any orders of your guard for that evening

A No Sir, ~~only~~ not from an NCO

Q On taking over your post did you receive any ~~orders~~ instructions

A Yes Sir, the guard I took over from told me to look after half the tanks

2nd Witness for Defense

B61190 Cpl Hildreth J.A.L. HQ Sgn 1 CNB having been duly sworn.

Q Do you recognize the accused

A Yes Sir

Q Were you on guard in tank park in Florence on night Feb '15th

A Yes Sir

Q What shift

A 2100 to 2300 hrs

Q Did you act as a roving picket

A. Yes Sir

Q. When Sgt Laforge warned you at supper time was Tpr Smith present

A No Sir

Q Who gave you instructions on this roving picket

A. Sgt Laforge.

1000 hrs 27 Apr

1st Witness for Defense (10)

JOD

G 37087 Tpr Smith LF HQ Sqn 1 CAB having been duly sworn states -

Q. Were you on duty at the tank park on night of 15 Feb

A. Yes Sir

Q. When were you warned of this guard

A. By Cpl Hildreth my crew comdr at approx 2100 and 2130 hrs

Q. Why did Cpl Hildreth warn you at this time

A. He warned me because I had not been warned before.

Q. Were you present when the remainder of the guard were warned at supper parade

A. No Sir

Q. Why were you not present

A. I was at the canteen which is in the lines

Q. What shift of guard were you on

A. from 2300 hrs to 0100 hrs

Q. Was this the same shift as Tpr Lawford

A. Yes Sir

Q. Did you act as a roving picket

A. Yes Sir

Q. Why

A. I ~~look~~ was given the impression that I was to look after half the tanks ~~from~~ the guard I took over from

Q. Was it an NCO who warned you about the roving picket

A. No Sir, it was the guard I took over from

(9) JAD

Q. Can you explain why the orderly Officer was quite definite that there was no roving picket

A. The orderly officer was not there when Sgt Laforge gave us our instructions

Q. The guard comdr gives us the reason for posting guards at end of street was to keep civilians out.

A. I don't know, there were civilians on both sides of the street

Q In view of this fact, how ~~does he~~ do you account for your statement that the picket was supposed to rove half way down the tank park.

one question

The prosecution recalls 2nd witness Sgt Laforge

Q When you gave these instructions to the guards, was anything said by you as to roving pickets.

A No Sir, if anyone wished to see the Major i/c, the guard corporal was to escort him to the Major

Q How did you define the post for these guards

A. At the very back of our tanks, and the very forward part was the other post

Prosecution is closed.

Defending officer states that no prima facie case was disclosed on the following grounds: (1) that the evidence failed to disclose that a proper search had been made to see if the accused was at his post.

The court disallowed the submission JAD

A as far as I know they weren't allowed near the vehicles, we weren't allowed to talk to them.

Cross examination

Q Corporal, who gave you these instructions as to the rooms checked

A Sgt Laforge

Q when did he give you these instructions

A It was after we had eaten, at the time we were warned for guard

Q Did you tell Mr O'Dell you knew where Tpr Lawford was

A I told Mr O'Dell I thought I knew when he was

Q Did you know yourself when Tpr Lawford was

A No Sir

Q Yet you did know that he had left

A After I did not know until the Orderly Officer arrived

Q You say you did not know that Tpr Lawford had left, yet you thought you knew where he was

A Because he had a room fairly close to the area

Q by proximity

Q Then are you sure you were instructed to row halfway down the tank park

A Quite sure Sir

Q I'd like to point out that this is not what the guard Commander told the court

A I heard it with my own ears

3RD witness for the prosecution (7) JRD

A116309 Cpl Stewart J B ~~having been d~~ HQ 1 CAB
having been duly sworn states

Q. were you on guard in tank park in Florence on the night of Feb 15th

A Yes Sir

Q ~~were~~ Do you recognize Tpr Lawford

A Yes Sir, he is my driver

Q. was he on guard with you that date

A. Yes Sir.

Q will you tell the court what happened on that night

A. we went on guard at 2250, Tpr Lawford was with me, at approx 2300 hrs The orderly Officer came to inspect the guard, Tpr Lawford was absent, he asked me where he was, I told him I did not know, the orderly officer went to the other end of the park, and returned in approx. 5 mins - Tpr Lawford had returned - He placed him under open arrest, he told him he had been drinking, he took my name and told me to see him in the morning, that was in the tank park

Q Did you instruct Tpr Lawford ~~to~~ to leave his post

A. No Sir

Q were you supposed to be on ~~the~~ guard at the entrance to the park or were you to be a roving pick

A. we were instructed to rove half way up the tank park

Q what instructions were you given as to civilians

Q. When you were on guard yourself did any of the guards leave the end of the duties to act as a roving picket

A. No Sir

Q When and when were the guard instructions given

A. The guards were instructed while making their rounds by their leaders, I went to each tent, and told them their duty, and detailed their shifts

Q. Before this you said you warned the whole guard, did you take a roll sgt

A No Sir

Q. How do you know that the complete guard was present

A Because there were only four men to a tent chief, and each tent chief was present

Q When you saw the Lawford at approx 1300 hrs, did he appear capable of performing his duty

A. Yes, he did Sir

Re. Examination by prosecution

Q When you saw the Lawford at 1300 hrs what impression did you gain of his condition

A He appeared to be sober at that time, you could smell liquor on his breath, he had had a drink

Question by the court

Q At approx what time was the guard warned of their duties

A. Approx 1845 hrs

(5)

JCD

to go to bed.

Q. At what time did he go to bed.

A. approx 2320

Q. Where were you when you heard the loud talking

A. I ~~was~~ had just ~~going~~ got into bed on top my tank which was at the rear of the harbour area, close to where the accused was on duty

Q. Did you get out of bed

A. Yes Sir, I got up and dressed and went over to the accused, that was when I warned him he was under open arrest and he was to go to bed.

Q. Did you have him replaced

A. No Sir, as the transport cox had two guards of theirs on as well

Q. Why did you send him to bed

A. He was under the influence of liquor, and I did not figure him capable of doing his duty.

Q. When you ordered him to bed, was that the only time you told him to leave his post.

A. Yes Sir.

Cross examination

Q. Who was guard commander on the night of Feb 15th

A. I had a corporal on each shift of guard, I was in charge of the whole guard myself

Q. Was the corporal in charge of the guard in your absence

A. Yes Sir, he was in charge of his shift.

Q. When was the accused's post.

A. At the entrance to the tank harbour when the tanks were lined three abreast on the road, two guards forward and two guards at rear of tanks. Tpr Lawford was at the rear of the tanks

Q. What were the instructions given to the guards

A. The instructions were that no civilians were to pass through the tank area

Q. Is that the reason the guards were posted at the entrance

A. Yes Sir

Q. Was there a roomis picket

A. No Sir

Q. ~~Can you describe where the tank area was in Florence~~

A. Q Can you give any details of the relief at 1300 hrs

A. Yes. Tpr Lawford the accused and the corporal took over the post when I was, and from there I went to the other end of the post to see that the other guard had been properly relieved

Q. Did you at any time order the accused to leave his post

A. Yes Sir, it was after he was on duty awhile I heard a lot of loud talking, and went to investigate the trouble at which time Cpl Stewart who was on guard with the accused told me the orderly officer had been there, and told Cpl Stewart to place him under open arrest, and I then told him he was under open arrest and that he was

Cross examination

Q. Do you know that Pte Lawford was warned or is C/B

A. As an individual no, I do know that his formation was warned. On enquiring the next day of Capt MacGregor, the accused's OC I was told that the accused and all members of his group had been warned.

Question by the court.

Q. was there a roving picket on at this time

A. No.

2nd witness for the prosecution.

M17378 Sgt Laforge L R having been duly sworn states.

Q. Do you recognize the accused

A. Yes Sir

My duties are Sgt of a troop at Bde HQ and while on move through Florence with Tank transporters, we were harboured on a street in Florence in which I was instructed to put a guard on the vehicles on the night of Feb 15th - From 1900 hrs ~~0001~~ 0100 hrs the morning of the 16th Feb. The accused was one of the guards, the complete guard was warned for duty and the accused was present. The accused's duty was to take place at 2300 hrs at which time ~~he~~ they relieved the other guard and myself.

Q. Did you personally warn the guards

A. Yes Sir

argumentative - I then advised him that he (2)
was under open arrest and for Cpl Stewart to
see me as early as possible the next morning.
To the best of my knowledge all men in the
convoy had been warned the seriousness of the
move, and the need for security and had been
warned against leaving any harbour area or
the tanks -

Q. What were the symptoms that made you think
the accused was under the influence of liquor

A. He was very belligerent, thick in speech and
unsteady on his feet.

Q. Did you ask the accused where he had been

A. Yes

Q. What was his reply

A. He explained with a general motion of
his arm that he had been around the block

Q. Did he say anything this time

A. I explained that the block was not in
the tank area or was not his post - at
this point that the accused started to argue
and I terminated the conversation by
placing him under arrest.

Q. Did you at any time order the accused
to leave his post.

A. No

Q. Can you describe the position of the
harbour in Florence in relation to the
main streets

A. The harbour area composed of a fairly
wide street in which the tanks were
parked three abreast between two
intersections, the mens quarters were one
block up at the next main intersection
The tank park was on the south side of
the river and to my knowledge not close
to any main highways, it was a residential
district

093. Res 26 Apr '45

(1)

v. Jca

F.C.C.M Tpr John Lindsay LAWFORD

Prosecuting Officer makes no opening address

Evidence for the prosecution 1st witness

Lt J.M O'Dell 12 CAR having been duly sworn states: on night 15 Feb I was detailed as orderly officer to the Tank Harbour area - Florence Italy - at approx 2315 hrs I proceeded to make inspection of the guard, it had been decided to place two guards at each entrance of the block in which the tanks were parked. I proceeded to the post nearest sleeping quarters and found one man on guard, he explained that his partner had gone to relieve himself, I made my way through the tank area to the post at the other end, I there found Cpl Stewart on guard, I asked him where his partner was, he said that he had left but he knew where he was I instructed Cpl Stewart to place the accused under arrest on his return and I returned to the post at the opposite end of the tank park, I found both guards at this post and instructed the one guard to accompany me back to Cpl Stewart's post with the intention of leaving him on guard there and Cpl Stewart & myself to go and find the accused. On my arrival back at Cpl Stewart's post I found the accused had returned, I started to question him, but immediately realized that he was under the influence of liquor and was

MEDICAL CERTIFICATE

This is to certify that I have today examined W-1856 Tpr Lawfort, L.G. and found him fit for trial by Court Martial.

John F McTah Capt
R.C.A.M.C.

Field
27 Apr 45

JCD

I certify that I have to-day examined U 1856 Tpr Lawford, L.J. and found him fit for trial by Court Martial.

FIELD 26 Apr 45

Jake F Mutch Capt
A.M.C 14 C.A.R.

JCD

FIELD GENERAL COURT-MARTIAL

JAB.

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
U-1856	Trooper		Lindsay John	LAWFORD	HQ Sqn, 1 Cdn Armd Bde

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 29 Mar 45 endorsed by me, ~~(or on a copy of an indictment)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial [~~because it is not practicable that the trial should take place within the jurisdiction of a superior qualified offr~~]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[The said Company Sergeant Major to form the Court, (a) a Fd Officer if there is one present, and]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[I appoint or detail the officers mentioned hereunder]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.C. Duffy	2 Cdn Lt Fd Amb

MEMBERS.

Capt	G.D. Rathbone	1 Cdn Armd Bde Coy (83 Coy) RCASC
Capt. (Rank.)	B.Y. McCreath (Named or detailed. RP 106.)	A Sqn 25 Cdn Armd Del Regt (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 29 Mar 45

(Signed personally, RP 105 fn 2.)
(W.C. Murphy)
Commanding 1 Cdn Armd Bde
(Rank.) Brigadier
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAO 26 (2) (a) of AFAO 40/P & C/1807 (4601))

(See overleaf for oaths and notes for use on trial.)

A24

Jcs

CHARGE SHEET

THE ACCUSED, U-1856 Tpr. Lawford, L.J. H.Q. Sqn., 1 Cdn Armd Bde, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec. 6(2)(f)

WHEN ON ACTIVE SERVICE, LEAVING HIS POST WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

in that he

in the Field, ITALY, on 15 Feb 45, without orders from his superior officer left his post while on guard at the entrance to a part of the Squadron Tank Park.

SECOND CHARGE
A.A. Sec. 19

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

In the Field, ITALY, on 15 Feb 45, was drunk while on duty as a guard at a Squadron Tank Park.

In the Field, Italy,
29 Mar 45.

(W.H. Payne) Major,
O.C. H.Q. Sqn.,
1 Cdn Armd Bde.

To be tried by Field General Court Martial.

29 Mar 45.

(W.C. Murphy) Brig
Comd, 1 Cdn Armd Bde

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your pleas and you will be given an opportunity later to prove your statement on sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. no .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~no~~ Jcb (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ Jcb
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. neither Do you intend to call witnesses on your behalf ?
Ans. yes . Are they witnesses as to character only ? Ans. no .
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. Jcb
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Second charge(s) ~~is~~ being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2) Jcb
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. no .
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~Jcb~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier ~~Jcb~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement Jcb and Conduct Sheet Jcb and in mitigation of punishment ?(1) Ans. Yes .(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: U-1856 Tpr Lindsay John LAWFORD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 6(2)(f)	not guilty	not guilty	
2nd Sec 19	not guilty	Guilty.	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for O beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of O days, of which O days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for fifty-six (56) days.

(Sgd) ..... Judge-Advocate, if any. 27 apr 45 Date awarded. (Sgd) J C Duffy Maj President (Regs 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) J Murphy Brig

Date 27/4/45 Commanding 1 Can Armd Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. U 1856 Tpr L Lawford. Date. 30 April 45 Signature of Offr. F. Maltby Lt. a/Offr i/c Documents HQ 1 Can Armd Bde

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 ... 5I-103.

RECEIVED 28 MAY 1945 JAG's BRANCH C.M.H.Q.

CPA96 (To item of APA81) 40-P-A-S/Legal (4610) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W.C. Murphy Comdl Cdn Armd Bde dated 29 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 74-79. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 185, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
U-1856	Tpr (a)	Lindsay John	LAWFORD	Hq Sqn, 1 Cdn Armd Bde

PROCEEDINGS REVIEWED 28 Mar 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 27 May 45 Sec 1 Tech. H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 26-27 apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/43

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [1] attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [not] amenable to military law, and each charge discloses an offence.(3) JCD JCD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [not] brought before the Court. At 0910 hours trial commences. JCD

A4. The Prosecutor produces a Medical Certificate that accused is [not] fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ JCD.

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter?~~ Ans ... JCD

~~The Interpreter is sworn.(1)~~ ~~Do you object to ... as shorthand writer? Ans ...~~ JCD

~~The shorthand writer is sworn.(1)~~ JCD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 102. 2. If no objection, waiting member retires. RP 66(E). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.C. Duffy	2 Cdn Lt Fd Amb
Member	Capt.	G.D. Rathbone	1 Cdn Armd Bde Coy (83 Coy) RCASC
Member	Capt.	B.Y. McCreath	A Sqn 25 Cdn Armd Del Regt
Judge-Advocate			
Prosecutor	Capt.	J.L. EVANS	HQ Sqn 1 C.A.B.
Defending Offr	Lieut	D.C. WADDINGTON	HQ Sqn 1 CAB.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros is lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 2.)

A8. The accused U 1856 Tpr L J LAWFORD before arraignment makes(s) (no) [objection] JCD (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [not] arraigned [separately] on all charges in the charge sheet.(1) The accused does [not] JCD object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [is closed and] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. A24

5A-103

Tpr. Lawford L. J.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated , and in his regiment (or corps), the rank of

N/A dated

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date as~~

----- Date of promotion.

In the rank of N/A years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number R-3097 Rank Trooper

Name David, Leo 17th D.F.R.C. Hussars, of (7th Rec'on Reg't) RCA (C/S) Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NIL	NIL	NIL	NIL	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of August 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Officer Commanding
17th Duke of York's Royal Canadian Hussars
(7th Recon Regt.) R.C.A.

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-3897	Tpr.	David LAW	17 D.Y.R.C. Hussars (7th Rec'ce Reg't) CA (O/S)

1. The following is a fair and true summary of the entries in the Field Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 28 days in military custody, making a total of 28 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 20 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 7 May 1941.

7. The service which the accused is allowed to reckon towards discharge is NIL

8. The accused is entitled to reckon NIL service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward ~~for is in possession of or entitled to~~. State any air force military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of.....~~

[signature] Major

No. D-3897 Name LAW, David

Sqn., Battery, or Company } 3RD CAN. MOTORCYCLE REGT. C.A.S.F.

Corps } Recce Bn (17th) AF

Date of enlistment } 7 May 1941

G.C. Badges }

Service or Proficiency Pay }

M.F.M. 6
A.F.B. 122
50655—6-39 (1703)
H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet }

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Sheet No.

Signature O.C. Company, etc. } T.M. Lanthier Lieut. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Croydon	9-5-42	Tpr.	-	W.O.A.S. absent from P.T.Parade at 12.15 hours. A.A.Sec. 15 (11)	C.S.M. Barrett T.G.	3 days C.B.	9-5-42	A.L.Tooze Lieut.	

Certified true Copy.

[signature] Lieut

Officer Commanding
17th Duke of York's Royal Canadian Hussars
(7th Res'ce. Reg't.) A.F.

[signature] Major

(P.T.O.)

APPENDIX "D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No D-[illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at [illegible] (Place)

at [illegible] (Hour) on 31st July 42 (Date) and that at the time of his arrest he was wearing (Military Uniform) or (CIVILIAN CLOTHES).
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)

[signature]
Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

APPENDIX "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H-3897 Rank Tpr. Name Law, H. Unit 7 Rece Bln

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
1 Aug 42	Escorts return fare from LONDON To Battle		8	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Battle		4	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		12	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H B Gunner Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

a1 CR

Officer Commanding,
No.11 T.T.C., R.A.O.C.
Croydon.

Sir,

D/3897 Tpr. LAW D.

At approximately 10.05 hrs 27.5.42 I was passing West Croydon Station, when I recognised the a/m man as an absentee from this Unit from 11.5.42.

He gave me the impression that he was waiting for a train, and as I had no escort and I could see no Civil Police, I had no alternative but to challenge the man myself. On demand he produced his A.B.64 Part I which proved his identity and I then told him that I would escort him back to Barracks, where I would place him under close arrest.

He asked me if I would take him to the Y.M.C.A. as his haversack was there. I agreed to this, as I had noticed that one of my Unit's trucks was stationary opposite the Y.M.C.A. and I intended to use the truck to bring him back to Barracks. As I entered the Y.M.C.A. I asked the Sergeant who was on the truck to wait, which he did.

I escorted Tpr. Law downstairs being a few yards behind him. He turned left and disappeared from view. I immediately searched the dormitory, ablution rooms, etc. and satisfied myself that he was not there. I then searched the remaining public rooms and satisfied myself that he was not on the premises. I later found a door in the lower building, which led out into the street. I then returned to Barracks and telephoned the C.M.P. Unit at Croydon and gave them a description of the man.

Sir, I am,
Yours obediently,

N.Wilson Brown. Sgt.

N.Wilson Brown. Sgt.
No.7622971.

Mitcham Road Barracks,
Croydon.
27th May, 1942.

Telephon[illegible] Cydon 2115/Ext.6.

ITEM"B" 11TTC/A/10.

Officer Commanding,
17th Duke of York R.C.H. APPENDIX "B"
Canadian Army,
ENGLAND.

D/3897 Tpr. LAW D.

I enclose a report made by one of the Regimental Sergeants of this Centre in respect of the above-mentioned soldier, who was recently attached to this Unit. He was struck off the strength, as he absented himself whilst under 3 days C.B., my letter 11TTC/A/10 dated 19.5.42 refers.

Philip Vancey
Capt. & Adjutant.
No.11 Tech.Trng.Centre, R.A.O.C.

Mitcham Road Barracks,
Croydon, Surrey.
28th May, 1942.
JWT/DB.

B

Telephone: CROydon 2115/Ext.6.

Officer Commanding,
17th Duke of York, R.C.H.
Canadian Army,
ENGLAND.

11TTC/A/10.

APPENDIX "A"

D. 3897 Trpr. Law D.

"A" Sgn

I would advise you that the above-mentioned man, who was attending a Driver Mechanics Course of instruction at this Centre, has been an absentee from 08.00 hours, 11.5.42. He absented himself whilst under a sentence of three days C.B.

On advice from Canadian Military Headquarters he will cease to be attached to this Unit, w.e.f. original date of absence.

Philip Dandy

Capt. & Adjutant.
No.11 Technical Training Centre,
R.A.O.C.

Mitcham Road Barracks,
Croydon. Surrey.
19th May, 1942.
JWT/DB.

Copy to: "C" Branch,
Canadian Military Headquarters.

A

Summary of evidence in the case of No. D-3097 Trooper DAVID LAW of the 17th D.Y.R.C. Hussars (7th Rec'ce Reg't) CA (Q/S)

By direction of the Commanding Officer the summary of evidence is taken.

1st Witness for the Prosecution — Phillip Bancroft Capt. & Adj't No. 11 Tech Trng. Centre, R.A.C.C., Croydon. - Statement attached hereto as Appendix "A".

2nd Witness for the Prosecution — No. 7622871 Sgt. Brown, W.M. of the No. 11 Tech. Trng. Centre, R.A.C.C., Croydon. - Statement attached hereto as Appendix "B" (Statement & Covering letter from Adj't appended)

Written statements of these witnesses evidence purporting to be signed by them have been read to the accused and are included in this summary of evidence.
Having regard to the exigencies of the service the attendance of these witnesses cannot in my opinion, be readily procured.

(J.F. Donnelly) Lieut.

3rd Witness for the Prosecution — D-3039 A/S.Q.M.S. Marier, L.J.J. of the 17th D.Y.R.C. Hussars, (7th Rec'ce Reg't) CA (Q/S) states :-
I have inspected the kit of Trooper Law and the deficiences noted in the charge sheet are correct.

The accused declines to cross-examine this witness.

D-3039 A/S.Q.M.S. Marier, L.J.J.

Lieut. H.F. Gerwen - Certificate showing cost of apprehension - Appendix "C"

Lieut. A.C. Staines - Certificate in accordance with A.A. Sec. 163 (1)(JJ) (P.C. 2757 of 10 Apr 42)-Appendix "D"

Written statements of these witnesses evidence purporting to be signed by them have been read to the accused and are included in this summary of evidence.
Having regard to the exigencies of the service the attendance of these witnesses cannot in my opinion, be readily procured.

(J.F. Donnelly) Lieut.

The accused does not demand the attendance of these witnesses for cross-examination.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) "Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 11th day of August 1942, in the Field.

(J.F. Donnelly) Lieut.

RECORD of the Declaration of a Court of Inquiry assembled at In The Field on the 8 day of June 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. 0-3897 Tpr. Law D. 17th D. Y. R. C. Hussars (7th Rice Bn) CA O/S. illegally absented himself without leave 08.00 hrs. 11 May 1942, at Field on the 11 day of May 1942, that he is still so absent, and that on the 2 June 1942, he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Rubber Jacket	1.3.6	2 Land Towels	0.1.11
Leather Jacket	1.3.½	1 pr Arm patches 17H.	0.0.7½
Battle Dress Blouse	1.7.8	1 pr Canada	0.0.5½
" Trousers	1.7.11	Cap badge	0.1.0
Boots 1 pr	1.1.6	Bag ration	0.0.2½
Field Serv. Cap	0.3.8	Belt waist	0.3.6
Drawers Cotton	0.2.½	2 Carrier cartridge	0.8.10
" Woollen	0.5.3	1 Frog bayonet	0.0.11
Jacket sweater	0.8.6	Haversack	0.8.6
Blouse denim	0.12.9	Helmet steel	0.7.9
2 Flannel sheets	0.18.10	Sling rifle	0.1.3
Khaki cotton	0.4.½	2 Straps shoulder	0.3.10
Shirt cotton	0.2.4	1 Mess tins	0.1.8
3 pr socks	0.5.0	Bayonet & scabbard	1.4.3
Kit Bag	0.5.3	Oil Bottle	0.0.9½
Tin Blacking	0.0.2	Pullthrough	0.0.3
Brass	0.1.3½	Rifle E 76859	7.8.0
Button stick	0.0.2	1 Tampier anti gas	0.9.6
Brush boot polishing	0.0.9	1 Container	0.4.3
" button	0.0.8	1 Haversack	0.6.6
" hair	0.1.1	2 Blankets	1.6.0
" shaving	0.1.4	1 Ground sheet	0.10.0
Cap Comforter	0.1.1½	1 Wallet anti gas	0.1.5½
Comb	0.0.2	6 Eyeshields	0.2.3½
Holdall	0.0.9	1 Cloth disinfecting	0.0.5½
Housewife	0.2.3	1 outfit anti dent	0.0.2½
Razor	0.1.10½	Total	23.17.3½

A A Hugman Major President

G. C. Newsam Lieut Member

D K Jamieson Lt Member

Signed at In the field

this 10th day of June 1942

Signature of Commanding Officer [signature]

Certified true copy [signature] Capt

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
11M-12-40 (8585-6)
H.Q. 1772-39-257

F

Sentence

The Court sentence the accused

Sentence.

D. 38

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut Dom. Co. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

D2

Instruction.
The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The prosecution is closed.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. No

Question. Is he a witness as to character only? *Answer.* N/A.

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv and 41 (A) (i) and (iii) will be similarly deal with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[Hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

---

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

DD

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

Yes. *Answer.*

D. 3897 Tpr LAW D. 17 DYBCH having been duly sworn states: *Evidence as to character.*

When I went absent from the ~~holding unit~~ Training Centre I left, some of my kit behind there on my bed. My sigle was also left there.

I have a lot of kit with me now on the charge sheet which is marked on that list, and the only articles I ~~am~~ was deficient on my return were: Sweater Jacket, Shirt Flannell Khaki, Socks Pr 2. Brush Shaving, Holdhall, Housewife, Haversack, ~~[illegible]~~. The balance of his equipment was left at the ~~holding~~ training Centre.

RULE OF PROCEDURE 83(B) COMPLIED WITH.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused

is found guilty of

*The summary (or abstract) of evidence is read, marked , signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

received by me in this case.

~~Cross~~ EXAMINED BY THE COURT.

Q. ~~by~~ Has any effort been made to find out whether the lost kit is still at the camp where the accused was an orderly?

A. No such effort has been made.

Q. Why not?

A. I do not think it was reported

Q. You knew about this deficiency at the time of the holding of the Court of Inquiry?

A. Yes but I did not know of any suggestion that it had been left at the holding unit.

RULE OF PROCEDURE 83(B) COMPLIED WITH.

THIRD WITNESS FOR

CAPT. W. G. DONNELLY having been duly sworn states: I am the adjutant of 7th Recce Rgt. I do not know whether any effort was made to trace the kit of the accused through the training centre to which he had been attached. I produce herewith a certified copy of the Court of Inquiry held on this man's absence certifying to his deficiencies as at 2 June 1942. As to finding out whether this kit was at the training centre that would be a matter for the Squadron QMS

RULE OF PROCEDURE 83(B)

COMPLIED WITH.

D3039 S. Q.M.S. MARIER L. J.J. having been duly sworn states: I am S.Q.M.S. "A" Squadron of which the accused is a member. I gave Tpr Hadded authority to check the accused's kit.

CROSS-EXAMINED

I do not know whether any steps were ever taken to recover this man's kit from the ~~Holding~~ Training Centre where he had gone on course. This would be a matter for the Regimental orderly room.

RULE OF PROCEDURE 83(B)

COMPLIED WITH.

CAPT. C.A. having been duly sworn states: I am adjutant of the 7th Recce and have been since April last. ~~Capt~~ Chief Donnelly is acting-adjutant at the moment. If the loss of any kit ~~being~~ was reported to me as possibly having been left at the ~~Hol~~ Training Centre, I would immediately have reported this to the Q.M. who would have then taken the necessary steps to recover it. No such report was

C

Proceedings on Plea of Not Guilty

*Instruction.
(See R. P. 39 (A))
Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

NO

~~The prosecutor makes an opening address [hands in a written address, which is read, marked ——, signed by the President, and attached to the proceedings.]~~

The prosecutor proceeds to call witnesses.

First witness for prosecution.

B3626. TPR. HADDAD. W.P.

being duly sworn, is examined by the prosecutor.

On the 31st of July I made an inspection of the accused's kit on authority from the S.Q.M.S.. I have here a list of ~~these~~ his deficiencies (The witness then read a list which coincided with the list as set out in Charge 2). The items listed on the charge sheet are valued at 75% of the vocabulary value.

CROSS EXAMINED.

Q. When the man ~~got~~ went absent do you know if any effort was made to collect his kit from the training centre

A. I do not know

RULE OF PROCEDURE 83(B) COMPLIED WITH.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

NOT GUILTY. *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ ~~*Question.*~~

~~*Answer.*~~

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ ~~*Question.*~~

~~*Answer.*~~

The accused having pleaded Guilty to ~~the~~ First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 28th day of August 1942 by order of Major General C. B. Price. Commanding 3rd Canadian Division dated the 20th day of August 1942

President.

Major Y. C. Hamilton. 3 Fld Pk Coy

Members.

Capt: J. C. Wyand. 3 Cdn Div Pet Coy

Lieutenant McClymont. C. Hop O

Capt L. A. Ritchie.

Judge Advocate.

Trial of* D. 3897 Tpr David Lavi. 17 Dy Rgt (7 Rem Rgt)

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut Domville.

~~Counsel‡ or~~ defending officer† Lieut M. Logan.

At 1715 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—6-40 (5715)
H.Q. 1772-39-234

28 Aug 42

D 3897 Tpr. David LAW
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't.) C.A. (O/S)

The marginally named trooper has been medically examined by me thisdate, and I hereby certify that he is physically fit to undergo trial by Field General Court-Martial.

(J.Balfour) Captain
Medical Officer
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't.)C.A. (O/S)

Major

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ entire field on the 28th day of August 1942 by order of Major General C. B. Price. Commanding 3rd Canadian Division dated the 20th day of August 1942

President.

Major V. C. Hamilton. 3 Fld Pk Coy

Members.

Capt: J. C. Wyand. 3 Cdn Div Pet Coy

Lieutenant McClymont. C.H.O.P.O

Capt L. A. Ritchie.

Judge Advocate.

Trial of* D. 3897 Tpr David Lavi. 17 Dy Rgt (7 Rem Rgt)

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut Domville.

~~Counsel‡ or~~ defending officer† Lieut. M. Logan.

At 1715 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—6-40 (5715)
H.Q. 1772-39-224

28 Aug 42

D 3897 Tpr. David LAW
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't.) C.A. (O/S)

The marginally named trooper has been medically examined by me thisdate, and I hereby certify that he is physically fit to undergo trial by Field General Court-Martial.

(J.Balfour) Captain
Medical Officer
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't.)C.A. (O/S)

Major

CHARGE SHEET

The Accused D-3897 Tpr. David LAW of the 17th D.Y.R.C. Hussars, (7th Rec'ce Reg't) a soldier of the Canadian Army (Overseas) is charged with:-

First Charge
Section [redacted]
Army Act (15(1))

Absenting himself without leave
~~Deserting his Majesty's Service~~ in that he, in the field, at 0800 hours on 11 May 42, absneted himself from 17th D.Y.R.C.Hussars (7th Rec'ce Reg't) while attending Driver Mechanics Course C.M.H.Q. No. 10 + 7A, at No. 11. T.T.C., until apprehended by the No. 6 Provost Coy., Cdn. Provost Corps, London at 1940 hours 31 July 42, thereby incurring cost of apprehension and return from London, to the extent of £ - /12/11.

Second Charge
Section 24(2)
Army Act

Losing by neglect his Equipment, Clothing and Regimental Necessaries, in that he was on the Accusation deficient of:-

	Actual Cost. £	s	d	Unexpired Wear. £	s	d
Jacket Rubber.	1	3	6		17	7½
Jerkin, Leather.	1	2	½		17	6¼
Drawers, Woolern.		5	3		3	11¼
Sweater, Jacket		8	6		6	4½
Blouse, Denim		12	9		9	6¾
Shirt, Flannel, Khaki.		9	5		7	¾
Shirt, Cotton, Khaki		4	½		3	½
Socks, Prs. 2		3	4		2	6
Kit Bag.		5	3		3	11¼
Tins, Blacking			2			1¼
Brasses, Button.			2			1½
Brush, Boot Polishing.		8	9			6¾
Brush, Button.			8			6
Brush, Hair.		1	1			9¾
Brush, Shaving.		1	4		1	-
Cap Comforter.		1	1½			9¾
Comb			2			1¼
Holdall			9			6¾
Housewife		2	3		1	8¼
Towels, Hand, 2		1	11		1	5¾
Bags, Ration			2½			1¾
Belts, Waist.		3	6		2	7½
Carriers, Cartridge, 2		8	10		6	7½
Frog, Bayonet.			11			8¼
Haversack		8	6		6	4¼
Helmet, Steel.		7	9		5	9¾
Sling, Rifle.		1	3			11¼
Straps, Shoulder, 2		3	10		2	10½
Tins, Mess.		1	8		1	3
Bayonet & Scabbard	1	4	3		18	2¾
Bottle Oil.			9½			7¼
Pullthrough		3	3			2¼
Rifle, E-76859	7	8	0	5	11	-
Blankets, 2	1	6	0		19	6
Ground Sheet.		10	-		7	6
Wallet, Anti-Gas.		1	5¼		1	1
Cloth Disenfecting.			5½			4¼
Badges, Canada, Pr.			5½			4¼
TOTAL	£ 17	13	7	£13	5	8½

C W Hugman
(V.W. Hugman) Lt.-Col.
Commanding 17th D.Y.R.C.H.,
(7th Rec'ce Reg't) CA (O/S)

To be tried by Field General
Court-Martial.

C B Price
(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

[illegible]
Major

Signed in the Field,
this 27th day of August, 1942.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-3897 Trooper David LAW, 12Th D.Y.R.C.H. (7 Recce Regt).	First Charge Section 15 (1) Army Act	Guilty	GUILTY	
	Second Charge Section 24(2) Army Act	Not Guilty	GUILTY EXCEPT THAT HE IS SHLY DEFICIENT SWEATER JACKET SHIRT FLANNEL SOCKS PR 2 BRUSH SHAVING HOLDALL HOUSEWIFE HAVERSACK.	
			NINETY 90 DAYS DETENTION AND TO BE PLACED UNDER STOPPAGES IN THE AMOUNT OF $1-18-6	confirmed G.B.P.
			Dated in the Field this 28th August 1942	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G B Price (C.B.Price) Major-General. *Commanding* 3rd Canadian Division. *Convening Officer* (*e*)

(Signed) [illegible] Mayor *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn. The Judge Advocate

Signed this 28th day of August 1942

[illegible] Mayor
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this 1st day of September 1942

G B Price
Confirming Officer.

Promulgated and extracts taken in the case of D3897 Tpr. David Law

(*a*) (Dated) 2 Sep 42 (Signed) [illegible] Capt. Commanding [illegible] 17th Light A.A. Regt. R.C.A.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(43723) Wt. 41113—493 300 m 1/42 F. St. G. 6/42

D-3897 Tpr David LAW 19,0.
17 D.Y.R.C.H. (7 Rec'ce Regt)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 28th day of August, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

* Omit if not applicable.

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~*(3) Three Officers having more than one year's service;~~

~~for the following reasons, namely:—)~~

PROCEEDINGS REVIEWED.

Judge-Advocate: Captain R.A.Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	V.C. Hamilton	~~[illegible]~~ 3 Fld. Pk. Coy. R.C.E.

Members.

Rank.	Name.	Regiment.
Captain	J.C. Wynand	3 Cdn Div Petrol Coy, RCASC.
Lieutenant	McClymont	C.H. of O.(MG).

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C B Price
(C.B.Price) Major-General.
Commanding 3rd Canadian Division.
Convening Officer.

19,0.

Tfr. LAW, D

O. H. M. S.

M. F. B. 270
1000M-12-40 (8068-60-32)
H.Q. 1772-39-67

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D16654 Rank A/L/Cpl Name Law CE of 4 Cdn Fd Cay RCE Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

NIL

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15 day of September 1943

[signature] Capt
4 Cdn Fd Cay RCE

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

'H'

Major

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D16654	A/L/cpl	LAW, C.R.	4 Cdn Fd Coy RCE

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	NIL times	NIL times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~, NIL

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~as follows~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~beginning on the day of~~

~~4. The accused has been in confinement, awaiting trial on the present charges, for days in civil custody, and days in military custody, making a total of days, of which days were spent in hospital.~~

5. The present age of the accused according to his record of service ~~attestation paper~~ is 31 yrs 4 mos.

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 15 Apr 41.

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

~~8. The accused is entitled to deferred pay or gratuity in respect of service.~~

~~9. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

~~10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)).~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of dated , and in his regiment (or corps or department) the rank of dated~~

(7)A.G.O. W1,865/4,502 75,000 12/40 A.S.S.W.Ltd. Gp.679

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1215-20)
H.Q. 1772-39-1652

No. D.16634 Name LAW, C.R., Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 15 Apr 42 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: NIL — No. and date of last drunk: NIL — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY NO ENTRIES TO DATE 3 Oct 43.					

(P.T.O.)

Appx K' ~~[illegible]~~ Major

Defence of D16654 A/L/Cpl Law C.R.

Firstly, the character and efficiency of this soldier since joining this unit over a year ago have been above reproach. As a result of his efficiency in the SICILIAN CAMPAIGN he was made an A/L/CAL. I will later call S/Cpl Law's Platoon Offr as a character witness. Further proof of L/Cpl Law's good character is shown by his MFM6 which shows no entry.

Secondly I would draw the Court's attention to the fact that L/Cpl Law is up for Court Martial only because the charge is so framed that his commanding officer can not try him summarily.

Thirdly I am basing my defence of L/Cpl Law on extenuating circumstances & I will outline the events leading up to the alleged offence.

On the 9 Sep 43 our light scale Cpt & personnel were still in SICILY waiting to rejoin their coy. From this date until the morning of the 12th L/Cpl Law spent one night on NCO ½ guard, one night ahead on LST & one night in a transit camp, in all an anxious & sleepless period & temples became short. L/Cpl Law admits quite freely that he in a fit of momentary irritation he did swear at CQMS McCollum as stated in the charge ~~[illegible]~~ subsequently very sorry for his action as there had never been any previous ill feeling between L/Cpl Law and CQMS McCollum. L/Cpl Law requests that he plead guilty however I would direct the Court's attention to MML Pg 58 Ch V para 71 where it states" ——
(The Defence read this to the Court)

This paragraph covers the situation as it existed at the time of the ~~[illegible]~~ alleged offence. I therefore respectfully submit that on these grounds, L/Cpl Law is NOT GUILTY. ~~[illegible]~~

John Simon Capt
RCE

25 Sep 43

with the Regimental Books, and which is a true statement as to Character and particulars of the accused. D16654 A/L/Cpl Lowe C.R 4th Fd Coy R.C.E. (attached as Appendix "H")

Also M.F.M.6 (attached as App. "I")

The accused declines to make a Statement on mitigation of sentence although asked if he desires to do so.

The Court closed to consider Sentence.

Sentence (1) To revert to the rank of Sapper

(2) To undergo Field Punishment for 28 days with consequent loss of Pay.

See Schedule.

Signed In the Field this 25th Day of Sept 1943.

H. Smithers, Major
President F.G.C.M.

(1st Character witness's cont'd)

week over Pl M.T. Cpl has been sent and L/Cpl Howe has been carrying on capably in his absence.

The Prosecutor declines to cross-examine this witness.

(2nd Witness re-Called by the court)

B28055 C.Q.M.S. McCollum G.W.

Q. What were the circumstances which started the argument between you and L/Cpl Howe?

A. I went forward to reprove him on his driving in Convoy and in the reproof stated that as a L/Cpl he ought to have his head read, or words to that effect.

The Defence declines to cross-examine this witness
The Prosecution declines to cross-examin this witness

Closing address by the Defence.

I have nothing to say over my Opening address except that the last evidence of C.Q.M.S. McCollum further proves my statement that tempers were short at this time and this was more of an irritable expression as defined in para. 11 of the Army Act.

The Prosecution made no Closing Address.

The Court is Closed to consider the Finding

Finding

Court ~~Sitting~~ Reopened.

Lt RP Wright 4th Fd Coy RCE having been duly sworn states.-

I produce A.F.B 296, which I have compared

3rd Witness for the Prosecution.

C 2415 Spr Robertson D.R. of 4th Fd Coy R.C.E. having been duly sworn states. —

On 12th Sept 43 during a convoy halt I heard C.Q.M.S. McCallum and L/Cpl Law arguing. I heard L/Cpl Law say, "Fuck you". I was the driver of the vehicle behind the one L/Cpl Law was driving. When we halted C.Q.M.S. McCallum went forward to speak to L/Cpl Law.

The accused declines to Cross-examin this witness.

The Prosecution is Closed.

Defence

The accused does not wish to give evidence as a witness.

The accused did not make a statement.

The Defending Officer made an opening address attached as appendix 'K'

The Defence did not call any witnesses as to fact.

1st Character Witness

Lieut H.G. Hess having been duly sworn states. —

I was appointed Pl officer no 1 Pl 4th Fd Coy R.C.E. early in August-43. L/Cpl Law was then a Spr employed in M.T. of the Platoon. I later recommended him to be appointed M.T. L/Cpl. In the month period that I have been associated with L/Cpl Law I have found him to be a capable N.C.O. and he has obeyed all my orders willingly. For the past

Trial of No D16654 A/L/Cpl Law, Christopher, Robert

Lieut R.P. Wright 4th Fd Coy R.C.E. appears as Prosecutor

Capt S.J. Simons 4th Fd Coy R.C.E. appears as Defending Officer.

Prosecution

1st Witness for the Prosecution

B28055 C.Q.M.S. McCollum G.W. 4th Fd Coy R.C.E. having been duly sworn states. –

On the 12th Sept 43 during a convoy halt I had occasion to reprimand the accused, D16654 L/Cpl Law. He replied, "Fuck you." I notified him that he was on a charge when he again said, "Fuck you, we are tired being ordered around by you."

Cross Examined by Defending Officer.

Q. Had there ever been any previous trouble between yourself and L/Cpl Law?

A- No sir. If any, it was very minor.

2nd Witness for the Prosecution

D16118 Spr Muldoon E.P. 4th Fd Coy R.C.E. having been duly sworn states:–

On the 12th Sept 43, during a Convoy halt I heard B28055 C.Q.M.S. McCollum and D16654 L/Cpl Law C.R. arguing. I heard L/Cpl Law say, "Fuck you, I am tired of being ordered around by you." I was not riding in the same truck as L/Cpl Law. I did not hear what started the argument

The accused declines to cross examine this witness.

'F'

Southern
Major

D.16654 L/Cpl. LAW, C.R.,

4th Cdn Fd Coy, R.C.E.

In the Field

25 Sep 43

V. McKenty Capt

"G" (3)

Major

CHARGE SHEET

The accused No. D.16654 L/Cpl. Christopher Robert LAW of the 4th Cdn Field Company R.C.E. a soldier of the Cdn Army Overseas CMF is charged with while On Active Service

1st CHARGE: Army Act Sec. 8 (2)

Using insubordinate language to his superior officer in that he, In the Field on the 12th Sep 43 told B.28055 C.Q.M.S. McCollum, G.W. of the 4th Cdn Field Company R.C.E. "FUCK YOU I am tired of taking orders from you or words to that effect".

(E.A.H. Prichard) Major.R.C.E.
Officer Commanidng
4th Cdn Field Coy, R.C.E.

In the Field
14 Sep 43

To be tried by Field General Court Martial.

(G Walsh) Lt.-col.
CRE 1 Cdn Div

In the Fd
23 Sep 43

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-16654 SPR. (A/L/Cpl.) Cristopher Robert LAW. 4 Cdn.Fd. Coy. Royal Canadian Engineers	1st.Charge A.A. 8 (2) (See Charge Sheet) Annexed 'G' K.F.Southam Major	Not Guilty	Guilty To rank of Sapper. To undergo Field Punishment No.1 for a period of 28 days, and to forfeit all pay for a period of 28 days. K.F.Southam Major	Confirmed Evans Lt.Col.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No

(Signed) Maclay, Lt.Col. (Signed) K.F.Southam, Major
Commanding H.Q. 1 Cdn Div. President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

A.F. 110A complied with. K.F.Southam Major

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 25 day of September, and duly tried the person named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~3.(a) The Interpreter)~~
~~4.(a) The officers under instruction)~~

were duly sworn.

Signed this 25 day of September 1943

K.F.Southam, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 26 day of September 1943.

(G.Walsh) Lt. Col.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 27 Sep 43 (Signed) ~~K.F.Southam, Major~~ for Major i/c Adm

Promulgated and extracts taken in the case of

(Dated) 27 Sep 43 (Signed) ~~Officer Commanding~~

Promulgated and extracts taken in the case of ~~Sapper Law R.C.E. 4 Cdn Fd Coy~~

(Dated) 5 Oct 43 (Signed) ~~Officer Commanding~~ for Lt.Col. i/c Adm Fwd Cmp HQ 1 Cdn Div

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(18870) Wt.46178/800 50,000 7/43 A.& E.W.Ltd. Gp.698

RR-142

Correspondence to be PINNED here.

A 142

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28 day of September, 19 43

Whereas it appears to me, the undersigned, an officer in Command of the Royal Canadian Engineers 1st. Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*I am unable to appoint~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~for the following reasons, namely:~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	K. J. SOUTHERN D.S.O.	3 Fd Coy RCE

Members.

Rank.	Name.	Regiment.
CAPT	D. H. EVERS	1 Fd Coy RCE
CAPT	G. L. TURNER	2 Fd PK Coy RCE

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] (G. Walsh) Lt. Col.

Commanding R.C.E. 1 Cdn. Div.

Convening Officer.

RR-142 (AFRICA)
L/CPL LAW C.R.

11 Dec 44

I acknowledge having received a copy of the summary of evidence and the charge-sheet for my forthcoming FGCM.

I desire the services of an officer to defend me at my trial.

I do not require 7 days notice that an officer having legal qualifications will be prosecutor at my trial.

T.Z. Lavoie

(B44260 Pte Lavoie T Z

NOTICE UNDER RP 76

Take notice that at your forthcoming trial by FGCM, Supervisor R G ALLISON, Cdn Legion War Services, will give evidence as follows:-

"I am a Supervisor for Cdn Legion War Services Inc, which organization operates the Canada Club in Rome. The Snack Bar is operated, and was operated on 7 Nov 44, by the said organization and all money which is taken in by the cashiers from the sale of tickets for the Snack Bar is turned over to Cdn Legion War Services. They have control of the money and eventually it is accounted for through various channels to the Cdn Government."

statement was purely voluntary and that he did not have to sign if he did not want to. The accused soldier signed the statement, and I recognize his signature at the bottom. The statement was turned over to Sgt Nicol for his file on the case. I produce the statement. (Marked Exhibit "B")."

The accused declines to cross-examine the witness.

RP 4(C), (D), (E) and (F) complied with.

I certify that the foregoing Summary of Evidence was taken by me in the presence of the accused this 6th day of December, 1944, in the Field, in Italy.

(J A Bourne) Capt
Officer detailed to take
Summary of Evidence

FOURTH WITNESS: H4011 Sgt NICOL W J, No 3 Cdn Provost Coy, Rome Det, having been duly sworn states:

"On 7 Nov 44 I was in charge of the Provost Det in Rome at the Canada Club when a soldier was brought to me by L/Cpl Laird. This was about 1530 hours. I would recognize the soldier if I saw him again. That is him (pointing to accused). L/Cpl Laird informed me in the presence of the accused that he was brought down for questioning in connection with theft of money from the Snack Bar of the Canada Club. The accused was not under arrest at that time. I questioned him in connection with the incident upstairs. He said "Yes, I was upstairs by the Snack Bar". I then asked him to turn out his pockets, which he did. He had a quantity of Allied Military Notes in his possession. There was 2972 lire in bills of the denominations of one hundred, fifty, ten and five lire notes. Of the money that was taken from the accused 2420 was returned to Signorina BRILSDROWSKY, who is the head cashier for the Canada Club. The rest of the money was turned over with the personal effects of the accused to the Central Guard Room, Rome. I saw the money turned over to Signorina Brilsdrowsky and I produce the receipt she signed. (Marked Exhibit "A"). I asked the accused where he came by all that money and if he knew who took the money at the Snack Bar. He admitted it, saying, "Yes, I took a handful of money". No threat or promise or inducement was made to the accused prior to taking the statement. After, I put him under arrest I warned him that he would be charged and that anything that he said would be used in evidence against him. He made no further statement. The accused had had quite a few drinks but he was capable of walking by himself."

The accused declines to cross-examine the witness.

W J Nicol

FIFTH WITNESS: F44925 Cpl HARTLING G J, No 3 Cdn Provost Coy, Rome Det, having been duly sworn states:

"At approximately 1545 hours, on 7 Nov 44, I was in the office of the Provost Det at the Canada Club in Rome. L/Cpl Laird brought a Cdn soldier into our office, who I recognize as the accused. He was accompanied by the cashier of the Snack Bar and the electrician of the Club. I know the cashier of the Snack Bar personally, but I do not know her name. She was one of the witnesses here this afternoon. Sgt Nicol was in the office at the time and I turned the accused over to him to be searched. I was present when the accused was searched. Approximately ten minutes later I returned to the office and Sgt Nicol was questioning the accused. I asked Sgt Nicol if the accused had been placed under arrest. He said "Yes". I also asked if the accused had been cautioned. He said "Yes". The accused was asked by Sgt Nicol if he knew anything about this money or if he was up at the Snack Bar. The accused said "Yes, I was up at the Snack Bar". He mumbled something about grabbing a handful of money but "Do not know what I have done". I took no part in the questioning on that day. I escorted the accused to the Central Guard Room in Rome, to be held pending further investigation. I left the accused there from the 7th to the 12th of Nov 44. On 12 Nov 44 I went down to see him and have him tell the story in his own words. I cautioned him in the usual way and told him that his statement was voluntary. The words of the caution were "You have nothing to fear from threat or promise. Anything you say will be taken down in writing and used in evidence at your trial". He then dictated the statement and I wrote it down. After the statement was written I read the statement over to him. I told him he could either take away or add or make any alterations he might see fit. I told him the

...../4

The accused declines to cross-examine the witness further.

Tassi Rina

The foregoing is a true translation of the evidence of the witness.

Liselotte Kloncka

SECOND WITNESS: Bernucci ALBERTO, electrician employed at the Canada Club, Rome, Piazza Milazzo di Forli No 4, having been duly sworn states through the interpretation of Lieselotte KLONCKA, also having been duly sworn:

"On 7 Nov 44 I was employed as an electrician in the Canada Club in Rome. I remember seeing the girl Rina TASSI coming downstairs. She was weeping and crying and following a soldier. I went to the gate where the MP was and tried to explain to him in Italian what was happening. The MP came back with me to where the soldier and the girl were. The MP took the soldier to the MP office in the Canada Club. I think I could identify the soldier again but I am not sure. I saw that the soldier was drunk."

The accused declines to cross-examine the witness.

A Bernucci

The above is a true translation of the evidence of the witness.

Liselotte Kloncka

THIRD WITNESS: K98067 L/Cpl LAIRD A, No 3 Cdn Provost Coy, Rome Det, having been duly sworn states:

"On 7 Nov 44 I was employed on duty in the Canada Club as Provost just inside the door in the main hall. I do not remember the exact time. An Italian came down to me, the electrician from the Canada Club, whose name I now know to be Bernucci ALBERTO. He began talking in Italian. I could not understand what he meant. I went along with him. Going up the stairs toward the Snack Bar I saw a soldier with the girl from the cashier's desk whose name I now know to be Rina TASSI. She was crying and wringing her hands. I would know the soldier if I saw him again. That is him (pointing to accused). The electrician returned with me as far as the first landing of the stairs where the accused and the girl were. I took the accused to the Provost office at the Canada Club and turned him over to Cpl Hartling for questioning. The accused was not under arrest at that time. The accused was brought into the office to see what all the trouble was about. Cpl Hartling did the questioning and I believe Sgt Nicol was also present. I heard the accused say to Cpl Hartling as near as I can remember "I admit taking the money from the desk, but I don't know why I did it", or words to that effect. I noticed the accused had been drinking. The accused said he had taken a handful of money from the desk. There was a sum of money, which I saw myself, taken from the accused, which amounted to about 2900 lire. The accused was not searched prior to being brought into the Provost office for questioning."

The accused declines to cross-examine the witness.

A Laird

SUMMARY OF EVIDENCE

in the case of

B44260 Pte LAVOIE T Z, 4 Bn 1 CBRD att Cdn Sec GHQ 1 Ech AAI

FIRST WITNESS: Rina TASSI, Via Amerigo Vespucci 41, having been duly sworn states through the interpretation of Lieselotte KLONCKA, also having been duly sworn:

"On 7 Nov 44 I was cashier of the Snack Bar operated by the Canada Club situated in Rome. I receive tickets from the management and then sell them to the soldiers. Each ticket costs five lire. I just sell the tickets and have nothing to do with giving out the actual goods. My stand is just an ordinary low desk with two drawers, one on each side of where I sit. The tickets and cash were kept in the drawers. The left drawer contained the tickets and the cash was kept in the right drawer. About 3:30 on the afternoon of 7 Nov 44 a soldier came up to my desk and he was drunk. He said something that I didn't understand because I do not understand English. He put his hand into the drawer and took a handful of cash. It was the drawer on the right side of the desk - the one with the cash. I think I would recognize the soldier if I saw him again. I think it is him (pointing to accused).

The soldier who took the money reached across the desk to get it. I actually saw the money in the soldier's hand. The soldier went down the stairs and I followed him until reaching the bottom of the stairs. As I had left the desk open with all the money I returned leaving him with the electrician. I would know the electrician if I saw him again. That is the electrician (pointing to Bernucci ALBERTO upon his entering the room). The Snack Bar is the first floor up from the main floor of the Canada Club. Before I left to go upstairs the MP came and took the soldier. Both the electrician and the MP were there before I left to go upstairs. I do not know which MP it was. Before I left I saw the soldier who took the money being led away by the MP. The soldier at this time was at the bottom of the stairs. I went back upstairs and after I got back to the desk I shut and locked both drawers of the desk. At this time there was no one near the desk. I went down to the MP office on the ground floor of the Canada Club and the same soldier who took the money was in the MP office. Later I returned the second time to my desk and there were soldiers waiting to buy tickets so I continued selling tickets to them until 4:00, after which time I closed the ticket office and counted the money. I am given a certain number of tickets and should have cash for the tickets which I have sold. The tickets are numbered. Every few days I get a certain number of tickets and I always have one thousand lire cash to start with. I was short on the count of cash, on the evening of 7 Nov 44, 2420 lire. As far as I know the money that was taken belongs to the people who run the Canada Club.

I was away from the desk four or five minutes during the time I followed the soldier who took the money downstairs. There was no one around the desk when I got back the firt time. I saw the soldier who took the money take a bundle of one hundred lire notes, but I can not say for sure how many notes were in the bundle. He had a big handful of bills of various denominations. I did not take any of the money that was short that day.

Cross-Examined by accused:

Q1 Where were you when the soldier got picked up?
A1 Near the dance floor.

Q2 How far away from the soldier were you when he was picked up?
A2 I was holding his arm until the police came.

..../2

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-Oct-44	Pte		(1) AA 15 (1) AWL from 2200 hrs 19 Oct 44 to 0905 hrs 24 Oct 44 (4 days 11 hrs 5 mins)		Forf 18 days pay by FRI 149(2)	26 Oct 44		forfs 5 days pay FRI 149(1)(a)

CERTIFIED TRUE COPY FROM REGT'L DOCS IN MY CUSTODY

(D.R. Owen) Capt.,
for Officer i/c
Con Section GHQ 2nd Echelon, AAI

EXHIBIT B

MFM 6
(AFW 122)
40/P&S/126 (3438)

No B44260 Name LAVOIE, T.Z. | Sqn, Battery or Company | Corps CIC | Date of enlistment | GC - Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15(1) AWL 3 hrs 15mins	-	7 days FP 7 days pay FRI149 (2)	28 Jul 43		
Field		Pte		AA Sec 40	-	5 days pay FRI 149 (2)	24 Nov 43		
Field		Pte		(1) Sec 11 AA (2) AWL (3) Sec 19 (1st offence)	-	forf 14 days pay	29 Apr 44		
Field		Pte.		(1) AA 15'1' AWL 1630 hrs 30 Sep 44 to 1915 hrs 30 Sep 44 (2 hrs 45 mins) (2) AA 11.	-	forf of 5 days pay FRI 149(2)	2 Oct 44		
Field		Pte		AA 15 (1) AWL 9 hrs 20 mins	-	10 days C.B.	16 Oct 44		Forfs 1 days pay FRI 149(1)(a)

(Over)

(PTO)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.44260 Rank Pte Name LAVOIE, T.Z. of C & Y R Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.
NIL	NIL	NIL	NIL	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of December 1944

(D M Jupp) Lt-col
AAG, Cdn Sec GHQ 1 Ech AAI

13. [illegible]

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

EXHIBIT A

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 44260	Pte	Tony Zotique LAVOIE	X4 4 Bn (Carlt & York Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For AA Sec 15(1)	4	times	5	times.
For AA Sec 40	1	times	1	times.
For AA Sec 11	1	times	1	times.
For AA Sec 19	1	times	1	times.
For		times		times.

Number of instances of gallantry or distinguished conduct, N/A

or

The accused has not been previously convicted.

2. [illegible]

N/A

3. The accused is not under sentence at the present time, [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 42 days in military custody, making a total of 42 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 22 yrs 6 months

6. The date of his commission / attestation specified in his record of service / attestation paper is 22 Sep 42

7. [illegible]

8. [illegible]

9. [illegible]

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & CLASP

11. [illegible]

12 [illegible]

(*22864) W.L.21708/1977 10,000 10/42 A.& E.W.Ltd. Gp.698
(*24424) W.L.12827/481 40,000 5/43 " "

A.J.C.

are any points on law on which they are not clear that they call the Judge-Advocate into the room. They may consult the Judge-Advocate at any time they desire and the court can be re-opened for that purpose. With reference to the special finding - if the court feel that the evidence has established the theft of some lire and are satisfied that all other elements have been proved, and that the accused has not established any defence, they may make a special finding of guilty, except that the accused stole only so much lire, whatever the amount. In order for such a special finding to stand it must be supported by evidence adduced before the court. It is for the court to determine whether they will believe the evidence of one of the witnesses that she saw in the hand of the accused several one hundred lire notes, a fifty lire note, a ten lire note and a five lire note. If they believe the evidence of that witness they are at liberty to make a special finding that the accused stole only so many lire, whatever the amount may be.

E1 B44260 Pte Lavoie T Z, att fap Cdn Sec GHQ 1 Ech AAI, having been duly sworn, states as follows:

Sir, I enlisted on 20 Sep 42. I have been with the Carleton & York Regiment since 15 Oct 43. I saw action from 1 Dec 43 until up to the Ortona front and went through the big push at Cassino after I went back with the Regiment to the Gothic Line until 16 Sep 44 when I was evacuated because I was wounded. I am 22 years of age.

E3 Defending Officer to Court

In considering the sentence, with reference to the conduct-sheet of the accused, I would like to point out that three of the five fallings from grace took place while he was in hospital or convalescent camps. They are all of a minor character, particularly as to the punishments imposed. Particularly, I would like to point out that all during the hard winter of 1943 nothing appears on his conduct-sheet. From Oct 43 until Apr 44 the accused has had a clean conduct-sheet - that is probably the hardest time anyone in the Canadian Army has ever spent. The circumstances under which this crime, which has now been adjudged a crime, took place should be taken into consideration in awarding the punishment. They are, I suggest, entirely out of normal circumstances and perhaps more than in normal circumstances should be taken into consideration. In the sense that I spoke with respect to those circumstances, while the court may have felt that the accused was not in a condition such as to deprive him of the ability to form an intention, nevertheless I suggest that the evidence is clear that his intention was far from normal and that he did'nt do it in flagrant violation. His intent was a sudden impulse and, having seized him, he was not in a mental condition to restrain himself.

I hereby certify that the above is a true transcript of the evidence taken down by me on 19 & 20 Dec 44.

In the Field
27 Dec 44

Cpl O'Neill J F

E100459 Cpl O'Neill J F
Cdn Sec GHQ 1 Ech AAI

Judge-Advocate Sums Up (Cont'd)

It is the duty of the Judge-Advocate to sum up the case and advise the court on the law. The court should be guided by the opinion of the Judge-Advocate in matters of law and should not disregard it except for very weighty reasons. The court is the sole judge of the facts and if in the course of my summing up I should express any opinion as to the facts the court should disregard it. It is for the court alone to find the facts on the evidence. There are certain general principles of law on which Idesire to advise the court. They are: First, the accused is presumed to be innocent until he is proved guilty. This principle requires no elaboration. It means that you should not be influenced in any way by the fact that he stands accused before the court and he is presumed in law to be guiltless of the offence charged until he is proved guilty. Second, the burden of proving the accused guilty of the offences with which he is charged rests upon the prosecution. The accused does not have to demonstrate his innocence. The prosecution must discharge the burden of adducing sufficient evidence to prove that the accused is guilty of the offences charged. Third, the proof adduced by the prosecution must be sufficient to prove the guilt of the accused beyond reasonable doubt. It is not enough that the evidence shows the defendant very likely guilty. Before the court can properly find an accused guilty on evidence which is wholly or partly circumstantial it must be satisfied that such evidence is not only consistent with his guilt but also inconsistent with any other rational conclusion, namely, his innocence. If there is any reasonable doubt about the guilt of the accused it is your duty to acquit him. The doubt must be a reasonable one not based on caprice, fear or favour but such a doubt as you would reasonably have when dealing with your own business matters. Fourth, Where there is a conflict in the evidence of witnesses it is for the court to decide which witnesses it will believe. In other words the question of credibility is entirely a matter for the court to decide.

There are one or two special observations I wish to make. First, there has been some evidence before the Court that the accused may have been guilty of some other offence. I instruct the Court that they should totally disregard the portion of the accused' statement in which he speaks of missing a draft or words to that effect in determining his guilt or innocence on this particular offence. What he did on that occasion has nothing to do with this offence with which he is now charged. It is the duty of the Judge-Advocate to set out the law and where necessary to direct the attention of the court to pertinent evidence on various points. First of all the offence is theft, stealing, and the Prosecuting Officer has given you references to different texts which you can consult yourselves. The taking must be proved, the intention of converting the property to the use of the accused with the intention of depriving the owner of it must be proved and lastly the ownership of the property must be proved. On the question of taking there was no controversy; on the question of the intention there is controversy and the Prosecuting and Defending Officers have made their submissions; on the question of ownership you have heard what the Prosecuting and Defending Officers have had to say. In connection with the defence of drunkenness I ask the court to consider the reference at p 17 of Archbold's Criminal Pleading Evidence & Practice. There is one point I wish to clear up. Some argument has been directed to the word lire. That argument is properly one which affects the validity of the charge. I am advising the court that the charge which contained the word 'lire' is a proper charge. I ask the court to act on that presumption. If I am wrong, I will be so advised by the Judge-Advocate's Branch.

The last point is that the Court can make a special finding if the evidence fails to prove that the accused stole twenty four hundred and twenty lire. They can make a special finding and can receive my direction, in that event, as to the wording. I ask the court to consider the various references already mentioned and if there

..../overleaf

keep it. The Defence is trying to show that the accused was incapable of forming an intent - that/presumption is rebutted by evidence given, by various witnesses, in this trial. They say the presumption in law has no application in this case and definite evidence was adduced that the accused was incapable of forming intent. There are various things which may result in affecting a person so that he is incapable of forming an intention or intending to do anything. Drunkenness is one which may. The circumstances under which drunkenness in this connection may be a defence is laid down in Archbold's Criminal Pleading etc at the bottom of p 17, the reference which the Defending Officer has already given to us. It states, "There is a distinction between the defence of insanity in the true sense produced by excessive drinking and the defence of drunkenness which produces a condition such that the drunken man's mind becomes incapable of forming a specific intention, and the test of criminal responsibility which is applied to the former should not be applied to the latter defence. Evidence of drunkenness which renders the accused person incapable of forming the specific intent essential to constitute the crime charged must be taken into consideration with the other facts proved in order to determine whether or not he had such intent. But evidence of drunkenness falling short of this, and merely establishing that the mind of the accused person was affected by drink, so that he more readily gave way to some violent passion, does not rebut the presumption that a man intends the natural consequences of his acts". My submission is that before drunkenness is an excuse, a defence to a crime such as this, a man must be so drunk that he would not know what he was doing and that he was incapable of forming any intent. We have evidence that the accused put his hand into a drawer, took some money and held on to it. Granted, two Italian witnesses say that he was drunk. I submit the defence of drunkenness in this case is not applicable. The man was able to walk and able to answer questions in the Provost office and I submit that these things show that he could think, he could answer questions. He knew what was said to him and, therefore, I submit that he must have realized what he was doing. The man may not have had the intention prior to coming up to the desk to take the money but on seeing the money could form an intention on the spur of the moment and take it without premeditation. The three Provost witnesses all state that he was not drunk; that he showed signs of drinking but was not drunk. They talked to him over a considerable period of time. I submit that the Court should take this into consideration. The Court should remember that this was immediately after the incident in question and, therefore, the state of the accused would not have changed materially during the lapse of time. The Defence pointed out that the witnesses testified that the accused was very quiet - he didn't speak much - he was docile. I ask the Court to consider the attitude of the accused at the trial. In answering questions he has been very quiet-spoken and that you consider this in weighing the statements which have been made by the various witnesses. In summing up on this point I would say that a person who seeks to establish a defence of drunkenness in a crime such as this, which is alleged here, must show that he was in a condition that would render him incapable of forming an intent. We know that people are often charged with being drunk and still are quite capable of thinking and talking and so on. To be a defence to a crime such as this you must go much further than this. The Provost witnesses were not prepared to go as far as to say that the accused was drunk in order to support the charge of drunkenness. I submit, in closing, the Prosecution has established the necessary ingredients of the charge.

Judge-Advocate Sums Up

The law and the facts have been plainly and thoroughly covered by the Prosecuting and Defending Officers, and I will make my remarks as short as possible. There are certain things I wish to call to the attention of the Court to refresh their memories although they are entirely familiar with them.

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Prosecutor to Court (Cont'd)

sheet or charge there shall be presumed in favour of supporting the same every proposition which may reasonably be presumed to be impliedly included, though not expressed therein". If the Court wishes to presume in the charge that lire is money, or that lire has certain value, whether or not it is particularly expressed, I submit they are entitled to do so. Therefore, the thing which has been alleged to have been stolen, that is twenty four hundred and twenty lire, is a thing having some value. Coming to the amount, I agree with the Defending Officer that it is not beyond the realm of possibility that during four or five minutes the witness, Rina Tassi, was absent from her desk that somebody could have taken some money or tickets from the drawer. I point out, however, that three or four witnesses in describing the money describe it as a lump of money which was crumpled up and which was removed from the pockets of the accused and that amount was approximately twenty nine hundred lire. It is an element from which the Court can infer that that is the money that was taken from the drawer - that it was taken and crumpled up in the accused' hand and later stuffed in his pockets. If, however, the Court feels that there is some doubt and it is possible that other people may have taken a small amount of money which is included in the sum of twenty four hundred and twenty lire which is charged I submit that the Court has definite evidence that it was more than one one hundred lire note plus a fifty lire note, a ten lire note and a five lire note which was seen by the witness, Rina Tassi, in the hand of the accused after he took it out of the drawer. That being so, under RP 44(D), the Court may, if it sees fit, make a special finding. The Rule is as follows: "Where the court are of opinion as regards any charge that the facts which they find to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, they may, instead of a finding of 'Not Guilty', record a special finding". I submit that the accused would not be prejudiced if the Court sees fit to make a special finding. They could find the accused guilty of the actual amount that was seen in the hands of the accused, that is, more than one hundred lire note and one of each of the other notes I have mentioned. How that special finding is expressed, I submit, will not be material, that is as to whether it is expressed to be lire or money, or whatever it is, by reason of RP 12 which I have already mentioned. The Defence has raised the question as to the ownership of the money, or the lire, and I refer the Court in this connection to Archbold's Criminal Pleading etc at p 513 under the heading "The Owner", part of which reads as follows: "The essence of larceny is the taking of property without the consent of the owner, but the expression 'owner' is not limited to the person who is legal owner of the property stolen", --------"'owner is defined to include any part owner, or person person having possession or control of, or a special property in, anything capable of being stolen". The money in question is taken in from the sale of tickets in a club operated by the Canadian Legion War Services Inc through a Snack Bar operated by the same organization, and by an employee of the same organization. It was later turned over to the supervisor who is in charge of the club and, eventually, he accounts to another organization for it. I submit while it is in the club, and after it has been collected, that is is in possession and under the control of the Canadian Legion War Services Inc within themeaning of the definition I refer to. The main point of defence, as I see it, is that the accused, by reason of drunkenness, was incapable of forming the necessary intention to take the money and there must be intention as laid down in the definition I have read. The last para of Section 51, MML at p 119, states that "The property must be taken with the intention of permanently depriving the possessor of it. Whether such an intention existed is a question of fact to be decided in the light of all the circumstances of the case". There is a proposition in law that a person who does a thing is presumed to intend the consequences of what he does. So, if a person puts his hand into a drawer and takes money it is presumed that he intended to do so. The Court may infer that he intended to

..../overleaf

Defending Officer to Court(Cont'd)

in the stead of the words lire and amount. The evidence given, and it is in the charge, is that the lire in question were the property of the Canadian/War Services Inc. The witness, Rina Tassi, was clearly in charge and in official custody of the lire at the time in question and was in the employ of the Canadian Legion War Services Inc. The twenty four hundred and twenty lire were handed over by the Provost to one described as Signorina Charlette who Supervisor Allison states is also a member of this Coy. Supervisor Allison says the money is in my control until it is deposited with someone else who is described as supervisor of the Canadian YMCA. I do not wish to argue as to whose property these lire were. I am, however, submitting that there has not been sufficiently definite allegation of control or sufficient clear proof as to who actually had control, ownership or special property right. The accused has made a statement for reasons which, I submit, should be obvious to the Court and which should cast no reflection upon him and have no direct relation to his guilt or innocence. He states that on 16 Sep 44 he was evacuated from the front with a fractured skull and until shortly before the afternoon in question he was in hospital and convalescent depots. He then went absent from a draft and went on a drinking bout. He says He has no definite memory past that evening he went AWL until he found himself in the hands of the Provost who subsequently explained why he was under arrest and told him, so he says, what he had done. He said he didn't remember at that time and doesn't remember now, except what he has been told as to what happened. I submit that the conduct of the accused on the afternoon in question, as described by the only disinterested witnesses, Rina Tassi and Bernucci, makes that story entirely reasonable and that the Court should consider this with respect to the taking and carryying away of the money. I strongly urge that he had not the intent to commit the crime of larceny as alleged.

Prosecutor to Court

Gentlemen - the charge in this particular case is under Section 41 of the Army Act which, in short, provides that any crime which, at the time it was committed, is punishable by the laws of England is punishable as a military offence whether the crime was committed in England or not. Section two of the Larceny Act of England provides for any type of larceny which is not specifically dealt with in the Larceny Act of 1916. It is often referred to as simple larceny. That is the reason the charge has been laid under that particular section. Larceny is another word for theft and theft is defined in MML, at p 118, as follows - "A person steals who, without the consent of the owner, fraudulently, and without a claim of right made in good faith, 'takes' and 'carries away' anything 'capable of being stolen" with intent, at the time of such taking, permanently to deprive the owner thereof". The taking and carrying away are described in the same Sections, fifty and fifty one, on p 118 of MML and also in Archbold's Criminal Pleading Evidence & Practice on p 484 and following pages. I submit there is no point in going into the definitions. If the Court wishes to look they will see that what was done on this occasion amounted to taking and carrying away. The next point is 'anything capable of being stolen'. I refer the Court to Archbold's Criminal Pleading etc at p 520 under the heading 'What can be stolen', parts of which read as follows: "Everything which has value and is the property of any person, and if adhering to the realty then after severance therefrom, shall be capable of being stolen" and "The above definition of what can be stolen practically sweeps away the common law restrictions, by which certain kinds of property could not be the subject of larceny". The Defence makes a point that what is stolen is lire. I submit that the Court may take judicial notice of the fact that lire has some value. I do not propose to go into a legal argument as to whether lire is money within the meaning of various definitions which may have been laid down in cases in the civil courts. I refer the Court to RP 12(C) which applies to all charges which are before courts-martial, and which reads as follows: "In the construction of a charge-

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Defending Officer to Court (Cont'd)

reluctant to describe the accused, unless the accused is actually charged with the offence, as drunk. The Provost witnesses are definite that he was not drunk and the witness Sgt Nicol states this "He was not drunk because he could walk and talk". That, I suggest, is a very elementary test to drunkenness. It might be, or rather may be, a sufficient test where the question is as to a charge of drunkenness but where the question is as to the intent a man has formed in relation to his crime I submit that an observation upon whether a man can walk and talk should be made. L/Cpl Laird also says the man had been drinking but was not drunk, but L/Cpl Laird also states there were no civilians present when the accused went into the Provost office whereas the witness, Bernucci, whom I doubt was quiet at the time, says he was in that room and gave evidence as to what he saw there. The observation, at that time, of L/Cpl Laird is not of such particularity that his evidence that the accused was drunk should prevail against the repeated definite and substantial statements of the witness, Rina Tassi, as to his condition. We rely upon that condition which we say was not a condition in which he could have formed an intent to deprive anybody of anything permanently. There are degrees of drunkenness which will deprive a person of the ability to form an intention, depending largely upon the mental abilities of that person. A person with a strong mind and a strong will would require a great deal of drink. A person who would not have that strong mind and will can, with excessive drinking over a period of time, in a rowdish and stupid manner do things without any intent whatsoever, - stumble into situations without reason and without excuse. I submit that is exactly what happened to this accused in the Canada Club that afternoon. On the question of degree of drunkenness I refer you to Archbold's Criminal Pleading Evidence & Practice, at p 18, in which the distinction between the defence of insanity and drunkenness is clearly pointed out. There was some attempt made to discover how much money actually was taken from the cashier's desk in that afternoon and to link up that amount with the amount which was found, so it was said, in the accused's pockets on that afternoon. The accused had money of his own and it was mingled with the money that, shall we say, he took and it was necessary to arrive at some amount. The cashier came down and said we are short a certain amount. The amount they took from the accused' pockets was in excess of that amount so the Provost gave to the cashier the amount she demanded and returned the balance to the accused and the amount in the charge is the amount that the witness, Rina Tassi, says she was short that day. How do they arrive at that amount? The witness, Rina Tassi, collected from the Snack Bar operator certain chits which had to be cashed there. She totalled those chits up. She added to the amount she discovered the one thousand lire that she had had at the beginning of the day. She then counted the money she had in the cash box and deducted the sum from the other total and discovered that she was short the amount of twenty four hundred and twenty lire. But, the witness, Rina Tassi, says that when she left her desk she shut the drawer. She made adefinite statement that she had placed the tickets in the cash drawer and had shut the cash drawer completely. She walked away for about five minutes. When she returned the cash drawer was half open. At the time the accused had gone to her desk there were many other soldiers about. At the time she returned there were not any soldiers, I believe. That is immaterial. However, had any of those chits been taken during her absence and cashed in the Snack Bar it would have decreased the amount of her shortage that night. Although there is considerable examination on the point I do not think it has been established that there was any check made in particular on the evening in question as between the stubs in her ticket books and the tickets which were cashed in the Snack Bar. I submit, for the various reasons I have stated, there is no possibility of reaching a definite conclusion as to the amount of her shortage for which the accused is responsible. What the Court is to do under those circumstances I do not know. I would, however, point out that an amendment I would object to is an amendment using the word money

...../overleaf

Defending Officer to Court

If the theft was committed as alleged by the Prosecution it was a very, very strange affair, a very comic opera type of crime. The Prosecution would have you believe that the accused formed an intent to steal money from the cashier at the Canada Club, and in pursuance of that he went to the Club during the busy yours of the afternoon at a time when he must have expected there would be many others in the Club;that instead of going straight to the source of the money he went first into the Snack Room. From there he went to the cashier's desk where there were many other soldiers quite close enough to interfere. He reached over taking a handful of money and then walked very slowly away. The evidence discloses from that time he was quite well mannered and lethargic in his actions. The spectacle of a man intent on committing a crime and doing it in this manner is surely one that does not appear sane or rational. Any man, no matter how stupid, who had at any time formed the intention of taking money, intending to keep it to deprive the owner of it, would surely have acted in an entirely different manner. The sworn evidence given by the witnesses for the Prosecution testify as to the manner of the accused. First, there is the witness Rina Tassi. She has stated that a drunk soldier approached. He said some words which the witness did not understand. He was leaning on the table. There were many other soldiers around. Some of those soldiers were as close as four feet away, two paces was the original answer. He reached over a comparatively narrow table and put his hand into the drawer. The witness does not say that he snatched the money, that he grabbed the money, she says he reached over and put his hand into the drawer and he took his hand out and in it were clutched certain bills. Without rising from her chair she grabbed at his hand and had the time before he withdrew it to pull at the bills in an attempt to take them out of his hand. He had a sufficiently good hold and she was unable to dislodge them. He walked very slowly away. From his manner of moving she concluded he was drunk. She then took the time to remove the tickets from the desk, place them in the cash drawer and close the cash drawer and proceeded to follow the accused. She did not find it necessary to hurry but caught up with him quite easily halfway down the stairs on the landing which apparently exists there. From there she says she just led him, that he let himself be led by her. When they reached the foot of the stairs she said the accused just stood there dazed. She attracted the attention of the witness, Bernucci. He went and obtained the Provost. The Provost came back and when the Provost came to where the girl was wringing her hands and crying at this stage he did not pay much attention to the soldier. There was nothing in the demeanour of the soldier to indicate to the Provost, despite the girl wringing her hands and crying and the somewhat excited Bernucci talking to him, that this particular soldier had been involved in any crime or incident whatsoever . As L/Cpl Laird said, " I didn't pay much attention to the soldier." Those are the circumstances of the crime alleged by the Prosecution and we are asked to believe that the accused formed an intention to steal money and did so in this manner. As to his intention, in answer to questions put by the Court the one person best able to speak as to his condition at the time of the taking and at the time of the carrying away, the witness Rina Tassi says this - "He didn't seem to know there was anything wrong". She is speaking there of the time she first went up to him and of the time she led him down and the time she stood there and she says he didn't seem to know there was anything wrong. And in answer to a question which I would not dare to put, but which was put by the Court, she says he didn't realize what he was doing, that he was very drunk. The witness, Bernucci says "I have the impression that the accused was drunk, that he was rather dazed. He walked as though he were rather tight". The witness, Rina Tassi, in giving her reasons for forming her opinion as to his condition says that from his expression and his manner of moving she concluded that he was drunk. Now, we have the evidence of the Provost as to his condition - his subsequent condition. Some minutes later, that is. Now, it has been my observation that themembers of Provost take their responsibilities very seriously and are extremely

Judge-Advocate

The admissibility of the statement depends upon the law and it is the duty of the Judge-Advocate to advise the Court on law. I refer the Court to the Manual of Military Law at pages 90 to 93. By way of explanation, it states that the Judges have laid down certain rules which should be observed but if they are not observed the statement may nevertheless be admissible. The text is this: "The rule as to confessions is that before a confession can be received in evidence, it must be proved affirmatively by the prosecution that it was free and voluntary". I was quoting from para 74, and from para 75 "For this purpose a confession is deemed not to be free and voluntary if it appears to have been caused by any inducement, threat or promise proceeding from a magistrate or other person in authority or concerned in the charge (e.g. the prosecutor or the person having the custody of the accused), and having reference to the charge against the accused person, whether addressed to him directly or brought to his knowledge indirectly; and if, in the opinion of the court, the inducement, threat, or promise gave the accused person reasonable grounds for supposing that be making a confession he would gain some advantage, or avoid some evil in reference to the proceedings against him". The statement tendered was obtained from the accused by a person vested with the proper authority. The question is for the Court to determine whether it was made freely and voluntarily on thepart of the accused. I might add that there is a great deal of conflict on the part of two of the witnesses. I ask the Court to refer to the questions which are set out in the Judge's Rules. ~~There is~~ No question about the admissibility of the statement. The statement may still be admissible if the Court is satisfied it was made freely and voluntarily without any inducement, threat, promise or hope of favour being held out to the accused. I point out to the Court that in this case there is a great conflict of evidence. Cpl Hartling says he used words which the accused says he did not use. If you believe Cpl Hartling you must still be satisfied that the words which he used were enough to convey to the accused that he was under no obligation to make the statement and that it was made freely and voluntarily.

The Court is closed to consider the admissibility of the statement.

The Court is re-opened. The accused is brought before the Court.

Judge-Advocate to Defending Officer

The Court has decided to exclude the statement.

At 5:30 o'clock, 19 Dec 44, the Court adjourns to re-assemble at 9:30 o'clock, 20 Dec 44.

At 9:30 o'clock, 20 Dec 44, the Court re-assembles. The accused is brought before the Court.

D6 B44260 Pte Lavoie T Z, att fap Cdn Sec GHQ 1 Bch AAI, states:

On 13 Sep 44 I got wounded and on 16 Sep 44 I was evacuated from a fractured skull. I was sent to 5 Cdn Gen Hosp in ROME. On 4 Oct 44 I was evacuated from the hospital and sent to the Convalescent Camp. On 3 Nov 44, I was sent to the Transit Camp No 159. I was put on draft for 4 Bn on 5 Nov 44. I went AWL from the RR station on 5 Nov 44. It was between 10:00 and 11:00 o'clock Sunday morning. I went in the bar and started drinking with a fellow I met in the bar. To start I had two thousand lire. I bought one bottle of Vermouth that cost two hundred and fifty lire. For dinner I went in the restaurant also drinking with friends I met in the restaurant. From there I do not remember. When I sobered up I was in the Central Guard Room in Rome. That was on the 8th of November. I did not know what I was in the Guard Room for until one day I was escorted to the Canada Club for a summary of evidence. They told me everything that happened. If I took the money I am sorry. I want to go back to the front line.

...../overleaf

Questioned by Judge-Advocate

Q432 Did the Cpl say anything to you in English which you didn't understand?

A432 There were a lot of big words I didn't understand.

Q433 So he said things to you you didn't understand. Is that right?

A433 No sir - - exactly the way I said it. He told me to come up and make a statement.

Q434 Did he say anything else to you?

A434 No, sir.

Q435 And after he had written down the statement did he say anything to you?

A435 He asked me if I wanted to sign the statement.

Q436 And he didn't say anything else to you that you haven't mentioned?

A436 No, sir.

Cross-Examined by Prosecutor

Q437 Didn't he tell you - at the end of the statement - that you didn't have to sign if you didn't want to?

A437 No, sir.

Q438 He didn't tell you that?

A438 No, sir.

Q439 What did he say before you signed it?

A439 He asked me if I wanted to sign the statement.

Q440 What did you say?

A440 I just took the pencil and signed it.

Q441 You don't understand what the word 'correction' means?

A441 No, sir.

Q442 Do you understand what "correction" (pronouncing in the French manner) means?

A442 Yes, sir.

Q443 When he said that word pronounced in English you didn't understand it?

A443 He never tole me that word, sir.

Q444 How many days after you were arrested in the Canada Club was it that the Cpl came to the Guard Room to interview you?

A444 I am not sure. A couple of days after.

A445 Do you know whether it was the 12th or not?

A445 I am not sure.
In the opinion of theCourt and the Judge-Advocate it is unnecessary to comply with RP 83(B).

..../33

Q416 Then what happened?

A416 After it was all wrote?

Q417 What happened before that? You say that he had a pencil and pad and what happened? You say that Cpl Hartling asked you, or told you, that he was there to take a statement?

A417 Yes, sir.

Q418 Did you object to giving the statement?

A418 I never said a word, sir.

Q419 Was anything further said by him before he started to write?

A419 No, sir.

Q420 And what did he write down?

A420 I don't know.

Q421 When he was writing were you talking?

A421 No, sir.

Q422 Did you see what he wrote down - after?

A422 Yes, sir.

Q423 Did he write down what you had said?

A423 Yes, sir.

Q424 The Cpl didn't say anything to you to make you afraid, did he?

A424 I was nervous.

Q425 But you made no objection to giving the statement?

A425 No, sir.

Q426 Did he mention to you that it would be better if you gave the statement?

A426 No, sir.

Q427 When you were giving the statement you didn't think you had to give it, did you?

A427 I thought it was compulsory.

Q428 What made you think that?

A428 The way he came up and what he said.

Q429 What did he say?

A429 He said he came up to take this statement.

Q430 Was he standing up at this time?

A430 Yes, sir.

Q431 Then what did he do, sit down and start writing?

A431 No, sir, he was leaning down over the desk.

..../overleaf

Q411 Where were you when you saw him in the Guard Room?

A411 In the cell downstairs. They called for me and when I arrived upstairs there was this Cpl who just gave the last evidence.

Q412 Did he speak to you?

A402 Yes, sir.

Q403 Do you remember what he said?

A403 Yes, sir.

Q404 What did he say?

A404 He said "How do you feel today, Lavoie".

Q405 Then what happened?

A405 He had a pencil and a book or pad on the desk and he told me he was coming up to take a statement.

Q406 Yes --------? What happened then?

A406 I gave him a statement.

Q407 Did he say to you these words "You need not say anything but if you wish to make a statement it is entirely up to yourself"?

A407 No, sir.

Q408 Did he say words to the effect "Do you wish to make a statement. It is not necessary, it is entirely up to yourself"?

A408 No, sir.

Q409 Did he say the words to you "You have nothing to fear from threat or promise. Anything you say will be taken down in writing and used in evidence at your trial"?

A409 No, sir.

Q410 Do you know what the word alteration means?

A410 No, sir.

Q411 Do you know what the word correction means?

A411 I am not sure.

Cross-Examined by Prosecutor:

Q412 Did Cpl Hartling in whatever words he may have used indicate that you had anything to gain by making a statement?

A412 No, sir.

Q413 What did Cpl Hartling say to you after he had discussed how you felt?

A413 He had a pencil and his book or pad and he said "I am up to take a statement".

Q414 Did he say anything else?

A414 No, sir.

Q415 Not another word?

A415 No, sir.

..../31

Judge-Advocate to Defending Officer

You have objected to the tendering of the statement in question. Do you wish to put Pte Lavoie in the box?

Defending Officer

I do, sir. I think the accused would rather have it that way.

B44260 Pte Lavoie T Z, att fap Cdn Sec GHQ 1 Ech AAI, having been duly sworn, is examined by the Defending Officer:

Q396 You have heard the testimony of the last witness?

A396 Yes, sir.

Q397 You have a recollection as to what took place on the morning of the 8th of November 1944 at the Central Guard Room in Rome?

A397 I recall it.

Q398 Did you see Cpl Hartling that morning?

A398 What date, sir?

Q399 The 8th of November.

A399 It was not on the 8th, sir.

Q400 You were arrested on the 7th of November - is that right?

A400 I don't know, sir.

Q401 You were arrested in the Canada Club?

A401 Yes, sir.

Q402 You remember being taken by the Provost and taken to jail?

A402 I remember being questioned in the guard room.

Q403 Where was this guard room?

A403 It must have been in the guard room.

Q405 Where were you taken from the Canada Club?

A405 I remember in the morning I was in the Central Guard Room.

Q406 Think back to that morning. Did the Provost come to see you that morning?

A406 No, sir.

Q407 When did you next see the Provost?

A407 A couple of days after.

Q408 And where did you see the Provost?

A408 Upstairs in the Central Guard Room.

Q409 What time of day?

A409 After dinner.

Q410 Do you ever remember seeing the Cpl who just gave evidence here?

A410 Yes, that afternoon.

..../overleaf

Q383 Why at this stage could you remember the definite wording and phrasing andyou can not remember today?

A383 Because that is what is laid down and that is what I do at all times.

Q384 So you remember it because of that?

A384 Yes, sir.

Q385 Did you have your pad and pencil, or pen, out at the time you gave that caution?

A385 It was on the table.

Q386 Did you have anything written down?

A386 Nothing.

Q387 Then what did you do?

A387 Took the particulars off the accused.

Q388 What do you mean?

A388 I wrote down the name, rank and unit in the heading of the statement and then took the dictation.

Q389 Did you ask any questions that morning?

A389 No questions bearing on this particular occasion.

Q390 When you started to - - - - when you said to the accused "You need not say anything but if you wish to make a statement it is entirely up to yourself", did you immediately start taking down what the accused said to you?

A390 There was no conversation. I left it stand at that for a few moments. I let the accused have a chance to think it over. When he started to make the statement I started to take down the dictation.

Q391 Word for word you took it down?

A391 Yes, sir.

Q392 In complete silence on your part?

A392 Yes, sir.

Q393 Then what happened?

A393 I asked the accused would he read the statement over. I read it out loud to him looking over his shoulder. After it was over I asked him if there was any alterations or corrections he wished to make. I asked him if he was prepared to sign it and he said "Yes" and took the pen and signed it. He asked me if I wanted his whole unit and everything and I said "No", just his signature.

Re-Examined by Prosecutor

Q394 I understood you to say that the statement was taken on the 6th of November?

A394 No, sir, 6th of December, the summary of evidence.

Q395 According to your recollection what day was the statement from the accused taken?

A395 On 8 Nov 44.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B)
The witness withdraws.

..../29

DAC

Q371 You mean that you don't know how you put them to him?

A371 I used them approximately as the statement was given.

Q372 That is the way you would give it?

A372 That is the way I did give it.

Q373 Before you started to question him that morning did you say "You are not required to say anything"? That is the question. When you went in you started to chat with him about conditions in the guard room. From there you went on to chat about what happened in the Canada Club?

A373 No, sir.

Q374 I want to get exactly what you said at this stage; what you said, not what you would say or what you believe you said but what you said at this extremely important moment. What was it?

A374 I said "You need not say anything. If you wish to make a statement it is entirely up to yourself".

Q375 So you finally remember that these were the very words you used at this moment "You need not say anything but if you wish to make a statement it is entirely up to yourself"?

A375 That is right.

Q376 That is not what you said to the examining officer or what you indicated a few minutes before.

A376 It was the same words phrased different.

Q377 Is this the correct and accurate phrasing of the words you used on that morning "You need not say anything but if you wish to make a statement it is entirely up to yourself"?

A377 You are asking me to remember something that happened a month ago.

Q378 Do you remember giving evidence on the summary of evidence?

A378 I do, sir.

Q379 And that, will you agree, was on the 6th of December?

A379 I believe it was, sir.

Q380 And the incident in question took place on 7 Nov 44?

A380 Yes, sir.

Q381 And do you remember making this statement under oath "The words of the caution were 'You have nothing to fear from threat or promise. Anything you say will be taken down in writing and used in evidence at your trial'"? Did you make that statement?

A381 Yes, sir.

Q382 Was it read over to you before you signed?

A382 It was, sir.

..../overleaf

Q359 Would you repeat to the Court the exact conversation between you and the accused after the document to which you have referred was written and before it was signed?

A359 The only conversation was "Have you any alterations or corrections to make? If so, the opportunity is yours to make those alterations or corrections in the statement". Then he was asked if he wished to sign. He took thepen and signed the statement.

(Defending Officer objects to the tendering of the statement).

Cross-Examined by Defending Officer

Q360 The conversation you had with the accused on the morning in question was entirely in English?

A360 Yes, sir.

Q361 What was the first thing you said to him that morning?

A361 When I took him out of the guard room?

Q362 When you went into the guard room and saw him there.

A362 It is pretty hard to remember the exact words. The general thing I asked is "How are you feeling this morning?" I spoke to him for a while.

Q363 What did you speak to him about?

A363 How he was being treated at the guard room. I asked if he wished to make a statement and explained that it was not necessary.

Q364 What words did you use when you told him that it was not necessary to make a statement? Give the entire sentence you used at that moment?

A364 I couldn't exactly remember. I can't frame the sentence. That was the phrase which I used.

Q365 That is because the phrase is so familiar to you?

A365 It was not the phrase I used.

Q366 What were your actual words?

A366 I told him that if he wished to make a statement me could, that it was not necessary, that it was entirely up to himself.

Q367 You say that you used these words "Do you wish to make a statement? It is not necessary, it is entirely up to yourself"? Are you saying those are the very words you used?

A367 Yes, sir.

Q368 Were those the very words you used? Did you say to him "Do you wish to make a statement? It is not necessary. It is entirely up to yourself"?

A368 That is the wording, sir, but I can't say I said it exactly in that manner.

Q369 Words to that effect?

A369 Words to that effect.

Q370 You don't remember the exact words?

A370 I don't remember the exact phrasing.

..../27

Q345 What was the condition of the accused that day?

A345 He was quite excited at the time, sir, that he was brought in. He was sober in my opinion.

Q346 Did you form any opinion as to whether or not he had been drinking?

A346 No, sir. On questioning him my opinion was that the man was sober.

Q347 Did he talk very much that afternoon?

A347 No more than answer questions.

Q348 Did you have occasion to see the accused at a later date?

A348 On the following morning I took a voluntary statement from the accused.

Q349 What date would that be?

A349 That would be on 8 Nov 44.

Q350 Where was the statement taken?

A350 At the Central Guard Room in Rome.

Q351 Describe to the Court just what happened before that statement was taken?

A351 Previous to the statement I cautioned the accused that he had nothing to fear from threat or promise and anything he said would be taken down in writing and used in evidence at his trial.

Q352 Was the accused under arrest at that time?

A352 Yes, sir, he was placed under arrest on the evening of 7 Nov 44.

Q353 Were you a Cpl at that time?

A353 Yes, sir.

Q354 Were you wearing your badges of rank?

A354 Yes, sir.

Q355 Did you question the accused before you cautioned him?

A355 No, sir.

Q356 What did you say to him before cautioning?

A356 I explained the circumstances and the position he was in. I explained to him that it was up to him whether he wished to give me a statement or not.

Q357 Did you make any threat or any promise to the accused or hold out any inducement to persuade him to make a statement?

A357 No, sir.

Q358 Then what was done?

A358 As I dictated the statement he wrote it down. After the statement was completed Pte Lavoie read the statement over. I asked him if there were any alterations or corrections which he wished to make. He stated there was none. I asked him if he would voluntarily sign the statement. He signed the statement.

..../overleaf

1 AC

Q331 Anybody else present?

A331 Yes, a Sgt Skinner.

Q332 Were any civilians present when you turned out his pockets?

A332 No, sir.

Q333 L/Cpl Laird was present?

A333 Yes, sir.

Q334 And who else?

A334 Cpl Hartling and L/Cpl Laird.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

The witness withdraws.

Sixth Witness for Prosecution: F44925 Cpl Hartling G J, No 3 Cdn Provost Coy, having been duly sworn, is examined by the Prosecutor:

Q335 Will you give the Court your particulars?

A335 F44925 Cpl Hartling G J, No 3 Cdn Provost Coy.

Q336 Do you remember 7 Nov 44?

A336 Yes, sir.

Q337 What happened on that day?

A337 I am not sure whether it was the 7th or the 6th that I took the statement from the accused. I would like to have my statement as reference. It is hard to remember.

Q338 That is not possible - was there anything happened in the Canada Club on 7 Nov 44 that you remember?

A338 I believe on that date the cashier at the Snack Bar - - - -

Q339 Anything you saw yourself?

A339 On that date, there was a soldier brought into the office in the Canada Club, Rome.

Q340 Who was that soldier?

A340 His particulars proved him to be Pte Lavoie.

Q341 Is Pte Lavoie here today?

A341 Yes sir. (Indicates accused to Court).

Q342 What else happened?

A342 On that day Pte Lavoie was questioned in regards to a robbery.

Q343 We do not want the conversation that took place on that occasion unless it is asked for. About what time was it that the accused was in the office of the Provost?

A343 Approximately 1545 hours.

Q344 Did you see anything taken from the accused on that occasion?

A344 No, sir.

..../25

JRC

Q316 Was it the young lady that gave evidence here today?

A316 No, sir.

Q317 How much did you turn over to this lady?

A317 Twenty four hundred and forty-two lire. I think it was that amount.

Q318 You said you got a receipt for the money?

A318 I did, sir.

Q319 Who prepared the receipt which the cashier signed?

A319 I believe it was prepared by the cashier of the Canada Club.

Q320 And the balance of the money that was taken from the accused was sent with his kit?

A320 Yes, to the Town Guard Room, Rome.

Q321 Would you describe the condition of the accused that day?

A321 He had a few drinks. He could not be classed as drunk as he was quite capable of walking. His speech was quite clear but he had had a few drinks.

Q322 Did he talk very much when in the Provost office?

A322 No, sir.

Q323 Was he questioned by anybody?

A323 By myself and Cpl Hartling.

Q324 Were answers given?

A324 Yes, they were, sir.

Cross-Examined by Defending Officer

Q325 You say he was not drunk because he could walk and talk?

A325 Yes, sir.

Q326 Is it fair to say that he was quiet?

A326 He was quiet.

Q327 Is it fair to say that some others who were in the guard room were far from quiet, rather excited?

A327 No, sir.

Questioned by Judge-Advocate

Q328 Was the money all taken out of one pocket or both pockets?

A328 It was taken from both sides of his pants pockets. Thelargest amount came from one pocket.

Q329 Do you remember which side?

A329 The left-hand side, I believe.

Q330 Who was present besides yourself when the accused turned out his pockets?

A330 Cpl Hartling, Cpl Murphy and L/Cpl Laird.

...../overleaf

AAC

Fifth Witness for Prosecution: H4011 Sgt Nicol W J, No 3 Cdn Provost Coy, having been duly sworn, is examined by the Prosecutor:

Q301 Will you give the Court your number, rank, name and unit?

A301 H4011 Sgt Nicol W J, No 3 Cdn Provost Coy.

Q302 Do you remember 7 Nov 44?

A302 I do , sir.

Q303 Tell the Court what happened that day?

A303 On the day in question Pte Lavoie was brought to me by L/Cpl Laird for questioning in connection with a robbery in the Snack Bar of the Canada Club.

Q304 When you speak of Pte Lavoie who is that?

A304 That man there, sir. (Indicates accused to Court).

Q305 We do not want the conversation that took place - tell the Court what you did.

A305 When he was brought into me I asked him to turn out his pockets. He did and there was the sum of 2972 lire.

Q306 Do you remember the denominations of the money?

A306 Yes. There was one hundred, fifty, ten and five lire notes.

Q307 What kind of notes were they?

A307 They were Allied Military Currency notes.

Q308 Any other kind?

A308 There was two Italian fifty lire notes that I remember.

Q309 Describe how the money looked when you took it out of his pocket?

A309 It was just in a bunch, sir. It was not folded up. It appeared to be stuffed in his pocket. It looked as if it had been stuffed in his pocket.

Q310 Who counted the money?

A310 I did, sir.

Q311 What was done with the money?

A311 The money was held in my office until the check could be made with the cashier as to the amount of money she had previous to that and the amount that was missing.

Q312 Then what did you do with the money?

A312 I turned over the amount they had lost and got a receipt for it. The rest of the money was returned to Pte Lavoie's kit.

Q313 To whom did you give the money?

A313 The main cashier at the Canada Club.

Q314 Do you know the name?

A314 It is fairly big.

Q315 Do you know her first name?

A315 No, sir.

..../23

Q288 How did he walk?

A288 Fairly steady, sir.

Q289 Do you know what happened to the money that was taken from the accused? From your own knowledge?

A289 I never saw the money disposed of myself.

Q290 About what time was it when the electrician came to get you at the front door of the Canada Club?

A290 Off-hand I don't remember.

Q291 Do you remember whether it was in the morning or afternoon?

A291 No, I don't.

Cross-Examined by Defending Officer

Q292 You say you took the accused to the Provost office?

A292 Yes, sir.

Q293 What do you mean by you took him? How did you take him?

A293 I asked him to accompany me to the Provost office.

Q294 When you first went up to that landing you saw a girl wringing her hands and crying? Right?

A294 Yes, sir.

Q295 You didn't pay much attention to what is now the accused?

A295 No, sir.

Q296 He was not doing anything to attract attention?

A296 No, sir.

Questioned by Judge-Advocate

Q297 In the police office was anybody holding up the accused or was he standing by himself?

A297 He was standing by himself.

Q298 When you say that the accused had been drinking, but was not drunk, did he give you the impression of knowing what he was doing?

A298 Yes, sir, he did.

Q299 When you told the accused to accompany you did he say anything?

A299 He said "Yes" he would go along.

Q300 Did he argue with you in any way?

A300 No, sir.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

The witness withdraws.

..../overleaf

Q272 What did you actually see done, if anything? Was anything taken from the accused?

A272 Yes, sir, a sum of money.

Q273 How much?

A273 About 2900 lire.

Q274 Where was it found?

A274 It was in the accused's pockets, sir.

Q275 Did you see it?

A275 Yes, sir.

Q276 Describe how the money looked?

A276 It was all wrinkled up. It didn't seem to be done naturally.

Q277 Do you know what denominations they were?

A277 I believe they were mostly all small notes, mostly one hundred lire notes.

Q278 Any others you remember?

A278 I couldn't say, sir.

Q279 Were you there when the money was counted?

A279 Yes.

Q280 Was anything taken from the accused before this occasion that you have just described?

A280 No.

Q281 Would you describe the condition of the accused at the time you saw him that afternoon?

A281 I believe he had been drinking. I wouldn't say he was drunk but that he had been drinking.

Q282 Did he talk while in the Provost office?

A282 Yes, sir.

Q283 How was his speech?

A283 I couldn't say, sir.

Q284 Could describe his speech?

A284 I couldn't state, sir.

Q285 You mean you don't understand what I mean or that you don't remember? Would you say that his speech was normal?
A285 I never heard him talk before, sir.

Q286 Do you know what a man talks like when he is drunk?

A286 Yes, sir.

Q287 Was it like that or different?

A287 I mentioned that he had been drinking. I would not say that he was drunk.

..../21

Q256 Who was the young lady?

A256 She works in the Snack Bar as cashier.

Q257 Would you know her if you saw her again?

A257 Yes, sir.

Q258 Is that the young lady?

A258 Yes, sir. (Witness identifies Signorina Rina Tassi upon the latter entering court-room).

Q259 Who was the soldier that was with the young lady you have just identified?

A259 Pte Lavoie.

Q260 Is he in this room today?

A260 Yes, sir.

Q261 Where?

A261 (Witness indicated accused to Court).

Q262 When you arrived what was the soldier doing?

A262 He was standing with the girl. The girl was wringing her hands and crying.

Q263 Was he doing anything?

A263 I believe he was arguing with her. I noticed the girl was crying and wringing her hands. I didn't pay much attention to the soldier at the time.

Q264 Did the soldier speak to you?

A264 No, sir.

Q265 Did you say anything to him?

A265 I told him he had better come down to the office with me. I took him down to the office to see what it was all about.

Q266 Where did you take him?

A266 To the Provost office at the Canada Club.

Q267 Who went with you?

A267 I took him alone, sir.

Q268 Nobody accompanied you?

A268 Nobody accompanied me.

Q269 When you got to the Provost office who else was there?

A269 Sgt Nicol and Cpl Hartling.

Q270 Did anyone come into the Provost office later?

A270 I couldn't say, sir.

Q271 What did you do in the Provost office?

A271 I told Cpl Hartling the circumstances.

...../overleaf

Questioned by Judge-Advocate

Q242 Did you see how much money was taken from the clothing of the accused?

A243 They didn't count it.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

The witness withdraws.

Fourth Witness for Prosecution: K98067 L/Cpl Laird A, No 3 Cdn Provost Coy, having been duly sworn, is examined by the Prosecutor:

Q244 Will you give the Court your number, name, rank and unit?

A244 K98067 L/Cpl Laird A, No 3 Cdn Provost Coy.

Q245 Do you remember 7 Nov 44?

A245 Yes, sir.

Q246 Did anything peculiar happen that day?

A246 Yes, sir.

Q247 Tell the Court what happened?

A247 I was on duty at the main door, in the main hall, of the Canada Club on that day.

Q248 That is in Rome?

A248 Yes - - an Italian came up and started talking Italian. I couldn't understand him but I went with him.

Q249 Do you know who that Italian was?

A249 Yes, sir.

Q250 What is his name?

A250 I don't know.

Q251 Would you know him if you saw him again?

A251 Yes, sir.

Questioned by Judge-Advocate

Q252 Do you know what he does?

A252 Yes, sir, he is electrician at the Canada Club in Rome.

Examined by Prosecutor

Q253 Is that the man?

A253 Yes, sir. (Witness identifies Bernucci Umberto upon the latter entering court-room.

Q254 You say you went with him?

A254 Yes, sir.

Q255 Where did you go?

A255 Up to the stairs leading to the Snack Bar in the Canada Club. There was a soldier there and a young lady on the stairs.

..../19

D.D.C.

A227 I tried to sooth her and went to go to fetch the MP.

Q228 Did you find a MP?

A228 Yes, at the front door of the Canada Club.

Q229 Then what happened?

A229 I made myself understood by the MP and took him with me to the girl and the soldier.

Q230 What did the MP do then?

A230 Took the soldier to the office.

Q231 What office and where?

A231 The MP office in the building of the Canada Club.

Q232 Did you go with them?

A232 Yes, I went with them.

Q233 Who was the MP that came with you to where the accused was?

A233 He was one of the MP on duty at the Canada Club.

Q234 Do you know his name?

A234 No.

Q235 Would you know him if you saw him again?

A235 Perhaps, but there is much time between this day and today.

Q236 What would you say as to the condition of the accused when you saw him?

A236 I had the impression that he was drunk. That he was dazed.

Q237 How did he walk?

A237 Not very, very drunk but, as they would say, not steady on his feet.

Q238 Was he talking?

A238 He was very unsteady.

Q239 Did you see anybody take anything away from the accused in the police office?

A239 They made a search and they took somemoney from him which was rather crushed.

Q240 Was anything taken away from the accused before he went to the police office?

A240 Nobody took anything away from him.

Cross-Examined by Defending Officer

Q241 Is it fair to say that during this incident the girl was excited, and you were excited, but the soldier just stood there rather dazed?

A241 That is right.

Q242 While the girl and the soldier were in the rotunda of the Canada Club there were soldiers passing, going up and down the stairs, and in and out of rooms?

Q242 Yes, soldiers went up and down the stairs.

...../overleaf

D.A.C.

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Q242 While the girl and the soldier were in the rotunda of the Canada Club there were soldiers passing, going up and down the stairs, and in and out of rooms?

Q242 Yes, soldiers went up and down the stairs.

..../overleaf

A.D.C.

Third Witness for Prosecution: Bernucci Umberto, Piazza Milazzo di Forli No 4, having been duly sworn, is examined by the Prosecutor:

Q211 Give your full name to the Court.

A211 Bernucci Umberto.

Q212 What is your address?

A212 Piazza Milazzo di Forli No 4.

Q213 In what city?

A213 Rome.

Q214 What was your occupation on 7 Nov 44?

A214 I was electrician at the Canada Club in Rome.

Q215 Do you remember anything unusual happening on that day?

A215 I was on duty and went upstairs to the top floor of the Canada Club.

Q216 What happened?

A216 When I came to the middle of the stairs I saw the cashier of the Snack Bar. She was very excited and crying.

Q217 What hour was this?

A217 Between 3:30 and 3:45 in the afternoon.

Q218 Who was the girl you saw crying?

A218 She was the cashier of the Snack Bar.

Q219 Do you know her name?

A219 No.

Q220 Would you know her if you saw her again?

A220 Yes.

Q221 Is that the cashier in question?

A221 Yes. (The witness identifies Signorina Rina Tassi who has just been brought into court-room).

Q222 Was anyone else present at that time?

A222 There were soldiers who went up and down the stairs.

Q223 Was there anyone with the Signorina?

A223 There was a soldier which she held by the arm. She was crying.

Q224 Could you identify that soldier again if you saw him?

A224 Yes, I could.

Q225 Is he in this room today?

A225 Yes.

Q226 Where?

A226 (Witness points to accused).

Q227 Then what happened - what did you do?

..../17

A.J.C.

Q199 Was the drawer in which you kept the cash open at the time the cash was taken?

A199 It was open.

Q200 And before you left to follow the accused after the money was taken did you close the drawer at all or leave it the same as it was?

A200 I closed it but did not lock it.

Q201 Did you completely close the drawer or did you half close the drawer?

A201 I closed it completely.

Q202 Do you say that the accused had in his hand notes of one hundred, fifty and ten lire because you recall seeing the notes in his hand or because you knew there were notes of that denomination in the drawer?

A202 I saw it in his hand.

Q203 Do you have to account for your cash and tickets at night in this wa y? You produce so much cash and produce a stub book which shows that so many tickets have been issued and you must make up the total in cash?

A203 I hand over the cash and hand over an account of all the tickets I sell. The sold tickets go over to the barman but I have to hand over as much cash to the cashier for as many tickets as I sell. I have to give an account of every ticket I sell.

Q204 The amount of cash you turn in would not depend in any way upon the number of tickets handed in by the barman?

A204 There are sometimes variations - sometimes more, sometimes less.

Q205 Suppose the barman did not turn in any tickets to the head cashier - would it make any difference in the amount of cash you would have to account for?

A205 I have to turn in the tickets, the same amount of tickets as I give cash.

Q206 Did the soldier seem to realize what he was doing when he took the money?

A206 No. He was not aware of what he did. He did not realize what he was doing.

Q207 Why do you say that?

A207 If he would have known what he was doing he would have run away. He would have taken care not to be caught by me.

Q208 Did you think the accused was drunk at the time?

A208 He was very drunk.

Q209 How did he act to make you think he was drunk?

A209 He was not steady on his feet. He went very slowly down the stairs. It was very easy for me to catch him.

Q210 Have you seen many drunks at the Canada Club?

A210 Yes - I have seen many.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

The witness withdraws.

..../16

Re-Examined by Prosecutor

Q186 You mention to the defending officer that there were other soldiers in the vicinity when the accused was at the desk?

A186 Yes.

Q187 Where were they standing with relation to the desk?

A187 A few steps from the desk talking to themselves as usual.

Q188 When soldiers come to buy tickets at your desk to they crowd around, stand in line, or just what do they do?

A188 They have to queue.

Q189 At the time you describe when the accused was there were they queueing?

A189 They were not queueing. They came one after the other.

Q190 You mentioned in your evidence that the accused was leaning on the desk. Would you indicate just how he was doing that?

A190 (Witness leans on desk in court-room).

Q191 Would you re-produce exactly what the soldier did?

A191 I do not remember too well. It all happened in an instant. I would not be able to do it.

Q192 In the direct examination you say you actually saw at least one one hundred lire note, a fifty lire note, a ten lire note and a five lire note. Is that correct?

A192 A few hundred lire notes a fifty lire note and a ten lire note.

Q193 Did you actually see them in his hand to recognize the denominations or are you merely saying they were those amounts because you knew you had those amounts in your drawer?

A193 ---------- (Interruption by Defending Officer).

Questioned by Judge-Advocate

Q194 Were there any other soldiers around the desk at the time the accused took the money?

A194 Not very near. A few steps away from the desk.

Q195 How many metres?

A195 About ½ a metre.

Q196 Will you show the Court how far away from the desk the nearest soldier was, using the large desk as an example?

A196 (Witness stands in front of desk at a distance of about four to five feet).

Q197 At the time this incident happened were there any tickets or money on the table or were they in the drawers?

A197 The tickets were on the desk but the cash was in the drawer.

Q198 When you went away the first time did you leave the tickets on the desk?

A198 I put the tickets in the same drawer where the cash was.

..../15

44C

A169 When I saw the soldier moving down the stairs.

Q170 And you walked down the stairs too, is that so?

A170 Yes.

Q171 And you had no difficulty in catching up with him on the landing, half-way down?

A171 No.

Q172 What was the soldier doing when you arrived at the landing, half-way down the stairs?

A172 He did nothing.

Q173 And you went down the remainder of the stairs together - is that so?

A173 Yes.

Q174 And the soldier remained standing in the rotunda downstairs - is that not so?

A174 Together with me, yes.

Q175 And he remained standing there while the electrician came up and went away and came back?

A175 Yes.

Q176 And you were talking to him and crying?

A176 Yes.

Q177 And the soldier just stood there?

A177 Yes.

Q178 And while he was standing there is it not fair to say that in your opinion he was in a dazed condition?

A178 Yes.

Q179 And he didn't seem to understand what you wanted?

A179 He gave no signs of understanding me.

Q180 And he didn't seem to know that there was anything wrong?

A180 He let himself be led my myself.

Q181 If tickets had been taken from your desk while you were away you would have been short in your cash that night?

A181 Yes.

Q182 And if soldiers had the previous day bought tickets and not used them and used them the day in question you still would have been short in your cash?

A182 It happens very rarely.

Q183 It is possible?

A183 It never happens.

Q184 Have you ever been short in your cash before?

A184 No.

Q185 Have you ever been wrong in your cash before? Have you ever had too much?

A185 Sometimes a few lire wrong.

..../overleaf

Q153 Can they get things to eat in the Snack Bar without tickets?

A153 No.

Q154 You say that when the soldier reached across the table he put his hand into the drawer. Is that right?

A154 Yes.

Q155 Did you do anything then?

A155 I tried to avoid his taking the money away.

Q156 And how did you try to avoid his taking the money?

A156 I wanted to hold his hand but I had not the strength to do it.

Q157 Did you try to seize the money in his hand?

A157 Yes.

Q158 Were you able to get any of the money out of his hand?

A158 No.

Q159 Was the money completely enclosed in his hand?

A159 Not quite, you could see it.

Q160 Were you able to get your hands on the money?

A160 I could not get the money from him - I had my hands on it.

Q161 When you had your hands on this money what was the soldier doing?

A161 He tried to met free of me.

Q162 He tried to? What did he do?

A162 He put the money in his pocket and went downstairs.

Q163 In what manner did he go off?

A163 Very slowly as if he was not very sure on his feet.

Q164 At what time was it that you were able to see that he had fifty, one hundred and ten lire notes in his hand?

A164 At the moment he took it.

Q165 You were looking at his hand at that moment were you?

A165 The drawer was before my eyes.

Q166 And the soldier put his hand into the drawer?

A166 Yes.

Q167 And you knew that there were fifty, one hundred and ten lire notes in the drawer?

A167 Yes.

Q168 And it is from that that you decide that the money that you eventually felt in his hand were fifty, one hundred and ten lire notes. Is that not so?

A168 Yes.

Q169 When did you first get out of your chair?

..../13

AAC

Q139(Cont'd) around at the time. Is that so?

A139 Yes, there were other soldiers.

Q140 What were the other soldiers doing?

A140 They were there to buy tickets.

Q141 Were they buying tickets at the time?

A141 Yes, I was selling tickets.

Q142 I suggest that this is true - the soldier whom you have described as the accused came up to the desk and was leaning on it waiting while the tickets were sold to the others?

A142 At this moment I was not very interested when he was leaning across the desk.

Q143 Prior to you first noticing this soldier you were selling tickets to other soldiers. Is that not so? Before noticing the soldier in question, the accused, you were selling tickets to other soldiers?

A143 Yes.

Q144 And the accused came up and was at your table and he was drunk and he was partly leaning on the table. Is that not so?

A144 I was selling tickets to the other soldiers.

Q145 You had been selling tickets to soldiers?

A145 Yes, a few minutes before.

Q146 And you have said that when it happened, meaning the incident in question, there were many soldiers around?

A146 Yes.

Q147 Where were these other soldiers?

A147 The moment they saw that he had taken the money they went away.

Q148 So they didn't go away until after he had taken the money?

A148 No.

Q149 Is it not true that when the soldier approached the desk he placed his hands on it and leaned against it? Was the soldier leaning on the desk when he said something?

A149 Yes, he was.

Q150 And he said something you didn't understand?

A150 Yes.

Q151 As far as you know he may have been asking to purchase a ticket?

A151 He came out of the Bar.

Q152 You mean to say it was not the first time you saw this soldier?

A152 It was the first time I saw the soldier. He did not come from the stairs, but from the Snack Bar.

...../overleaf

A125 I could not say.

Q126 Do you speak English?

A126 No, I do not.

Q127 When the soldier put his hand into the drawer and took the money did you do anything to stop him?

A127 Yes, I did.

Q128 What?

A128 I tried to get hold of his hand.

Q129 What was this money that was taken? Was it Italian government lire or Allied Military lire?

A129 The one hundred lire notes were Allied Military Comd notes. The others were Italian notes.

At 12:00 o'clock, 19 Dec 44, the Court adjourns.

At 2:30 o'clock, 19 Dec 44, the Court re-assembles. The accused is brought before the Court.

First Witness (Cont'd)

Cross-Examined by Defending Officer

Q130 You have described a certain incident as taking place at about 3:30 in the afternoon. Might it not have taken place earlier?

A130 As far as I can remember it was about 3:30.

Q131 What makes you think it was as late as that?

A131 When I came back the first time after the incident I remained fifteen minutes upstairs and then I closed the Bar at 4:00.

Q132 You have told us that having followed a soldier downstairs you returned to your cashier's desk and locked it?

A132 Yes.

Q133 And then you went downstairs again?

A133 Yes.

Q134 And then you returned to your desk and sold tickets?

A134 Yes.

Q135 And how long did you sell tickets that last time?

A135 About ten minutes.

Q136 What did you do then - after that?

A136 I made the accounts as always.

Q137 The first time you left your desk how long did you stay away?

A137 About four or five minutes.

Q138 And the second time how long did you stay away?

A138 Five, six or seven minutes.

Q139 Now, you state that a soldier walked up to your desk on the afternoon in question and I understood you to say there were other soldiers

..../11

Q110 When you locked the cash drawer did you do anything to the other drawer also?

A110 I closed them both and locked them.

Q111 Where is the MP office you mention?

A111 In the same building.

Q112 When you got there who else was present - at the MP office?

A112 The electrician, the MP and the soldier. They were emptying his pockets.

Q113 What soldier?

A113 The soldier who stole the money.

Q114 Did you see what they found in his pockets?

A114 No.

Q115 What did you do after you went to the MP office?

A115 I waited a few minutes. Then I had to go upstairs because they were many soldiers waiting upstairs for me.

Q116 About what hour was this?

A116 About 3:45 o'clock.

Q117 Then what did you do?

A117 Then I continued to sell the tickets at my desk until 4:00 o'clock.

Q118 And then?

A118 Then I locked my drawers, counted the tickets and saw the sum of money was missing

Q119 When you say a sum of money was missing just what do you mean? As a result of your check or what? How do you know it was missing? How did you determine what was missing?

A119 I made the count of all the sold tickets.

Q120 And did you have cash to cover all the tickets?

A120 No. Some money was missing.

Q121 How much?

A121 Twenty four hundred and twenty lire was missing.

Q122 Did you, yourself, take any of that money you were short?

A122 No, I did not.

Q123 Who employs you as cashier?

A123 I am employed by the Canada Club.

Q124 Who do you consider the money that you take in at your desk as belonging to?

A124 It belongs to the Club.

Q125 Do you know the name of the organization that runs the Canada Club?

..../overleaf

Q93 After you had him by the arm then what happened?

A93 It was downstairs and I met the electrician.

Q94 What did the electrician do?

A94 He went to call the MP which came after a few minutes.

Q95 Did you stay with the soldier until the electrician and the MP returned?

A95 Yes, I stayed with the soldier.

Q96 What is the electrician's name?

A96 Bernucci Umberto.

Q97 Do you know what MP came back with Bernucci?

A97 I do not remember.

Q98 Would you know him if you saw him again?

A98 I would not.

Q99 What happened after Bernucci and the MP came to where you were?

A99 They took the soldier?

Q100 What did you do?

A100 I went back to my table to close it because I left it open when I went away.

Q101 How long were you gone from your table on that occasion?

A101 Three or four minutes.

Q102 Was the cash drawer open or closed when you got back?

A102 It was half open.

Q103 Was the same or different to the way you had left it?

A103 The same way I left it.

Q104 Was there any money in the drawer?

A104 Yes, there was.

Q105 Was anyone around when you got back to the desk on that occasion?

A105 Nobody was around.

Q106 After you locked the drawer what did you do?

A106 I went into the MP office to see what happened.

Q107 What did you do with the key to the drawer?

A107 I kept it.

Q108 What about the drawer that contained the tickets. Was that open or closed when you returned?

A108 It was closed.

Q109 Was it the same as you left it or different?

A109 The same as I left it.

..../9

Q78 Can you say if there was more than one of each denomination?

A78 A few one hundred lire notes. I could not say about the fifty or ten lire notes.

Q79 When you say a few what is the least number that you can be sure was in his hand?

A79 There was a handful. I could not distinguish exactly how many there were.

Q80 Would you say at least one hundred lire note?

A80 More than one.

Q81 Would you know the soldier of whom you are speaking if you saw him again?

A81 Yes.

Q82 Is he in this room today?

A82 Yes.

Q83 Would you show him to the Court?

A83 (Witness points to accused).

Q84 Did the accused walk or run, or what, when he left your desk?

A84 He walked very slowly away.

Q85 Was he walking straight or in some other way?

A85 He walked down the stairs.

Q86 Was he steady on his feet?

A86 Not very.

Q87 You have already stated that you considered the soldier drunk. Why did you say that?

A87 Because I saw from his expression and his movement that he was not normal, that he was drunk.

Q88 You mentioned going downstairs following the soldier. How far behind him were you?

A88 Very hear because I grabbed him by his arm.

Q89 You mean you were holding his arm all the way or just at one part of your journey downstairs?

A89 He went downstairs. I followed him. I reached him on the middle of the stairs and there I took his arm.

A90 Were there any other soldiers around at that time?

A90 When it happened there were many soldiers around. Then I did not see anybody any more.

Q91 Are you sure you followed the right soldier?

A91 Yes, I am sure.

Q92 Did you lose sight of the soldier that was at the desk from the time he left the desk until you grabbed him by the arm??

A92 I did not lose sight of him.

..../overleaf

Q63 When you were at the desk were the drawers left open or closed?

A63 When I have to work the cash drawer is open.

Q64 Do you remember 7 Nov 44?

A64 Yes, I remember.

Q65 Was there anything unusual happened that day?

A65 Yes.

Q66 About what time?

A66 About 3:30 in the afternoon.

Q67 Tell the Court what happened?

A67 At 3:30 a drunk soldier approached my desk. He told me something I could not understand. It was in English. He approached the desk, reached with his hand across the table and took a handful of cash out of the drawer. He escaped and ran down the stairs. I followed him. I called for some help. The electrician happened to be near.

Q68 At the time the soldier took the money where was he standing in relation to yourself?

A68 Opposite me.

Q69 Will you show the Court just what the soldier did?

A69 (The witness illustrates by reaching over an imaginary table).

Q70 He put his hand in the drawer, you said?

A70 Yes, he did.

Q71 How long did he keep it there?

A71 Just a moment.

Q72 How long did the soldier stay at your desk after he had taken the money?

A72 He ran away immediately.

Q73 Were you able to see whether he had anything in his hand?

A73 Yes, I was able to see.

Q74 Which hand?

A74 In the left hand.

Q75 And what did he have?

A75 A handful of cash.

Q76 You saw something in his hand which you said was cash. Can you tell the Court whether you saw any particular denomination of note. Were you able to recognize any particular denomination in his hand?

A76 I saw one hundred, fifty and ten lire notes in his hand.

Q77 Can you say how many of each you saw for sure?

A77 No, I could not say.

..../7

Q50 Are the tickets which you sell numbered?

A50 Yes, they are numbered.

Q51 And do you keep any part of the ticket which would have any similar number on it to the ticket you sell?

A51 No, I do not keep any part of the ticket.

Q52 How would the head cashier know whether or not the barman turned over the tickets that you sold?

A52 The cash I turn over to the head cashier has to answer the tickets which the barman has.

Q53 Is there any way of your telling the number of any ticket that you have sold - that is, do you keep a book with a stub? Do you tear out a ticket and is there a stub left with a corresponding number?

A53 The books contain a hundred tickets.

Questioned by President

Q54 What you are saying is the book is consecutively numbered. Is that right?

A54 Yes, every book has one hundred tickets.

Examined by Prosecutor

Q55 Give again the value of the tickets which you sell.

A55 Five, ten and twenty lire.

Q56 Have you a separate book for the five lire tickets, separate book for the ten lire tickets and a separate book for the twenty lire tickets or are they all mixed up in the book?

A56 I have books for five lire, ten lire and twenty lire.

Q57 This system you have described is the one that was in use on 7 Nov 44?

A57 Yes.

Q58 Would you describe the type of stand, or desk, that you use for a cashier's desk?

A58 A plain table with two drawers.

Q59 What would the dimensions of the table be - the depth and bredth?

A59 (Witness indicates by using table in court-room and the dimensions agreed upon are as follows: Height 2'8", length 4½', width 2½'.

Q60 Where were the drawers situated?

A60 One on each side.

Q61 From where you sit at the desk where are the drawers?

A61 I sit in the middle. There is a drawer on my right and a drawer on my left.

Q62 At that time what did you keep in those drawers?

A62 On the right-hand side the cash, on the left-hand side the tickets.

..../overleaf

Questioned by Judge-Advocate

Q36 What is the name of the head cashier?

A36 Charlette Bielschofsky.

Examined by Prosecutor

Q37 How much cash do you get each day to start?

A37 1000 lire.

Q38 What value of tickets?

A38 I can not tell.

Q39 Is it the same every day or might it be different some days?

A39 It is always the same.

Q40 Do you remember the total of the cash and the tickets given you each day?

A40 I get the tickets when I finish the old ones. It is not always the same amount.

Q41 How often do you account for your cash and tickets?

A41 Every day at 4:00 o'clock.

Q42 And every day do you turn in all the cash that you have and the tickets or do you keep some until the next day?

A42 I turn over all the cash to the cashier and the sold tickets, not the tickets I have not sold.

Q43 After you sell the tickets to the soldiers what happens to them?

A43 They get a drink or cake or whatever they want for the tickets.

Q44 Then who gets the tickets?

A44 The barman gets them.

Q45 Do you have anything todo with handing out the actual goods.

A45 I have nothing to do with the goods.

Q46 What does the barman do with the tickets?

A46 He keeps them in his drawer.

Q47 What eventually happens to the tickets, the tickets that have been purchased?

A47 The soldiers get the tickets from me. They give them to the barman. The barman keeps the sold tickets.

Q48 Do the tickets ever get back to you or the head cashier?

A48 The tickets return to thehead cashier. I do not get them.

Q49 When you turn in your cash is any check made against the tickets whichhave been received from the barman?

A49 Yes, because I sell so many tickets and there must be so much cash.

..../5

Q24(Cont'd) identity of the bills handed over in her accounting?

A24 I have to be concerned. There is a lot of money involved, some of it counterfeit. The money must be checked.

Q25 If counterfeit money should turn up what would you do?

A25 If counterfeit money does turn up we have to report and attempt to have it traced to the soldier who gave it to the cashier.

Questioned by Judge-Advocate

Q26 Who is the head cashier?

A26 Signorina Charlette.

Q27 She is the head cashier?

A27 Yes, sir.

Re-Examined by Prosecutor

Q28 Is there a Signorina Brilsdrowsky who has something to do with the cash?

A28 I am not sure.

Q29 Was Charlette the first name?

A29 It is a peculiar name. She is known to me as such. I believe that Charlette is her first name.

Questioned by Court

Q30 After you get the money from the head cashier and give it to the group Supervisor does it go through any other civilian or military hands?

A30 No, sir.

In the opinion of the Court and the Judge-Advocate it is unnecessary to comply with RP 83(B).

The witness withdraws.

Second Witness for Prosecution: Rina Tassi, Via Amerigo Vespucci 41, having been duly sworn, is examined by the Prosecutor:

Q31 What is your name and address?

A31 Rina Tassi, Via Amerigo Vespucci 41.

Q32 What is your occupation?

A32 Cashier at the Canada Club, in Rome.

Q33 Was that your occupation on 7 Nov 44?

A33 Yes.

Q34 In what part of the Club do you work?

A34 In the Snack Bar.

Q35 Explain to the Court just what your duties are as cashier at the Snack Bar?

A35 I get tickets every morning of the value of 5 lire which I have to sell to the soldiers. I get these from the head cashier. I get tickets and cash from the head cashier.

..../overleaf

Q13 Was this the system on 7 Nov 44?

A13 Yes, it was.

Cross-Examined by Defending Officer

Q14 What is the system of operation of the canteen in question - the accounting system?

A14 A chap comes in and wishes to make a purchase of orangeade, lemonade, etc. He is given a ticket for the amount he wishes to purchase, proceeds into the bar and obtains that which his ticket calls for.

Q15 That is the merchandising system. What is the accounting system respecting the cashier who operates this merchandising system you describe?

A15 The system of checking the cash is done through the tickets which are recoverable from the barman who serves the soldiers and which are checked each night.

Q16 What happens from the morning of a day when the cashier comes in and starts to work?

A16 She comes into the club in the morning, draws her cash from the head cashier, proceeds upstairs to work and proceeds to sell her tickets. Her tickets and cash are ready at 10:00 o'clock.

Q17 Where does she get the tickets?

A17 They are printed, they come in booklet form. The amount is stamped on the ticket.

Q18 From whom does she get these tickets?

A18 From the head cashier.

Q19 Do you know how much cash the cashier on the Snack Bar desk received on the morning in question for purposes of change?

A19 No. I would not be prepared to give a statement on that amount without checking.

Q20 On the morning before she begins work she receives a sum of money for the purpose of change and a definite number of tickets. At the end of her duties she is required to produce the equivalent of the cash which was given to her either in tickets or their equivalent in cash?

A20 That's right.

Q21 Providing she does that it is no concern of yours as to where the actual money comes from?

A21 It certainly is a concern of mine.

Q22 In what way?

A22 It must come from the soldiers who purchase the tickets.

Q23 I am speaking of the actual money in question, the bills and notes.

A23 I don't understand the question.

Q24 Are you at all concerned that she sells the tickets only to those entitled to use the facilities of the Club, as to the actual

..../3

D2 Prosecutor's Opening Address

Gentlemen - I will give you a brief outline of the evidence which the prosecution intends to adduce. On 7 Nov 44 the Cashier at the Snack Bar operated by the Canadian Legion War Services at the Canada Club in Rome was seated at her desk where she sells tickets. The accused came up to the desk, grabbed a handful of money and went downstairs followed by the cashier. An electrician in the Club saw that somethingwas wrong and went for a member of the Provost. The Provost and the electrician arrived at the spot where the cashier and the accused were. The Provost took the accused to the Provost office, which is in the Canada Club and later the cashier followed. At the end of the day on a count of the cash the cashier found that she was short 2420 lire. That, gentlemen, is briefly the evidence for the prosecution.

D3 First Witness for Prosecution: Supervisor R G Allison, Canadian Legion War Services Inc, having been duly sworn, is examined by the Prosecutor:

Q1 Will you give your full name to the Court, please?

A1 Roy Grant Allison.

Q2 You are a Supervisor of the Cdn Legion War Services Inc?

A2 That is right.

Q3 Were you such on 7 Nov 44?

A3 Yes, I was.

Q4 Who operates the Canada Club in Rome?

A4 Cdn Legion War Services Inc.

Q5 I believe there is a Snack Bar on the premises - who operates that?

A5 Cdn Legion War Services Inc.

Q6 Who are employed to take in any funds that might be obtained from that source?

A7 We have a civilian cashier - female cashier - employed in that capacity.

Q8 She is employed, is she?

A8 That's right, by the Cdn Legion.

Q9 What happens to the money that she takes in?

A9 It is daily deposited with the head cashier each night and checked against the sale of foodstuffs that are sold each day.

Q10 Then what happens to it?

A10 It is deposited with Supervisor George Gordon, Cdn YMCA, who is the business manager of the four organizations.

Q11 While it is with the head cashier you mentioned under whose control is it?

A11 Under mine as a representative of the Cdn Legion.

Q12 It remains in your control - - - ?

A12 Until deposited with Mr Gordon.

..../overleaf

MEDICAL OFFICER'S CERTIFICATE

KR(Can)557

I certify that I have this morning examined B44260 Pte Lavoie TZ, att fap Cdn Sec CHQ 1 Sch AAI, and in my opinion he is fit to undergo trial by court-martial.

G. C. Duffy Major RCAMC
(Medical Officer)

20 Dec 44

MEDICAL OFFICER'S CERTIFICATE
KR(Can)557

I certify that I have this morning examined B44260 Pte LAVOIE TZ, att fap Cdn Sec GHQ 1 Ech AAI, and in my opinion he is fit to undergo trial by court-martial.

19 Dec 44

(Medical Officer)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAR/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B44260	Pte		Tony Zotique	LAVOIE	Att fap Cdn Sec GHQ 1 Ech AAI.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has(~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 16 Dec 44 endorsed by me, (~~and by which I have ordered that he be tried~~)" To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and whereas I am of opinion that it is not practicable that a separate charge sheet should be framed~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~And whereas I am of opinion that three Offrs cannot be detailed, I hereby appoint a Field Offr as President, for the reasons stated hereon.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	J N Medhurst, OBE, ED	(CIC) att Cdn Sec GHQ 1 Ech AAI	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	B J Garfunkel	(CIC)	Cdn Sec GHQ 1 Ech AAI
Lt	A J Robichaud	(CIC)	Cdn Sec GHQ 1 Ech AAI

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Capt or Lt to be detailed by AAG	Cdn Sec GHQ 1 Ech AAI	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt-col D D Carrick	AJAG	Cdn Sec GHQ 1 Ech AAI

On Active Service in the Fd

in Italy (*Country.*)

(*Signed personally. RP 105 fn 2.*) Colonel (*Rank.*)

(E B Wilson)

Date 16 Dec 44 T/OIC Commanding Cdn Sec GHQ 1 Ech AAI

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

THE ACCUSED, B44260 PRIVATE TONY ZOTIQUE LAVOIE, ATTACHED FAP TO CANADIAN SECTION GHQ 1 ECHELON AAI, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH

FIRST CHARGE
AA Sec 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY LARCENY CONTRARY TO SECTION 2 OF THE LARCENY ACT 1916

in that he

in the Field, in Italy, on 7 Nov 44, stole 2420 lire, the property of the Canadian Legion War Services Inc.

In the Field
14 Dec 44

(D H Jupp) Lt-col
AAG
Cdn Sec GHQ 1 Ech

To be tried by Field General Court Martial.

In the Field
16 Dec 44

(E B Wilson) Colonel
Officer T/IC
Cdn Sec GHQ 1 Ech

Approved as to form
D. H. Carrick Lt Col
A J A G Cdn Sec GHQ 1 Ech
AAI

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*E*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin by Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR. (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~brief~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court~~ is closed, and considers the submission.(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4).~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans YES MAKE A STATEMENT ..... Do you intend to call witnesses on your behalf ?
Ans NO ..... Are they witnesses as to character only ? Ans NO .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 120(b).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1ST CHARGE charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ~~No Sir~~. I WISH TO GIVE EVIDENCE MYSELF.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES THROUGH MY DEFENDING OFFICER
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-44260 Pte Tony Zotique LAVOIE att fap Cdn Sec GHQ 1 Con AAI

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	EXCEPT THAT HE STOLE ONLY ONE HUNDRED LIRE THE PROPERTY OF CANADIAN LEGION WAR SERVICES INC
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR A PERIOD OF SIX MONTHS.

(Sgd) D. L. Carrick Lt AJAG — 20 DEC 44 — (Sgd) J.M. Medhurst A/Lt-Col

Judge-Advocate, if any. — Date awarded. — President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date ____ (Sgd) W.H.R. Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-764, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks on any further sentence.~~ (1) W.H.R.

(1. AA 57A. Delete if not used.)

Date 28 Dec 44 — (Sgd) (W G H Roaf) Brigadier — Commanding Officer Cdn Sec GHQ 1 Con AAI — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B44260 Pte Tony Zotique Lavoie	2 Jan 45	D.M. Roe Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 15 JAN 1945 JAG BRANCH GHQ

RECORDED AT CMHQ IN AB 160 HL-18.

FIELD GENERAL COURT-MARTIAL

CP/AB/F (To Secs of AFAB) K.R. & O.R. (1944)

Convened by Order of COL E.B. WILSON Comd T/CMDR CAN SEC GHQ 1 CDN AAI dated 16 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 46, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B44260	PTE.	TONY ZOTIQUE	LAVOIE	ATT. F.A.P. CON SEC G.H.Q. 1 CDN A.A.I.

Finding Quashed by Decision of Confirming Offr 6 Jan 45 W.H.R. Lieut

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 19 DEC 44 AM, 20 DEC 44 PM

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, if any, ~~and Offrs under instr if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn Nos. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereof. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.) 26-7

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused ~~is not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 10 AM hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO fr.~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not application.)

A5. President to accused: Do you object to WIESŁOTYA KLONCHA as interpreter? Ans NO SIR.

The Interpreter is sworn.(2) Do you object to CPL J.F. O'NEILL as shorthand writer? Ans NO SIR.
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 70, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	J.M. MEDHURST (C.I.E.)	CAN SEC GHQ 1 CDN AAI.
Member	CAPT.	B.J. GARFUNKEL (C.H.E.)	CAN SEC GHQ 1 CDN AAI.
Member	LT.	A.J. ROBICHAUD (P.I.R.)	CAN SEC G.H.Q. 1 CDN A.A.I.
Judge-Advocate	LT-COL	D.L. CARRICK AJAG	CAN. SEC. G.H.Q. 1 CDN. A.A.I.
Prosecutor	CAPT.	J.A. BOURNE (R.C.A.)	CAN SEC G.H.Q. 1 CDN A.A.I.
Defending Offr	LT	C.K. DRYNAN (C.I.C.)	1 CDN CORPS DEPOT.

Questions by President: Is the Prosecutor a lawyer? Ans YES. Is the Defending Offr a lawyer? Ans YES.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 21.)

A8. The accused B44260 PTE TONY ZOTIQUE LAVOIE before arraignment makes(s) (no) ~~s~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 48s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M105
A-18-1 ELS

4418.
Plé. Lavoie. T.Z.

END

FIRST

SIDE

REEL NO. 44 - 52

REEL NO. 44-52

START

SECOND

SIDE

Pte Leblanc L. R. J.

O. H. M. S.

M. F. B. 270
1000M 12-40 (9068-69-70)
H.Q. 1772-39-67

C-20964 Pte E.R.J. Leblanc
C.H.of O. (MG)

Army Form A.3. 69W

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of August, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~

PROCEEDINGS REVIEWED.
Gm Graham Capt
Reviewing officer (S.M.G.) C.M.H.Q.
17 Sep 42

Judge-Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	V.C. Hamilton	~~H.Q. R.C.E. 3 Cdn Div.~~ 3RD Cdn Fld. Park Coy RCE

Members.

Rank.	Name.	Regiment.
Captain	J.C. Wyland	3 Cdn Div Petrol Coy, RCASC.
Lieutenant	D. McClyment	C.H. of O. (MG)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C B Price
(C.B.Price) Major-General.
Commanding 3rd Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-209864 Private E.P.J. LEBLANC, 1st Bn Cameron Highlanders of Ottawa (MG).	Charge Section 15(1) Army Act	Guilty	Guilty. 60 DAYS DETENTION AND TO MAKE GOOD THE SUM OF TEN SHILLINGS AND TEN PENCE BY BEING PLACED UNDER STOPPAGE OF PAY TO THAT AMOUNT. Dated in the field this 28th day of August 1942	Confirmed CBP

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

Signed C B Price (*Signed*) Walt Chumley Major
(C.B.Price) Major-General. *President.*
Commanding 3rd Canadian Division.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn. 3. The Judge Advocate

* Omit if not applicable.

Signed this 28th day of August 1942

Walt Chumley Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further order.)~~

Signed this 1st day of September 1942

C. B. Price
Confirming Officer.

Promulgated and extracts taken in the case of C-209864 Pte E.P.J. Leblanc

(*a*) (Dated) 3 Sep 1942 (Signed) C. Leblanc Lt. for
COMMANDING CAMERON HIGHLANDERS OF OTTAWA, (M.G.) C.A. LT-COL.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

C-20964 Pte. Leblanc, E.R.J. of the 1st Battalion Cameron Highlanders of Ottawa (M.G.) is charged with the following:-

1st CHARGE
Sec 15(1) A.A.

Whilst on Active Service, while ~~in camp~~ CONFINED TO BARRACKS, absenting himself without leave,

in that he,

on 2 Aug 42, absented himself without leave from 1400 hrs until apprehended at WATFORD at 1100 hrs on 18 Aug 42 by the Regt'l Police, 3rd Res Med Regt, R.A. and also incurring cost of transportation to the sum of 10s10d (Total time A.W.L. 15 days, 21 hrs.)

(W.S. MacKenzie) Major
A/Officer Commanding
1st Bn., C.H. of O(MG)

In the Field
GLT/MJD

To be tried by Field General Court-Martial.

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Divisipn.

28 AUG 42

1st Battalion Cameron Highlanders of Ottawa (MG)

CHO/5-8
28 Aug 42

TO WHOM IT MAY CONCERN:

This is to certify that I have medically examined C-20964 Pte Leblanc, E.R.J. and find him medically fit to undergo trial by Court Martial.

CAMERON HIGHLANDERS OF OTTAWA
ORDERLY ROOM
AUG 28
C.A.S.F.

.....Major
(Medical Officer)
1st Bn., C.H. of O(MG)

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the Field on the 28th day of August 1942 by order of Major-General C. B. Price Commanding 3rd Canadian Division dated the 28th day of August 1942.

President.

Major V. C. Hamilton 3 Fld Pk Coy RCE.

Members.

Captain J. B. Wyand 3 Div Pet Coy

Lieut. D. McClymont C.H.of O (M.G.

Capt. [illegible] Judge Advocate.

Trial of* C.20964 Pte L.R.J. Le Blanc C.H.of O.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut. H. G. Gonder C.H.of O.

Counsel‡ or defending officer† Lieut. Palmer C.H.of O.

At 2000 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused.

NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—6-40 (5715)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Guilty

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to ~~Guilty~~ charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused C.20964. Pte E.R.J. LeBlanc

is found guilty of the charge as laid.

*The summary (or abstract) of evidence is read, marked "I", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

My only reason for going A.W.L. is that I was browned off I came over here to get into action and I have been hanging around too long already

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

SUMMARY OF EVYDENCE

Summary of Evidence in the case of C-20964 Pte. Leblanc, E.R.J. of the 1st Battalion, Cameron Highrs of Ottawa (MG)

By order of the Acting Commanding Officer, Maj. MacKenzie, the summary of evidence will be taken on oath;

1st Witness
C-21479 Cpl.
Waters, T.A.

C-21479 Cpl. Waters, T.A. "A" Coy., 1st Bn., C.H. of O(MG) having been duly sworn states:-

"I was Coy Orderly Sgt. on 2 Aug 42, when I gave Pte. Leblanc a job to do clesing latrines as he was on C.B. at the time. When I made a check at 1400 hrs I found Pte. Leblanc to be missing. I immediately notified CSM Heatherington, Coy. Sgt. Major of "A" Coy.

From Coy records I am aware that Pte. Leblanc has been continously absent from that time until apprehended on 18 Aug 1942."

O-O-O-O-O-O-O-O-O-O-O-O-O

The accused does not wish to cross-examine the witness.

T.A. Waters.....
(Signatureof Witness)

2nd Witness
No. 1055694
Sgt. G.L.
Hawkins.

1055694 Sgt. G.L. Hawkins, Regt. Police, 3rd Res Med Regt R.A.

A written statement of the second witness for the prosecution purporting to be signed by the above mentioned Sgt and corroborated by No. 1064956 L/Bdr J. West, Regt Police, 3rd Res Med Regt, R.A. has been read to the accused and is included in this summary of evidence.

In my opinion, having regard to the expense and the loss of time the attendance of this witness cannot be readily procured.

A.H. Smedmor.....
(A.H. Smedmor, Lieut)

The accused having been duly warned in accordance with the Rules of Procedure 4 (e) declines to make a statement.

Pte. Leblanc E.R.J.....

I certify that the Rules of Procedure 4 (c)(d)(e)(f) and (g) have been complied with. I further certify that the summary has been taken down in the presence and hearing of the accused on the 21st day of August, 1942 at WISTON HOUSE, SUSSEX, ENGLAND.

A.H. Smedmor.....
(A.H. Smedmor, Lieut.)

W. Mackenzie
Major

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

[redacted]

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut A C Gordon is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused.

Illustration.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

Statement of Evidence. O.C. A Coy.
CAMERON. HIGHLANDERS

No C 21604 PTE. REID. HF
No. C 20964 PTE LEBLANC. ERJ.

Sir.

At about 1100 hrs on 18/8/42. I was on Police Duty at St MARYS HALL. WATFORD. Where I saw the A/M Men playing billiards on seeing these men yesterday at approx the same time I had reason to believe that they were absent without leave.
I questioned them and they stated they were on convoy duty and had left the convoy in some unknown Town on the 17.8.42. This I knew to be a falsehood as I have stated ~~about~~ above I saw these men at approx. 1100 hrs 17/8/42 in the St MARYS. HALL. WATFORD. and they stated that they left the convoy on the night of the 17/8/42.
They stated they were given permission to sleep at the Drill Hall 3rd Res Med Regt RA. on the night of 17/8/42. also to obtain breakfast on 18/8/42.
I was not satisfied with their statement so I placed them in close arrest at KING St GUARD ROOM. 3rd Res Med Regt RA. WATFORD. and informed Regimental Headquarters.

WATFORD.
18/8/42

I am
Sir Your Obedient Servant
Witness No. 1055694 G F Hawkins Sgt
Regt Police 3rd Res Med Regt RA.

2nd Witness 1064956 J. West L/Bdr
Regt Police
3rd Res Med Regt RA.

File No. ..14/22.....

Officer Commanding,
"A" Coy., Cameron Highlanders of Ottawa.

Re: C-21604 PTE. REID, H.F.
C-20964 PTE. LEBLANC, E.R.J.

1. Forwarded for your information and necessary action, please, and disposal under C. A. Routine Orders (c) No. 388 dated 29th Oct. 1940.

2. The m/n have no complaints.

A. Gaines .Lieut.
for Capt. M. E. Byers,
O. C. No. 6 Coy.,
Cdn. Provost Corps.

London
19-8-42

CERTIFICATE IN ACCORDANCE WITH P.C. [illegible] 10 APR 42

CERTIFY that No. C-20964... Rank Pte. Name LEBLANC, E.R.J.....

Unit "A" Coy., Cam. Highlanders of Ottawa was arrested at WATFORD ...(Place)

1100....(Hour) on 19-8-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (xxxxxxxxxxxxxxxx) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding officer of the portion of His Majesty's forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable)

A. Gaines .....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

LONDON
19-8-42

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C20964 Rank Pte. Name Leblanc, E.R.J Unit Cam. High. of Ottawa

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
20 Aug 42	Escorts return fare from LONDON To Steyning (½ portion)		4	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Steyning		4	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C20964 Rank Pte. Name Le Blanc, E. Unit C H of Ottawa

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Watford

Date	Particulars	Amount		
20 Aug 42	Escorts return fare from LONDON To Watford (½ portion)		1	4
	Prisoners single fare to LONDON From Watford		1	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		2	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.R.Q. 1000/53
40/P & S/483

No. C20964 Name LEBLANC E.R.J. Sqn., Battery, or Company | Corps C.H. of O. | Date of enlistment 13.9.39 | G.C. Badges Nil | Service or Proficiency Pay | M.F.M. 6 A.F.B. 122 500M—8-39 (1702) H.Q. 1772-49-18

Date of last entry in Company Conduct Sheet 2.1.41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine Nil | Sheet No. 2 | Signature O.C. Company, etc. | Character POOR.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Coteau Barracks	14.2.41	Pte.		1. Breaking barracks while C.B.	Sgt. Saunders	28 Days Detn.	Col. Forbes		Auto. Forf.
				2. Absenting himself without Leave from 12 hrs 14.2.41 To 2230 hrs. 19.2.41 (Am. 15)	Cpl. Salter	24.2.41		Col. Forbes	24 Days pay F.R.I. 143
"	25.2.41	"		Sec. 40 A.A. absented himself from Fatigue Duty.	Cpl. Saunders Cpl. Fleming	168 Hrs. Detn.	26.2.41	Maj. W. Watson	7 Days pay Forf. under F.R.I. 143
Hamilton, Ont.	3.6.41	"		Sentenced to 6 months Reformatory and 3 months indefinite in Ontario Reformatory		6 Mos. Detinite 3 Mos. Indefinite	3.6.41	Civil Authorities	132 days F.P. F.R.I. 143.

No. C20964 Name LEBLANC, E.R.J. Sqn., Battery, or Company | Corps C.H. of O. (M.G.) | Date of enlistment 13.9.39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 A.F.B. 122 500M—8-39 (1702) H.Q. 1772-49-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character POOR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5.6.42	Pte.		W.O.H.S. Neglect to the prejudice of Good to clean his rifle + bolts Before Parade. A.A. 40	Sgt. Lane	7 Days C.B.	6.6.42	O.C. "D" Coy.	
Field	30.7.42	—		W.O.H.S. Using insubordinate language A.A. Sec. 40	Sgt. Mitchell Sgt. Lane	7 Days C.B.	1.8.42	O.C. "D" Coy	

No. C20964 Name LEBLANC, E.R.J. Sqn., Battery, or Company "A" Coy | Corps C.H. of O. (M.G.) | Date of enlistment 13.9.39 | G.C. Badges Nil | Service or Proficiency Pay Nil | M.F.M. 6 A.F.B. 122 500M—8-39 (1702) H.Q. 1772-49-18

Date of last entry in Company Conduct Sheet 18 Mar 40 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine Nil | Sheet No. 1 | Signature O.C. Company, etc. Matson, Maj. | Character Poor

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
L.R.H.	8 Feb 40	Pte.	Cpl.	Failing to comply with an order A.A. 2203 hrs. 3.2.40 To 2359 hrs. 3.2.40	Pte. Gore Cpl. Craig	168 Hrs. Detn.	12 Feb 40	O.C. C.H. of O. (M.G.)	
L.R.H.	12 Feb 40	"	"	Breaking out of Barracks + D.M.L. from 2245 hrs 17.2.40 To 0115 hrs 18.2.40	C.S.M. Gill Pte. Hanton				
Ottawa	22 Mar 40	Pte.	"	Absent without Leave from 2245 hrs 22 Mar 40 To 0500 hrs. 23 Mar 40 A.A. Sec 15 (c)	Sgt. Burr Pte. Roberts	Forfeiture of 7 days pay under Article 149 (1) (a) F.R. & I. in C.A.F. 4 Days C.B.	23 Mar 40	A.L. Carey, Maj.	
L.R.H.	1 May 40	Pte.	"	Absent without Leave from 2400 hrs. 1 May 40 To 1630 hrs 8 May 40 A.A. 15 (c)	Sgt. Hagel Pte. Glen	Forfeiture of 7 days pay under Article 149 (1) (a) F.R. & I. in C.A.F. 14 Days C.B.	21 May 40	Lt. Col. Rogers	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
England	30-3-42	Pte.	✓	W.O.A.S. Absenting himself without leave from 2359 hrs 30-3-42 to 0630 hrs 31-3-42 A.A.Sec.15(1)	Sgt. Jones " Nolan	3 Days C.B.	1 Apr. 42	Capt. R.M. Ross	
England	20/4/42	"	✓	W.O.A.S. Absenting himself without leave - from 2200 hrs. 20-4-42 to 0630 hrs. 21-4-42 (Total time 8 hrs. 30 min. A.A.Sec. 15(1)	Cal. Dobson.	10 Days C.B. Forfeiture of 1 days pay under Article 149-1-(a) F.R.&I. for the C.A.S.F.	23 Apr. 42	Capt. R.M. Ross	
England	3-5-42	"	✓	W.O.A.S. Absenting himself without leave from 23-59 hrs. 3-5-42 to 0800 hrs. 4-5-42 (Total time 8 hrs. 1 min. A.A.Sec. 15(1)	Cal. Stanley	7 Days F.P. Forfeiture of 1 days pay under Article 149-1-(a) F.R.&I. for the C.A.S.F. Total Forfeiture 8 Days pay	5-5-42	Major Clingan	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ottawa	23-6-40	Pte.	✓	A.W.L. from 2215 hrs. 23-6-40 until 2215 hrs. 7-7-40 Total 14 day. Sec. 15(1)	Sgt. Nurtaugh	7 Days Detn.	8-7-40	C.R. Hall, Maj.	Forfeiture of 14 days pay under Article 149-1-(a) F.R.&I. for the C.A.S.F.
CERTIFIED CORRECT ON TRANSFER FROM REGT. DEPOT, C.H. of O. (MG) C.A.S.F. TO INF(MG) TRNG. CENTRE, M.D. 5 eff JUL. 17. 1940									
Valcartier Camp	24-7-40	Pte.	✓	A.W.O.L. 0610 hrs 24-7-40 to 1-8-40 - 1505 hrs Time AB. 8 Days - 9 hrs - 20 min. A.A. Sec. 15(1)	Pte. Fortin Sgt. Clarke Pte. Barkin	14 Days C.B.	23-8-40	Maj. Watson C. Roy. Hall, Major c/o Regimental Depot C.H. of O. M.G.	9 days pay F.R.&I-149 C.A.S.F.
Coteau Barracks	3-9-40	Pte	✓	A.W.O.L. from 0800 hrs. 3-9-40 to 1030 hrs 4-9-40. Time 1 day - 2 hrs. 30 min	Documentary Sgt. Chapman Pte. Keboe	2 days pay A.A. 46 2 days C.B.	16-9-40	Lt. McManus	2 days pay F.R.&I-149
" "	8-10-40	"	✓	A.W.O.L. 1330 hrs 8-10-40 to 0150 hrs 12-10-40	Documentary	10 Days pay A.A. 46 14 Days C.B.	19-10-40	Major White	4 days pay F.R.&I-149
" "	2-1-41	"	✓	A.W.O.L. 0645 hrs. 2-1-41 until apprehended by M. Pol. 0220 hrs. 7-1-41 returned under escort at 0405 hrs. 11-1-41	Documentary Lt. Joyce Sgt. Chapman	10 Days C.B. Discipline Squad 18-1-41 to 18-1-41	11-1-41	Lt. Dayton	5 days pay F.R.&I-149 5 days pay 46 A.A. (2)

"K"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-20964	Pte.	Leblanc, E.R.J.	1st Bn., C.H. of O(MG)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For Using insub language	1	times	1	times.
For A.W.L.	3	times	13	times.
For Failing to comply with order	No	times	1	times.
For Breaking out of Bks	1	times	2	times.
For Absent from fatigue duty	1	times	1	times.
Neglect to the prej, etc	1		1	

Number of instances of gallantry or distinguished conduct, NIL

or

~~[illegible] conduct sheet [illegible]~~

2. The accused has not been previously convicted, *or*

~~Previous conviction[s] of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and 3 (three) days in military custody, making a total of 3 (three) days, of which No days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 25 yrs.

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 3 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Nil

8. The accused is entitled to deferred pay or gratuity in respect of Nil service.

9. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(~~ ~~[illegible] possession of or entitled to [state any military decoration or reward]~~).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____, and in his regiment (or corps or department) the rank of N/A dated _____

(19540) W.L.(M&S)1452 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of August 1942

W.S. [illegible] Major

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

	Date of Promotion.
In the rank of	years, ...
In the rank of	years .....
In the rank of	years, ...

Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs considered amended accordingly.)

4/J-117

GNR LEBLANC F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-4315 Gnr LeBlanc, FRED 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 40	NOT GUILTY	NOT Guilty	
3rd AA Sec 40	NOT GUILTY	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for NOT beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for One hundred and Fifty (150) days

(Sgd) ..... 13 Dec 44 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the sentence be carried into execution as follows:~~(1)

(1. AA 57A. Delete if not used.)

Date 15 Dec 44 (Sgd) .....

Commanding J. C. STEWART, Brigadier, Commanding Confirming Officer, Cdn. Reinforcement Units.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Promulgated by Order.

G-4315 Gnr LeBlanc F 15 Dec 44

No 271 d/18 Dec 44 Dr Coffin, Base Offices

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 JAN 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 43-117

FIELD GENERAL COURT-MARTIAL

CF Apps (In lieu of AFAB) 40/P & B/160a 16(14) 4/38B

Convened by Order of Brig JC Stewart, CBE, DSO Comd "O" Gp, CRU dated 12 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-4315	Gnr		Fred	LEBLANC	2 CARU

PROCEEDINGS REVIEWED

[illegible] 12 Jan 45 [illegible]

~~REVIEWED IN THE FORWARDER~~ JAG BRANCH C.M.H.Q. on (date(s)) 13 Dec 44

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1052 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to Maj[illegible] Lgt A/Q Barnes as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. Th. Miller, EDRC	4 BCRU
Member	Capt	D. Hyman	1 CSRU
Member	Lieut	W. J. Thicke	1 CGRU
Judge-Advocate			
Prosecutor	Lieut	A. E. Hayes	2 CARU
Defending Offr	Lieut	R. Morris	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 C-B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on such charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 40(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans.....[5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 20(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 2nd and 3rd charge(s).[2] The Court is re-opened, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the 3rd charge(s), and allowed on the 2nd charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No Ans. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 3rd charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex..... respectively.[3]

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. Yes, Sir.....[2]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6). RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused G 4315 Gunner Fred LEBLANC, of "P" Training Wing, No. 2 Cdn Arty Rft Unit, a soldier of the Cdn Army Overseas is charged with :

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENCE WITHOUT LEAVE

In that he

in the field, absented himself without leave from 0815 hrs 16 Sep 44 until being apprehended at Camberwell by the Cdn Provost Corps at 0030 hrs 1 Dec 44. (Time absent 75 days 16 hrs 15 mins)

SECOND CHARGE
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

while absent without leave from No. 2 Cdn Arty Rft Unit, did alter his rank as shown in his MBM 1 Part I from Gunner to Bdr to L/Sgt.

THIRD CHARGE
A.A. Sec 40

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

while absent without leave from No. 2 Cdn Arty Rft Unit did wear badges of rank to which he was not entitled to wear.

Mackenzie Waters

(Mackenzie Waters) Colonel
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

Hurcot Camp
Bramshott, Hants
7 Dec 44

To be tried by Field General Court Martial,

Brigadier,
Commander, "C" Group, Cdn Rft Units.
(Convening Officer)

Bordon, Hants,
12 December 1944.

CF A96 (In lieu of AFAS)
40/F&S/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MAML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/apppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-4315	Gnr	Fred	LEBLANC	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and endorsed by me, this date (date), "To be tried by Field General Court-Martial"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. (RP 106(E). Delete, if none appointed.)

	PRESIDENT.	HQ CRU (Unit.)
Major (Rank.)	E.M. MILLER, ED (Must be named. RP 106.)	
	MEMBERS.	CSRU
Captain	detailed by CO	CGRU (Unit.)
Lieutenant (Rank.)	detailed by CO (Named or detailed. RP 106.)	
	WAITING MEMBER.	(Unit.)
(Rank.)	(Named or detailed, if any. RP 106.)	
	JUDGE-ADVOCATE.	(Unit.)
(Rank.)	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in England (Country.)

Date 12 December 1944

(Signed personally. RP 105 fn 2.)

Commanding "C" Group, Cdn Hft Units. Brigadier, (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1697 (2963)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-4315	Gnr		Fred	LEBLANC	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [xxx] committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* this date endorsed by me, [xxxx

F.G.C.M. IN THE CASE OF

G-4315 Gnr. LEBLANC, F. 2 CARU

13 Dec. 44.

- P R O S E C U T I O N -

TRIAL ON THE SECOND AND THIRD CHARGES:

FIRST WITNESS FOR THE PROSECUTION:
D-142518 L/Cpl. POPIEL, P., SIS Cdn Provost Corps, having been duly sworn states:

Q. Will you tell the Court what you know about the accused?
A. Yes sir.

On about 2200 hours the 30 Nov.44 while on duty at Headquarters I received a call, and as a result of this information, I proceeded to 182 Camberwell Rd and upon making inquiries I noticed a Canadian soldier lying on two chairs by a fire-side. I told him who I was and I asked him whether he was on leave. He replied, " Yes ". I asked to see his pass or his Pay Book and he then replied, that he had no pass, but produced his pay book.

Q. Is this the Pay Book.?
A. Yes this is the Pay Book(Examines Pay Book).

MARKED EXHIBIT "A" BY THE COURT.

Q. What Rank did this man have when you saw him?
A. He was wearing Sgt. Chevrons(Produced).

Q. How did you get these Chevrons?
A. They were taken off him at the Detention Barracks.

Q. Did you see them when they were being taken off this man?
A. Yes sir.

CHEVRONS ARE MARKED EXHIBIT "B" BY THE COURT.

CROSS EXAMINATION:

Q. Why did you go and arrest this man?
A. I had been detailed.

QUESTIONS BY THE COURT.

Q. Did the accused say anything about this Pay Book to you?
A. Yes, He told me that it was his.

Q. Did he say anything else, other than that?
A. I asked him if he had made the entries as L/Sgt; at first he denied this, but later he made a statement.

In the Opinion of the Court it is unnecessary to comply with RP 83(B)

DEF OFFR: I object to this statement being admitted as evidence as it was not included in the summary.

PROS OFFR: I do not wish to use this statement as evidence.

CASE FOR THE PROSECUTION IS CLOSED.

PLEA IN MITIGATION NOTE E-3

I wish to bring to the Courts attention the M.F.M.6 of the accused which reads; AWL 9 hours 15 minutes, 4 days, etc and other small crimes. It would appear that whether it was 9 hours, 15 minutes or 4 days, the sentence was always given from 5 days CB up. This man's mind worked in such a way, that he thought regardless of how long I am away, my punishment will be the same. That is if he was away 1 day, he would get the same punishment as if he had been away for 10 days, and this last AWL of his being due to missing the last train from Waterloo; he therefore thought that he might just as well stay away a few days as he thought he would get the same punishment anyway. His work in the army other than training has been with the band and he took part in all Musical arrangements for entertainment purposes. On the bases of the information we have it appears that he gradually kept going away longer each time as he felt they would hook him anyway.

THE COURT CLOSED TO CONSIDER THE SENTENCE

Summary of Evidence in the case of G 4315 Gunner Fred LEBLANC of "P" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer the Evidence is taken on oath.

1st Witness for the prosecution

Lt G.W. Currie, Assistant Administrative Officer "P" Training Wing, No. 2 Cdn Arty Rft Unit, an officer of the Cdn ArmyOverseas having been duly sworn states :

"I produce :

(a) A certified true copy of Record of Declaration of a Court of Inquiry purporting to be signed by Major R.D. Mulholland, Administrative Officer No 2 Cdn Arty Rft Unit, relating to the accused whom I now recognize. This document is marked Exhibit "A" and annexed to the Summary of Evidence.

(b) Certificate in accordance with P.C. 2797 of 10 Apr 42 purporting to be signed by Capt. R.E. Birch D.A.P.M. CMHQ relating to the accused whom I now recognize. This document is marked Exhibit "B" and annexed to the Summary of Evidence.

G.W. Currie

The accused declines to cross-examine this witness.

2nd Witness for the prosecution

D 142518 L/Cpl Popiel, P., S.I.S. Cdn Provost Corps a soldier of the Cdn Army Overseas having been duly sworn states :

"While on duty at HQ information was received to the effect that a Canadian soldier frequently visited the premises of 182 Camberwell Rd, also suspected of being a deserter. I proceeded to the a/m address where it was found that a Mr.Penfold was living at the address. I then made inquiries and I saw a Canadian soldier sleeping on two chairs by the fireside. I told him who I was and asked him whether he was on leave. He told me he was. I asked him to produce his pass or paybook. He then replied: "that he had no pass", but produced a Paybook in the name of L/Sgt which I now produce marked as exhibit "C" and is annexed to this Summary of Evidence. Not being satisfied with this soldiers story I asked him to accompany me to the Police Station where he was detained and I made further inquiries at HQ finding this man to be a deserter since 16 Sep 44. I produce a set of Sgts' chevrons which he was wearing at the time of the arrest.(marked exhibit "D" and annexed to this Summary of Evidence). I apprehended him at 0030 hrs 1 Dec 44.

P. Popiel

The accused declines to cross-examine this witness.

The accused was cautioned as follows. "Do you wish to make a statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d), (e),(f) and (g) have been complied with.

H.P. Beadon Capt

(H.P. Beadon) Capt RCA
Officer detailed to take the Summary of Evidence.

Huron Camp
Bramshott Hants,
7 Dec 44.

A.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bramshott, Hants on the 11th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. G4315 Gnr LeBlanc, F.

DECLARATION.

The Court declare, that G 4315 G nr LeBlanc, F. illegally absented himslef without leave at 0815 hrs on the 16th day of Sep 44 and is still so absent, that on the 11th Oct 44 he was deficient and that he is still deficient the following articles :

ARTICLE	QUANTITY	VOCAB PRICE	WORN PRICE
Bottle, water	1	0-3-8	0-2-9
Carrier, W.B.	1	0-1-8	0-1-3
Haversack	1	0-8-0	0-6-0
Helmet, steel	1	0-10-8½	0-8-0
Net, Camouflage	1	0-0-8	0-0-6
Strap, shoulder	2	0-2-10	0-2-1½
Strap, web suppor ting	2	0-1-2	0-0-10½
Tins, Mess	1	0-1-7	0-1-2
Blanket, 1098	1	0-13-9	0-10-4
R espirator, complete	1	1-0-11	0-15-8
Ointment A/G (tins)	2	0-1-4	0-1-0
Eyeshields	6	0-2-0	0-1-6
Mugs, drinking	1	0-0-7	0-0-5
	TOTAL	£3-8-1½	£2-10-7

Names of President and Members

Lieut J.P. Doddridge	President
Lieut W.J. Foot	Member
Lieut C.H. Parker	Member

Signature of Commanding Officer Sgd (Mackenzie Waters) Colonel

CERTIFIED TRUE COPY.

R.A. Mulhollow Major

ADM OFFR 2 C&RU

Signature of Officer having custody of the Original Record.

(12281) Wt.34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(13443) Wt.45725/760 225,000 1/40 " " Forms/B115/56

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR. 42

I certify that No. G-4315. . Rank. Gnr. . Name. Leblanc, F. . . . .

Unit. No. 2 C.A.R.U. (CRU) . . was arrested at London, . . . (place)

at 0030. . . (hour) on I-Dec-44. . (date) and that at the time of his arrest he was wearing (military uniform) ~~or civilian clothes~~. Signature of Provost-Marshal, Assistand Provost-Marshal, or other officer or the Commanding Officer of the portion of Him Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
I-Dec-44.

R E Birch
(R.E.Birch), Capt.
D.A.P.M. CMHQ.

Medical Officers Certificate
K.R.(Can) para 557

I certify that I have this morning examined No. G4315 GNR LEBLANC F.
(Rank) (Name)

of #2 C.A.R.U. and in my opinion he is fit ~~unfit~~ to undergo

trial by Court Martial.

Station Bramshott Hants

Date ~~10 Apr 44~~ 13 Dec 44

Sgd. [signature] Capt.
(Medical Officer)

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
G 4315	Gnr	LEDLANC, F.	No. 2 C.A.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by ~~field general~~ court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of **entries** in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months		* Since Enlistment	
For A.A. Sec 15 (1)	Two	times	Four	times
For A.A. Sec 40	Nil	times	One	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheet of the accused.~~

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence ~~for beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 1 13 days in military custody, making a total of 1 13 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 yrs 9 mons 17 days

6. ~~The date of his commission specified in his record of service~~ ~~attestation attestation paper~~ is 22 Dec 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 11 mons 19 days

8. The accused is entitled to deferred pay or gratuity in respect of ~~service~~.

9. The accused is entitled to reckon 3 yrs 11 mons 19 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M and Clasp.

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated~~

WT. 5340/1000 20M. 5/40. P. Ltd. 751-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C 4315 *Rank* Gunner Name LABLANC, F. of 2 CARU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd Eventh day of December 1944.

G. J. Hermon Capt.
Adjt.
"P" Trng. Wing 2 C.A.R.U.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, [illegible] in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. G4315 Name LeBlanc, F. | Sqn, Battery, or Company | Corps RCA | Date of enlistment 22Dec40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/1455/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old Sheet destroyed in accordance with CARO(O) 2084.									
Field	7 Apr 43	Gnr		AA 15(1) AWL from 2215 hrs 7 Apr 43 until 0600 hrs 8 Apr 43. (Absent 9 hrs 45 mins)	Bdr Parry, R.	5 dys CB	10Apr 43	Lt-Col F.J. Thorne	For' 1 dys pay FR&I 149(1)(a)
Field	17 May 43	Gnr		AA 15(1) AWL from 2300 hrs 17 May 43 to 2315 hrs 17 May 43. (Absent 15 mins)	L/Bdr Brousseau	5 dys CB	19May43	Capt Lefebvre	
Field	29 Aug 43	Gnr		AA Sec 40, Neglect to the prejudice of good order and military discipline.	Lieut ED Lefebvre	5 dys CB	31Aug43	Major Slater	
Field	7 Jan44	Gnr		AA 15(1) AWL from 0900 hrs 7 Jan44 to 1915 hrs 11 Jan 44 (Absent 4 dys 10 hrs 15 mins)	Sgt Kennedy Sgt Roberge	14 dys CB Forf's 10 dys pay	14Jan44	Major GA Grier	for' 5 dys pay FR&I For' 10 dys pay FR&I

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order Dispensing with trial	By whom awarded	Remarks
Field	28 Jan 44	Gnr		AA Sec 15 (1) AWL from 2359 hrs 28 Jan 44 until 0640 hrs 10 Feb 44 (Absent 12 dys 6 hrs 41 mins)	BSM Mons Sgt Bouchard	28 dys F.P.	10Feb44	Lt-Col H.J. Inns	For 13 dys pay FR&I 149(1)(a) For 28 dys pay FR&I 149 (1)(b)

CERTIFIED TRUE COPY

E.J.C. Mermon Capt

(E.J.C. Mermon) Capt RCA
Administrative Officer
"D" Training Wing No. 2 C.A.R.U.

Officer having custody of original document.

"P" TRAINING WING
No 2 C.A.R.U.

Commanding Officer
No 2 C.A.R.U.

PW/5-4-5
5 Dec 44

F.G.C.M. - G-4315 Gnr LeBlanc F.

1. I acknowledge having duly received this date a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martia 1.

F. LeBlanc
G-4315 Gnr LeBlanc F.

TRAINING WING
No 2 C.A.R.U.

Commanding Officer
No 2 C.A.R.U.

PW/5-4-5
5 Dec 44

F.G.C.M. - G-4315 Gnr LeBlanc F.

1. It is respectively requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martiel.

F. LeBlanc
G-4315 Gnr LeBlanc F.

G 4315 - Gnr LeBlanc F. 2 CaRu

13 Dec 44

Received from Pres. F.G.C.M. - 2 sets chevrons sergeants and one pay book MBM 1-PT 1.

W. Hayes LT.
2 CaRu
Pres Offr

PTE LEBLANC F.A.

DD-65

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Third day of May, 19 43

Whereas it appears to me, the undersigned, an officer in T/Command of 2 Canadian Infantry Division, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

* [redacted]

Proceedings Reviewed

for Director JAG

12 May 43

J W Wilson Major

Capt W.M.W.Shaw, H.Q., 2 Cdn Div is hereby appointed Judge Advocate

President.

Rank.	Name.	Regiment.
Major	J.W.Wilson	RCASC, 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt	A.E.Chapple	RCASC, HQ 2 Cdn Div
Capt	S.H.Foyer	RHLI, HQ 2 Cdn Div

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (Q.V.Whitehead) Brigadier

T/Commanding 2 Cdn Inf Div.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D105631, Pte Frank Andrew LeBLANC, RCASC, HQ, 2 Cdn Div	First Charge Army Act, Sec 11 (See charge sheet attached)	not guilty	guilty	
	Second Charge Army Act, Sec 40 (See charge sheet attached)	not guilty	guilty To undergo detention for 28 days 4 May 43 J W Wilson Major	I confirm G.V.W.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) G V Whitehead (G.V.Whitehead) Brigadier
T/Commanding 2 Cdn Inf Div
Convening Officer (e)

(Signed) J W Wilson Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~) JWW
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 4th day of May 1943.

J W Wilson Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of JWW 19~~

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ GVW

Signed this 5 day of May 1943

G V Whitehead Brig
Confirming Officer.

Promulgated and extracts taken in the case of D105631 Pte LeBlanc, F.A.

(a) (Dated) 5 May 43 (Signed) [signature] Lieut
Camp Commandant, H.Q. 2 Cdn. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, D 105631, Pte Frank Andrew LeBLANC, R.C.A.S.C., HQ 2 Cdn Div, a soldier of the Cdn Army Overseas, is charged with

NEGLECTING TO OBEY UNIT ORDERS

in that he

First Charge
Army Act, Sec 11

in the field, on 17 Apr 43, gave to a civilian, Mrs Ruth de Barge Hubert, of 'The White Cottage', Mannings Heath, Horsham, Sussex, 7 packages of Sweet Caporal cigarettes and one package of Wing cigarettes, contrary to Overseas R.O. 3062 as re-published in HQ 2 Cdn Inf Div Order No 10, dated 27 Jan 43.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

Second Charge
Army Act Sec 40

while duty driver of W.D. vehicle No CM 4202297, on the 16 Apr 43, improperly used said vehicle for private purposes and carried a civilian passenger therein without proper authority.

(G.S. Roberts) Lieut
A/Camp Commandant
HQ 2 Cdn Inf Div.

IN THE FIELD
29 Apr 43.

TO BE TRIED BY F.G.C.M.

(G.V. WHITEHEAD) Brigadier,
A/GOC 2 Cdn Div.

IN THE FIELD
3 MAY 43.

J.W. Wilson Major

Trial of D105631 Pte Frank Andrew LeBlanc, RCASC, HQ, 2 Cdn Div held in the field
4 May 43
President:- Major J W Wilson, RCASC, 2 Cdn Div
Members:- Capt A. E. Chapple, RCASC, HQ 2 Cdn Div
Capt S. H. Foyer, RHU, HQ, 2 Cdn Div.

Judge advocate:- Capt W M W Shaw, HQ, 2 Cdn Div
Offer under instruction Major J Truman, RCOC, HQ 2 Cdn Div
Prosecutor:- Lieut G. E. Roberts, HQ, 2 Cdn Div
Defending officer:- Capt R. B. MacNeill, HQ, 2 Cdn Div.
Court satisfy themselves as to RP 22 + 23.
Court opened
Convening order is read + marked "X".
Accused is asked if he objects to President or members + answers "No, Sir".
Court, Judge advocate + offer under instruction duly sworn.
Medical certificate is presented.
Accused is arraigned + pleads "Not guilty" to the first charge + "Not guilty" to the second charge
Accused is asked question at bottom page 2 of AF A3 and answers "No, Sir"

1st Wit Pros] Mrs Ruth de Barge Hubert, The White Cottage Mannings Heath, Horsham, Sussex duly sworn states:-
2 recall 16 + 17 Apr + recognize the accused in connection with events occurring on that day. On 16 Apr 2 missed my last bus home. 2 was with a friend Mr Thomas by name. We saw a staff car + decided to try + get a lift home. It was 3 miles away. The car was standing outside the King's Head in the Carfax, Horsham + we both approached the accused + requested that he take me home. He said he had a job ~~[illegible]~~ to do + would then give us a lift. However he wasn't in the Carfax 15 or 20 mins later so we started to walk. We got to Keives Lane Horsham where my friend lives + just at that moment the driver pulled up beside us. My friend asked if he would be able to drop him back but the acsd said no he wasn't coming back that way. So I told my friend to go home so he wouldn't have to walk back. I got in the car + my friend left for home

We drove as far as my house about 2½ miles from where we left my friend Mr Thomas. During drive the accd asked me if 2d like some cigarettes & having reason to wish to see him in daylight 2 said "yes". On the 17th during the morning he returned with cigarettes, 200. Sweet Caporals and 2 think one Wing packets. 7 pkts Sweet Caps & 1 of Wing. 2 rang up Military police as soon as he left the house. They came up at once. 2 gave the cigarettes to the MP.

Cross-exam.

2 can't really remember whether 2 asked the accused. He said he had to take some officers back & would return. We did not stop out & flag the car. 2 objected to his behaviour on drive home so wanted to see him next day — the car did not stop on the way home. 2 did not suggest 2 was out of cigs. It was my only hope of identification, 2 was quite sure 2 would not be able to recognize him again — got into car about 20 mins to 11. Cannot produce sufficient evidence to proceed with the civil charge.

No Re-exam.

Court. Hadn't a watch but was about 20 mins to 11. about ¾ mi from Carfax to Kennedy Lane. It was dark & a moon when first saw the accd. On the night of 16th 2 could not see him it was dark therefore 2 had to see him in daylight to be able to identify him again. Knew him next day because he brought cigs, a belt & a bangle belonging to me & said do you remember me. It was on this basis that 2 recognized him next day, also by his voice. The accd got out of the vehicle once during the journey. The incident on the way home had already occurred when question of cigs was brought up. got into car about 20 mins to 11 & got home about 12 o'clock — accused was with me during all this time.

2nd Wit Pros

B4211 Sgt Harrow, J., CMSC, HQ 2 Cdn Div duly sworn, states:-

2 recognize copy of Pt I order No 10 dated 27 Jan 43 (Exh "A"). Was published. 2 published the order as duty clerk. One copy on notice board outside orderly room, one copy on A notice board, both orderly rooms adjoining, a copy to each branch in HQ. Accd was staff car driver in Jan. 3 copies of orders were sent to MT section, 1 for office & a copy for each of the sleeping huts.

No cross-exam.

3rd Wit Pros] M 11384 R/Cpl Williscroft, W.F., RCASC, HQ, 2 Cdn Div, duly sworn, states:-

Was NCO on duty on night of 16 apr on MT. Sent accused out to pick up Capt Hyman at B mess to proceed to Horsham. Left at 2140 hrs & returned at 2250 hrs. Stn Wgn CM 4202297, Ford V8.

Cross-exam

Was on duty from 2250 hrs on.

No re-exam

Court

Orders are put on file in MT office. Copy of Exh A is at MT office. Do filed on orders file. Accsd stayed in MT office after 2250 hrs until he went on next trip. Can say that he was there from 2250 to 2400 hrs. He turns in log book & key & I give it back to him on the next trip. Can't say for certain whether he turned in log book & key when he returned at 2250 hrs 16 Apr.

Def after through court:- Orders just posted - are not read on parade. Board is up - all MT drivers know where file is. Duty drivers do turn in key & book - also turn in work ticket. Won't swear that LeBlanc did turn in key & log book but it is my standing practice to see that it is done.

Court: about 5 miles from car park to Carfax. medium width road & crooked.

4th Wit Pros] B 95615 R/Cpl Currie J. R., # 3 Cdn Provost Coy. duly sworn, states:-

Have seen LeBlanc, the accused before. Met 1520 hrs on 17 Apr as a result of info & instructions I proceeded to investigate movements of a Cdn soldier. As a result of investigations I interviewed Mrs Hubert & from her obtained a description of a soldier - she gave me number of WD transport utility wagon which had come to her house on 17 Apr. & through this I contacted LeBlanc, F.A. I produce 7 pkgs of Sweet Cap cigs & one pkg of Wings which were given to me by Mrs Hubert on 18th evening the 18th of Apr.

Cross-exam.

Proceeded to see Mrs Hubert as a result of a phone call.

No re-exam

Court: First visited her 17 Apr & saw her again on 18th when I got the cigs. Knew on 17th that cars were cigs involved but didn't pick them up because I thought civilian police might be involved.

Prosecution closed.
R.P. 40 complied with.

Accused does not wish to give evidence, make a statement or call witnesses as to facts.

Prosecutor says that accused did take civilian in gov't vehicle & did give her cigs.

Def offer:- evidence for pros.n is Mrs Hubert's statement & submits that it is unreliable - dropped civilian charge because lack of evidence - Was dark, not sure of identification, during time she says acsd was with her he was on duty at MT 5 miles away. He returned to MT at 2240 hrs & remained there until despatched. Mrs Hubert's story is unreliable to the extreme. Submits charges not proven. Acsd has absolutely clean conduct sheet & is exceptionally fine soldier, certainly most unlikely to commit such a crime. Provost did find 8 ppges of cigs but nothing other than Mrs Hubert's evidence.

Judge Advocate sums up.

Court closed to consider finding.

WMWS ~~Court re-opened & 3rd [illegible] pursuant to [illegible]~~

Courts finding entered in col. 4 page 2 of AFA 3.

Court re-opened

Prosecutor, duly sworn, presents AFB 296 & MFM 6 states they relate to the accused and are certified as true extracts of reg'l books. (No cross-exam)

Def ofcr submits statement signed by Capt J.R. Black on accused's character (Exh "C")

Court closed to consider sentence.

WMW Shaw
Capt
Judge Advocate.

J W Wilson Major
President

47 DUTY-FREE AND DUTIABLE PARCELS - CIGARETTES AND TOBACCO - GIFTS - ILLEGAL SALE OR DISPOSAL.

1 The British Government agreed to allow genuine gifts for personnel of the Canadian Armed Forces to enter the U.K. free of duty.

2 Officers Commanding will ensure that appropriate disciplinary action is taken immediately any cases come to their notice of the sale, attempted sale, gift or other disposition by personnel of the Cdn Army Overseas of gifts, particularly cigarettes or tobacco, which have entered the U.K. free of duty.

3 To facilitate proof and in order that charges may be laid under Army Act, Sec 11, the following special order is made:-

(a) The sale, gift or other disposition, or any attempted sale, gift or other disposition, in the U.K. by personnel of the Cdn Army (O/S) to civilians or others not members of the Cdn Armed Forces of any article, particularly tobacco or cigarettes, which has entered, or which is of a class of goods commonly known to enter the U.K. free of duty as a gift for such personnel, whether or not such articles have been received for or on behalf of such civilians or others, is hereby forbidden.

(b) The use of regimental funds for the purchase of cigarettes or tobacco in Canada for delivery in the U.K. and the sale of any duty-free tobacco or cigarettes in messes and canteens are hereby forbidden.

(c) The direct purchase outside the U.K. of any article for importation into the U.K. as a duty-free gift, by means of a remittance made under the provisions of FR & I (Overseas) 593 and 594, or through any other medium, is hereby forbidden.

4 Nothing in this Order is to be construed as prohibiting the sharing of tobacco and cigarettes or other gifts with other personnel of the Cdn Armed Forces, or the free distribution by Commanding Officers, or other individuals of such gifts, among personnel of the Cdn Armed Forces.

CERTIFIED TRUE COPY of Overseas R.O. 3062 as re-published in HQ 2 Cdn Div Part I Order No 10 dated 27 January 43 as para 47.

(C.M. Roberts) Lieut
A/Camp Commandant
HQ 2 Cdn Inf Div.

Exhibit "A"

J.W. Wilson Major.

SUMMARY OF EVIDENCE IN THE CASE OF D.105631
Pte LeBLANC, F.A., HQ 2 Cdn Division, RCASC,
a soldier of the Cdn Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: M.11384, L/Cpl Williscroft, MT Section HQ 2 Cdn Div having been duly sworn states:

"On the night of 16 Apr 1943 I was Duty NCO and Pte LeBlanc was duty driver. At 2140 hrs I despatched him to take Capt Hyman into Horsham. He checked back to the office at 2250 hrs. He was driving Station Wagon CM 4202297."

The accused declines to cross-examine.

SECOND WITNESS for the prosecution, Mrs Ruth de Bargue Hubert, of 'The White Cottage', Manning's Heath, Horsham.

A written statement of this witness's evidence, purporting to be signed by her, has been read to the accused and is included in this summary (attached as Exhibit 'A'), having regard to the loss of time involved and the difficulties of travel the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

(L.W. McLean) Lieut
Officer detailed to take the Summary

THIRD WITNESS for the prosecution, G.27295, Cpl Forse B.R., of No 3 Cdn Provost Company.

A written statement of this witness's evidence, purporting to be signed by him, has been read to the accused and is included in this summary (attached as Exhibit 'B'), having regard to the exigencies of the service the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

(L.W. McLean) Lieut
Officer detailed to take the Summary

"The accused does not wish to call witnesses nor make a statement in his defence at this point."

Taken down by me, in The Field, this 29th day of April, 1943, in the presence of the accused.

CERTIFIED that Rules of Procedure 4 (c), (d) (e) and (f) have been complied with.

(L.W. McLean) Lieut
Tor Scot R (MG)
Officer detailed to take the Summary.

FURTHER EVIDENCE IN THE CASE OF D.105631,
Pte LeBLANC, F.A., HQ 2 Cdn Inf Division,
a soldier of the Cdn Army Overseas.

The accused is again informed of his rights.

The C.O. further directs that the evidence be taken on oath.

FOURTH WITNESS FOR THE PROSECUTION: B.4211, Sgt Harrow, J., C.M.S.C., HQ 2 Cdn Inf Div, having been duly sworn states:

"During the month of January 1943 I was Orderly Room Sergeant of HQ 2 Cdn Div. On 27 January 1943 we published Part I Order No 10, Para 47 of which repeats Overseas R.O. 3062 which precludes the sale or gift of cigarettes received duty-free from Canada. This Part I Order was posted on our notice board and following our general procedure each branch and department was given copies of this order. The MT Section were given three copies for posting."

J. Harrow

(J. Harrow) Sgt
B.4211

The accused declines to cross-examine.

"The accused does not wish to call witnesses nor make a statement in his defence at this point."

Taken down by me, in The Field, this 30th day of April, 1943, in the presence of the accused.

CERTIFIED that Rules of Procedure 4 (c), (d) (e) and (f) have been complied with.

L. McLean

(L.W. McLean) Lieut
for Sect R (MC)
Officer detailed to take the Summary.

J.W. Wilson Major

Squadron / Battery / Company / Detachment — HQ 2ND CDN DIV — Unit or Battalion

MORNING SICK REPORT — 4 May 19 43

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
D-105631	Pte Le Blanc F A	25					
	I have examined the above named this day & find him fit to stand F. G. C. M.						
						J W Wilson Major	

F J Milner Capt. — Medical Officer — Orderly N.C.O.

M. F. B. 292
4,500 M-3-41 (9688-9-90)
H.Q. 4772-39-248

(OVER)

D.105631
Pte LeBlanc, F A

The a/m soldier has been under my command for a period of 15 mos as Driver I/C at HQ 2 Cdn Div. During that time he has conducted himself in a creditable and soldierly manner and at no time has he been the cause of neglect of duty or violation of orders.

I would be glad to have this soldier remain under my command.

(J.R. Black) Captain
Camp Commandant
HQ 2 Cdn Division

4 May 43

Exhibit "C"

J W Wilson Major

the following day. This he did + in this manner 200 cigarettes (Wings + Sweet Caporal came into my possession. These cigarettes were subsequently handed over to the Military Police

Ruth de Bargue Hulbert

J W Wilson Major.

"A"

The White Cottage
Mannings Heath
Horsham. SX.

At 10.40 P.M. April 16th 1943 in company with a friend, I hailed the driver of an army car, who stopped. My friend explained my position + the driver agreed to give me a lift home. In the course of conversation the driver undertook to bring me some cigarettes.

'B'

STATEMENT OF EVIDENCE IN THE CASE OF:

D-105631 Pte. LEBLANC, F.A.
H.Q., 2nd Cdn. Division.

RECEIVED
APR 26 1943
2 CDN. DIV.

Sir:

1. Acting on instructions received, 20 Apr 43, that a Canadian soldier had supplied a lady, namely, Mrs. Hubert of White Cottages, MANNINGS HEATH, Sx., nr. HORSHAM, with Cdn. cigarettes and had also driven this lady to her home in a W.D. vehicle, I located Pte. LEBLANC, F.A. at the Trnsport Lines, H.Q., 2nd Cdn. Division.

2. The vehicle used was a Station Wagon, W.D. No. CM-4202297, with which Pte. LEBLANC picked up Mrs. HUBERT between 2225 hrs and 2240 hrs, 16 Apr 43, nr. JORSHAM and drowe her to her home at MANNINGS HEATH. Pte. LEBLANC was duty driver on this night and this vehicle is a pool car.

3. It was found that Pte. LEBLANC returned to Mrs. HUBERT's home the next day and gave her seven packages of Sweet Caporal cigarettes and one package of Wings 25's, which were obtained from Mrs. HUBERT and are now being held at #4 Cdn. Provost Company Orderly Room. On this occasion Pte. LEBLANC was driven to Mrs. HUBERT's home in Utility Wagon, CZ-4210056, by B-27484 Pte. MUSHEY, L.J., and it was through the number of this Wagon being supplied to me that I traced Pte. LEBLANC

4. D-105631 Pte. LEBLANC, F.A., was questioned in the presence of Cpl. FORSE, B.R. of #3 Cdn. Provost Company, and admitted having driven Mrs. HUBERT home in a Station Wagon on the night of 16 Apr 43, and also giving her the cigarettes.

5. Sgt. MOORE was advised to place this man under open arrest. It has now been learned that this man has gone out on exercise.

.....L/Cpl.
R-96615 L/Cpl. Currie, J.R.
#3 Cdn. Provost Company.

I have read over and corroborate the above Statement insofar as it applies to me.

.....Cpl.
C-27295 Cpl. Forse, B.R.
#3 Cdn. Provost Company.

#4 CDN PROVOST COMPANY
WD
APR 25 1943
(A.F.)

(Substitute for A.F.B. 296
of M.F.B. 355)

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D.105631 Name Pte LeBLANC A.F. Unit RCASC, HQ 2 Cdn Div.

Age 28 Married or Single Married No. of Dependents 3

Date of Attestation 18 Apr 40

No. of Days spent in close arrest (To date of Trial)

Civil ——— Military 8 days Hospital ——— Total 8 days

Dates of Promotions, Appointments and Confirmation of rank, if any.

NIL

A CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

(G.E. ROBERTS) Lieut.,
(Officer i/c Records)

H.Q., 2 Cdn Div.

Dated at Field

This 4th day of May 1943.

(To be dated and signed as for date of trial)

J.W. Wilson Major.

D.105631 LeBLANC,
No. Name P.A.

Sqn., Battery, or Company | Corps R.C.A.S.C. | Date of enlistment | 18 Apr 1940 | G.C. Badges |

Received 1st and 2nd increase

Date of last entry in Company Conduct Sheet | N/A | No. and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | -- | Sheet No. | 1 | Signature O.C. Company, etc. |

Service or Proficiency Pay | 1 Jan 43

M.F.M. 6 (A.F.B. 122)
47758M—7-41 (1219-20)
H.Q. 1772-39-1602

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed. Last entry 7 Dec 40 Charges of Drunkenness - NIL vide Overseas R.O. 2064, para 5 (b).					

CERTIFIED TRUE COPY

(G.E. Roberts) Lieut
A /Camp Commandant
HQ 2 Cdn Inf Div.

(P.T.O.)

5P-93.

Pte. Leblanc, F. G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-50758 Pte Francis George LEBLANC - CIC -2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 18(4)	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 483, and as to last resort see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of nine (9) months

(Sgd) ..... 12 JUL 45 .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~Recommend that the accused be not required to undergo the residue of detention imposed by the sentence set forth in Part I.~~ (1)

(1. AA 57A. Delete if not used.)

Date 17 Jul 45 (Sgd) (A/B. G. BLACKADER) Brig

Commanding Cond-13 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G.50758, Pte. LeBLANC, F.C.	18 Jul 45.	(F. Saperia) Lieut.

ENTERED ORDER No 170
DATE 20 Jul 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 160 SP-93

RECEIVED 3 AUG 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40/1st & 8/1699 (8/44) 4/38B

Convened by Colonel J A Wilson ED Comd 13 CITB dated 10 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-50758	Pte		Francis George	LEBLANC	CIC 2 CITR

PROCEEDINGS REVIEWED J.B. Ready Major

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 12 Jul 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any, assemble,~~ and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1700 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2).~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~ The Interpreter is sworn.(1) Do you object to SGT A H SINCLAIR as shorthand writer? Ans NO The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L.	REDMAN	HQ CRU
Member	CAPT	H.R.	COLE	3 CITR
Member	LT	A.	TOUGAS	4 CITR
~~Judge Advocate~~	Capt from 5 CITR being unable to attend waiting member takes his place.			
Prosecutor	LT	J.D.	REILLY	2 CITR
Defending Offr	LT	A.H.	KRIEGER	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1) NO
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s), and allowed on the ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty~~ on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character; whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. [illegible]. Do you intend to call witnesses on your behalf?
Ans. NO-SIR ~~Are they witnesses as to character only? Ans.~~
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO-SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para (.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. [illegible] (NOTE ATTD)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, Sch Sect, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement(5)? Ans.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 25(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, G.50758, Pte. Francis George LeBLANC, CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas, is charged with:-

SEC. 18(4) ARMY ACT.

WHEN ON ACTIVE SERVICE
STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

In the Field, on 15 June 45, stole 900 cigarettes, the property of G.2524, Pte. LeBLANC, H., a person subject to military law.

Approved on behalf of the JAG pursuant to RR(Can)540 & OR04756
A.L. Mills Capt
for DJA, 3 Det JAG.

In the Field.

30 June 45.

(J.G. Bourne) Lt-Col.,
A/Comd, 2 C.I.T.R.

To be tried by Field General Court Martial.

(J.A. Wilson) Col
Temporary Comd
13 Cdn Inf Trg Bde

IN THE FIELD
10 Jul 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) uppmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 320, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-50758	Pte		Francis George	LEBLANC	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[x] named above as the accused, being subject to military law, has [xxxx] committed the offence[x] set forth in the Charge Sheet[x] attached and on (*date*) 10 Jul 45 endorsed by me, ([xxxxxxxxxxxxxxxxxxxx], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [xxxxxxxxxxxxxxxxxxx

MEDICAL OFFICER'S CERTIFICATE — E CITR/11

K.R.Can.Para 857

I certify that I have this morning examined No. G-50758

Pte. LEBLANC, F.G. and in my opinion he

is FIT to undergo trial by Court-Martial.

Station: 2 C I T R

Date: 12 Jul 45

(RCAMC) Attached to 2 CI

TRANSCRIPT BY: P.28126 SGT AH SINCLAIR

TRIAL OF

C.50758 Pte LEBLANC F.C. 2 CITR

PROSECUTION

FIRST WITNESS

C.123406 Pte KILMARTIN HD, 2 CIDB, 2 CITR, having been duly sworn, states:

I'm employed in the Unit PO and I recognize the accused who on 15 Jun 45 gave me a parcel chit for 900 cigs. The lighting system was very bad and I could not make out the writing on it, and I asked him his name and he said Pte LeBlanc, so I looked up his card and gave him the card to sign and then I looked at his Service Book and took a quick glance at it and saw it was Pte LeBlanc and then I went on with the next fellow.

Q. What was the name and number on the parcel chit?
A. C.2425 Pte LeBlanc H.

Q. I produce herewith a cig card?
A. Yes, it is a parcel and cig card kept by the PO.

CARD MARKED EXHIBIT 1

Q. There are 6 signatures on Exhibit 1, did the accused sign this card in your presence?
A. Yes, the last 3 signatures by the accused and the date is 15/6/45, and 900 cigs were handed to the accused.

Q. Did you know him prior to this incident?
A. When anybody comes to the wicket for parcels we very seldom forget their face.

Q. Did you know the accused as Pte LeBlanc?
A. Not exactly, but one of my chums at the wicket knew him pretty well, but he's gone now.

Q. Prior to this incident you wouldn't be prepared to swear whether this was LeBlanc FG or LeBlanc H?
A. That's right, Sir.

Q. But you assumed that the Ord Room had handed the right chit to the right man?
A. Yes.

Q. Did you check the number in his Paybook?
A. The number I couldn't see, all I could make out was the name. He had his thumb over the number.

Q. I produce a card for Pte LeBlanc FG, serial C.50758?
A. Yes, that is his card.

CARD MARKED EXHIBIT 2

Q. Is Exhibit 2 and 1 similar?
A. Yes.

PROSECUTOR: I tender to the Court the MFM Pt I, C.50758 Pte LeBlanc F.C. His signature is on P.3. I tender this under para (bb) CAORO 5352.

PAYBOOK MARKED EXHIBIT 3

CROSS-EXAMINED

Q. How long have you been at this unit?
A. Since Jan of this year.

Q. And where else have you been employed?
A. "H" Wing, and prior to that I was in Tpt.

Q. When were you employed in the PO?
A. Feb.

Q. What sort of work have you been doing there?
A. Piling parcels and cigs on the shelves when I first started.

Q. How many parcels do you generally distribute a day there?
A. We handle between 100-120 bags a night and 20-25 bags of that stay and the rest go out.

Q. How many people are employed doing this?
A. In the day shift I don't know, but the amount I saw there were 6 fellows giving out parcels in Witley Camp, and in this Camp there were only 2 of us until they got 2 spare men.

Q. On the 15 Jun?
A. Two of us, the other chap and I.

Q. Do you remember everyone that comes to take parcels from you?
A. We know most of the old fellows except the new ones that have come in recently. To tell the truth I very seldom forget a face.

Q. If this particular man was coming down the street you could tell who he was?
A. If I saw him once, yes.

Q. How did you identify the accused?
A. Lt Saperia brought me down to the Dtn Bks and he sent an RP to go in and bring him out and as he was coming out I told him he was the fellow I had given the 900 cigs to.

Q. On Exhibit 1, 2 parcels were recd by LeBlanc, one in Jan and one in May 45; are you going to suggest to me that from one visit the accused made to the PO you could recognize him?
A. When I see a fellow again I recognize them.

Q. If the accused were to suggest that you were not the person from whom he recd the parcel on 15 Jun, would that be false?
A. I'm not sure, but I know I did give cigs to a Pte LeBlanc. If it would have been the other LeBlanc I would have recognized him because I know him.

Q. You aren't positive it was this particular man?
A. In one way it is Sir, but I did see him before.

Q. Was he brought up to the PO for interview?
A. I don't know.

Q. Would you tell the Court the category of the accused from this book, Exhibit 3?
A. M2, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH 83(2)

SECOND WITNESS

C.2524 Pte LeBLANC H, 3 Cdn Repat Depot, having been duly sworn, states:

I know the accused, that is, I know him since this incident. On 22 Jun I went to the PO to see if I had some cigs coming to me and I saw a Pte Greenwood there and he told me something that had happened, and checked my parcel and cig card. Exhibit 1 is the card, and I had ordered cigs prior to 22 Jun, 900 of them, 300 before the end of May and before that.

Q. Did you sign for cigs on 15 Jun, Exhibit 1?
A. No.

Q. What happened after talking with Greenwood?
A. He showed my card to Sgt Newman and after that I don't know.

Q. Did you give authority to anyone to go to the PO and collect cigs for you?
A. No.

Q. Are you any relation to the accused?
A. No.

Q. You aren't aware of what happened as a result of your complaint to the P.O.?
A. No.

CROSS-EXAMINED

Q. When did you go to 3 Repat?
A. 23 Jun.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THIRD WITNESS

It JH SIMPSON, Offr IC Post Office, 2 CIDB, having been duly sworn, states:

I am the Offr IC of the PO at 2 CIDB, and I know the accused. On the afternoon of 22 Jun the Postal Sgt brought me 2 cards both in the name of LeBLANC, one being FG and the second H. Exhibits 1 and 2 are the two cards. As a result of the infm I recd from the Postal Sgt I made certain only 2 LeBlanc's were in our files and I sent to "H" Wing, the Coy that LeBlanc FG belonged to, and asked if I could have that man. He was sent to the PO and I questioned him as to whether he had recd any cigs.

DEF OFFR: This is in the nature of an investigation, and in view of the lack of caution having not been given, no answers by the accused are admissable.

PROSECUTOR TO WITNESS .... Had any charge been laid against the accused at that time?
No.

Q. What was the nature of sending for the accused?
A. To try and find out at that time where the cigs were that were missing. I didn't know or suspect if the cigs had been recd by the accused at the time. I didn't know who had recd them.

Q. And being the offr in charge it was your duty to investigate generally?
A. Yes.

Q. Did you contemplate at the time, laying a charge against him?
A. No, I didn't know anything about it at all.

Q. As a result of your investigation what did you do?
A. After I had questioned the accused I went with my Sgt and asked LeBlanc to accompany me and we went to "B" Wing Office. I asked for the CO and told him what I had found out and asked him to take care of this man. I did not lay a charge myself, but I was called as a witness when the case was brought up.

Q. When the accused was brought before you did you show him the cards, Exhibits 1 and 2?
A. I showed him Exhibit 1 during our talk and asked if he had signed for 900 cigs as H LeBlanc and he replied he had.

DEF OFFR: I object.

PROSECUTOR: I refer the Court to sub para 1 on P. 91 MML and to the proviso at the bottom of Page 92 and the top of Page 93 MML. In view of Lt Simpson's position in the PO it was his duty to make the inquiry and the question of whether a charge would be laid or not didn't come within his jurisdiction. His duty was to make the investigation and lay the facts before the CO of the accused who would decide, and therefore the question of what he asked the accused in his interrogation doesn't enter into the question at all.

DEF OFFR: I take strong objection to this. This witness here is acting in the capacity of a person in authority and if he had not made up his mind that a charge should be laid against the accused at this phase he should have made up his mind.

THE COURT IS CLOSED

THE COURT REOPENED AND THE PRESIDENT STATED THAT IN VIEW OF THE ANSWERS WHICH THE ACCUSED HAD GIVEN TO THIS WITNESS THAT FURTHER EVIDENCE OF THE CONVERSATION WOULD NOT BE ADMITTED BECAUSE NO CAUTION HAD AT THAT POINT BEEN GIVEN BY THE WITNESS TO THE ACCUSED.

THE PROSECUTOR:
I must say most respectfully that I cannot agree with the decision which the Court has arrived at.

PROSECUTOR TO WITNESS: I show to you Exhibit 2 Lt Simpson, what is it?
WITNESS: It is the parcel and cig card of the accused.

Q. Did he receive any cigs during the month of Jun according to his card?
A. No.

CROSS-EXAMINED

Q. How many bags of mail do you distribute to Depot Bn in a day?
A. 30 to 50 roughly.

Q. And how many of these would be parcels?
A. On an average we run about 30 bags of cigs daily.

Q. How many cartons roughly in a bag?
A. 24 to 28.

Q. So that there would be approx 700 cartons distributed daily?
A. They aren't all distributed, they are only handled.

Q. In view of the large number of parcels distributed daily it would necessarily be very difficult for the men distributing same to remember all the faces of those receiving them?
A. To a large extent, yes.

FOURTH WITNESS

D.72119 A/Sgt NEWMAN BR, 2 CITR, having been duly sworn, states:

I'm the senior clerk in the PO at 2 CIDB and I recognize the accused. On 22 Jun during the noon hour a Pte Greenwood brought to me 2 cig cards, one of which was Pte LeBlanc's F.C., and the other Pte LeBlanc's H. Exhibits 1 and 2 are the two cards. As a result of what Greenwood told me I referred the matter to Lt Simpson who is the Offr IC of the PO.

Q. Did you question the accused at all yourself?
A. I asked him one question; if he was aware that he had signed H LeBlanc when his initials were FC.

DEF OFFR: I object to that question and answer.

Q. Was Lt Simpson there at the time?
A. Yes.

Q. And had he been questioning the accused?
A. Yes.

Q. And had any caution been given to the accused?
A. No.

PROSECUTOR TO THE COURT:
The caution would not be given to the accused by either Lt Simpson or Sgt Newman because they were merely carrying out routine duties. It was a straightforward question and it was the most natural thing in the world to question him. The accused didn't have to answer I submit.

PRESIDENT:
The Court has ruled that answers will not be admitted in evidence as no cuation was given, and this Sgt was a person in authority.

PROSECUTOR:
In view of the Court's ruling I have no further questions, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THE PROSECUTION IS CLOSED

MOTION BY THE DEF OFFR

This case should be dismissed because the very essential part of the case that the accused recd the cigs in question has not been firmly established by the Prosecution. The chief witness for the Prosecution, Pte Kilmartin....his evidence is not clear at all, nor was it given straightforward, and he was quite hesitant in his answers, and was not certain, and I take strong objection to the manner in which this witness was introduced to the accused in that he obviously heard conversations in regard to this inquiry. The accused was also paraded out of the Cd Room and in my opinion it would be very difficult for the Court to accept his identification established in that manner as satisfactory. We have it in evidence that this particular person only recd one parcel of cigs and on the basis of that one statement the witness is attempting to identify this particular person who recd the cigs. I would ask the Court to dismiss this case because the Prosecution has not made out a case.

PROSECUTOR'S REPLY

I submit that the Prosecution HAS made out a prima facie case and has shifted the onus to the accused. First of all I would call the Court's attention to Exhibit 1 and the signatures on the last three lines of this card opposite dates 15 Jun 45 and how they compare with the first two signatures on the card which Pte LeBlanc H has stated, is his signature, and also to compare the writing with Exhibit 3, of Pte LeBlanc FG, the accused, with the signature of H LeBlanc appearing on the said cig record card. It is obvious that H LeBlanc did not sign the last three and I would ask the Court to compare the signatures of the accused and the signature appearing on Exhibit 1. Secondly, I will ask the Court to recall Kilmartin's evidence that the accused did sign Exhibit 1, H. LeBlanc and that he had been handed 900 cigs. It is very easy to become confused, especially if a witness is in the hands of an expert legal man like my friend the Def Offr is. As far as Lt Simpson's evidence is concered, the Court has admitted the first two answers of his evidence, namely, that the accused admitted in his presence that he had recd 900 cigs and that he had signed Exhibit 1. I suggest that this alone is sufficient to call upon the accused for his defence.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED, AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION BY THE DEF OFFR IS DISALLOWED, AND THAT THE TRIAL WILL ACCORDINGLY PROCEED.

- D E F E N C E -

FIRST WITNESS

The ACCUSED, having been duly sworn, states:

Q. Are you sometimes called H LeBlanc?
A. Yes.

Q. And what does the H stand for?
A. Harry, Sir, and I've recd 3 letters in this country addressed H LeBlanc and I had a parcel in France addressed H LeBlanc and it was for me, as it had my number on it.

Q. I have a document here addsd to Mr George LeBlanc, Inverness County, Cape Breton...to whom does that refer?
A. My father, Sir.

Q. And are you the person referred to in that letter?
A. Yes.

LETTER MARKED EXHIBIT 4

PROSECUTOR:

This letter, Exhibit 4, is not evidence, and I object to it being introduced.

DEF OFFR TO WITNESS — How did you happen to get this particular document?

A. Sir, I had bought a War Bond and I signed for it to be delivered home. Later I inquired about it and I got this answer back, and the reference is to G.50758 Cnr HG LeBlanc.

Q. What do your parents sometimes call you?
A. Harry.

Q. Your friends?
(The President warned the Def Offr that he must refrain from asking such questions to the witness)

Q. Why do they call you Harry?
A. It's a sort of a nickname.

Q. On this particular day did you believe this parcel was for you?
A. Yes.

Q. Why?
A. Seeing as I got letters before in the name of H LeBlanc I thought this would be for me.

CROSS-EXAMINED

Q. Do you admit going to the PO on 15 Jun and obtaining 900 cigs?
A. Yes.

Q. Do you admit signing the name of H LeBlanc 3 times on this card, on 15 Jun?
A. Yes.

Q. Do you see the heading on that card?
A. Yes, Pte LeBlanc H, G.2524.

Q. In what colour?
A. Red ink, Sir.

Q. It shows up?
A. I never noticed it.

Q. What is your number?
A. G.50758.

Q. Your initials?
A. F.G.

Q. What do they stand for?
A. Francis George.

Q. What is the initial on that card?
A. H.

Q. Ever recd any cigs prior to 15 Jun?
A. No.

Q. I show you Exhibit 2, whose is that?
A. Mine.

Q. See any receipt for cigs on that card?
A. Yes, on 30 May 45, and the signature is FG LeBlanc, Sir.

Q. And that is your signature?
A. Yes.

Q. I produce Exhibit 3, your Paybook is that correct?
A. Yes.

Q. Did you sign at the bottom of it?
A. Yes.

Q. How do you always sign your name?
A. FC LeBlanc.

Q. Why on this occasion did you sign H LeBlanc?
A. Because I had recd letters before and a parcel H LeBlanc

Q. Had you ordered any cigs?
A. No.

Q. What did the card inside read?
A. I didn't notice.

Q. On the outside of the pkg?
A. I never noticed.

Q. Did you notice the name and number on the outside?
A. No.

Q. Were you interested?
A. No.

Q. On Exhibit 4 is that your number?
A. Yes.

Q. Any brothers or sisters?
A. Yes.

Q. What is your brother's name?
A. Thomas.

Q. Any brothers or sisters by the name of Harry?
A. No.

Q. Didn't you think it strange to receive 900 cigs when you hadn't ordered them?
A. No.

Q. Do you recall being brought to the PO on 22 Jun?
A. Yes.

Q. And speaking to Lt Simpson?
A. Yes.

Q. Do you recall being asked by him if you had examined the parcel carefully to make certain it was your name and number on the outside and your reply was that you hadn't?
A. That's right, Sir.

Q. Do you recall being asked whether there were any cigs or parcels in your possession and your answer was no?
A. Right.

Q. Do you recall being asked whether you had signed the name of H LeBlanc and had recd 900 cigs?
A. Yes.

Q. Do you recall being asked that the number and initial of the chit that you recd from your Coy was in your name, number and initial and that your answer at that time was that you were aware of that fact?
A. I don't recall that.

Q. You deny that?
A. Yes.

Q. Do you recall telling him that if there was any trouble about you having recd these cigs that you would pay for them to the other LeBlanc?
A. Yes, I thought if there was a mistake and I got his cigs that it would be right for me to turn around and pay for them.

Q. How did you obtain possession of the chit from the Coy?
A. It was given to me at "H" Wing Office.

Q. How do you pick these chits up?
A. They are part of your mail, Sir.

Q. Any recd any mail or chits that didn't belong to you before?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THE DEFENCE IS CLOSED

STATEMENT BY THE Pros OFFR ON THE FINDING

Sir, I repeat all I said in my reply to the Def Offr's submission a little while back, and add the following:
The accused is charged under Sec 18(4) of the AA and I refer the Court to the footnote of that Sec, and also to P.118, para 50. (PROSECUTOR QUOTES FOOTNOTE AND PARA FROM MML). In other words in this particular case the PO had the possession of the cigs and therefore can be construed as being the owner. I submit that the accused obtained the 900 cigs from the PO who are classified as the owners thereof, and that at the time of taking the accused had the intent to permanently deprive the owner of the cigs, and all this is borne out by the fact that he signed the card H LeBlanc three times on the 15 Jun, whereas on his own card he signed before his own signature, FG LeBlanc. He has admitted this to the Court and the only explanation he can give is that sometimes he is called "Harry". I'll leave this to the Court to believe or decide whether this is true or not. I submit that the accused should be found guilty as charged.

STATEMENT BY THE DEF OFFR ON THE FINDING

I would like to draw the Court's attention to the MULHEM category of the accused. The same degree of care and observance is not to be compared with a greater degree of intelligence. He assmumed that the cartons were for him, and in view of the letter which I have submitted it coroborates that he has been called Harry LeBlanc in the past and there is nothing to suggest that there has been any mischief on his part in producing this particular letter, and also, there is no reason to doubt the word of the accused either that he has recd cigs and parcels and letters in the name of Harry LeBlanc, before this. When the accused became aware that they were not his cigs it was perfectly natural of him wishing to make restitution. The alleged offence took place on 15 Jun and the witness alleges that the accused had his finger over the card, and yet this investigation didn't take place until the 22 Jun, so I suggest to the Court that this is pursly an explanation and not a fact. He had every reason to believe that they were his cigs; his intelligence is not as great as some others, and the contents were not examined as would be made by a person of more intellect. I ask the Court to find the accused not guilty of this charge.

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT IS REOPENED

PLEA IN MITIGATION
(NOTE ATT)

Plea in Mitigation

Age 21, born in C. Breton; both his parents are long & the accused is single. He has 9th grade, public school education) –

He enlisted 17 Feb 1942, Comp services July 1944 & sent to R.H.L. 1 towards end of July in France. Was worked as a result of an accident – Autumn towards end of Sept (28).

He has an (M^c L^3) category. (Confirm pay book)

He claims no civil offences.

[illegible]

[illegible] had been [illegible]

Pte. Le Blanc H. J. 26 24 E1

DATE	PARCEL No.	QUANTITY	SIGNATURE	DATE
26/2/45	26/512	96	A J LeBlanc	26/2/45
31-3-45	34-261	1	H LeBlanc	15/4/45
28-5-45	5722891	300	PTS Can Rec	28-5-45
15-6-45	5722891	300	H LeBlanc	15-6-45
15-6-45	5836976	300	H LeBlanc	15-6-45
15-6-45	5836977	300	H LeBlanc	15-6-45

Ex 1

6 5 0 7 5 Ex Pl.

LE BLANC P. 9.

DATE	PARCEL No.	QUANTITY	SIGNATURE	DATE
9-10-45	9-10	[illegible]	P.J. Le Blanc	24/1/45
30/5/45	45 C 11189	300	P.J. Le Blanc	30-5-45

Ex 2

CFQ 56 | 40/P&S/1573 (6172)

Ref. Fifth V.L.

DEPARTMENT OF FINANCE
CANADA

Ottawa, February 19,1945

Ex 4

Mr. George LeBlanc,
Margaree Harbour,
Inverness County, C.B.
Nova Scotia.

Re: G-50758 Gnr. H.G. Le Blanc.

Dear Sir:

Receipt is acknowledged of your letter in connection with the purchase of a Fifth Victory Loan Bond by the above noted.

We wish to advise that we have no record of an application or payments received on a Fifth Victory Loan instalment purchase under the above service number.

In the event of this being a cash purchase, may we suggest that you contact the National War Finance Committee, Ottawa, for further information.

Yours very truly,

R.I. Casselman

R.I. Casselman,
Chief Clerk,
Employees Instalment Purchase Plan.

CI/STG

M.F.H. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G. 50756.	Pte.	Francis George LeBLANC,	2 CITR.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery~~ ~~Conduct sheets~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Sec. 15(1)	3 times	Sec. 15(1)	6 times
For	Sec. 40	0 times	Sec. 40	1 times
For	Sec. 15(2)	0 times	Sec. 15(2)	1 times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~nil~~

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.~~ A.F.A. 72

3. The accused is not under sentence at the present time. ~~nil~~

~~The accused at the present time is under sentence for ... beginning on the ... day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 17 days in military custody, making a total of 17 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years, 6 months.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 16 Feb 42.

~~7. The service which the accused is allowed to reckon towards discharge is ...~~

~~8. The accused is entitled to reckon ... service for the purpose of determining his position, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward: ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward:—

CVSM & CLASP.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ...~~

EYB

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of Jul 45 Beperia Lt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. 050758 Name LeBLANC F.C. | Sqn, Battery, or Company | COMPILED FROM MFM 6 Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sydney		Pte		Sec. 15 (1) AWL		7 days C.B.	28-12-42		Forf 2 dys pay FR&I 149(a)
Sydney		Pte		Sec. 15(1) AWL		7 days C.B.	4-1-43		Forf 1 day pay FR&I
Halifax		Pte		Sec. 40		7 days C.B.	3-3-43		
Halifax		Pte		Sec. 15(1)		Forf 14 days Pay	3-2-43		
St. Johns		Pte.		Sec. 15(2)		7 days C.B.	13-1-44		Forf 2 days pay

(Over)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-2-45	Pte.		Sec.15(1) AWL 2 days.	Documentary	7 days F.P. Forf 7 days pay FR&I 149 (1) (b)	22-3-45	Lt-Col., MacMillan	Forf 2 days pay FR&I 149(1) (a)
Field	13-3-45	Pte.		Sec.15(1) AWL 5 hrs.	Cpl. Middleton	5 days C.B.	20-3-45	Capt.J.H. Medhurst	
Field	11-6-45	Pte.		Sec.15(1) AWL 2 days, 1 hr. 30 Min.	Sgt.Ruby, CSM Britton	R. 14 days F.P. Forf 14 dys pay FR&I 149(1)(b)	15 June 45	Maj.C.N. Clarke	Forf 2 days pay FR&I 149(1) (a)

Certified true copy consisting of two pages

Lt.

30 June 45. Officer having custody of original.

E & E

SUMMARY OF EVIDENCE

In the case of G.50758, Pte. Francis George LeBLANC, CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness Prosecution, G.2524, Pte. LeBLANC, H. of #3 Cdn. Repat. Depot, having been duly sworn, states as follows:-

"I am G.2524, Pte. LeBlanc, H. of #3 Cdn. Repat. Depot.

About noon on the 22 June 45, I went to the Post Office at 2 C.I.D.B., 2 C.I.T.R. where I was then stationed, to see if there were any cigarettes for me as I had not received any for some time. I inquired of Pte. Greenwood, W. at the Post Office and was told that I had received 900 cigarettes on the 15 June 45. I had not been in 2 C.I.D.B. on that date and had not gone to the Post Office and did not receive 900 cigarettes on 15 June 45. I told Pte. Greenwood this and he showed me my cigarette and parcel card which bore a signature "H. LeBlanc" for 900 cigarettes on the 15 June 45. It is not my signature, but it is my card as my signature does appear for previous entries. I have not given anyone authority to go to the Post Office and collect for me any cigarettes or parcels. Pte. Greenwood reported my complaint to Sgt. Newman and I also told him the facts."

The accused declines to cross-examine this witness.

H LeBlanc
----------Pte.
(H. LeBlanc) G.2524.

Second Witness Prosecution, D.72119, A/Sgt. Newman, B.R., Regimental Post Office, 2 CITR, having been duly sworn, states as follows:-

"I am D.72119, A/Sgt. Newman, B.R., Reg. Post Office, 2 CITR.

During the noon hour of 22 June 45, Pte. Greenwood, W., who was on duty in the parcel and cigarette room, brought me two parcel and cigarette cards, one in the name of G.2524, Pte. LeBlanc, H. and the other in the name of G.50758, Pte. LeBlanc, F.G. He said that Pte. LeBlanc, H. denied having received 900 cigarettes which were shown on his card as having been received by someone who signed "H. LeBlanc" on 15 June 45. I talked to G.2824, Pte. LeBlanc, H. and told him I would investigate the matter immediately. I referred the matter to Lieut. Simpson who instructed me to call Pte. LeBlanc, F.G. over to the post office for questioning. I heard Lt. Simpson ask Pte. LeBlanc, F.G. if he had received any cigarettes lately and he said "Yes". Mr. Simpson then asked him how many he had received, and he answered "900". Mr. Simpson then asked him if he had any of the cigarettes or cartons left. Pte. LeBlanc answered "I have a few cigarettes but no cartons. He was shown Pte. H. LeBlanc's card and asked if this was his signature and he answered "Yes". I asked Pte. LeBlanc if he was aware that he had signed "H. LeBlanc" when his name was "F.G.LeBlanc". He answered that he had signed "H. LeBlanc" because at some time back home he had been called "Harry" and had received mail addressed to "H.LeBlanc"

SUMMARY OF EVIDENCE

In the case of G.50758, Pte. LeBlanc, F.G., 6IC, on strength of 2 C.I.T.R., a soldier of the C.A.(O).

(Cont'd.)

I heard Mr. Simpson ask Pte. LeBlanc, F.G. if he knew that signing "H. LeBlanc" was forgery, but do not remember what Pte. LeBlanc answered. I remember hearing Pte. LeBlanc when asked if he knew that the cigarettes were not his, say something like "I had been thinking about it". Pte. LeBlanc, F.G. also stated during the questioning that if there was any trouble about him receiving the wrong cigarettes he would order cigarettes for Pte. LeBlanc,H.".

The accused declines to cross-examine this witness.

.....A/Sgt.
(B.R. Newman) D.72119.

Third Witness Prosecution. Lieut. J.H. Simpson, Officer i/c Post Office, 2 CIDB, 2 GITR, having been duly sworn states as follows:-

"I am lt. J.H. Simpson, Officer i/c Post Office 2 GITR.

On the afternoon of the 22 June 45, Sgt. Newman of the Post Office Staff draw my attention to two parcel & cigarette cards, one in the name of G.2524, Pte. LeBlanc, H. and the other one in the name of G.50758, Pte. LeBlanc, F.G. This was being investigated because Pte. LeBlanc,H. had inquired on 22 June 45 for cigarettes. When advised there were no cigarettes for him as he had received cigarettes on the 15 June 45, he denied this. He was shown the parcel & cigarette card which showed that 900 cigarettes had been received on the 15 June 45 and had been delivered to someone who signed the name "H.LeBlanc" on the 15 June 45. He denied that this was his signature. Our Index Cards were checked and the only other LeBlanc on the files was "F.G. LeBlanc". I sent for this man and when he arrived I questioned him as to whether he had received any cigarettes of late. He admitted receiving 900 cigarettes on the 15 June 45. I asked him if he had examined the parcels carefully to make certain that they were in his name and number and he stated he had not. I asked him if he had any cigarettes or cartons still in his possession, and he said "No". I showed him the parcel card of "H. LeBlanc" and asked him if he had signed "H. LeBlanc" in receipt of 900 cigarettes on 15 June 45, and he replied "Yes". I asked him if he knew that that was forgery and he admitted that he had been thinking about it. I then asked him if he had not noticed that the number and initial of the parcel chit that he had received through his Coy was not his own number and initial and he remarked that he was aware of that fact. When questioning LeBlanc,F.G. about the cigarettes, he stated that if there was any trouble over his having received these cigarettes that he would pay for cigarettes for the other chap.".

I recognize the accused as Pte. LeBlanc, F.G. whom I questioned on 22 June 45.

(Continued page 3)

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SUMMARY OF EVIDENCE.

In the case of G.50758, Pte. LeBlanc, F.G., CIC, on strength of 2 CITR, a soldier of the C.A.(O)

(Cont'd)

I introduce as Exhibit "A" for the prosecution, cigarette & parcel card made out in the name of G.2524, Pte. LeBlanc, H. showing that 900 cigarettes were received, and bearing the signature "H. LeBlanc" 15 June 45.

I introduce as Exhibit "B" for the prosecution cigarette and parcel card made out in the name of G.50758, Pte. Le Blanc, F.G. which doew not show any cigarettes received for this soldier on the 15 June 45".

Witness cross-examined by the accused:

Q.1. "When you asked me if I knew whether the parcel was mine or not, what did I say?"

A.1: "You said "I am not sure".

Q. 2:"When you asked me if I knew that signing for those cigarettes was forgery, what did I say?"

A.2: "As I remember it, you said that you had been thinking about it."

Q.3: "When you asked me if I knew that the parcel chit that I received through my Coy office was not made out in my number and initial, are you positive I said I knew it was not?"

A.3: "Yes".

The accused declines to ccoss-examine this witness further.

J. K. Simpson Lieut.
(J.K. Simpson)

Fourth Witness Prosecution. C.123406, Pte. Kilmartin, H.D. of 2 CIDB, 2 CITR, having been duly sworn, states as follows:-

"I am C.123406, Pte. Kilmartin, H.D. of 2 CIDB, 2 CITR. I was employed at the Post Office 2 CIBB, 2 CITR in the parcel and cigarette hut during the noon hour of 15 June 45. The accused, whom I now recognize, gave me a cigarette chit made out in the name of G.2524, Pte. LeBlanc, H. I got the parcel & cigarette card and got 900 cigarettes which had arrived for G.2524 Pte. LeBlanc, H. It is the practice to check the Pt. I Pay Book when handing out a parcel or cigarettes. I remember the accused showing me his Pt. I and that it bore the name "LeBlanc" but I did not notice that the number and initials were not the same as on the parcel chit. I gave him the 900 cigarettes and he signed the cigarette card "H.LeBlanc".

I introduce as Exhibit "C" for the Prosecution MBM 1 Pt. I made out in the name of G.50758, Pte. LeBLANC, Francis George.".

The accused declines to cross-examine this witness.

H. D. Kilmartin Pte.
(H.D.Kilmartin)

SUMMARY OF EVIDENCE

In the Case of G.50758, Pte. LeBlanc, F.G., CIC, on strength of 2 CITR, a soldier of the C.A.(O)

(Continued)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field.

10 Jul 45.

P. Saperia
---------- Lieut.
(P. Saperia)
Officer detailed to take the Summary of Evidence.

(SUMMARY OF EVIDENCE)

LIST OF WITNESSES

In the case of G.50758, Pte. LeBlanc, F.G., CIC, on strength of 2 CITR, a soldier of the C.A.(O)

(For Prosecution)

1. G.2524, Pte. LeBlanc, H.	#3 Cdn.Repat Depot.
2. D.72119, A/Sgt. Newman, B.R.	2 CIDB, 2 CITR.
3. Lieut. J.H. Simpson,	2 CIDB, 2 CITR.
4. C.123406, Pte. Kilmartin, H.D.	2 CIDB, 2 CITR.

(For defence)

NIL.

List of Exhibits

(For Prosecution)

Exhibit "A": Parcel & cigarette card made out in name of G.2524, Pte. LeBlanc, H.

Exhibit "B": Parcel & cigarette card made out in name of G.50758, Pte. LeBlanc, F.G.

Exhibit "C": MBM 1 Pt. I made out in the name of G.50758, Pte. LeBlanc, Francis George.

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFR

I, G.50758, Pte. LeBlanc, F.G. hereby request that the Convening Officer appoint Lieut. A.H. Krieger to represent me at my forthcoming trial by Court-Martial, should he be available.

2 CITR.
10 Jul 45.

F.G. LeBlanc ----------Pte.
(F.G. LeBlanc)

RECEIPT FOR DOCUMENTS

I, G.50758, Pte. LeBlanc, F.G. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court Martial, ~~and I further acknowledge receipt of~~

2 CITR
10 Jul 45.

F.G. LeBlanc ----------Pte.
(F.G.LeBlanc)

UU-109

PTE LEBLANC F. J.

SCHEDULE. (cont'd)

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G.18476 Pte. Fred Joseph LEBLANC Essex Scot, 3 C.I.R.U.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.Sec 15(1)	Guilty	Guilty	
2nd A.A.Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

As present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 27 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of eighteen months with loss of pay

(Sgd) J.A.V. Lavers Jr. 8 Nov 43 (Sgd) [illegible]
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 9 Nov 43. (Sgd) J.A. McIntosh Col.
Commanding 3 C Group R.A. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G.18476 Pte Fred Joseph LeBlanc	10 Nov. 43.	James S. Hadley Lt. Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

UU-109

FIELD GENERAL COURT-MARTIAL

CFA90 (In lieu of AFA3) 40/P & S/1698 (2864)

Convened by Order of Colonel J.A. McIntosh A/Comd "D" Gp. CRU dated 6 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.18476	Pte. Proceedings Reviewed 26 Nov 43 [illegible] Reviewing Officer	Fred Joseph	LEBLANC	3 C.I.R.U. Essex Scot

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 8 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No objn (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major Swabey (Leall Yeo R)	7 C.I.R.U.
Member	Capt G.M.C. Dale	4 C.I.R.U.
Member	Lieut G.D. Rayner	4 C.I.R.U.
Judge-Advocate	Lieut J.A.V. Lavers	HQ C.R.U.
Prosecutor	Lieut R.C.O. O'Hagan	3 C.I.R.U.
Defending Offr	Lieut R.G. Saville	3 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. ~~The accused before arraignment make(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*B*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused see Judge Advocate Offr etc, RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~ (1). The Court decides (not) to advise accused to change his ~~(their) plea(s) of Guilty to Not Guilty on~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 90(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 7, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 108(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to ~~(a)~~ soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM s.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No sir (Not as at E3) (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, Regt. No. G.18476, Pte. Fred Joseph LEBLANC, Essex Scottish Regiment, a reinforcement on the strength of No. 3 Canadian Infantry Reinforcement Unit, a soldier in the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field absented himself without leave from 0800 hrs. 21 Jun 43 until apprehended by Civil Police at Shrewsbury, at 0755 hrs. 1 Jul 43. (Total time absent - 9 days, 23 hours, 55 minutes).

SECOND CHARGE
A.A SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field absented himself without leave from 3 C.I.R.U. at 2300 hrs. 21 Jul 43, until he surrendered to Civil Police at Holloway, London, at 1500 hrs. 25 Oct 43. (Total time absent - 95 days, 16 hours).

D. Fletcher

(D. Fletcher) V.D., Lt. Col.
A/Commanding Officer
3 Cdn. Inf. Reinf. Unit.

Dated:
In the Field,
1 Nov 43.

To be tried by Field General Court Martial.

J.A. McIntosh

(J.A. McIntosh) Colonel
A/Commander
"D" Group, Cdn. Rft. Units

In the Field
6 Nov 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.18476	Pte.		Fred Joseph	LEBLANC	3 C.I.R.U. Essex Scot.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Nov. 1943 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". W.L. W.L. W.L.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ W.L.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. W.L.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ W.L. W.L.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.W. Abel	Carl & York R.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by C.O.	4 C.I.R.U.
A Lieutenant	to be detailed by C.O.	4 C.I.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lieutenant	J.A.V. Cade	H.Q., C.R.U.

On Active Service in the Fd

in England (Country.)

J.A. McIntosh (Signed personally. RP 105 fn 2.) Colonel (Rank.)

Date 6 Nov 43

A/ Commanding "D" Group, Cdn. Rft. Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

~~Anderson~~.

The accused requests to give evid on oath & is sworn.

Le Blanc. Guilty to both charges. Plea by accused. E 3

In Canada I was assist. band master with the Loyal Rifles of Canada regtl band at I was not getting paid for it. I enjoyed my work very much. When I was taken away from that kind of work & sent to England with a strange unit, I didn't feel like soldiering with a strange outfit. I was in 3 C I R.U for a few months & passed my T.O.E.T. & applied for an audition before the Director of Music. I ~~did~~ fulfilled the required musical standards. after that I couldn't put my heart into anything ~~The~~ I had been here 6 months without hearing from home & when I left Canada my grand father was on his death bed & both my children were sick at the same time. I had'nt heard from home & did not know how they were. I just got fed up & became restless & went A.W.L..

EXHIBIT "A" Referred to in the Summary of Evidence on C.18476 Pte LEBLANC, F.J. R.C.O.Hogan Lt.

Certified True Part II Order No. 147 d/28 Jul 43 of 3 Cdn Inf Reinf Unit

3 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II

(W.E. THORNE) Captain
Records Officer
3 C.I.R.U.

Last Order No 146 27 Jul 43

Issued by A/COLONEL J.A. MCINTOSH, D.S.O., E.D. OFFICER COMMANDING

No 147 28 Jul 43

"A"

1. STRENGTH INCREASE

(a) CAPT R.H. HILBORN HLI of C — TOS from HQ 9 CIB wef 23 Jul 43 while attached fap to HLI of C Fd Unit (Auth: DGHQ/AQ/168 d/27 Jul 43)

(b) CAPT J.S. JOHNSON RCR — TOS from RCR Fd Unit (Spec Increment) wef 23 Jun 43 Posted as reinforcement to "H" WING (Auth: ECH/EA2/6208 d/20 Jun 43)

2. ATTACHMENTS

LIEUT D.H. BINDMAN RCR (PE "H" WING — Ceases to be attached fap to Kenley Airport RCAF wef 4 Jul 43

3. ATTACHMENTS--CANCELLATIONS

Ref Pt II O 118 d/24 Jun 43 para 1 insofar as it concerns CAPT J.S. JOHNSON (RCR) is Cancelled

4. COURSES

(a) The u/m proceeded on CMHQ Crs 706 Ser OW 45 (Officers P.T.) (27 Jul to 13 Aug 43) at Army School of P.T. wef 27 Jul 43, and are attached to Army School of P.T. for DUTY only:

LIEUT H IRVING — GEN LIST
LIEUT J. MANNION — HLI of C

(b) LIEUT J. NEVIN HLI of C — Proceeded on CMHQ Crs 302 Ser NAT 13 (A/Tk 6-pdr. Crs) (27 Jul to 19 Aug 43) at Netheravon Wing SAS wef 27 Jul 43

5. LEAVE OF ABSENCE

The u/m are granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(O) (3) & (4) from times as shown:

LIEUT M.J. GELLER PERTH R	27 Jul 43	to	4 Aug 43
H/CAPT J.S. MCGIVERN CCS ATT AS IN W.E.	28 Jul 43	to	5 Aug 43

6. HOSPITAL

LIEUT D.F. ROBERTSON GEN LIST — Admitted to 8 Gen Hosp wef 26 Jul 43

7. CHANGE OF NAME

LIEUT J. NEVIN HLI of C — Having made a Statutory Declaration declares his true name to be John Patrick NEVIN. Wishes to continue to be known as John NEVIN. All documents to be amended accordingly (Auth: CMHQ/REC/66/N/101/RES d/16 Jul 43)

"D"

8. STRENGTH INCREASE

(a) A 49657 PTE FOULIS G E
A 76118 PTE HARNOCK E C
ESSEX SCOTTISH R — TOS from ESSEX SCOTTISH R Fd Unit wef 9 Jul 43 while attending CMHQ Crs 1047 (D & M) (6 weeks) at No 4 TTC (Auth: Echelon Circular Letter No 49)

(b) A 21538 PTE GILLISH J P
ESSEX SCOTTISH R — TOS from RCR X-4 LIST (BD) wef 15 May 43 while AWL (AWL from 1340 hrs 14 May 43) (Auth: ECH/ESD/0024 d/27 Jul 43)

8. STRENGTH INCREASE (CONTINUED)

(c) A 37353 PTE HOLLAND S — TOS from RCR X-4 LIST (BD) wef 16 Jun while AWL
HLI of C (AWL from 2200 hrs 15 Jun 43)
(Auth: ECH/ESD/0025 d/27 Jul 43)

(d) A 22397 CPL KENNARD F A — TOS from ESSEX SCOTTISH R Fd Unit
ESSEX SCOTTISH R (Overage) wef 27 Jul 43 Posted to "H" WING
(Auth: ECH/EA7/4648 d/21 Jul 43)

EXHIBIT "A"

(e) G 18476 PTE LEBLANC F J — TOS from H&PE X-4 LIST (BD) wef 22 Jun while AWL
RCR (AWL from 0800 hrs 21 Jun 43)
(Auth: ECH/ESD/0026 d/27 Jul 43)

(f) C 40203 PTE GOULET L — TOS from PERTH R Fd Unit wef 20 Jul 43 on having been awarded 150 days Detn
PERTH R (Committed to Headley Downs Detn Bks)

(g) A 64113 PTE ~~PENDLETON W R~~ — TOS from PERTH R Fd Unit wef 20 Jul 43 on having been awarded 180 days Detn
PERTH R (Committed to Headley Downs Detn Bks)

(h) D 26959 PTE WILLIAMS H G R — TOS from PERTH R Fd Unit wef 21 Jul 43 on having been awarded 12 months imprisonment by Civil conviction
PERTH R (Committed to HM Prison Lewes, Sussex)

(i) The u/m are TOS from PERTH R Fd Unit wef 21 Jul 43, on having been awarded 6 months imprisonment by Civil conviction (Committed to HM Prison Lewes, Sussex):

A 11678 PTE KEESO A J — PERTH R
C 58455 PTE PERRY H F — PERTH R (Cat "B1")

(j) A 22423 PTE WILKINSON J F — TOS from RCR X-4 LIST (BD) wef 14 May 4 while AWL
ESSEX SCOTTISH R (AWL from 2200 hrs 13 May 43)
(Auth: ECH/ESD/0027 d/27 Jul 43)

9. STRENGTH INCREASE--AMENDMENTS

Ref Pt II O 113 d/18 Jun 43 para 7 insofar as it concerns A 37593 PTE ANDERSON W F (HLI of C) "wef 10 Jun 43" is amended to read "wef 11 Jun 43"

10. ATTACHMENTS

(a) The u/m are attached fap to No 1 CORU (TEMPORARY) wef 24 Jul 43 (Auth: Trades Testing):

C 94013 S/SGT ALLEN W G — RCOC — SUPER TO W.E.
B 77701 PTE EDWARDS V R — GEN LIST

(b) K 5115 PTE BARTRAM A T — Attached fap from 1 CORU wef 27 Jul 43 (Auth: CRU/408/Tradesmen/1 (SCA) d/24 Jul 43)
RCOC

(c) L 28326 RFN BERGER R — Attached fap to No 15 Cdn Gen Hosp (TEMPORARY) wef 26 Jul 43 (Auth: CRU/408/GUARDS/1 (SCA) d/22 Jul 43)
REGINA RIF R (Unposted Reinf)

(d) K 62699 PTE HEALEY J — Attached fap from 1 CIRU on discharge from 8 Gen Hosp wef 27 Jul 43
C SCOT R

(e) A 71103 PTE LOKER V E — Attached fap from RCR Fd Unit wef 27 Jul 43
RCR

(f) The u/m are attached for rations, Medical and Pay from RCASC (Cdn Bks Services) wef dates shown:

K 37312 CPL SEYMOUR P H F — 21 Jul 43 RCASC
B 68077 L/CPL STAPLES T — 21 Jul 43 RCASC

(g) U 1511 SGT RILEY H — Ceases to be attached from RCASC (Cdn Bks Services) for rations, Medical and Pay wef 20 Jul 43
RCASC

11. ATTACHMENTS--CANCELLATIONS

(a) Ref Pt II O 132 d/10 Jul 43 para 6(a) insofar as it concerns A 37353 PTE HOLLAND S (HLI of C) is Cancelled

(b) Ref Pt II O 120 d/7 Jul 43 para 6(a) insofar as it concerns C 18476 PTE LEBLANC F J (RCR) is cancelled

(c) Ref Pt II O 132 d/10 Jul 43 para 6(a) insofar as it concerns A 22423 PTE WILKINSON J F (ESSEX SCOTTISH R) is Cancelled

12. PUNISHMENTS

(a) A 21363 PTE ALBROUGH S R
ESSEX SCOTTISH R (PE) "A" WING
AA 15(1) AWL from 2359 16 Jul 43 to 2245 hrs 26 Jul 43 (Absent 9 days 22 hrs 46 mins)
Awarded 27 days Detention on 27 Jul 43
Forfeits 10 days Pay FR&I 149(1)(a)
Forfeits 27 days Pay FR&I 149(1)(b)
TOTAL FORFEITURE: 37 days Pay

(b) A 22437 PTE BROOKS C W
PERTH R
Tried by F.G.C.M. on 24 Jul 43

CHARGES:
AA 15(1) AWL from 0600 hrs 20 Jun 43 to 1015 hrs 16 Jul 43 (Absent 26 days 4 hrs 15 mins)

FINDING & SENTENCE:
GUILTY
Awarded 75 days Detention on 24 Jul 43

CONFIRMATION:
Finding & Sentence confirmed by Commander DGHQ on 26 Jul 43

CLOSE ARREST:
In Close Arrest from 1015 hrs 16 Jul 43 to 1000 hrs 24 Jul 43

FORFEITURES:
Forfeits 27 days Pay FR&I 149(1)(a)
Forfeits 7 days Pay FR&I 149(1)(c)(i)
Forfeits 75 days Pay FR&I 149(1)(b)
TOTAL FORFEITURE: 109 days Pay

STOPPAGES:
Placed under Stoppages of Pay to the amount of £2/12/10 to recover cost of apprehension FR&I 172(8)

PROMULGATION:
Finding & Sentence promulgated on 27 Jul 43

(c) A 23173 PTE HAWTHORNE C W
ESSEX SCOTTISH R
AA 15(1) AWL from 2300 hrs 25 Jul 43 to 0600 hrs 26 Jul 43 (Absent 7 hrs)
ADMONISHED on 26 Jul 43
Forfeits 1 days Pay FR&I 149(1)(a)

(d) C 50796 PTE POFFLEY W T
GEN LIST
AA 9(2)
Awarded 14 days C.B. on 27 Jul 43

(e) A 11914 PTE ROSSO J R
PERTH R
AA 15(1) AWL from 2359 hrs 25 Jul 43 to 1000 26 Jul 43 (Absent 10 hrs 1 min)
ADMONISHED on 27 Jul 43
Forfeits 1 days Pay FR&I 149(1)(a)

(f) A 3760 PTE THOMPSON P
RCR
AA 40; AA 15(1) AWL from 2359 hrs 18 Jul 43 to 1630 hrs 22 Jul 43 (Absent 3 days 16 hrs 31 mins)
Awarded 21 days Field Punishment on 27 Jul 43
Forfeits 4 days Pay FR&I 149 (1)(a)
Forfeits 21 days Pay FR&I 149 (1)(b)
TOTAL FORFEITURE: 25 days Pay
Placed under Stoppages of Pay to the amount of £0/19/3 to recover cost of Apprehension FR&I 172(8)

12. PUNISHMENTS (CONTINUED)

(g) A 21617 PTE WOOD ESSEX SCOTTISH R — D C — Tried by F.G.C.M. on 24 Jul 43

CHARGES: AA 15(1) AWL from 0600 hrs 19 May 43 to 1300 hrs 19 Jul 43 (Absent 61 days 7 hrs)

FINDING & SENTENCE: GUILTY
Awarded 6 months Detention on 24 Jul 43

CONFIRMATION: Finding & Sentence confirmed by Commander DGHQ on 26 Jul 43

CLOSE ARREST: In Close Arrest from 1300 hrs 19 Jul 43 to 1000 hrs 24 Jul 43

FORFEITURES: Forfeits 62 days Pay FR&I 149(1)(a)
Forfeits 4 days Pay FR&I 149(1)(c)(i)
Forfeits 184 days Pay FR&I 149(1)(b)
TOTAL FORFEITURE: 250 days Pay

PROMULGATION: Finding & Sentence promulgated on 27 Jul 43

13. HOSPITAL

(a) Admissions

A 21538 PTE GILLISH ESSEX SCOTTISH R	J F	15 Gen	22 Jul 43

(b) Discharges

A 49584 PTE BISHOP	D M	10 Gen	27 Jul 43
A 38200 PTE BUTTEE HLI of C	S W	Alton Con	27 Jul 43
A 4021 A/CPL CONRAD RCR	C W	3 CMC	27 Jul 43
A11680 PTE DROWN PERTH R	B R	Alton Con (Mot Mech "B")	27 Jul 43
A 50562 PTE LEWIS ESSEX SCOTTISH R	C E	2 CMC	27 Jul 43
A 71103 PTE LOCKER RCR	V E	Ship's Hosp S.S. Marnix, St. Aldegonde	23 Jul 43
A 23309 PTE MCLELLAN ESSEX SCOTTISH R	H W	15 Gen	27 Jul 43
A 37380 PTE WILTSHIRE HLI of C	W	10 Gen	27 Jul 43

14. LEAVE OF ABSENCE

The u/m are granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(C) 789 (3) & (4) from 27 Jul 43 to 4 Aug 43:

B 41661 CPL BULANDA	W J	RCR		
D 71771 SGT COSTELLO	M R	RCR		
A 21677 PTE COUSINEAU	J	RCASC		ATT AS IN W.E.
B 42252 PTE GRAY	D F	RCR		
G 22953 PTE HANDRAHAN	L J	RCAMC		ATT AS IN W.E.
A 50291 A/CPL HUTCHESON	J J A	ESSEX SCOTTISH R		
A 11063 PTE IREDALE	H E	PERTH R		
A 70083 A/L/CPL KEMPSTON	W J D	PERTH R		
A 21227 PTE KNAPP	S A	ESSEX SCOTTISH R		(PE) "H" WING
A 11785 PTE LEWINGTON	S A	PERTH R		(PE) "A" WING
L 25423 S/SGT RUSSELL	M M	RCASC		SUPER TO W.E.
D157506 CPL SCHACHNER	M	RCR		
L110009 RFN STEPHENSON	B R	FUSILIER RIF R		(PE) "A" WING
A 4018 A/SGT SWEENEY	C R	RCR		
B110628 PTE WINCHERYK	D	RCASC		ATT AS IN W.E.

15. LEAVE OF ABSENCE--CANCELLATIONS

Ref Pt II O 120 d/26 Jun 43 para 17(c) insofar as it concerns P 15376 SGT WHALEN L J (RCR) is Cancelled

16. ABSENCE WITHOUT LEAVE

(a) A 21363 PTE ALBROUGH S R — ESSEX SCOTTISH R (PE) "A" WING — Surrendered from AWL at 2245 hrs 26 Jul 43

(b) The u/m returned from AWL at times shown:

A 21538 PTE GILLISH ESSEX SCOTTISH R	J F	1950 hrs 21 Jul 43
A 37353 PTE HOLLAND HLI of C	S	2140 hrs 30 Jun 43
G 18476 PTE LEBLANC RCR	F J	1410 hrs 6 Jul 43
A 11914 PTE ROSSO PERTH R	J R	1000 hrs 26 Jul 43
A104649 PTE WATSON	J D	1000 hrs 26 Jul 43
A 22423 PTE WILKINSON ESSEX SCOTTISH R	J F	2145 hrs 7 Jul 43

17. QUALIFICATIONS--AMENDMENTS

Ref Pt II O 146 d/27 Jul 43 para 21(c) insofar as it concerns A105783 L/CPL INDER C A (GEN LIST) "L/CPL" is amended to read "PTE"

18. TRADESMEN'S QUALIFICATIONS

(a) The u/m Qualified as Clerks Group "C" wef 22 Jul 43 (Auth: HQ CRU/ TTB d/26 Jul 43):

A 349 PTE ADAIR	F W A	PERTH R
B 41694 PTE ANDERSON	P	RCR
A 50330 PTE COYLE	G	ESSEX SCOTTISH R

(b) The u/m Qualified as Driver Mechs Group "C" wef 22 Jul 43 (Auth: HQ CRU/ TTB d/25 Jul 43):

A 49849 PTE CASEY	W B	GEN LIST
B113454 PTE MCDONALD	J D H	PERTH R
A 21998 PTE NAPIER	J V	ESSEX SCOTTISH R
B127559 PTE TILLING	G E	HLI of C

(c) The u/m Qualified as Clerks Group "C" wef dates shown (Auth: HQ CRU/ TTB d/25 Jul 43):

A 21117 PTE MCLARTY	R L	ESSEX SCOTTISH R	17 Jun 43
A 82003 PTE MUNRO	R D	RCR	19 Jun 43

19. CHANGE OF NAME

(a) B 79233 PTE LUNT — GEN LIST — P — Having made a Statutory Declaration declares his true name to be John Patrick LUNT. All documents to be amended accordingly (Auth: CMHQ/REC/ B/79233/RES d/20 Jul 43)

(b) A 18140 PTE SCHRAM — RCASC — M C — ATT AS IN W.E. — Having made a Statutory Declaration declares his True name to be Maldon Charles SCHRAM. Wishes to continue to be known as Melvin Charles SCHRAM. All documents to be ammended accordingly (Auth: CMHQ/REC/A/18140/ RES d/7 Jul 43)

20. BIRTHS

A 3005 A/CPL MASTERSON J C — RCR — Born to MRS IOLA LILLIAN MASTERSON (Wife), a Daughter, SHARON ANNE MARGARET at LONDON, ONTARIO, CANADA on 17 Jun 43

21. TRADESMEN'S RATES OF PAY

(a)	A 4199 PTE BEZEAU RCR	W E	Granted Tradesmen's Rates of Pay as Dr Mech Group "C" (Reinf Quota) wef 23 Jun 43 FR&I 147(5)
(b)	A 11680 PTE DROWN PERTH R	B R	Ceases to receive Tradesmen's Rates of Pay as Motor Mech Group "B" wef 27 Jul 43 on discharge from Hosp FR&I 147(4)
(c)	H 46584 PTE LOVE RCR	B N	Granted Tradesmen's Rates of Pay as Motor Mech Group "C" wef 27 Jul 43 FR&I 147(8) (Auth: CMHQ/8/Loan Pers/ 1 (SCA) d/24 Jul 43)
(d)	A 21117 PTE MCLARTY ESSEX SCOTTISH R	R L	Granted Tradesmen's Rates of Pay as Clerk Group "C" (Reinf Quota) wef 17 Jun 43 FR&I 147(5)

22. STRENGTH DECREASE

(a) The u/m are SOS to HLI of C Pd Unit wef 28 Jul 43 (Auth: Demand No 4163 d/25 Jul 43):

A 49726	A/CPL FLETCHER	W R	ESSEX SCOTTISH R
B 1555	PTE GRAY	R J	GEN LIST
A104852	PTE HAMILL	J	GEN LIST
B 98048	PTE HARRINGTON	A G	GEN LIST
H 36937	PTE HERMAN	J J H	GEN LIST
A 11959	PTE HEIPEL	C R	GEN LIST
A 49581	PTE HOOPER	R	HLI of C
A 38338	PTE LIVOCK	B C	HLI of C
A 49559	PTE PILGRAM	L G	HLI of C
A 4032	PTE RITCHY	C J	RCR
A 328	PTE SPENCER	W A	RCR

(b) The u/m are SOS to ESSEX SCOTTISH R Pd Unit wef 28 Jul 43 (Auth: Demand No 4196 d/25 Jul 43):

F 54701	SGT CHARLTON	J O	ESSEX SCOTTISH R
A 50523	PTE ELGIE	E W	GEN LIST
B139641	PTE FISHER	R	RCR
A 23387	PTE GREAVES	W C	GEN LIST
A 22544	PTE GRIMSEY	S W	ESSEX SCOTTISH R
A 67966	PTE GUATTO	J	GEN LIST
A105480	PTE GUILFOYLE	M J	GEN LIST
A 23173	PTE HAWTHORNE	C W	ESSEX SCOTTISH R
F 30723	PTE JUBIS	D E	GEN LIST
A 49586	SGT KITCHEN	W T	ESSEX SCOTTISH R
B 80149	PTE MALTBY	J D	GEN LIST
A116360	PTE MARTINUICK	M	GEN LIST
L103104	PTE MORGAN	I H	GEN LIST
D 71748	PTE OJALA	J E	RCR

(c) The u/m are SOS to RCR Pd Unit wef 28 Jul 43 (Auth: Demand No 4218 d/26 Jul 43):

B 41694	PTE ANDERSON	P	RCR
D 71580	PTE LEAHY	W W	RCR
A 4521	PTE MINLER	H J	RCR
D 72268	PTE ROSS	L R	RCR (Dr Mech "C")

(d) A 22145 PTE CAMPBELL M SOS to No 1 CGRU wef 27 Jul 43 (Auth: ESSEX SCOTTISH R (Cat "C2") CMHQ/(A62a) MT/4735 d/22 Jul 43)

22. STRENGTH INCREASE (CONTINUED)

(e) A103538 PTE HENDERSON L G — Ceases to be attached fap and is SOS to CDN SEC GHQ 2ND ECHELON wef 13 Jul 43 (Auth: ECH/132 d/26 Jul 43)
ESSEX SCOTTISH R

(f) The u/m are SOS to No 1 NETD while in Hospitals shown wef dates shown (Auth: Cat "E"):

A105770 PTE LOUGH N A — 8 Gen — 22 Jul 43
GEN LIST

A [illegible] PTE MOTE H B — Alton Con — 19 Jul 43
[illegible] R

(g) H 48984 PTE LOVE B N — SOS to "Q" LIST wef 27 Jul 43 (Auth: CMHQ/8 LOAN PERS/1 (AG 2b) d/21 Jun 43)
RCR (Motor Mech "C")

(h) A 3013 PTE MASTERSON R C — SOS to No 1 NETD while in 1 Neuro Hosp wef 25 Jul 43 (Auth: Cat "E")
RCR

(i) A 37488 PTE ROSENBERG H — Ceases to be absorbed in the (PE) 3 CIRU and is SOS to 10 TRG COY at 1 CGP wef 27 Jul 43 (Auth: CRU/408/TRG COY/ 1 (SCA) d/24 Jul 43)
HLY of C (PE) "A" WING

(j) A 18140 PTE SCHRAM M C — Ceases to be attached as in W.E. and are SOS to Cooks & Butchers Wing 1 ASCRU wef 27 Jul 43 (Auth: CRU/408/ C & B Wing/1 (SCA) d/19 Jul 43)
B130183 PTE PORTEOUS H
RCASC ATT AS IN W.E.

(k) A 76089 PTE SCHMIDT H F — Ceases to be attached fap and is SOS to DGHQ wef 25 Jul 43 (Auth: DGHQ/ Pt II O 40 d/26 Jul 43)
ESSEX SCOTTISH R (Underage)

23. STRENGTH INCREASE--CANCELLATIONS

Ref Pt II O 108 d/12 Jun 43 para 23(k) insofar as it concerns A 3860 PTE DESCHRYVER P (RCR) is Cancelled

/VFM

(W.S. THORNE) CAPT.,
RECORDS OFFICER,
3 CDN INF REINFORCEMENT UNIT,
CDN ARMY OVERSEAS

EXHIBIT "B" Referred to in the Summary of Evidence on G.18476 Pte. LEBLANC, F. J.

Certified True Part II Order No. 235 d/5 Nov 43 of 3 Cdn Inf Reinf Unit.
(W.E. Thorne) Captain,
Records Officer

3 CANADIAN INFANTRY REINFORCEMENT UNIT Cdn Inf Reinf Unit.

D A I L Y O R D E R S P A R T II

Last Order No 234 4 Nov 43 — issued by LIEUT-COL D. FLETCHER, V.D. A/OFFICER COMMANDING — No 235 5 Nov 43

"A"

1. STRENGTH INCREASE

(a) LIEUT W.W. CAMERON, CAPT A.L. PICKARD, L&W REGT — TOS from 4 CIRU and posted as reinforcements to "H" WING wef 5 Nov 43 (Auth: CRU/6-2-CAN/TC d/1 Nov 43)

(b) MAJOR W.W. MATHERS, RCR — TOS from 1 CGRU wef 3 Nov 43 Posted as reinforcement to "H" WING (Auth: CMHQ/MS/7908 d/25 Oct 43)

2. ATTACHMENTS

A/CAPT L.E.E. SNELGROVE, HLI of C — Ceases to be attached fap to HQ 9 ARMD DIVISION wef 4 Nov 43

3. STRENGTH DECREASE

(a) MAJOR W.W. MATHERS, RCR — SOS to 7 Bn. 2 CBRD wef 4 Nov 43 (Auth: EXERCISE "PEKE")

(b) LIEUT G.C. PULLEN, RCR (Cat "B2") — Ceases to be attached fap and is SOS to 1CSRU wef 3 Nov 43 (Auth: CRU/A5483 d/3 Nov 43)

(c) The w/m are SOS to 8 Bn. 2 CBRD wef 4 Nov 43 (Auth: COLLIE (11)):

LIEUT W.R. ARTINDALE	HLI of C
LIEUT K.D. BULLER	HLI of C
LIEUT J.R. DENT	ESSEX SCOTTISH R
LIEUT F.T. DEBANKE	PERTH R
LIEUT H.L. FRAPE	RCR
LIEUT N.D. MCLEOD	RCR
LIEUT R.P. NEIL	PERTH R
LIEUT J.R. REID	HLI of C
LIEUT L.G. SHORE	RCR
LIEUT T.E. WOOLLEY	PERTH R

"B"

4. STRENGTH INCREASE

(a) A117687 PTE FORD M C, ESSEX SCOTTISH R (Unfit) — TOS from ESSEX SCOTTISH R Fd Unit wef 4 Nov 43 and posted to "H" WING (Auth: ECH/EA2/585 d/2 Nov 43)

(b) A 6124 PTE LAUMAILLIER N E, RCR (Dr Mech "C") — TOS from 1CSRU wef 5 Nov 43 and is posted as reinforcement to "H" WING (Auth: CRU 408/REGT'L SIGS/1 (GCA) d/28 Oct 43)

(c) B 54930 SGT PEARCE C A, ALQ R — TOS from ALQ R Fd Unit while in WHITE LODGE EMERGENCY HOSP wef 22 Oct 43

(d) F 97509 PTE CORBETT F A, B 65935 PTE LYONS W J, ALQ R — TOS from ALQ R Fd Unit while in 10 Gen Hosp wef 28 Oct 43

(e) The u/m are TOS from L&W REGT Fd Unit while in 10 Gen Hosp wef dates as shown:

B 40878 PTE BEER	H		28 Oct 43
B 40560 PTE CROCCO	R		30 Oct 43
H 42094 PTE MELECK	J	S	28 Oct 43
B139583 PTE STILWELL	R	E	28 Oct 43
B137988 PTE STRUGNELL	D	B	28 Oct 43
C102255 PTE SWEENEY		L	30 Oct 43
B 88171 L/CPL TOPLEY		F	30 Oct 43

L&W REGT

5. STRENGTH INCREASE--AMENDMENT

Ref Pt II O 231 d/1 Nov 43 para 5(a) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R) "BOODEN L R" is amended to read "BORDEN L R"

6. STRENGTH INCREASE--CANCELLATION

Ref Pt II O 228 d/28 Oct 43 para 5(d) insofar as it concerns A 22096 PTE MARCHAND A L (ESSEX SCOTTISH R), is cancelled

7. ATTACHMENTS

(a)	A 59697 PTE CONNOY ESSEX SCOTTISH R	J F	Ceases to be attached fap to 1 CBOD on admission to 2 Gen Hosp wef 29 Oct 43
(b)	G 4270 GNR DOAK 10 TRNG COY	W M	Ceases to be attached fap from 10 Trng Coy and ceases to attend CMHQ Crs 725 Ser 62 (P.T) wef 3 Nov 43

(c) The u/m cease to be attached fap to 1 CBOD and are attached fap to 1 S/DEPOT wef 28 Oct 43:

	A 57251 PTE JAMES	R E	(Cat "C")
	B132829 PTE NOGANOSH ESSEX SCOTTISH R	P	(Cat "C2")
(d)	A 22098 PTE SMITH ESSEX SCOTTISH R	J B	Ceases to be attached fap to CRU Offrs School on admission to ROYAL SURREY COUNTY HOSP GUILFORD wef 25 Oct 43
(e)	A 22096 PTE MARCHAND ESSEX SCOTTISH R	A L	Attached fap from ESSEX SCOTTISH R Fd Unit wef 3 Nov 43
(f)	B 45188 GNR TURCOTT RCA (Cat "B1")	J O	Ceases to be attached fap to 8 Dental Coy on admission to 13 Gen Hosp wef 28 Oct 43

8. PUNISHMENTS

	B134878 PTE GUY RCR SURPLUS TO W.E.	S W	AA 24(2) Placed under Stoppages of Pay to the amount of Two Shillings £/0/2/0 to recover cost of damage to government property FR&I 158(2)

9. APPOINTMENTS, PROMOTIONS & REVERSIONS

	A 50394 A/L/SGT MCNEAR ESSEX SCOTTISH R	W F	Reverts to the permanent grade of PTE at own request wef 4 Nov 43

10. HOSPITALS

Admissions

(a)	A 50478 PTE LEFLER PERTH R (Cat "C1") SURPLUS TO W.E.	L	3 CMC	4 Nov 43
	C 53310 PTE RYAN SD&G HIGHRS (PE)"A" WING (Cat "B2")	R	3 CMC	4 Nov 43
	H 64671 A/CPL SOBKOWICZ R WPG RIF (PE)"I" WING (Clerk "C")	J C	3 CMC	4 Nov 43

Transfers

(b)	A 22743 PTE COTE HLI of C	G F	2 Gen Hosp to Alton Con	2 Nov 43
	B 54930 SGT PEARCE ALQ R	C A	WHITE LODGE EMERGENCY HOSP to 10 Gen	27 Oct 43
	A 11139 SGT MCCOLL PERTH R (PE)"H" WING	J J	8 Gen Hosp to 2 Gen	2 Nov 43

10. HOSPITALS (CONTINUED)

			Discharges		
(c)	D 56683 PTE BEAUDOIN ESSEX SCOTTISH R	L	9 Gen		4 Nov 43
	B 55423 PTE EMPIE ALQ R	B H	10 Gen		4 Nov 43
	H 42094 PTE MELECK L&W REGT	J S	10 Gen		4 Nov 43
	A 11274 L/CPL MILLS PERTH R	F L	2 Con		4 Nov 43
	U 1918 PTE PEARL HLI of C	F	2 Gen		4 Nov 43
	A 37394 L/SGT SPENCER HLI of C	N R G	2 Con		4 Nov 43

11. HOSPITAL--AMENDMENT

Ref Pt II O 231 d/1 Nov 43 para 11(c) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R), "BOODEN L R" is amended to read "BORDEN L R"

12. LEAVE OF ABSENCE

B 88952 A/SGT TRAYNER QOR of C (PE) RHQ	J A	Granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(O) 789 (3) & (4) from 3 Nov to 11 Nov 43

13. ABSENCE WITHOUT LEAVE

(a)	A 28724 PTE LEVY GEN LIST	H	Apprehended from AWL at 0130 hrs 4 Nov 43
(b)	A 21363 PTE ALBROUGH ESSEX SCOTTISH R (Overage)	S R	Surrendered from AWL at 1100 hrs 12 Sep 43
(c)	B 91590 PTE CHOLETTE RCASC (Cook "C") ATT AS IN W.E.	J L	AWL from 2359 hrs 2 Nov 43
(d)	A 6116 PTE WALLACE ESSEX SCOTTISH R	R A	Returned from AWL 1700 hrs 3 Nov 43

14. ABSENCE WITHOUT LEAVE--AMENDMENT

Ref Pt II O 147 d/28 Jul 43 para 16(b) insofar as it concerns G 18476 PTE LEBLANC F J (RCR), "Returned from AWL 1410 hrs 6 Jul 43" is amended to read "Apprehended by the C.M.P. in SHREWSBURY at 0755 hrs 1 Jul 43 (Held in Close Arrest)"

15. DETENTION

A 64113 PTE PENDLETON PERTH R	W R	Released from Headley Downs Detn Bks wef 3 Nov 43

16. REMISSION OF SENTENCE

(a)	A 64113 PTE PENDLETON PERTH R	W R	Granted 58 days Remission of Sentence of 180 days Detention awarded on 20 Jul 43 (Auth: Rules for DB & MP Nos 126 and 129)
(b)	A 50339 PTE STEINHOFF HLI of C	R T	Granted 40 days Remission of Sentence of 120 days Detention awarded on 3 Sep 43 (Auth: Rules for DB & MP Nos 126 and 129)

17. POSTINGS

(a) A 76091 PTE RINN J H — To be posted SURPLUS TO W.E. ("A" WING) wef 2 Nov 43
GEN LIST

(b) The u/m cease to be posted SURPLUS TO W.E. ("A" WING) and are posted as reinforcements to "H" WING wef 2 Nov 43:

A 3565 PTE BEGGS		L	M	RCR	SURPLUS TO W.E.
B133115 PTE ALTON	Jr	E	A	GEN LIST	SURPLUS TO W.E.

18. CHANGE OF ADDRESS/NEXT OF KIN

A103967 PTE GOUDREAU E — Address of Next of Kin now is: MRS BESSIE BEATRICE GOUDREAU (Wife) 702 FORHORN STREET, WALLACEBURG, ONTARIO, CANADA
ESSEX SCOTTISH R (PE)"A" WING
(Cat "C1")

19. CHANGE OF ADDRESS/NEXT OF KIN--CANCELLATION

Ref Pt II O 232 d/2 Nov 43 para 25(a) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R), is cancelled

20. PAY & ALLOWANCES--CANCELLATION

Ref Pt II O 234 d/4 Nov 43 para 18 insofar as it concerns B137253 PTE MCLEAN A N (GEN LIST), is cancelled

21. STRENGTH DECREASE

(a) A 3225 L/CPL MCNAUGHTON R A — SOS to 1 NETD while in 10 Gen Hosp wef 4 Nov 43 (Auth: Cat "E")
RCR

(b) A106126 PTE LEWIS A G — SOS to 1 NETD while in 8 Gen Hosp wef 4 Nov 43 (Auth: Cat "E")
GEN LIST

(c) B 24009 SGT MISENER E H — SOS to HLI of C Fd Unit wef 4 Nov 43 (Auth: DEMAND No 1124 d/31 Oct 43)
RCR

(d) The u/m are SOS to 8 Bn. 2 CBRD wef 4 Nov 43 (Auth: COLLIE (11)):

A117606	PTE ANTONESE		G	GEN LIST	
A 82052	SGT ARCHER	J	F	OXFORD RIF	
A 2060	PTE ASHTON	S	G	HLI of C	(Dr Mech "C")
B132142	PTE BAILEY	K	C	HLI of C	
A117697	PTE BENEDICT	H	P	GEN LIST	
A 3565	PTE BEGGS	L	M	RCR	
E 52869	A/L/CPL BLAIR		R	RCR	
A117187	PTE BONYAI		S	GEN LIST	
A117181	PTE BOYD	L	M	GEN LIST	
A 6087	CPL BUCHANAN	R	C	RCR	
A 58613	PTE BUNDY	G	T	GEN LIST	
H 1928	PTE BURT	G	P	GEN LIST	
A103559	CPL BUTLER	V	F	GEN LIST	
B 59628	CPL CARTER	H	C	GEN LIST	
A 82135	CPL CHAMBERS	G	A	ESSEX SCOTTISH R	
A117708	PTE CHALLEN		W	GEN LIST	
A 57296	PTE COULSON	C	B	GEN LIST	
A 11353	PTE CRAWFORD	C	C	HLI of C	(Dr Mech "C")
B 41257	PTE CRONMILLER	C	A	L&W REGT	
A 23382	PTE DARCZY		P	ESSEX SCOTTISH R	
A 22335	PTE DENEAU	E	J	ESSEX SCOTTISH R	
A103536	CPL DEMPSEY	R	A	GEN LIST	
A 11412	PTE DIEBEL	C	E	PERTH R	(Dr Mech "C")
B 40579	L/CPL DORSCHNER	R	J	L&W REGT	
A102235	PTE DOWNEY	J	P	GEN LIST	
A 49523	PTE DOHAN	J	P	KENT R	
A 88028	PTE DUNCANSON	K	D	GEN LIST	
A106173	PTE EDEN	B	C	GEN LIST	
A 22681	CPL FARRELL	T	E	ESSEX SCOTTISH R	
C 58234	PTE FELTEAU		B	PERTH R	

EXHIBIT "B" Referred to in the Summary of Evidence on
G.18476 Pte. LEBLANC, F. J.

R.C.A. Witness Lt.

Certified True Part II Order No. 235 d/5 Nov 43 of 3 Cdn Inf Reinf Unit.
(W.E. Thorne) Captain,
Records Officer

3 CANADIAN INFANTRY REINFORCEMENT UNIT Cdn Inf Reinf Unit.

D A I L Y O R D E R S P A R T II

Last Order No 234 4 Nov 43	issued by LIEUT-COL D. FLETCHER, V.D. A/OFFICER COMMANDING	No 235 5 Nov 43

"A"

1. STRENGTH INCREASE

(a) LIEUT W.W. CAMERON, CAPT A.L. PICKARD, L&W REGT — TOS from 4 CIRU and posted as reinforcements to "H" WING wef 5Nov 43 (Auth: CRU/6-2-CAN/TC d/1 Nov 43)

(b) MAJOR W.W. MATHERS, RCR — TOS from 1 CGRU wef 3 Nov 43 Posted as reinforcement to "H" WING (Auth: CMHQ/MS/7908 d/25 Oct 43)

2. ATTACHMENTS

A/CAPT L.E.E. SNELGROVE, HLI of C — Ceases to be attached fap to HQ 9 ARMD DIVISION wef 4 Nov 43

3. STRENGTH DECREASE

(a) MAJOR W.W. MATHERS, RCR — SOS to 7 Bn. 2 CBRD wef 4 Nov 43 (Auth: EXERCISE "PEKE")

(b) LIEUT G.C. PULLEN, RCR (Cat "B2") — Ceases to be attached fap and is SOS to 1CSRU wef 3 Nov 43 (Auth: CRU/A5483 d/3 Nov 43)

(c) The u/m are SOS to 8 Bn. 2 CBRD wef 4 Nov 43 (Auth: COLLIE (11)):

LIEUT W.R. ARTINDALE	HLI of C
LIEUT K.D. BULLER	HLI of C
LIEUT J.R. DENT	ESSEX SCOTTISH R
LIEUT F.T. DEBANKE	PERTH R
LIEUT H.L. FRAPE	RCR
LIEUT N.D. MCLEOD	RCR
LIEUT R.P. NEIL	PERTH R
LIEUT J.R. REID	HLI of C
LIEUT L.G. SHORE	RCR
LIEUT T.E. WOOLLEY	PERTH R

"B"

4. STRENGTH INCREASE

(a) A117687 PTE FORD M C, ESSEX SCOTTISH R (Unfit) — TOS from ESSEX SCOTTISH R Pd Unit wef 4 Nov 43 and posted to "H" WING (Auth: ECH/EA2/585 d/2 Nov 43)

(b) A 6124 PTE LAUMAILLIER N E, RCR (Dr Mech "C") — TOS from 1CSRU wef 5 Nov 43 and is posted as reinforcement to "H" WING (Auth: CRU 408/REGT'L SIGS/1 (SCA) d/28 Oct 43)

(c) B 54930 SGT PEARCE C A, ALQ R — TOS from ALQ R Pd Unit while in WHITE LODGE EMERGENCY HOSP wef 22 Oct 43

(d) F 97509 PTE CORBETT F A, B 65935 PTE LYONS W J, ALQ R — TOS from ALQ R Pd Unit while in 10 Gen Hosp wef 28 Oct 43

(e) The u/m are TOS from L&W REGT Pd Unit while in 10 Gen Hosp wef dates as shown:

B 40878 PTE BEER	H	28 Oct 43
B 40560 PTE CROCCO	R	30 Oct 43
H 42094 PTE MELECK	J S	28 Oct 43
B139583 PTE STILWELL	R E	28 Oct 43
B137988 PTE STRUGNELL	D B	28 Oct 43
C102255 PTE SWEENEY	L	30 Oct 43
B 88171 L/CPL TOPLEY	F	30 Oct 43

L&W REGT

5. STRENGTH INCREASE--AMENDMENT

Ref Pt II O 231 d/1 Nov 43 para 5(a) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R) "BOODEN L R" is amended to read "BORDEN L R"

6. STRENGTH INCREASE--CANCELLATION

Ref Pt II O 228 d/28 Oct 43 para 5(d) insofar as it concerns A 22096 PTE MARCHAND A L (ESSEX SCOTTISH R), is cancelled

7. ATTACHMENTS

(a)	A 59697 PTE CONNOY ESSEX SCOTTISH R	J F	Ceases to be attached fap to 1 CBOD on admission to 2 Gen Hosp wef 29 Oct 43
(b)	G 4270 GNR DOAK 10 TRNG COY	W M	Ceases to be attached fap from 10 Trng Coy and ceases to attend CMHQ Crs 725 Ser 62 (P.T) wef 3 Nov 43

(c) The u/m cease to be attached fap to 1 CBOD and are attached fap to 1 S/DEPOT wef 28 Oct 43:

A 57251 PTE JAMES	R E	(Cat "C")
B132829 PTE NOGANOSH ESSEX SCOTTISH R	P	(Cat "C2")

(d)	A 22098 PTE SMITH ESSEX SCOTTISH R	J B	Ceases to be attached fap to CRU Offrs School on admission to ROYAL SURREY COUNTY HOSP GUILFORD wef 25 Oct 43
(e)	A 22096 PTE MARCHAND ESSEX SCOTTISH R	A L	Attached fap from ESSEX SCOTTISH R Fd Unit wef 3 Nov 43
(f)	B 45188 GNR TURCOTT RCA (Cat "B1")	J O	Ceases to be attached fap to 8 Dental Coy on admission to 13 Gen Hosp wef 28 Oct 43

8. PUNISHMENTS

B134878 PTE GUY RCR SURPLUS TO W.E.	S W	AA 24(2) Placed under Stoppages of Pay to the amount of Two Shillings £(0/2/0 to recover cost of damage to government property FR&I 158(2)

9. APPOINTMENTS, PROMOTIONS & REVERSIONS

A 50394 A/L/SGT MCNEAR ESSEX SCOTTISH R	W F	Reverts to the permanent grade of PTE at own request wef 4 Nov 43

10. HOSPITALS

Admissions

(a)	A 50478 PTE LEFLER PERTH R (Cat "C1") SURPLUS TO W.E.	L	3 CMC 4 Nov 43
	C 53310 PTE RYAN SD&G HIGHRS (PE)"A" WING (Cat "B2")	R	3 CMC 4 Nov 43
	H 64671 A/CPL SOBKOWICZ R WPG RIF (PE)"I" WING (Clerk "C")	J C	3 CMC 4 Nov 43

Transfers

(b)	A 22743 PTE COTE HLI of C	G F	2 Gen Hosp to Alton Con 2 Nov 43
	B 54930 SGT PEARCE ALQ R	C A	WHITE LODGE EMERGENCY HOSP to 10 Gen 27 Oct 43
	A 11139 SGT MCCOLL PERTH R (PE)"H" WING	J J	8 Gen Hosp to 2 Gen 2 Nov 43

10. HOSPITALS (CONTINUED)

			Discharges		
(c)	D 56683 PTE BEAUDOIN ESSEX SCOTTISH R	L	9 Gen		4 Nov 43
	B 55423 PTE EMPIE ALQ R	B H	10 Gen		4 Nov 43
	H 42094 PTE MELECK L&W REGT	J S	10 Gen		4 Nov 43
	A 11274 L/CPL MILLS PERTH R	F L	2 Con		4 Nov 43
	U 1918 PTE PEARL HLI of C	F	2 Gen		4 Nov 43
	A 37394 L/SGT SPENCER HLI of C	N R G	2 Con		4 Nov 43

11. HOSPITAL--AMENDMENT

Ref Pt II O 231 d/1 Nov 43 para 11(c) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R), "BOODEN L R" is amended to read "BORDEN L R"

12. LEAVE OF ABSENCE

B 88952 A/SGT TRAYNER QOR of C (PE) RHQ	J A	Granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(O) 789 (3) & (4) from 3 Nov to 11 Nov 43	

13. ABSENCE WITHOUT LEAVE

(a)	A 28724 PTE LEVY GEN LIST	H	Apprehended from AWL at 0130 hrs	4 Nov 43
(b)	A 21363 PTE ALBROUGH ESSEX SCOTTISH R (Overage)	S R	Surrendered from AWL at 1100 hrs	12 Sep 43
(c)	B 91590 PTE CHOLETTE RCASC (Cook "C") ATT AS IN W.E.	J L	AWL from 2359 hrs	2 Nov 43
(d)	A 6116 PTE WALLACE ESSEX SCOTTISH R	R A	Returned from AWL 1700 hrs	3 Nov 43

14. ABSENCE WITHOUT LEAVE--AMENDMENT

Ref Pt II O 147 d/28 Jul 43 para 16(b) insofar as it concerns G 18476 PTE LEBLANC F J (RCR), "Returned from AWL 1410 hrs 6 Jul 43" is amended to read "Apprehended by the D.M.P. in SHREWSBURY at 0755 hrs 1 Jul 43 (Held in Close Arrest)"

15. DETENTION

A 64113 PTE PENDLETON PERTH R	W R	Released from Headley Downs Detn Bks wef 3 Nov 43	

16. REMISSION OF SENTENCE

(a)	A 64113 PTE PENDLETON PERTH R	W R	Granted 58 days Remission of Sentence of 180 days Detention awarded on 20 Jul 43 (Auth: Rules for DB & MP Nos 126 and 129)
(b)	A 50339 PTE STEINHOFF HLI of C	R T	Granted 40 days Remission of Sentence of 120 days Detention awarded on 3 Sep 43 (Auth: Rules for DB & MP Nos 126 and 129)

17. POSTINGS

(a) A 76091 PTE RINN J H To be posted SURPLUS TO W.E. ("A" WING) wef 2 Nov 43
GEN LIST

(b) The u/m cease to be posted SURPLUS TO W.E. ("A" WING) and are posted as reinforcements to "H" WING wef 2 Nov 43:

A 3565 PTE BEGGS	L M	RCR		SURPLUS TO W.E.
B133115 PTE ALTON Jr	E A	GEN LIST		SURPLUS TO W.E.

18. CHANGE OF ADDRESS/NEXT OF KIN

A103967 PTE GOUDREAU E — Address of Next of Kin now is: MRS BESSIE BEATRICE GOUDREAU (Wife) 702 FORHORN STREET, WALLACEBURG, ONTARIO, CANADA
ESSEX SCOTTISH R (PE)"A" WING (Cat "C1")

19. CHANGE OF ADDRESS/NEXT OF KIN--CANCELLATION

Ref Pt II O 232 d/2 Nov 43 para 25(a) insofar as it concerns B112870 PTE BOODEN L R (ESSEX SCOTTISH R), is cancelled

20. PAY & ALLOWANCES--CANCELLATION

Ref Pt II O 234 d/4 Nov 43 para 18 insofar as it concerns B137253 PTE MCLEAN A N (GEN LIST), is cancelled

21. STRENGTH DECREASE

(a) A 3225 L/CPL MCNAUGHTON R A — SOS to 1 NETD while in 10 Gen Hosp wef 4 Nov 43 (Auth: Cat "E")
RCR

(b) A106126 PTE LEWIS A G — SOS to 1 NETD while in 8 Gen Hosp wef 4 Nov 43 (Auth: Cat "E")
GEN LIST

(c) B 24009 SGT MISENER E H — SOS to HLI of C Fd Unit wef 4 Nov 43 (Auth: DEMAND No 1124 d/31 Oct 43)
RCR

(d) The u/m are SOS to 8 Bn. 2 CBRD wef 4 Nov 43 (Auth: COLLIE (11)):

A117606 PTE ANTONESE		G	GEN LIST	
A 82052 SGT ARCHER	J	F	OXFORD RIF	
A 2060 PTE ASHTON	S	G	HLI of C	(Dr Mech "C")
B132142 PTE BAILEY	K	C	HLI of C	
A117697 PTE BENEDICT	H	P	GEN LIST	
A 3565 PTE BEGGS	L	M	RCR	
E 52869 A/L/CPL BLAIR		R	RCR	
A117187 PTE BONYAI		S	GEN LIST	
A117181 PTE BOYD	L	M	GEN LIST	
A 6087 CPL BUCHANAN	R	C	RCR	
A 58613 PTE BUNDY	G	T	GEN LIST	
H 1928 PTE BURT	G	F	GEN LIST	
A103559 CPL BUTLER	V	F	GEN LIST	
B 59628 CPL CARTER	H	C	GEN LIST	
A 82135 CPL CHAMBERS	G	A	ESSEX SCOTTISH R	
A117708 PTE CHALLEN		W	GEN LIST	
A 57296 PTE COULSON	C	B	GEN LIST	
A 11353 PTE CRAWFORD	C	C	HLI of C	(Dr Mech "C")
B 41257 PTE CRONMILLER	C	A	L&W REGT	
A 23382 PTE DARCZY		P	ESSEX SCOTTISH R	
A 22335 PTE DENEAU	E	J	ESSEX SCOTTISH R	
A103536 CPL DEMPSEY	R	A	GEN LIST	
A 11412 PTE DIEBEL	C	E	PERTH R	(Dr Mech "C")
B 40579 L/CPL DORSCHNER	R	J	L&W REGT	
A102235 PTE DOWNEY	J	P	GEN LIST	
A 49523 PTE DOOHAN	J	P	KENT R	
A 88028 PTE DUNCANSON	K	D	GEN LIST	
A106173 PTE EDEN	B	C	GEN LIST	
A 22681 CPL FARRELL	T	E	ESSEX SCOTTISH R	
C 58234 PTE FELTEAU		B	PERTH R	

1. STRENGTH DECREASE (CONTINUED)

(d)	H102408	PTE	FERGUSON	F H	GEN LIST	
	A 49657	PTE	FOULIS	G E	ESSEX SCOTTISH R	(Dr Mech "C")
	D 71904	L/CPL	FRANK	H	RCR	
	A105130	PTE	FURLONG	L M	GEN LIST	
	A117751	PTE	GALLERNO	R S	GEN LIST	
	A 57330	SGT	GRIFFITH	A G	GEN LIST	(Clerk "C")
	A 76118	PTE	HARNOCK	E C	ESSEX SCOTTISH R	(Dr Mech "C")
	M 35441	PTE	HALL	G H	PERTH R	(Dr Mech "C")
	A 58082	PTE	HAYDEN	F E	GEN LIST	
	A 11690	PTE	HEATHERS	V A	PERTH R	(Dr Mech "C")
	B 54642	PTE	HOWE	J E	ALQ R	
	A 37739	PTE	HUGHES	H J	HLI of C	
	A 76074	PTE	HUNTER	R F	GEN LIST	
	A 22563	CPL	JOHNSON	J A	GEN LIST	
	A 76168	CPL	JOHNSTON	R B	GEN LIST	
	B 19680	CPL	KARN	J	GEN LIST	
	A 50563	PTE	KISH	M	ESSEX SCOTTISH R	
	A 37852	PTE	KNOWLES	O E	GEN LIST	
	B 55482	PTE	KOCH	H	ALQ R	
	A 76037	CPL	KRAFCHEK	S S	GEN LIST	
	A 37295	PTE	KUNDER	E M	HLI of C	
	A 21598	L/SGT	LAWRENCE	K W	ESSEX SCOTTISH R	
	D 72030	PTE	LEACH	M R	RCR	(Dr Mech "C")
	D 71175	PTE	LOVE	W	RCR	
	B131656	PTE	MADDOCK	E J	HLI of C	
	A 61062	CPL	MANSON	B S	GEN LIST	
	A 3005	A/CPL	MASTERSON	J C	RCR	
	A 50394	PTE	MCNEAR	W F	ESSEX SCOTTISH R	
	B111345	A/L/CPL	MCLEOD	A D	ESSEX SCOTTISH R	
	B 24914	PTE	METCALF	L C	GEN LIST	
	A116474	PTE	MILLER	R	GEN LIST	
	B 43149	PTE	MITCHELL	C	GEN LIST	(Carpenter "B")
	D 71719	PTE	MORENCY	J C A	RCR	
	A116183	PTE	MURRAY	A W	L&W REGT	
	A 42487	PTE	MCDONALD	H F	PERTH R	
	A 11911	PTE	MCBETH	E G	PERTH R	(Dr Mech "C")
	A 50329	PTE	MCCART	L L	GEN LIST	
	A 11990	PTE	MCCONACHIE	D J	PERTH R	
	A 76145	CPL	MCCURDY	H T	GEN LIST	
	H 1660	PTE	MCDOUGALL	D J	HLI of C	
	B137253	PTE	MCLEAN	A N	RCR	
	A 49964	PTE	NIVEN	R	HLI of C	
	A 22018	CPL	NOBLE	J E	ESSEX SCOTTISH R	
	A 37298	PTE	NOBLE	E	HLI of C	
	D 71274	SGT	PELLETIER	J A	RCR	
	A 49518	PTE	PLUMRIDGE	W C	GEN LIST	(Dr Mech "C")
	A 4000	A/CPL	RILEY	R A	RCR	
	A 62103	PTE	ROUTLY	W S	HLI of C	
	A103224	A/L/CPL	ROSS	J W	GEN LIST	
	A103050	A/L/CPL	SCHOTT	L A	GEN LIST	
	A 20695	PTE	SOLOMAN	H	GEN LIST	
	A104635	PTE	STEELE	C J	ESSEX SCOTTISH R	
	A 4365	PTE	TICKNER	G L	RCR	
	B133301	PTE	TRIPP	J H	ESSEX SCOTTISH R	
	A 11779	PTE	TURCOTT	R J	PERTH R	(Carpenter "B")
	B 55166	CPL	WALDRIFF	D G	ALQ R	(Dr Mech "C")
	B136520	PTE	WARNER	H G	RCR	
	A 3097	CPL	WARDEN	C H	RCR	
	A 61044	L/CPL	WATSON	W A	GEN LIST	
	A 11130	PTE	WELCH	C L	PERTH R	(Dr Mech "C")

1. STRENGTH DECREASE (CONTINUED)

(d)	D 71370	SGT WHITE	F	G	RCR	
	A 50415	PTE WILFORD	W	L	GEN LIST	(Dr Mech "C")
	A 3458	PTE WILSON	R	E	RCR	(Dr Mech "C")
	B132868	PTE WILSON	T	O	ESSEX SCOTTISH R	
	B133315	PTE WINDER		R	ESSEX SCOTTISH R	
	D 72186	PTE ZARBATANY	V	V	HLI of C	

CHC

(W.E. THORNE) CAPT.,
RECORDS OFFICER,
3 CDN INF REINFORCEMENT UNIT
CDN ARMY OVERSEAS

Certified True Part II No.165 d/18 Aug 43 of 3 C.I.R.U.

EXHIBIT "C" referred to in the Summary of Evidence on C.18476 Pte. LEBLANC, F.J.

(W.E. THORNE) Captain
Records Officer
3 Cdn Inf Reinf Unit

3 CANADIAN INFANTRY REINFORCEMENT UNIT
D A I L Y O R D E R S P A R T II
issued by
A/COLONEL J.A. MCINTOSH, D.S.O., E.D.
OFFICER COMMANDING

Last Order No 164 17 Aug 43

No 165 18 Aug 43

"A"

1. STRENGTH INCREASE

LIEUT H.K. MITCHELL
HLI of C

TOS from HLI of C Fd Unit (Spec Inc) wef 18 Aug 43 Posted as reinforcement to "H" WING (Auth: ECH/99/29/HLI of C/1 d/9 Aug 43)

2. ATTACHMENTS

CAPT R.H. ALJOE
C.D.C.

Ceases to be attached fap from 15 CDN BASE DENTAL COY wef 17 Aug 43 on proceeding on command to CMHQ

3. COURSES

LIEUT D.A. JACKSON
ESSEX SCOTTISH R

Proceeded on CMHQ Crs 301 Ser NM51 (Inf Inst 3" Mortar)(17 Aug to 9 Sep 43) at Netheravon Wing SAS wef 17 Aug 43

4. CHANGE OF CATEGORY

LIEUT J.W. HUXLEY
HLI of C (PE) "A" WING

Having been reboarded is categorized "B2" wef 29 Jul 43 (Auth: Approved MFB 227 d/4 Aug 43)

5. STRENGTH DECREASE

H/CAPT C.G. EAKINS
C.C.S. (Cat "C1")

Ceases to be attached as in W.E. and is SOS to 10 Cdn Gen Hosp wef 17 Aug 43 (Auth: CMHQ/(MS6)/MS/6872 d/13 Aug 43)

"B"

6. STRENGTH INCREASE

(a) B 54992 PTE DURIS
ALGONQUIN R — V — TOS from ALGONQUIN R Fd Unit while in 14 Gen Hosp wef 10 Aug 43

(b) A 37772 PTE JANSEN
HLI of C — A — TOS from HLI of C Fd Unit wef 18 Aug 43 Posted as reinforcement to "H" WING (Auth: ECH/EA5/2075 d/5 Aug 43)

7. ATTACHMENTS

(a) A 37788 PTE BOWDEN
HLI of C (Cat "B") — D — Attached fap (TEMPORARY) to HQ CRU wef 17 Aug 43 (Auth: CRU/408/CRU CAMP/1 (SCA) d/12 Aug 43)

(b) A 3482 L/CPL DUFFY — J N
A 3391 PTE DUVAL — A C
RCR — Attached fap from RCR (Rear) wef 15 Aug 43

(c) A 6091 A/SGT FORREST — C G
A 4018 A/SGT SWEENEY — C R
RCR — Attached fap (TEMPORARY) to HQ CRU wef 17 Aug 43 (Auth: DGHQ/O-308 d/16 Aug 43)

7. ATTACHMENTS (CONTINUED)

(d) D 59250 CPL HUOT R DE MAIS — E — Attached fap except pay from 6 CIRU while attending CMHQ Crs 725B Ser 59 (3 Aug to 24 Aug 43) wef 3 Aug 43

(e) The u/m are attached fap (TEMPORARY) to 7 CIRU wef 15 Aug 43 (Auth: DGHQ/ST/31 d/15 Aug 43):

A 38365 PTE GOWER	G E	HLI of C	(PE) "A" WING
A 82245 PTE MONK	J C	RCR	
A 17169 PTE STREET	R E	ESSEX SCOTTISH R	

8. ATTACHMENTS--CANCELLATIONS

Ref Pt II O 141 d/21 Jul 43 para 6(a) insofar as it concerns A 3289 PTE CHALMERS M (RCR), is Cancelled

9. COURSES

A 70083 A/L/CPL KEMPSTON PERTH R — W J D — Proceeded on CMHQ Crs 301 Ser NM 51 (Inf Inst 3" Mortar)(17 Aug to 9 Sep 43) at Netheravon Wing SAS wef 17 Aug 43

10. PUNISHMENTS

(a) B132809 PTE JONES GEN LIST — M P — AA 11
AA 15(1) AWL from 0600 hrs 13 Aug 43 to 1825 hrs 16 Aug 43 (Absent 3 days 12 hrs 25 mins)
Awarded 21 days Field Punishment on 17 Aug 43
Forfeits 4 days Pay FR&I 149(1)(a)
Forfeits 21 days Pay FR&I 149(1)(b)
TOTAL FORFEITURE: 25 days Pay

(b) A105132 PTE MILLER GEN LIST — E C — AA 15(1) AWL from 0800 hrs 16 Aug 43 to 1700 hrs 16 Aug 43 (Absent 9 hrs)
Awarded Forfeiture of 5 days Pay FR&I 149(2) and 7 days C.B. on 17 Aug 43
Forfeits 1 days Pay FR&I 149(1)(a)
TOTAL FORFEITURE: 6 days Pay

(c) A105653 PTE PLANZ GEN LIST — C J — AA 19
1st Offence Drunkeness (14 Aug 43)
Admonished on 16 Aug 43

(d) A 4104 PTE SCHEIDING RCR — F T — AA 15(1) AWL from 2359 hrs 15 Aug 43 to 0930 hrs 16 Aug 43 (Absent 9 hrs 31 mins)
Awarded 7 days C.B. on 17 Aug 43
Forfeits 1 days Pay FR&I 149(1)(a)

11. APPOINTMENTS, PROMOTIONS & REVERSIONS

A 4380 PTE RONAN HLI of C (PE) "A" WING — J E — Appointed A/L/CPL wef 17 Aug 43

12. PERMANENT ESTABLISHMENT

A 4380 PTE RONAN J E Absorbed in the (PB) 3 CIRU and is posted to "A" WING wef 17 Aug 43
HLI of C

13. HOSPITAL

(a)

Admissions

B 91590 PTE CHOLETTE J L 8 Gen 17 Aug 43
RCASC ATT AS IN W.E.

A105130 PTE FURLONG L M 3 CMC 17 Aug 43
GEN LIST

A 28549 PTE HARE J D 8 Gen 17 Aug 43
PERTH R

Transfers

(b) A 50018 PTE RUSSELL L E 8 Gen to Alton Con 16 Aug 43
HLI of C

Discharges

(c) B 54992 PTE DURIS V 14 Gen 17 Aug 43
ALGONQUIN R

A 50348 PTE HORNBY R B 8 Gen 17 Aug 43
GEN LIST (Clerk "C")

A 21229 SGT LOGAN P T 14 Gen 17 Aug 43
ESSEX SCOTTISH R

A105139 PTE SCHAEFER J A 3 CMC 17 Aug 43
GEN LIST

14. LEAVE OF ABSENCE

The u/m are granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(O) 789 (3) & (4) from 17 Aug 43 to 25 Aug 43:

A102534 PTE BENNETT	C A	RCR	
B111876 PTE BOOTHBY	N H	HLI of C	
A 21764 PTE BURRELL	H	ESSEX SCOTTISH R	
A 49849 PTE CASEY	W B	GEN LIST	
A 50330 PTE COYLE	G	ESSEX SCOTTISH R	
L 41175 L/CPL DANIELS	A J	RCASC	ATT AS IN W.E.
A 38084 PTE DOWNING	J D	HLI of C	
A 37303 PTE GALLINGER	K D	HLI of C	
B 77696 PTE GOODING	V D	GEN LIST	
C101839 PTE HOUGH	G W	GEN LIST	
B 64684 PTE LEBLANC	R W	ESSEX SCOTTISH R	
A 50545 PTE LEVERTON	C H	GEN LIST	
G 51084 PTE MACDONALD	W R	GEN LIST	
C120451 PTE MCGILL	R W	GEN LIST	
F 86973 PTE MCKAY	V A	ESSEX SCOTTISH R	
C 34926 CPL MCLEAN	A J	GEN LIST	

14. LEAVE OF ABSENCE (CONTINUED)

D 71738 PTE MORRIS	P	A	RCR	
D156054 PTE O'BRIEN	C	J	GEN LIST	
A 90005 PTE PEACOCK	L	T	GEN LIST	(PE) "A" WING
B 64662 RFN PLOW	A	G	QOR of C	(PE) "A" WING
C 53081 PTE POOLE		F	SD&G HIGHRS	(PE) "A" WING
A 37299 A/L/CPL TRUESDALE		M	HLI of C	(PE) "A" WING
A 50253 PTE WARD	R	F	GEN LIST	
A 22829 PTE WATSON		J	HLI of C	

15. ABSENCE WITHOUT LEAVE

(a) A 59958 PTE SMITH — O M — AWL from 2300 hrs 9 Aug 43 8th day of Absence 2300 hrs 17 Aug 43
HLI of C

(b) The u/m surrendered from AWL as shown:

B132809 PTE JONES — M P — 1825 hrs 16 Aug 43
GEN LIST

A 4104 PTE SCHEIDING — F T — 0930 hrs 16 Aug 43
RCR

16. DETENTION

A 37998 PTE HARVIE — A H — Released from Headley Downs Detn Bks wef 17 Aug 43
HLI of C

17. REMISSION OF SENTENCE

A 37998 PTE HARVIE — A H — Granted 29 days Remission of Sentence of 90 days Detention awarded on 18 Jun 43 (Auth: Rules for DB & MP Nos 126 and 129)
HLI of C

18. CHANGE OF CATEGORY

A 49973 PTE HACKETT — R — Having been reboarded is categorized "B1" wef 29 Jul 43 (Auth: Approved MFB 227 d/4 Aug 43)
HLI of C (Cat "C1")

19. CHANGE OF ADDRESS/NEXT OF KIN

B132620 PTE MIEHM — H J — Address of Next of Kin now is: MR ALEXANDER MIEHM (Father), 192 AHREN STREET WEST, KITCHENER, ONTARIO, CANADA
RCR

20. PAY & ALLOWANCES

The u/m are granted increased rates of pay as shown wef dates shown having completed the required service with efficiency and good conduct (Auth: G.O. 486/42):

		EFF DATE $1.40	EFF DATE $1.50
A105113 PTE MATSCHKE	A	15 Jun 43	15 Aug 43
GEN LIST			
A 88112 PTE SCHELL	G F		22 Jun 43
GEN LIST			
A 23297 PTE WOLINSKY	N L	1 Jan 43	18 Feb 43
ESSEX SCOTTISH R [illegible]E) "I" WING			

21. STRENGTH DECREASE

(a) C 73699 PTE BELL A102839 PTE PODOLSKY GEN LIST	H A W S	SOS to Chief Treasury Office wef 17 Aug 43 (Auth: CRU/408/RCAPC/1(SCA) d/15 Aug 43)
(b) A 61078 PTE COLLINS GEN LIST	G	SOS to 2 CIRU wef 17 Aug 43 (Auth: CRU/Pers/1/2 (D of M) d/11 Aug 43)
(c) A102823 PTE FULLER GEN LIST	J E	SOS to 1 CASCRU wef 17 Aug 43 pending transfer from CDN INF CORPS (GEN LIST) to RCASC (Auth: CRU/408/TRANS/"F"/2 (SCA) d/26 Jul 43)
(d) G 18476 PTE LEBLANC RCR EXHIBIT "C"	F J	SOS as a DESERTER wef 12 Aug 43 having been found by a Court of Inquiry to have been illegally absent from 2300 hrs 21 Jul 43. Placed under Stoppages of Pay to the amount of £7/9/2 to recover cost of deficiencies of Kit FR&I 158(2) (Auth: Approved MFB 375 d/12 Aug 43)
(e) A 22423 PTE WILKINSON ESSEX SCOTTISH R	J F	SOS as a DESERTER wef 12 Aug 43 having been found by a Court of Inquiry to have been illegally absent from 2300 hrs 21 Jul 43 Placed under Stoppages of Pay to the amount of £6/0/3½ to recover cost of deficiencies of Kit FR&I 158(2) (Auth: Approved MFB 375 d/12 Aug 43)

WFM

W.E. Thorne

(W.E. THORNE) CAPT.,
RECORDS OFFICER,
3 CDN INF REINFORCEMENT UNIT
CDN ARMY OVERSEAS

Certified True Part II Order No.228 d/28 Oct 43 of 3 C.I.R.U.

EXHIBIT "D" referred to in the Summary of Evidence on G.18476 Pte. LEBLANC, F.J.

(W.E. THORNE)Captain
Records Officer
3 Cdn Inf Reinf Unit

3 CANADIAN INFANTRY REINFORCEMENT UNIT
D A I L Y O R D E R S P A R T II

Last Order No 227 27 Oct 43 | issued by LIEUT-COL D. FLETCHER, V.D. A/OFFICER COMMANDING | No 228 28 Oct 43

"A"

1. STRENGTH INCREASE

(a) H/MAJOR J.P.G. MCCABE CCS — TOS from 1st CDN ARMY (Chaplains Pool) for ATT AS IN W E wef 22 Oct 43 Posted to "A" WING (Auth: CMHQ WS 7845)

(b) MAJOR H.E.C. PRICE RCR — TOS CDN ARMY U.K. and TOS 3 CIRU from RCR Fd Unit wef 22 Oct 43 (Auth: CMHQ 10/PRICE HEC/1 (MS (a) d/22 Oct 43)

2. STRENGTH INCREASE--CANCELLATIONS

Ref Pt II O 227 d/27 Oct 43 para 1 insofar as it concerns H/MAJOR J.G. MCCABE (CCS), is cancelled

3. ATTACHMENTS

(a) CAPT A BRIGHTMAN CDC — Ceases to be attached fap from No 9 Coy CDC wef 21 Oct 43

Attached fap from 9 Coy CDC wef 23 Oct 43

(b) MAJOR E.C. SHELLEY PERTH R — Attached fap to HQ 10 C.I.B. for period 19 Oct to 25 Oct 43 (Auth: Umpire-Grizzly II)

4. STRENGTH DECREASE

(a) The u/m are SOS to L&W REGT Fd Unit wef 28 Oct 43 (Auth: Demand #7749 d/25 Oct 43):

LIEUT W.H. BARKMAN	HLI of C
LIEUT C.O. BORTHWICK	PERTH R
LIEUT R. COLUCCI	GEN LIST
LIEUT B.G. CRAIG	ESSEX SCOTTISH R
LIEUT H.K. MITCHELL	HLI of C
LIEUT W.K. PUGH	RCR

(b) The u/m are SOS to ALQ R Fd Unit wef 28 Oct 43 (Auth: Demand #7754 d/24 Oct 43):

LIEUT R.B.A. BECKETT	RCR
LIEUT N.A. CHRISTOPHERSDN	ALQ R
LIEUT J.L. COHEN	ALQ R
LIEUT W.L. LISCOMBE	ALQ R

"B"

5. STRENGTH INCREASE

(a) The u/m are TOS from 5 Bn. X4 List CDN INF CORPS wef 24 Oct 43 Posted as reinforcements to "H" WING (Auth: DGHQ AQ/290 d/25 Oct 43):

A 37918 PTE CLARK	R J	HLI of C
A 82245 PTE MONK	J C	RCR

(b) A 37593 PTE ANDERSON W F HLI of C — TOS from Desertion wef 27 Oct 43 on being apprehended from AWL at LONDON at 0300 hrs 27 Oct 43 (Held in Close Arrest)

(c) G 18476 PTE LEBLANC F J ESSEX SCOTTISH R — TOS from Desertion wef 25 Oct 43 having surrendered himself to the Civil Police at HALLOWAY, LONDON at 1500 hrs 25 Oct 43 (Held in Close Arrest)

EXHIBIT "D"

5. STRENGTH INCREASE (CONTINUED)

(d) A 22096 PTE MARCHAND A L — TOS from ESSEX SCOTTISH R Fd Unit while in 2 Gen Hosp wef 27 Oct 43 (Auth: ECH/EA2/9083 d/25 Oct 43)
ESSEX SCOTTISH R

6. STRENGTH INCREASE--AMENDMENT

Ref Pt II O 202 d/28 Sep 43 para 6 insofar as it concerns A 3553 PTE HANSFORD J (RCR), "1600 hrs 5 Aug 43" is amended to read "1630 hrs 5 Aug 43"

7. ATTACHMENTS

(a) A 56727 PTE BOYD R C — Attached fap from PERTH R Fd Unit wef 26 Oct 43
PERTH R

(b) A 56637 CPL FRANZ R R — Attached fap from PERTH R Fd Unit wef 27 Oct 43
PERTH R

(c) D 71867 PTE FRASER E W — Attached fap from HLI of C Fd Unit wef 27 Oct 43
HLI of C

(d) A103707 CPL HENDERSON D R — Ceases to be attached fap to 7 CIRU wef 27 Oct 43
GEN LIST

(e) C 41775 A/CPL PURVIS L — Attached fap except Regt'l Duty from 15 CDN BASE DENTAL COY wef 27 Oct 43
CDC

(f) B 5231 SGT SMITH F W A — Ceases to be attached fap except Regt'l Duty from 15 CDN BASE DENTAL COY CDC wef 27 Oct 43
CDC

8. ATTACHMENTS--CANCELLATIONS

Ref Pt II O 227 d/27 Oct 43 para 5(c) insofar as it concerns B142502 PTE HAMILTON R W (ALQ R), is cancelled

9. COURSES

(a) B 87823 L/CPL ORMANDY D C — Returned from CMHQ Crs 1015 (Ammunition Examiners) at "B" Branch Trg Centre RAOC wef 26 Oct 43
RCR

(b) The u/m proceeded on CRU Crs 1047 #4 (Dr Mechs) at 4 TTG (28 Oct 43 to 9 Dec 43) wef 28 Oct 43:

A 11661 PTE HUNTER	C A	PERTH R	SURPLUS TO W E
A 11533 PTE MCEACHERN	H J	PERTH R	
A 50048 PTE ROUNDELL	C A	GEN LIST	
D 71463 PTE SMITH	G R	RCR	

10. ON COMMAND

(a) The u/m proceeded on Command to No 1 Cdn OCTU Selection Centre at 1500 hrs 27 Oct 43 (Auth: ECH/EA7/8716 d/16 Oct 43):

A 22937 PTE BARR	C K	PERTH R	
B 52943 PTE LEE	R W	PERTH R	(Cat "B1")
A 11479 L/SGT ROWE	J M	PERTH R	

(b) A 11866 A/SGT GUEST J — Proceeded on Command to No 1 Cdn OCTU Selection Centre at 1500 hrs 27 Oct 43 (Auth: CMHQ/RBC/34/UNITS/1315 d/12 Oct 43)
PERTH R (PE) "H" WING

(c) The u/m proceeded on Command to No 1 Cdn OCTU Selection Centre at 1500 hrs 27 Oct 43 (Auth: CMHQ/34/UNITS/1315 d/12 Oct 43):

A 21162 SGT ATKINS	T E	ESSEX SCOTTISH R	(PE) "H" WING
A 49716 SGT MAYNARD	J W	GEN LIST	

(d) The u/m returned from On Command to No 1 Cdn OCTU Selection Centre at 1500 hrs 27 Oct 43:

A 11254 SGT BAIRD	A B	PERTH R
A 3948 A/L/SGT TURNBULL	R J	PERTH R

11. PUNISHMENTS

(a) C 4635 PTE HANSFORD A F
ESSEX SCOTTISH R (Underage)
AA 15(1) AWL from 1330 hrs 26 Oct 43 to 2200 hrs 26 Oct 43 (Total Absence 8 hrs 30 mins)
Awarded 7 days Fd Punishment on 27 Oct 43
Forfeits 1 days Pay FR&I 149(1)(a)
Forfeits 7 days Pay FR&I 149(1)(b)
TOTAL FORFEITURE: 8 days Pay

(b) A 11575 PTE WILDING E A
PERTH R
AA 15(1) AWL from 2359 hrs 24 Oct 43 to 1930 hrs 25 Oct 43 (Total Absence 19 hrs 31 mins)
Admonished on 27 Oct 43
Forfeits 1 days Pay FR&I 149(1)(a)

(c) A 3553 PTE HANSFORD J
RCR
Tried by F.G.C.M. on 25 Oct 43

CHARGE — AA 15(1) AWL from 0600 hrs 8 Jun 43 to 1630 hrs 5 Aug 43 (Absent 58 days 10 hrs 30 mins)

FINDING & SENTENCE — GUILTY
Awarded 1 year & 6 months detention on 25 Oct 43

CONFIRMATION — Finding & Sentence confirmed by Commander DGHQ on 26 Oct 43

CLOSE ARREST — In Close Arrest from 1530 hrs 14 Oct 43 to 1000 hrs 25 Oct 43
(Ref Pt II O 202 d/28 Sep 43)

FORFEITURES — Forfeits 59 days Pay FR&I 149(1)(a)
Forfeits 548 days Pay FR&I 149(1)(b)
Forfeits 10 days Pay FR&I 149(1)(c)(i)
TOTAL FORFEITURE: 617 days Pay

STOPPAGES OF PAY — Placed under Stoppages of Pay to the amount of £1/11/5 to recover cost of apprehension FR&I 172(8)

PROMULGATION — Finding & Sentence promulgated on 27 Oct 43

12. PUNISHMENTS--AMENDMENTS

Ref Pt II O 202 d/28 Sep 43 para 9(b) insofar as it concerns A 3553 PTE HANSFORD J (RCR), "In Civil Custody from 1600 hrs 5 Aug 43 to 1000 hrs 13 Aug 43" is amended to read "In Civil Custody from 1630 hrs 5 Aug 43 to 1000 hrs 13 Aug 43"

13. APPOINTMENTS, PROMOTIONS & REVERSIONS

(a) A 19147 A/L/CPL BARLOW F J
GEN LIST
To be A/CPL wef 12 Oct 43

(b) B 80063 PTE CAMMACK G L
GEN LIST
Appointed A/L/CPL wef 25 Oct 43

(c) P 15433 A/CPL HUTCHINSON R A
RCR
Reverts to the permanent grade of PTE wef 24 Oct 43 on being SOS

(d) A 50253 PTE WARD R F
GEN LIST
To be A/CPL wef 27 Oct 43

14. HOSPITALS

Admissions

(a) G 18476 PTE LEBLANC F J — 10 Gen — 25 Oct 43
ESSEX SCOTTISH R

14. HOSPITALS (CONTINUED)

Transfers

(b)	D 71867 PTE FRASER HLI of C	E W	2 Gen to 17 Gen	23 Oct 43
	A 49607 PTE HILL ESSEX SCOTTISH R	W R	14 Gen to 12 Gen	16 Oct 43
	A 22096 PTE MARCHAND ESSEX SCOTTISH R	A L	18 Gen to 2 Gen	30 Sep 43

Discharges

(c)	B 41758 PTE BOSNJAK RCR	S	3 CMC	27 Oct 43
	D 71867 PTE FRASER HLI of C	E W	17 Gen	27 Oct 43
	A 49607 PTE HILL ESSEX SCOTTISH R	W R	12 Gen	26 Oct 43
	G 18476 PTE LEBLANC ESSEX SCOTTISH R	F J	10 Gen	27 Oct 43
	A 37963 PTE MORGAN HLI of C	F J	2 Gen	27 Oct 43

15. LEAVE OF ABSENCE

The u/m are granted 7 days P/L plus 48 hrs pass (Total - 9 days) with money allowance in lieu of rations under FR&I(O) 789 (3) & (4) from 28 Oct to 5 Nov 43:

H 26338 SGT CLAWSON	E R	RCASC	ATT AS IN W.E.
B 64764 PTE STEVENTON	I	RCASC	ATT AS IN W.E.

16. ABSENT WITHOUT LEAVE

A116728 PTE BUTLER GEN LIST — J L — Returned from AWL 2315 hrs 26 Oct 43

17. ABSENT WITHOUT LEAVE--ADDENDUM

Ref Pt II O 227 d/27 Oct 43 para 11(c) insofar as it concerns A116728 PTE BUTLER J L, add "GEN LIST"

18. ABSENT WITHOUT LEAVE--AMENDMENT

Ref Pt II O 227 d/27 Oct 43 para 11(a) insofar as it concerns A 11575 PTE WILDING E A (PERTH R), "0730 hrs" is amended to read "1930 hrs"

19. ABSENT WITHOUT LEAVE--CANCELLATION

Ref Pt II O 226 d/26 Oct 43 para 15(c) insofar as it concerns A 3472 PTE WOOD H H (RCR), is cancelled

20. PERMANENT ESTABLISHMENT

A103015 PTE CHESTERMAN HLI of C — F — Absorbed in the (PE) 3 CIRU and is posted to "A" WING wef 25 Oct 43

21. QUALIFICATIONS

(a) The u/m qualified as shown at 3 CIRU Junior Leader's Gas Course No 10 wef 25 Oct 43 (Auth: 3 CIRU/CI/d/25 Oct 43):

A 68190	SGT	BASTIEN	M	F	J	GEN LIST	"VG"
B 19666	SGT	BEAMER		T	L	GEN LIST	"VG"
A 61101	SGT	BOYD		G	E	GEN LIST	"VG"
A 70056	SGT	CORBETT		V	F	GEN LIST	"G"
A 76086	CPL	BROWN		J	D	GEN LIST	"VG"
A103559	CPL	BUTLER		V	F	GEN LIST	"G"
A103536	CPL	DEMPSEY		R	A	GEN LIST	"VG"
A 76168	CPL	JOHNSTON		R	B	GEN LIST	"VG"
A 22563	CPL	JOHNSON		J	A	GEN LIST	"AV"
A 76037	CPL	KRAFCHEK		S	S	GEN LIST	"AV"
A 76175	CPL	LILLIMAN		J	W	GEN LIST	"VG"
A 56997	CPL	MALCOLM		J	A	GEN LIST	"G"
A 76005	CPL	MARTIN		R	R	GEN LIST	"AV"
A 76145	CPL	MCCURDY		H	T	GEN LIST	"G"
A 76149	CPL	RUPPEL		C	A	GEN LIST	"G"
A 56630	SGT	WALKER		W	G	GEN LIST	"VG"

(b) The u/m failed to qualify at 3 CIRU Junior Leader's Gas Course No 10 wef 25 Oct 43 (Auth: 3 CIRU/CI/d/25 Oct 43):

A 67968	CPL	GAGNE		R	A	GEN LIST
A105132	PTE	MILLER		E	C	GEN LIST

(c) The u/m qualified as shown at 3 CIRU 6-Pdr A/Tk Course No 2 wef 26 Oct 43 (Auth: 3 CIRU/CI/d/26 Oct 43):

A 89258	PTE	DONOHUE	L	G	J	GEN LIST	"G"
A105551	PTE	DRIER		C	J	GEN LIST	"AV"
H104026	PTE	JUDD		H	E	GEN LIST	"G"
A116500	PTE	LETOURNEAU		C	A	GEN LIST	"AV"
A105054	PTE	MUGFORD		E	R	GEN LIST	"G"
A116597	PTE	PASTORIUS		E	I	GEN LIST	"G"
A105264	PTE	POLLOCK		A	J	GEN LIST	"AV"
A116637	PTE	RICHARDSON		J	D	GEN LIST	"G"
H 1987	PTE	ROE			S	GEN LIST	"AV"
H 1304	PTE	SEALEY		A	W	GEN LIST	"G"
A105173	PTE	WOOD		L	W	GEN LIST	"AV"

(d) The u/m failed to qualify at 3 CIRU 6-Pdr A/Tk Course No 2 wef 26 Oct 43 (Auth: 3 CIRU/CI/d/26 Oct 43):

B133304	PTE	MARTIN	R	G	S	GEN LIST
A104649	PTE	WATSON		J	D	ESSEX SCOTTISH R
A 89220	PTE	WILLIAMSON		J	H	GEN LIST

22. POSTINGS

(a) A 50253 PTE WARD R F — To be Educational Assistant and carried SURPLUS TO W.E. wef 27 Oct 43 (Auth: CMHQ REC/A 50253 d/23 Oct 43)
GEN LIST

(b) A 11213 PTE BAILEY L H — Ceases to be SURPLUS TO W.E. ("A" WING) and is posted as reinforcement to "H" WING wef 25 Oct 43
PERTH R SURPLUS TO W.E.

23. CHANGE OF ADDRESS/NEXT OF KIN

(a) B 53427 PTE DAVIDSON J W — Address of Next of Kin now is: MRS DAISY THEODORA DAVIDSON (Mother), 103 DENISON AVENUE, TORONTO, ONTARIO, CANADA
PERTH R

(b) A116494 A/SGT REYNOLDS C P — Address of Next of Kin now is: MRS EDITH REYNOLDS (Mother), 238 ESSEX STREET, SARNIA, ONTARIO, CANADA
ESSEX SCOTTISH R

24. BIRTHS

A 22215 PTE TOFFLEMIRE ESSEX SCOTTISH R (Cat E)	J R	Born to MRS DAPHNE MAUD GARDINER TOFFLEMIRE (Wife), a daughter, GILLIAN ANNE, at WOKING, SURREY, ENGLAND on 2 Dec 42

25. CHANGE OF DATE OF BIRTH

A 117203 PTE SNYDER GEN LIST	R C	Change Date of Birth from 25 May 1910 to 25 May 1917 All documents to be amended accordingly (Auth: CMHQ/REC/A/117203 R.2.Admin d/23 Oct 43)

26. PERMISSION TO MARRY-- AMENDMENT

Ref Pt II O 225 d/25 Oct 43 para 2(a) and (b), "in accordance with ORO's 1626 & 1701" is amended to read "in accordance with ORO 3744"

27. TRADESMEN'S RATES OF PAY

(a) The u/m are granted Tradesmen's Rates of Pay as Clerks Group "C" (Reinf Quota) wef dates shown FR&I 147(5):

B 19666 SGT BEAMER	T L	GEN LIST	13 Oct 43
A 61101 SGT BOYD	G E	GEN LIST	13 Oct 43
A 65830 SGT CHRISTIE	G B	GEN LIST	13 Oct 43
A 57330 SGT GRIFFITH	A G	GEN LIST	13 Oct 43
A103707 CPL HENDERSON	D R	GEN LIST	13 Oct 43
A 67930 CPL IRELAND	J	GEN LIST	23 Oct 43
A 57553 SGT MCLEOD	J H	GEN LIST	13 Oct 43

(b) The u/m are granted Tradesmen's Rates of Pay as Storeman Technical Group "C" wef 18 Oct 43 (Reinf Quota) FR&I 147(5):

A 64311 PTE BEGG	N W	GEN LIST
A104273 PTE KARL	E H	GEN LIST

28. PAY & ALLOWANCES

A 21715 PTE MARACLE ESSEX SCOTTISH R (Overage) (PE) "A" WING	H	Granted a daily regimental rate of pay of $1.50 wef 1 Mar 43 having completed 6 months' proficient service (Auth: G.O. 486/42)

29. PAY & ALLOWANCES--ADDENDUM

Ref Pt II O 227 d/27 Oct 43 para 21 insofar as it concerns A116899 PTE GUENOT C E (GEN LIST), add "SURPLUS TO W.E."

30. PAY & ALLOWANCES--AMENDMENT

Ref Pt II O 227 d/27 Oct 43 para 21 insofar as it concerns A 23227 PTE SHANKS J L J (ESSEX SCOTTISH R SURPLUS TO WE), delete "SURPLUS TO W.E."

31. STRENGTH DECREASE

(a)	A 49723 PTE LALLY GEN LIST	T P	SOS to 1 CERU wef 26 Oct 43 pending transfer from CDN INF CORPS to RCE (Auth: CMHQ 8/PERS ADJUST/1/14 (AG2e) d/20 Oct 43)
(b)	A 22096 PTE MARCHAND ESSEX SCOTTISH R	A L	SOS to ESSEX SCOTTISH R Fd Unit on discharge from 2 Gen Hosp wef 25 Oct 43 (Auth: ECH EA2/9083 d/25 Oct 43)

31. STRENGTH DECREASE (CONTINUED)

(c) The u/m cease to be attached fap and are SOS to 4 CIRU wef 19 Oct 43 (Auth: "HOT DOG"):

F 40823	PTE	BURGESS	F	R	ESSEX SCOTTISH R
A 37564	PTE	CHATTERS	J	W	HLI of C
A117002	PTE	DESCHAINE	E	O	GEN LIST
F 86731	PTE	DEVEAU	G	L	ESSEX SCOTTISH R

(d) The u/m are SOS to L&W REGT Fd Unit wef 28 Oct 43 (Auth: Demand 7749 d/25 Oct 43):

A 50306	PTE	COLES	F	G	PERTH R	
P 15433	PTE	HUTCHINSON	R	A	RCR	(Dr Mech "C")

(e) The u/m are SOS to ESSEX SCOTTISH R Fd Unit wef 28 Oct 43 (Auth: Demand 8954 d/25 Oct 43):

A 58935	PTE	BROCK	L	G	GEN LIST
A105957	PTE	CARTER	D	G	GEN LIST
A116828	PTE	CASSIDY	J	A	GEN LIST
A 76162	PTE	FAULHAFER	E	J	GEN LIST
B 59135	PTE	FISHER	D	H H	ESSEX SCOTTISH R
A117687	PTE	FORD	M	C	GEN LIST
C 5011	SGT	FOSTER	W	J	ESSEX SCOTTISH R
A 64304	PTE	GATSCHENE	J	A	GEN LIST
A117195	PTE	GROSSE	J	W	GEN LIST
A 23425	PTE	HILLAN	A	P	GEN LIST
B144189	PTE	HORNE	R	J G	GEN LIST
A 57284	CPL	KIRK	L	R	GEN LIST
B136435	PTE	LILLFORD	R	S L	L&W REGT
B 24923	CPL	MACKENZIE	W.	D.	GEN LIST
K 57530	PTE	MARTINELLI		F	ESSEX SCOTTISH R
A106256	PTE	MORRISON	N	R	GEN LIST
A 61000	CPL	NOONAN		V	GEN LIST
H 1891	PTE	POWERS	W	S	GEN LIST
D139155	PTE	ROSS	A	K	GEN LIST
A117338	PTE	STANTON	E	C	GEN LIST
D 71386	CPL	THRELFALL	G	L	RCR
A105837	PTE	WHITLOCK	T	H	GEN LIST
A104193	PTE	WINTER	L	G	GEN LIST
A103565	CPL	ZINK	R	A	GEN LIST

(f) The u/m are SOS to ALQ REGT Fd Unit wef 28 Oct 43 (Auth: Demand 7754 d/24 Oct 43):

M 50415	PTE	GOOD	R	L	ESSEX SCOTTISH R	(Dr Mech "C")
A 4199	PTE	BEZEAU	W	E	RCR	(Dr Mech "C")

(g) The u/m are SOS to HLI of C Fd Unit wef 28 Oct 43 (Auth: Demand 8912 d/24 Oct 43):

A 58520	PTE	ADAMS	G	W	GEN LIST
A116805	PTE	ALLEN	R	J	GEN LIST
A 38295	PTE	ASHFORD	R	L	GEN LIST
A 38200	PTE	BUTTER	S	W	HLI of C
A116699	PTE	LEACH	J	A	GEN LIST
A102217	PTE	CONWAY	A	E	GEN LIST
B142090	PTE	CORBETT	T	H	GEN LIST
B110106	PTE	DESJARDINS	P	D	RCR
B142303	PTE	DICK	A	C	GEN LIST
A117854	PTE	DZIKOWICZ		B	GEN LIST
A 37365	L/SGT	EDMISTON	F	C	HLI of C
A105469	PTE	EICHLER	D	C	GEN LIST
A106028	PTE	EVOY	J	E	GEN LIST
B143013	PTE	FULLER	J	E	RCR
A 37458	PTE	FOOT	R	C	HLI of C

31. STRENGTH DECREASE (CONTINUED)

(g)

A102783	PTE	GAINES	E J	ESSEX SCOTTISH R
A117770	PTE	GARVEY	K J	GEN LIST
A117590	PTE	GRANZIOL	R A	GEN LIST
A106110	PTE	GREENWAY	E D	GEN LIST
A115032	PTE	HAGEN	C G	GEN LIST
A 50357	PTE	HAMILTON	J D	HLI of C
A105468	PTE	HAMILTON	E	GEN LIST
D138627	PTE	HALE	R A	GEN LIST
A103878	PTE	HANDYSIDES	J E	GEN LIST
A 37876	PTE	HAWKEN	H H	HLI of C
A105169	PTE	HAWKINS	J.M	GEN LIST
A117719	PTE	HEIL	J E	GEN LIST
A117831	PTE	HEWSON	L W	GEN LIST
A 23428	PTE	HICKEY	K A	GEN LIST
A115027	PTE	HILL	G A	GEN LIST
A117016	PTE	HOSTINE	M W.	GEN LIST
A117745	PTE	HUTCHINSON	H W	GEN LIST
A117850	PTE	HANISSE L	J F	GEN LIST
A 59935	PTE	JOHNSTON	H J	GEN LIST
A116482	PTE	KEDWELL	I F	GEN LIST
A 47548	PTE	KENNEDY	F L	GEN LIST
A 37314	SGT	LANTZ	A W	HLI of C
A 76005	CPL	MARTIN	R R	GEN LIST
A 55162	PTE	MCGEE J	H M	GEN LIST
A102896	PTE	MCKINLEY	R H	GEN LIST
A 37208	CPL	MCLELLAN	K C	HLI of C
A 76179	L/CPL	OHLER	C J	GEN LIST
A105128	PTE	PHILLIPS	J B	GEN LIST
A116563	PTE	SOULLIERE	P J	GEN LIST
A 37950	PTE	STOUT	W J	HLI of C
B138189	PTE	WALSH	T F	GEN LIST
A105123	PTE	WRIGHT	R S	GEN LIST
A 37572	PTE	WOODS	H	HLI of C

(h) The u/m are SOS to HLI of C (NCO/SPL INC) Fd Unit wef 28 Oct 43 (Auth: Demand (NCO/INC/29 d/24 Oct 43):

A 59661	SGT	HERCHENRATTER	A P H	GEN LIST
A 76002	SGT	KNIPFEL	H W	GEN LIST
A 56647	SGT	LANG	A W	GEN LIST
A 76175	CPL	LILLIMAN	J W	GEN LIST
A 76157	CPL	MURPHY	J F	GEN LIST
A 37357	L/CPL	MURRAY	A E	HLI of C

(i) The u/m are SOS to ALQ REGT (NCO/SPL INC) Fd Unit wef 28 Oct 43 (Auth: Demand (NCO/INC/27 d/24 Oct 43):

A 59670	SGT	HIRONS	N W	GEN LIST
A 57242	SGT	HORNE	R E	GEN LIST
D 71668	SGT	LARIN	E J	RCR
A100000	SGT	MYERS	M D	GEN LIST
A 59441	SGT	TURNER	H	GEN LIST

32. WARNING FOR DRAFT

The personnel shown above in para (d), (e), (f), (g), (h)& (i) under STRENGTH DECREASE warned for draft on 28 Oct 43 were present at a parade held at 3 CIRU on 27 Oct 43 and were cautioned on said parade by A/MAJOR J.E. ANDERSON (HLI of C (PE) "H" WING) in the presence of A 38000 CSM VASSIE W G (HLI of C (PE) "H" WING), to the effect that absence from the parade to be called prior to departure on 28 Oct 43 would render them liable to a charge of desertion under the provisions of the Army Act and emphasized the seriousness of a charge of desertion under the provisions of the Army Act.

CHC

(W.E. THORNE) CAPT.,
RECORDS OFFICER
3 CDN INF REINFORCEMENT UNIT
CDN ARMY OVERSEAS

CANADIAN INFANTRY REINFORCEMENT UNIT

Medical Officers Certificate
K.R. (Can) para 557.

I certify that I have this morning examined No. G18476 Pte. Leblanc F. G.
of 3 C.I.R.U. and in my opinion he is fit to undergo trial
by Court Martial.

Name & Rank

Station Aldershot
Date 8 Nov 43

S.H. Enlevage Capt RCAMC
Medical Officer
3 Cdn. Inf. Reinf. Unit.

Exhibit "E" - referred to in the Summary of Evidence on
G.18476 Pte. LEBLANC, F.J.

R.C. Ostagan Lt.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I certify that No. G18476 Rank. Pte. Name. LeBlanc, F.J.
Unit. No. 5 C.I.R.U. was arrested at Shrewsbury (Place)
at 0755 (hour) on 1 July 43 (date) and that at the time of
his arrest he was wearing (Military Uniform) ~~XXXXXXXXXXXXXXXXXXXX~~
Signature of Provost Marshall, Assistant Provost-Marshall or other
officer or the Commanding Officer of the portion of His Majesty's
Forces or the officer, warrant-officer, or non-commissioned officer
in charge of the detachment of the Canadian Provost Corps, Canadian
Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable).

London
3 July 43

L.S. Grayson
(L.S. Grayson), D.A.P.M., Capt.,
London Area.

Exhibit "F" - referred to in the Summary of Evidence
on G.18476 Pte. LEBLANC, F.J.

R.C.O. O'Hagan LT.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j)

I, ... (L.S. Grayson) Capt., D.A.P.M., C.M.H.Q. . . certify that

Regt. No. G.18476 . Rank . . Pte. . . . Name. LeBlanc, F.J. . . . . .

Regiment . . . No. 3, C.I.R.U. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to No. 344. . . Rank P.C. . Name Ferguson . . . .

of the . . . Holloway Civil Police London . . . . . .

on the 25 . . day of . . . . Oct. . . . 19 43, at . . 1500 . . hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (military uniform) or (~~civilian clothes~~).
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or the non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering.
(Strike out part inapplicable).

L.S. Grayson.
. . . . . Capt.,
(L.S.Grayso), D.A.P.M., C.M.H.Q.

London
25 Oct. 43.

LIST OF WITNESSES

Prosecution: Capt. W.E. Thorne, C.M.S.C., Records Officer, 3 C.I.R.U.

Capt. R.H. Lund, Essex Scottish Regt., 3 C.I.R.U.

Defence: NIL.

LIST OF EXHIBITS

Exhibit "A"	Certified true extract of 3 CIRU D.O. Part II No. 147 d/ 28 Jul 43. Para. 8 (e).
Exhibit "B"	Certified true extract of 3 CIRU D.O. Part II No. 235 d/ 5 Nov 42. Para. 14.
Exhibit "C"	Certified true extract of 3 CIRU D.O. Part II No. 165 d/ 18 Aug 43. Para. 21 (d).
Exhibit "D"	Certified true extract of 3 CIRU D.O. Part II No. 228 d/ 28 Oct 43. Para. 5 (c).
Exhibit "E"	Certificate pursuant to A.A. 163 (1) (j) d/ 3 Jul 43.
Exhibit "F"	Certificate pursuant to A.A. 163 (1) (j) d/ 25 Oct 43.

STATEMENT OF ACCUSED

I certify having received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses, and a list of the Exhibits.

I do / do not desire the services of an Officer to represent me at my trial.

Pte. F.J. LeBlanc

(G. 18476, Pte. LEBLANC, F.J.)

Date:
1 Nov 43.

SUMMARY OF EVIDENCE

In the case of No. G.18476, Pte. LEBLANC, F.J., Essex Scottish Regt., on strength of 3 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS
Prosecution

Capt. W.E. Thorne, Records Officer, 3 C.I.R.U., having been duly sworn, states as follows:-

"A"

I am Capt. W.E. Thorne, Records Officer, 3 CIRU, and have custody of the regimental documents of that Unit. I hereby produce a certified true extract of 3 CIRU Part II Orders No. 147 d. 28 Jul 43, Para. 8 (e), (Extract marked Exhibit "A" to this Summary of Evidence), showing G.18476, Pte. Leblanc, F.J. to be absent from his quarters from 0800 hrs. 21 Jun 43. I further produce a certified true extract of 3 CIRU Part II Order No. 235 d/ 5 Nov 43, Para. 14 (Extract marked Exhibit "B" to the Summary of Evidence), showing G.18476, Pte. Leblanc F.J. as having been apprehended by Shrewsbury Civil Police at 0755 hrs. 1 Jul 43. I further produce a certified true extract of 3 CIRU Part II Orders No. 165 d/ 18 Aug 43 Para. 21 (d) (Extract marked Exhibit "C" in the Summary of Evidence), showing G.18476, Pte. Leblanc, F.J. to be absent from his quarters again from 2300 hrs. 21 Jul 43, and I further produce a certified true extract of 3 CIRU Part II Order No. 228 d/ 28 Oct 43, Para. 5 (c) (Extract marked Exhibit "D" in the Summary of Evidence), showing G.18476, Pte. Leblanc, F.J. as having surrendered himself to the Civil Police at Holloway, London, at 1500 hours, 25 Oct 43.

Accused declines to cross-examine the witness.

W.E. Thorne

(W.E. Thorne) Capt.
Records Officer, 3 C.I.R.U.

SECOND WITNESS
Prosecution

Capt. R.H. Lund, Essex Scottish Regt., 3 C.I.R.U., having been duly sworn, states:-

I produce two certificates pursuant to A.A. 165 (1) (j), purporting to be signed by the Deputy Assistant Provost Marshall at Canadian Military Headquarters, London, relating to the accused, whom I now recognize. (Certificates marked as Exhibits "E" and "F", and read to the accused.

The accused declines to cross-examine the witness.

R.H. Lund

(R.H. Lund), Capt.
Essex Scottish Regt. 3 CIRU.

The accused was cautioned as follows:

"Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

R.C.O. O'Hagan

(R.C.O. O'Hagan), Lieut.
Officer detailed to take the
Summary of Evidence

Aldershot, Hants,
1 Nov 43.

No. G-18476 Name LeBlanc, F.J. Sqn., Battery, or Company — Corps Gen List — Date of enlistment 27-5-40 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nanaimo B.C.	19-8-42	Pte		AA 15 AWL 1 hr. 59 minutes.	Cpl. Wynd.	4 Days C.B.	20-7-42	Capt. McGreavy.	
Nanaimo. B.C.	27-8-42	Pte		AA 15 Failed to report at breakfast parade.	RSM. Sawers	2 days C.B.	27-8-42	Capt. McGreavy.	
Nanaimo. B.C.	8-10-42	Pte		AA 15 AWL from 2200 hrs 8-10-42 to 0800. 9-10-42	Documentary	Admonished	12-10-42	Capt. McGreavy.	1 days pay FR&I
New Westminster	15-12-42	Pte		AA 15 AWL from 2359 hrs 15-12-42 to 0715 Hrs 16-12-42	Cpl. Hughes	7 days C.B.	16-12-42	Capt McGreavy	1 days pay FR&I

(P.T.O.)

No. G-18476 Name LeBlanc, F.J. Sqn., Battery, or Company — Corps Gen List — Date of enlistment 27-5-40 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				First Sheet destroyed 27-11-40					
Gander Nfld.	30-11-40	Pte.		A.A.15. AWL from 2200 hrs 30-11-40 to 2200 hrs 10-12-40.	Sgt. Leeman Sgt. Scott.	14 days detention	14-12-40	Maj. MacAuley.	11 days pay FR&I.
Botswood	21-1-41	Pte		AA.15. AWL from 2359 hrs 16-1-41 to 1500 hrs 20-1-41	L/C. Perrault	Admonished	21-1-41	Capt. Boulitlier	4 days pay FR&I.
St. Johns	2-5-41	Pte		AA.15 AWL from 2359 hrs 1-5-41 to 0330 hrs 2-5-41.	Cpl. Roy Sgt. Platon	7 days C.B.	2-5-41	Capt. Atkinson	
Valcartier	26-8-41	Pte		AA.15 AWL from 2359 hrs 26-8-41 to 2200 hrs 29-8-41.	Cpl. Gibbs Cpl. Moores.	7 days C.B.	30-8-41	Major. MacAuley.	3 days pay FR&I.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11-6-43	Pte		AA 15 AWL from 0600 hrs 11-6-43 to 0700 11-6-43;	Cpl. Caswell	4 days C.B.	11-6-43	Capt. Wallmer.	

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION.

Lieut. Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	12-9-41	Pte		AA.15. AWL from 0600 hrs 12-9-41 to 1845 hrs 7-11-41.	Documentary	Admonished	28-11-41	Col.Morgan?	56 days pay FR&I.
Valcartier	29-12-41	Pte		AA. 15. AWL from 0730 hrs 29-12-41 to 2115 hrs 4-1-42	Cpl Gartan	7 Days Pay	5-1-42	Maj. Smith	
Valcartier	13-3-42			AA.15. AWL from 0800 hrs 23-2-42 t 2230 hrs 9-3-42.	Documentary	15 days Det.	13-3-42	Col Duncan	15 days pay FR&I
Vernon B.C.	3-5-42	Pte		AA.15 AWL fro 2200 hrs 3-5-42 to 1715 hrs 4-5-42	Cpl Lee.	8 days Pay	5-5-42	Col. Lamb	1 days pay FR&I
Otter POINT.	19-6-42	Pte		AA. 15 AWL 10 days 15 hrs Costs Apprehension $106-74	Cpl. Wright	38 days det. cost of Apprehension	3-6-42	Col Lamb	

"B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G.18476	Pte.	LEBLANC, F.J.	Essex Scottish Regt. #3 C.I.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	A.W.L. Two times	14 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Lab

~~Number of instances of gallantry or distinguished conduct.~~ Rod

~~There are no entries in the conduct sheets of the accused.~~ Rod

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~ Rod

3. The accused is not under sentence at the present time ~~or The accused at the present time is under sentence for~~ Rod ~~beginning on the~~ Rod ~~day of~~ Rod

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and 25 days in military custody, making a total of 27 days, of which — days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ Rod attestation paper is 22 yrs. 1 month

6. The date of his ~~commission~~ Rod attestation specified in his ~~record of service~~ Rod attestation paper is 27 May 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to state any military decoration or award)~~ Rod

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer has held the regimental rank of~~ Rod

~~12. (In the case of an officer.) The accused holds in the army the rank of dated and in his regiment or corps or department the rank of~~ Rod

(*16548) Wt.[illegible] 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. – Rank – Name – of Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody, and MFM 4.

Signed this 21st day of November, 1943.

(W.A. Thorne) Capt.
Records Officer, 3 C.I.R.U.

In the rank of

In the rank of

In the rank of

years.

years.

Date of Promotion.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. - Rank - Name - of - Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

Robb

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody, and MFM 4.

Signed this First day of November, 1943.

W.E. Thorne
(W.E. Thorne) Capt.
Records Officer, 3 C.I.R.U.

If the accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of years,

In the rank of years,

In the rank of years,

(Instructions—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Robb

101 F - Gen LeBlanc G.

O. H. M. S.

M. F. B. 270

1000 M 12-40 (8668-69-70)
H.Q. 1772-20-67

F-77461 Gnr. LeBlanc, J.
No.3 C.A.R.U.

Orig

Army Form A.3.

101F

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25th day of February, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[~~I am unable to appoint~~—

*(1. ~~Three Officers to form the Court~~)

*(2. ~~A Field Officer as President~~)

*(3. ~~Three Officers having more than one year's service~~)

~~[or the following reasons namely~~]

Judge-Advocate Lieut. G.M. Forbes H.Q., C.R.U.

PROCEEDINGS REVIEWED

G.M. Graham Capt
Reviewing Officer (J.A.S.) B.A.
21 Mar 42

President.

Rank.	Name.	Regiment.
Major	D.A. Petrie	1 Cdn Div Inf Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	W.H. Ellis	No.1 Cdn Sigs Reinf Unit
Lieutenant	J.C. Newlands	1 Cdn Div Inf Reinf Unit
Lieutenant	R.A. Lombard	No.1 Cdn Eng Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-77461				
GNR. LEBLANC, J.	First Charge	Not Guilty	Not Guilty	Findings and sentence confirmed but sentence remitted to six months detention with stoppages as stated in sentence
Dr. 5 Cdn Arty Reinf Unit.	A.A. sec 41			
	Alternative			
	Second Charge	Not Guilty	Not Guilty	
	A.A. sec 41			
	Third Charge	Guilty	Guilty	
	A.A. sec 15(1)			
	Fourth Charge	Guilty	Guilty	
	A.A. sec 24(2)			
	Fifth Charge	Guilty	Guilty	
	A.A. sec 40		To undergo detention for a period of nine months and to undergo stoppages of pay until he has made good the sum of £6-18-2 in respect of loss of kit, and cost of apprehension & return	
	See charge sheet attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier (Signed) [signature] Maj

Commanding Cdn Reinforcement Units.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Third day of March 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Shorthand Writer. Dal.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Third day of March 1942

[signature] Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~Signed this~~ 7th ~~day of~~ March ~~19~~42

[signature] Brig
Confirming Officer.

Promulgated and extracts taken in the case of F 77461 - Gnr Leblanc J. (D.O. 57)

(a) (Dated) 14 Mar 42 (Signed) [signature] Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Huron Camp, Bramshott, Hants
3 March 1942

JAP.

I certify that No. F 77461 Gnr LeBlanc, J, No. 3 Cdn Arty Reinf Unit, is fit to undergo trial by Field General Court Martial.

C B Caswell Capt.
(C.B. Caswell) Capt. RCAMC
Medical Officer.

CHARGE SHEET

The accused, F-77461, Gunner John LEBLANC, No.3 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with:-

1st Charge
Section 41
Army Act.

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY STEALING

in that he

at Glasgow, Scotland, between the 1st and 3rd January, 1942, stole a ring, valued at £2: 0: 0:, the property of William Milne of 50 St. Mungo Street, Glasgow.

2nd Charge
(Alternative)
Section 41
Army Act.

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY RECEIVING STOLEN GOODS

in that he

at Glasgow, Scotland, between the 1st and 3rd January, 1942, did receive a ring valued at £2: 0: 0:, the property of William Milne of 50 St.Mungo Street, Glasgow, knowing the same to have been stolen.

3rd Charge
Section 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Huron Camp, Bramshott, Hants. absented himself without leave from 0700 hrs 18 Dec 41 until apprehended by the Civil Police, Glasgow, Scotland, at 1310 hrs 13 Jan 42. Cost of apprehension £4: 15: 1.

4th Charge
Section 24 (2)
Army Act.

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Huron Camp, Bramshott, Hants., on 22 Jan 42 was deficient of equipments, clothing and regimental necessaries to the value of £1: 18: 0½. which sum is 75% of the vocabulary price of such articles which amounted to £2: 10: 9. in accordance with C.A.O.R.O. 1398, as under:-

	£	:	:	
Brasses, Button		:	:	1-½
Brushes, Blacking		:	:	6-3/8
" Polishing		:	1:	6-½
" Shaving		:	:	10-½
Caps, Comforter		:	1:	3
Combs, hair		:	:	1-½
Dressing First Field		:	:	9-½
Gloves, woollen		:	1:	5-½
Holdall		:	:	6-½
Jackets, sweater		:	6:	4-½
Knives, clasp		:	2:	1-½
Razors, safety		:	:	4-1/8
Shoes canvas prs		:	2:	7-½
Socks woollen prs		:	1:	6-½
Carried forward	£	1:	0:	2-½

Brought forward	£1: 0:	2-¼
Spoons, table N.S.	: :	3-3/8
Towels, hand	: 1:	1-½
Bags, ration	: :	1-7/8
Covers, mess tin	: :	2-¼
Respirator, anti gas complete	:14:	3-3/8
Eyeshields, anti-gas, 6 prs	: 1:	8-½
Outfit anti-dim	: :	1-7/8
	£1:18:	0¾

5th Charge
Section 40
Army Act.

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

at Glasgow, Scotland, between the 1st and 3rd January 1942, was wearing 1 chevron, the rank badge of a Lance Bombardier, which he was not authorized to wear.

W. E. Hendrie Lt Col
.....

Commanding,
No. 3 C.A.R.U.

Huron Camp,
Bramshott, Hants.
February, 1942.

APPROVED UNDER K.R.(CAN) 540.

(P.J.Montague) Major-General,
J.A.G.
Canadian Military & Air Forces Overseas.

19 Feb 42.

To be tried by Field General Court Martial

(F.R. Phelan)Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 25th day of Feb 42.

No. F-77461, Gnr LeBLANC J., No 3 CARU, tried by Field General Court Martial at BRAMSHOT, Hants. the 3rd day of March, 1942.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the court.

Prosecutor:	Major A.M. Clarke,	No 1 CARU.
Defending Officer:	Major J. Jorgeson,	No 1 CARU.

At 1200 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the court are read over inthe hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No, sir.

The President, members and judge advocate are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to B66944, Sgt. T. Pyburn, H.Q., C.R.U., acting as shorthand writer?
A2. No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the Presidentand annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the first charge against you, which you have heard read?
A3. Not guilty.
Q4. Are you guilty or not guilty of the second charge against you, which you have heard read?
A4. Not guilty.
Q5. Are you guilty or not guilty of the third charge against you, which you have heard read?
A5. Guilty.
Q6. Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6. Guilty.
Q7. Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7. Guilty.

The accused having pleaded Guilty to the third, fourth and fifth charges, the provisions of R.P. 35(B) are here complied with.

Q8. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A8. No, sir.

1st witness) for prosecution) WILLIAM MILNE, 50 St Mungo St., GLASGOW, Scotland, being duly sworn, is examined by the prosecutor:-

The witness identifies himself.

Q9. Can you identify Gnr LeBlanc in this court room?
A9. I can (indicating accused).
Q10. Will you tell the court what you know of the circumstances in connection with the alleged theft?
A10. Sir, about last Sep or Oct Gnr Deveau was in the vicinity of my house, with Gnr LeBlanc, and being an ex-member of the army myself I went to speak to these two gentlemen and they said they had nowhere to go. I asked them to the house for tea. After tea they said they would give me a call at New Year or Xmas if they got leave. On New Year's Day, in the evening about 11 o'clock Gnr Deveau and Gnr LeBlanc came to my house and said they were broke and they asked me if I would put them up for the night, and I did so. The next day they said they had up until Thurs for their leave, that was five days, and I said I was prepared to put them up for the five days, sir. Anyway, the next day they came in and one of them gave me 4s., Gnr Deveau did, and they had had a drink or two. I said, "Where did you get the money?" and they said they had met some pals down the road. They were both there together. They were both there at the time when they said they had met some pals down the road. That was all right; I didn't bother. The next day, that was Fri, was all right, Sat was all right, and Sun was all right, and when I came in at dinner time from my work, expecting to see them in the house, the boys there said they were down at the Union Jack Club. How is that, I said to myself, I thought they were broke. I got suspicious and then I thought I had better have a look around, and I went into my wardrobe and I noticed my wife's ring had gone from the pocket wallet. I said to my boy, "Georgie, your mother's ring is gone," so I made a bee-line for the Lion Club and I didn't see them there. At night time I went to the Central Station. I didn't find them. When I got home at ten o'clock Gnr Deveau was in the house. I said to him, "I don't want to accuse you of anything, but my wife's ring is gone," and he turned around and he said ---
Q11. Was the accused present at the time?
A11. No sir, he wasn't there when the other fellow accused him. I said to him, "Where is it?" and he said, "I don't know." Of course I was mad. He said, "I will go out and try to find him." When he went out I went to the police station. The next day at dinner time when I came in the boy said to me, "Daddy, I saw LeBlanc standing outside the Lion Club." I went down and he was standing there and I said to him, "What about it, what did you do with the wife's ring?" He did not beat about the bush; he said, "I have nothing to do with it, he took your wife's ring," he said, "He put it in the bullion store." My boy was along with me at the time and I said, "You stand here while I go for the police." I went to get a policeman, I went about 10 yds down the street when the boy came after me and said, "Dad, he has run." The next day at dinner time he was standing there and I said, "Come on and show me the pawn shop where you pawned my wife's ring." I walked along with him to Buchanan St where a PC was on duty, and I informed the police that they had pinched a ring from my house, and he was arrested then. He was taken to the police station and cross-examined. That is all I want to say.
Q12. You say you were told by your child that LeBlanc had gone down to live at the Lion Club/on Mon?
A12. That is right.
Q13. When did you first miss the ring?
A13. When the boy said they were at the Lion Club I went into the room to see if it had gone. When he told me that and knowing they had no money, that is when I missed the ring.
Q14. It was after Mon, was it?
A14. It was Mon -- no, it was Mon right enough, because I was working until 12 o'clock.
Q15. It was quite a long time ago. On Fri or Sat Gnr LeBlanc in coy with Deveau came and gave you some money, did he?
A15. Yes.
Q16. And you inquired where they got the money?
A16. Yes, sir.

Q17. Then you said when you came back from work on Mon you were informed they had moved out to the Lion Club?
A17. Yes.
Q18. I wanted to know where your discovery of the loss of the ring fits in; was it before they had gone to the Lion Club or after?
A18. It must have been before, because that was how I tumbled to it that that was where they had got the money to stay at the Lion Club.
Q19. On what day did you discover the money gone?
A19. Sat we were all right; I think it was Sun. You have me guessing there; I am not sure.
Q20. You say they had had some drinks when they gave you the money?
A20. Yes.
Q21. And you asked them where they got the money from?
A21. Yes, and they said they had met some pals.
Q22. Then on Mon you were told they went to the Lion Club?
A22. Correct.
Q23. Do I understand it was not until after that the discovering that the ring was missing was made?
A23. That is just what I can't remember now; I think it was Mon.
Q24. Was it before or after they moved out of your house that you discovered the loss of the ring?
A24. It was Mon they went to the Lion Club. I came to the conclusion they took the ring; that is why I went after them. It was Mon dinner time when my son told me they were staying at the Lion Club.
Q25. This man arrived on New Year's Day?
A25. That is right.
Q26. Did they have a free run of the house?
A26. Yes.
Q27. Were they in possession of a key to the house?
A27. No.
Q28. When you were away from the house, working and otherwise, do you know if they were left alone in the house?
A28. No, I don't think know, but either my boy or my girl would be in the house; of course, I could be at work and they might run out of the house.
Q29. If you and the accused were out of the house, and your children were out of the house, would the house be locked or unlocked?
A29. Always locked, sir.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q30. About how long was it since you last saw the ring in question until you discovered its loss?
A30. A fortnight or three weeks previous.
Q31. Where was the ring when you last saw it?
A31. In the wardrobe, inside the jacket pocket, in the wardrobe.
Q32. When and where did you next see the ring after you reported it to the police?
A32. At the police station, it was handed to me by a detective.
Q33. And that was your ring, was it?
A33. Yes, I am sure of it.

Q34. JUDGE ADVOCATE: Was anyone else in the House during the times these two soldiers were staying with you?
A34. No sir, no-one at all.
Q35. Was anyone else in the house for the period of two weeks before that?
A35. No sir, there was only myself and the two children there. I did have a housekeeper but I couldn't afford to keep it up.
Q36. When did you let the housekeeper go?
A36. About six mos ago, sir.

(Page 4 follows)

2nd witness) for prosecution) No F86714, GNR J.C. DEVEAU, No 3 CARU, being duly sworn, is examined by the prosecutor:-

The witness identifies himself.

Judge Advocate fully explains s.95, p.96 of MML.

Q37. Where were you between the 1 and 3 Jan 42?
A37. In Glasgow, Scotland.
Q38. Where were you living?
A38. With Mr Milne.
Q39. As His guest?
A39. Yes, sir.
Q40. Did he ask you to come and stay with him?
A40. Yes, sir.
Q41. When?
A41. When I met him previously.
Q42. Did you make any payment to him of any kind for staying with him?
A42. No, sir.
Q43. You did not give him anyt hing at all?
A43. We gave him 4s. but it was to help him out, sir.
Q44. You had lots of money yourself, had you?
A44. I had a cheque before I left this camp, sir.
Q45. So you had some money to go away with?
A45. I had some.
Q46. Did you, during your conversation with Mr Milne, make any reference to your financial status at the time?
A46. No, sir.
Q47. You never discussed money with him at all?
A47. No, sir.
Q48. You are on oath?
A48. Yes, sir.
Q49. When did you first learn that Mr Milne owned a ring? When did you first hear anything about a ring?
A49. In Dec.
Q50. Before you stayed with him?
A50. No, sir.
Q51. Was it during your stay with him?
A51. In Jan I should say, when I was staying with him.
Q52. Did he tell you he had one?
A52. He said he had a ring.
Q53. Did you ever learn or did anybody ever tell you the ring had been stolen?
A53. Yes sir, Mr Milne told me that.
Q54. When?
A54. I don't know the exact date.
Q55. Did he tell you he owned a ring, or did He tell you it had been stolen, after he told you he owned a ring?
A55. All at the one time.
Q56. How long did you stay with Mr Milne?
A56. I am not positive but I think either five days or more.
Q57. Did you come right back after you stayed with him?
A57. No sir, I was on my way back.
Q58. Did you stay anywhere else in Glasgow other than at Mr Milne's house?
A58. No sir, I didn't.

CROSS EXAMINED BY THE DEFENDING OFFICER

Q59. Did you ever see the ring which Mr Milne told you he had?
A59. I saw one ring, but I am not positive it is the one he says he lost.
Q60. When did you see a ring?
A60. One Saty going down the street. I was given a ring and didn't know what to do with it.
Q61. Answer my question. Where did you see a ring while in Glasgow?
A61. I saw it on the Saty, but I don't remember the exact date.
Q62. Where did you see it?
A62. Going down Parliamentary Rd, in the accused's possession: it was in LeBlanc's possession.

Q63. Why did you see the ring?
A63. He wanted to get rid of the ring and he said he didn't know anything about pawning it, and I said, "What ring?" and he showed it me and I said it would be easy to learn, so we went to the pawn shop and pawned it.
Q64. Have you seen the ring since then?
A64. No, sir.
Q65. If you saw the ring now could you identify it?
A65. Yes, sir.

DEFENCE: (To prosecutor) May the ring be produced, please?
PROSECUTOR: Yes. Call Mr Milne.

1st witness for prosecution) WILLIAM MILNE, 50 St Mungo St., GLASGOW, Scotland, previously sworn, recalled, and examined by Judge Advocate:-

Q66. Is this the ring (producing ring) you refer to as being taken from the wallet?
A66. Yes, sir.

Q67. DEFENCE: Describe the ring?
A67. WITNESS DEVEAU: A small stone in it, a plain ring?
Q68. Plain or engraved?
A68. It was plain.
Q69. THE COURT: How was it engraved?
A69. It was not engraved.
Q70. JUDGE ADVOCATE: Any markings on the ring at all?
A70. I didn't notice any markings.
Q71. DEFENCE: How much did you receive from the pawn shop?
A71. £0.9.9.
Q72. In what way did you dispose of the £0.9.9?
A72. Well, we spent it.
Q73. Did you spend it or LeBlanc?
A73. Well, both of us spent it.

Q74. JUDGE ADVOCATE: Is this the ring?
A74. No sir, that is not the ring we pawned.
Q75. Did you ever see the ring Mr Milne referred to in his conversation with you?
A75. No, sir.
Q76. Did you ever see that ring before?
A76. No, sir.
Q77. Did you ask the accused where he got the ring you pawned?
A77. No sir, because I know when we left this camp he said there was a possible chance he may get married, and when I saw the ring I thought that was the one he had.
Q78. Did you see the ring before you left the camp?
A78. No, sir.

RE-EXAMINED BY THE PROSECUTOR

Q79. You pawned the ring which the accused had in his possession?
A79. Yes, sir.
Q80. To all intents and purposes it was his ring, so far as you know?
A80. It was, as far as I am concerned.
Q81. Will you describe to the court again what that ring looked like?
A81. A plain ring with a small stone set in it; a plain gold ring.
Q82. Something like the one you have just seen?
A82. No, it was a small stone.
Q83. Was the stone set into the gold band?
A83. Into the band itself.
Q84. Have you ever seen a ring made like that before in your life?
A84. Yes sir, plenty of them.
Q85. Have you got the pawn ticket?
A85. No, sir.
Q86. Did you ever get one?
A86. We had one, but threw it away.

Q87. Who threw it away?
A87. LeBlanc tore it up and threw it away.
Q88. He did not want the ring back?
A88. No, sir.
Q89. You said you spent this money; why did you have to spend it?
A89. We didn't have to spend it, no sir.
Q90. You said Gnr LeBlanc had inferred to you that he had a girl he was going to give this to?
A90. No sir, I didn't say that.
Q91. Well, didn't you think it belonged to him?
A91. I didn't refer to any girl he was going to give it to.
Q92. Did he have a ring which he was going to wear himself?
A92. He said he might get married.
Q93. Was it a nice ring?
A93. Yes, sir.
Q94. Gold?
A94. I wouldn't swear to that.
Q95. Then correct me if I am wrong. The impression I have got is that this was a nice ring that LeBlanc got you to pawn for him, for which he got £0.9.9, and then tore up the pawn ticket because he was not going to redeem it again?
A95. Yes, sir.
Q96. And he did not need the money at all?
A96. He didn't need it.
Q97. What sort of a stone was it?
A97. A white stone.
Q98. THE COURT: You wouldn't know whether it was a diamond or not?
A98. No, I don't know that; it might have been an imitation diamond, I would not know the difference.
Q99. Did it look like a diamond?
A99. Yes, sir.

The prosecution is closed.

Under note 1, R.P.40, MML, defence submit prima facie case has not been established, and moves for dismissal of the first and second charges.

The Court is closed for their decision.

The Court being re-opened, the accused is again brought before it.

THE COURT: The Court, after due consideration, sustain the submission of the defending officer, and we hereby find the accused Not Guilty of the first and second charges.

Q100. THE COURT: In connection with the other charges, do you wish to make any statement in mitigatibn of punishment?
A100. No, sir.
Q101. Do you wish to give evidence yourself or to call any witnesses as to character?
A101. No, sir.

The Prosecutor, MAJOR A.M. CLARKE, No 3 CARU, being duly sworn, is examined by the Court:-

The witness identifies himself.

Q102. Have you any evidence to produce as to the character and particulars of service of the accused?
A102. Yes sir, I produce AF B296 and copy of AFM-6.

The above statement is read, signed by the President, and annexed to the proceedings.

Q103. Is the accused the person named in the statement which you have heard read?
A103. Yes, sir.
Q104. Have you compared the contents of the above statement with the regimental books?
A104. Yes, sir.

Q105. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

A105. Yes, sir.

No cross-examination.

Q106. THE COURT: Do you wish to address the court?

A106. DEFENDING OFFICER: Just a word in connection with the conduct of this soldier while in the army. He has been soldiering now for over a year, and his offences in the past have not been of a serious nature. He is not an incorrigible soldier. His last punishment was 14 days detn for an absence of two days and two hrs. On completion of that 14 days detn he reported back to the A Wing office and he was told he did not belong to that Wing, but that he belonged to C Bty. When he reported to C Bty office he was told he did not belong to C Bty. All this was very confusing to the man, and apparently it seemed to appear nobody required his services. He is the type of man who is easily led and influenced. He got no satisfaction, so he went AWL. In view of the fact he has spent some considerable time in close arrest awaiting this trial, and in view of the fact of his previous record not showing him to be a bad soldier, although his military character is not good, I would ask for leniency. I think this man does deserve the court's consideration for a lenient sentence.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

SUMMARY OF EVIDENCE IN THE CASE OF
F-77461, Gnr. J. LEBLANC,
"Administrative Wing", No. 3 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution.

B-6603, Bdr. Bromiley, W., "Administrative Wing", No. 3 C.A.R.U., having been duly sworn, states:-

As Orderly N.C.O. for Administrative Wing, 3 C.A.R.U. on 18 Dec 41, acting on instructions received I investigated the whereabouts of Gnr. Leblanc at 0700 hrs. I searched the camp and failed to find Gnr. Leblanc anywhere.

He was not present when I took the Tattoo Roll Call at 2215 hrs on the same day, and I then reported him absent as from 0700 hrs that morning.

The accused declined to cross-examine this witness.

William Bromiley Bdr, B6603

2nd Witness for Prosecution.

P-9851, Sgt. Skinner, W. H., "B" Battery, No. 3 C.A.R.U., having been duly sworn, states:-

I am the Sergeant in charge of the Kit Stores at No. 3 C.A.R.U., and on 21 Jan 42 I examined and inspected the kit of F-77461, Gnr. Leblanc, J., and, having compared his kit with the articles issued to him as set out in his M.F.M. 600, I found him to be deficient of the following articles:-

	£	:	:
Bresses Button		:	: 2
Brushes, blacking		:	: 8½
" polishing		:	2: 1
" shaving		:	1: 2
Cap comforters		:	1: 6
Combs, hair		:	: 2
Dressing, First Field		:	1: 1
Gloves, woollen		:	1:11
Holdall		:	: 9
Jacket, sweater		:	8: 6
Knives, clasp		:	2:10
Razors, safety, sets		:	: 5½
shoes, canvas, prs.		:	3: 6
socks, woollen, prs.		:	1:11
spoons, Table, N.S.		:	: 4½
towels, hand		:	1: 6
bags, ration		:	: 2½
covers, mess tins		:	: 3
Respirators A/Gas Complete		:	19: 0½
Eyeshields A/Gas, prs.6 @ 4½d		:	2: 3
Outfits, anti-dim		:	: 2½
	£	2:	10: 9

The accused declined to cross-examine this witness.

W H Skinner Sgt 9851

3rd Witness
for Prosecution. William Milne, 50 St. Mungo Street, Glasgow.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of William Milne cannot, in my opinion, be readily procured.

J L Goldie - Lieut

I now produce and read to you a letter purporting to be written by the said William Milne:-

"Ptes. John Clayton De Veau and Pte. Joe Le Blanc resided with me for five days. I gave them food and sleeping accommodation. They gave me 4 shilling money I think they got from pawning my wedding ring of which they stole. My wife is in a mental hospital and I have a son 13 years old and daughter 10 to support and as I have a wage averaging £3:10: 0 per week I think that the guilty one should be made to pay the £1 that it cost me to get the ring from the pawnshop, the Clearance Line you will receive from the Glasgow C.I.D."

"I sincerely hope that I have taken the proper method by writing to you."

"Yours most respectfully,"

(Sgd.) " Mr. W. Milne"

I now produce and read to you a statement in evidence purporting to be made by the said William Milne to the City of Glasgow Police:-

"I am a brushmaker by occupation and reside with my two children at the address given."

"For the past seven years my wife has been a patient in Woodielee Mental Institution. When she entered the institution I retained her wedding ring which I always keep in my wallet."

"About four months ago while in McAslin Street, I met a Canadian soldier. After some conversation I invited him to my house where we had tea together. When leaving I informed him that should he be in Glasgow at any time to give me a look up. He told me his name was John Clayton De Vaux."

"About 11 a.m. on Thursday, 1st January, 1942, De Vaux called at the house accompanied by another soldier whom I now know to be John Le Blanc. I noticed that De Vaux wore Sergeant's stripes, while Le Blanc had one stripe up. They informed me that they were broke and asked if I could put them up which I immediately agreed to do."

"On Sunday 4th January 1942, I had occasion to go to my wallet which was inside the wardrobe and in my coat pocket. On examining the wallet I missed the ring. I recalled having last seen it on 31st December 1941, and immediately suspected the soldiers for the theft."

"I did not say anything to them at the time, but on my return from work the following day I was informed by my children that the soldiers had gone to stay in the Lion Club in North Frederick Street. On hearing this I went there, but could not find them. On my return home and as I entered the close I found the Sergeant (De Vaux) standing there. I invited him into the house and he stayed with me overnight. I questioned him regarding the ring and he

"remarked, "That is where Le Blanc has got the money". I asked him to try and get it for me and he left the house to try and trace Le Blanc, but he returned without him or any word of the ring. He left my house on 5th January, 1942, and I have not seen him since."

"I made enquiry with a view to tracing Le Blanc but as I could not find him I called at the Central Police Office and reported the matter."

"About 1.p.m. on Tuesday, 13th January, 1942, I was passing the Lion Club in North Frederick Street, when I saw the accused Le Blanc standing at the door. I went forward and asked him about the ring. He informed me that he had seen De Vaux with the ring and that he had pawned it in Parliamentary Road. I was not satisfied and asked him to accompany me to Parliamentary Road, where I handed him over to a Constable after explaining the circumstances. I accompanied them to the Central Police Station."

"I was later shown a gold wedding ring by Detective Sergeant Robertson and I identified it as my property."

"The value of the ring is £2 and I signed label attached."

The accused requests that William Milne be present at the trial for the purpose of cross-examination.

4th Witness for Prosecution.

Marshall Liddell (40) residing at 74 Gower Street, Glasgow.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Marshall Liddell cannot, in my opinion, be readily procured.

J. L. Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Marshall Liddell to the City of Glasgow Police:-

"I am manager in Pawn Office of A. J. Liddell at 8 Sauchiehall Street, Glasgow."

"On Saturday, 3rd January 1942, two soldiers called at the premises. The one who was wearing Sergeant's stripes pledged a gold wedding ring and was advanced £1."

"He gave his name as John Le Blanc, 5th Light A.A. C.E.F. England."

"On Wednesday, 14th January, 1942, Detective Sergeant Robertson called at the premises and took possession of the ring."

"He was accompanied by a soldier, but I was unable to identify him as the soldier who accompanied the Sergeant when he pledged the ring."

"I could not identify the Sergeant."

"I signed label attached to ring."

The accused requests that Marshall Liddell be present at the trial for the purpose of cross-examination.

5th Witness for Prosecution.

James Ralston, No. 376 Constable, Police War Reserve, Central Division, Glasgow City Police.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Police Constable James Ralston cannot, in my opinion, be readily procured.

J. L. Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Constable Ralston.

"About 1.10 p.m. on Tuesday, 13th January, 1942, I was on point duty in Parliamentary Road, when I was approached by the witness William Milne, who was accompanied by the accused Le Blanc. Milne informed me that Le Blanc and a sergeant of the Canadian Army had lived with him between 31st December, 1941, and 5th January, 1942, and that after their departure on the latter date, he had missed a wedding ring from his house."

"I informed the witness, Constable Milne, of what I had been told, and the accused Le Blanc was asked after being cautioned, if he knew anything about the ring. He replied, "The first time I saw the ring it was in possession of the Sergeant on the street." "I accompanied the Sergeant to a pawn office, where he pledged it in my name for £1." "I did not know where the ring had come from, and I did not receive any money from the Sergeant"."

""As the witness William Milne had previously reported the theft at the Central Police Office, I conveyed the accused there, where he was questioned by Detective Sergeant Robertson."

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

6th Witness for Prosecution.

Alexander Milne, No. 80 Constable, Central Division, Glasgow City Police.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Police Constable Milne cannot, in my opinion, be readily procured.

J. L. Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Constable Alexander Milne.

"I can corroborate the statement made by the witness Constable Ralston, and further that I was present at the Uniform Bar when the accused was cautioned and charged as now libelled. He replied, "I was with the other soldier when he pawned the ring"."

The accused does not require the presence of this witness at the trial for the purpose of cross-examination.

7th Witness for Prosecution. John Robertson, Detective Sergeant, Headquarters, City of Glasgow Police.

I, J. L. Goldie, Lieut., R.C.A., the Officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Detective Sergeant John Robertson, in my opinion, cannot be readily procured.

J L Goldie Lieut

I now produce and read to you a statement in evidence purporting to be made by the said Detective Sergeant John Robertson.

"I had charge of the Police enquiry into this case and took statements from witnesses."

"About 2.15 p.m. on Tuesday, 13th January, 1942, I saw the accused Le Blanc in the Central Police Office where he was brought by Constables Ralston and Milne. I cautioned and questioned him regarding the ring and he stated that on Saturday, 3rd January, 1942, he was in Parliamentary Road along with the boy, De Vaux, when he showed him a ring, and that he had accompanied him to a pawn shop in Parliamentary Road, where it was pledged for £1. When pledging De Vaux gave his (Le Blanc's) name and that he did not receive any of the money."

"De Blanc also stated that being a stranger to Glasgow he did not know where the pawn office was situated but that he could point it out. Le Blanc was then charged with the theft as now libelled and cautioned in the usual manner to which he replied, "I was with De Vaux when he pawned it but I did not steal it"."

"He was taken to the bar of the Central Police Office where he was again cautioned and charged and replied, 'I was with the other fellow when he pawned it'."

"The following day he was taken out in the Police car and he pointed out the pawn office at 8 Sauchiehall Street, Glasgow, as the one in which the ring was pledged. I took possession of the ring which had been pledged for £1 under the name of John Le Blanc."

"He further admitted that neither he nor De Vaux were non-commissioned officers but that they had obtained the stripes and put them up themselves. He also stated that he had been an absentee from his unit since 24th December, 1941, and that, as far as he knew, De Vaux, had returned to his unit."

"I signed the label attached to the ring."

The accused requests that Detective Sergeant John Robertson be present at the trial for the purpose of cross-examination.

8th Witness for Prosecution. Harry Duncan, Detective Constable, Headquarters, City of Glasgow Police.

I, J. L. Goldie, Lieut., R.C.A., the officer taking this Summary, certify that owing to the expense and loss of time involved, the attendance of Harry Duncan cannot, in my opinion, be readily procured.

J L Goldie Lieut

I now produce and read to you a statement in evidence

purporting to be made by the said Detective Constable Harry Duncan.

"I can corroborate the statement of Detective Sergeant Robertson in full".

The accused does not require that this witness be present at the trial for the purpose of cross examination.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

After this caution, the accused declined to make any statement.

I certify that the foregoing Summary of Evidence consisting of six (6) pages was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

J.L. Goldie Lieut

(J.L. Goldie) Lieut., R.C.A.
No. 3 C. A. R. U.

Huron Camp,
Bramshott Hants,
22nd January, 1942.

SUPPLEMENT TO:-
SUMMARY OF EVIDENCE IN THE CASE OF
P-77461, Gnr. LEBLANC, J.
"Administrative Wing", No. 3 C.A.R.U.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution.

B-6603, Bdr. Bromiley, W., "Administrative Wing", No. 3 C.A.R.U., having been duly sworn, states:-

"I wish to make an addition to my testimony given in the Summary of Evidence taken on 22 Jan 42 in the case of P-77461, Gnr. Leblanc, J., as follows:-

After reporting him absent I did not see or hear of the accused until 20 Jan 42 when I saw the accused for the first time since his absence."

William Bromiley Bdr B6603

The accused declined to cross-examine this witness.

I certify that the foregoing supplementary testimony consisting of one (1) page was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with. Signed at Huron Camp, Bramshott, Hants. this 30th Day of January 1942.

J. L. Goldie - Lieut.

(J. L. Goldie) Lieut., R.C.A.
No. 3 C. A. R. U.

Ref: K.R.& O.(Can.)639

Regt. No. F-77461

Rank Gunner.

Name LeBlanc J.

Regt. No.3 R.C.A. Rein.Unit

Unit:

The following expenses were incurred in apprehending and returning the M/N soldier to xxxxxxx from Glasgow (Scot) London

DATE	PARTICULARS	AMOUNT		
16 Jan.42	Escort return fare from Glasgow to London	3.	1.	7.
16 Jan.42	Prisoners single fare to London from Glasgow	1.	10.	10.
	Prisoners Single fare from London to			
	Escorts expense for xxxx, meals, xxxxxxxx and meals for the prisoner.	0.	2.	8.
	TOTAL ---------- £	4.	15.	1.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. Byers Capt.
O.C. No 8 Prov. Coy.
Canadian Provost Corps.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F-77461	Gunner	LEBLANC, J.	No. 3 C. A. R. U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L.	3 times	3 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[illegible]

or

[illegible]

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [illegible]

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 49 days in military custody, making a total of 49 days, of which 3 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 years.

6. The date of his attestation specified in his attestation paper is 13 Feb. 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 12 days service.

9. The accused is entitled to reckon 1 year 12 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [illegible]

11. [illegible]

12. [illegible]

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F-77461 Rank Gunner Name LEBLANC, J. of 3 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~[illegible]~~ 3 day of ~~February~~ March 42

[signature]
RECORDS OFFICER
No. 3 CON. ARTILLERY HOLDING UNIT.

13. [illegible]

Date of Promotion.

In the rank of . . . years, ...

In the rank of . . . years .....

In the rank of . . . years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. F77461 Name LEBLANC, JOHN Sqn., Battery, or Company Corps No. 6 D. D., A.F. Date of enlistment 13-2-41 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 133) 500M—8-39 (1703) H.Q. 1771-41-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed 13-8-41 on completion of six months' service.									
Bramshott Hants.	14-11-41	Gnr		A.W.L. in that he at Huron Camp, Bramshott, Hants., failed to report at #1 Kitchen at 1800 hrs 14-11-41 the time his duty commenced thereby causing another man to do his duty, and was absent from that time until reporting to the Guard Room at 1900 hrs 15-11-41. Absent 1 day, 1 hrs. A.A. Sec. 15 (1)	Bdr. Davidson B.S.M. Olsen Gnr. Deveau	5 Days C.B.	17-11-41	O.C. 3 CARU	Forfeits 2 days pay F.R.& I.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bramshott Hants.	29-11-41	Gnr.		A.W.L. in that he, at Huron Camp, Bramshott, Hants., absented himself without leave from 0600 hrs 29 Nov 41 until apprehended by C.P.C. at 1730 hrs 1 Dec 41. Absent 2 days 12 hrs. A.A. Sec 15 (1)	Gnr. Scott L/Cpl. Good, CPC L/Cpl. St. Cyr, CPC	14 days Det.	3-12-41	O.C. 3 CARU	Forfeits 3 days pay under F.R. & I. (1) (a)

Certified True Copy —

RECORDS OFFICER
No. 3 CDN. ARTILLERY [illegible] UNIT

5J-29

Pte Le Blanc G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-140584 Pte Gerard LeBLANC, FMR, att 1 Cdn Disciplinary Centre.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 120(a)	NOT GUILTY.		The Court finds the accused NOT Guilty of desertion but Guilty of AWL from 1800 hrs 11 Dec 44 until apprehended at 1600 hr 10 Mar 45.
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 47 days, of which 46 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 18 months.

(Sgd) ..... 27 Apr 45 (Sgd) George B H Cox Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) J Muncie (J MUNCIE) Lt-Col.
Date 30 APR 45 Commanding 2 CDN BASE REPT GP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D/140584 PTE GERARD LeBLANC	3 MAY 45	J Medhurst Lt-Col. Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5J-29

FIELD GENERAL COURT-MARTIAL

CFA86 (to lieu of AFA8) 40-P & S-1502 (40-01)

4/38B

Convened by Brig G S N GOSTLING, ED Comd 2 CBRG dated 25 APR 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-140584	Pte.	GERARD	LeBLANC	F.M.R. att 1 Cdn Disciplinary Centre.

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
1 Jun 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(1)) 27 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1520 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2).~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as Interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major.	G.B.H. Cox. C.A.C.	ADC 1 Cdn Disc Centre
Member	Major.	A.E. Leproy. Loyal Hfds	ADC 1 Cdn Disc Centre
Member	Lt	A.J. Thompson. CIC	2 CBRB'd
Judge-Advocate			
Prosecutor	Lt.	M. Macnost. Adv Chap	10 CDN BDE
Defending Offr	Lt.	W.L. Neville F.M.R.	10 CBRBN

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D140584 Pte LeBLANC, G. before arraignment make(s) (no) (a) plea(s) .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG. V4.6 9.1.45.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without outby from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence. (RP 44(E).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on such charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(E), (F); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appear from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 25(D). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) and recorded, exhibits A & B attached.
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s), ~~and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ~~I wish to make a statement not on oath~~ accused gives evidence on oath. Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans. N/A.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) ~~On The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. MFR 265 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes in mitigation of punishment, after exhibit "D".
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to summoses see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-140584 Pte Gerard LeBLANC, FMR, attached to 1 Cdn Disciplinary Centre, a soddier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, at 1800 hrs 11 Dec 44 absented himself from his unit until apprehended in BRUSSELS, Belgium at 1600 hrs 10 Mar 45

(To tal absence: 88 days 22 hrs)

In the Field
6 Apr 45

(A O Hood) Lt col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court-Martial

In the Field
25 Apr 45

(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-140584	Pte		Gerard	LEBLANC,	Fus MR, att 1 Cdn Disciplinary Centre.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has[XXXX] committed the offence[X] set forth in the Charge Sheet[X] attached and on (*date*) 25 APR 45 endorsed by me, [redacted]. "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; [redacted]

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. [redacted]

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G S H COX,		CAC, att 1 Cdn Disciplinary Centre.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	A E LEVESQUE,		Seaforth of C, att 1 Cdn Disciplinary Centre
Lieutenant	A G THOMPSON,	CIC,	2 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

[redacted]

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 102 (a) 2.)

Brigadier (Rank.)

(G S H Cortling)

Date: 25 APR 45

Commanding 2 CIB BASE RPT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FGCM) (To face of AFA/S) (See overleaf for weights and notes for use on trial.)

Exhibit "G" [illegible]

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined D140584 (No.) Pte (Rank) LEBLANC G (Name) and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 27 AVR 1945

L.E. Bashow Capt (Sgd) (Medical Officer)

Unit 1 Cdn Disciplinary Centre

Case of D140584 Pte Leblanc J.
(L.M.R.)

Prosecution makes no opening address.

Prosecution:-

1st Witness:- Major N.C. Dawson sworn states:-
I am attached to 1 Ledn Disc Centre in legal dept. My duties are to collect documents, & evidence necessary in preparation of court martials. In the course of my duties I had occasion to interview the accused who came to my office and made a voluntary statement. After being cautioned in the usual manner i.e. that he didnt have to make a statement but if he did it would be taken down in writing & may be used in evidence. To show he understood the caution he signed it. I could identify this statement as I witnessed it. The witness identified the document, which was read to the court, & presented as Exhibit "A".

R.P. 83 (b) complied with.

Documentary Certificate of apprehension dated 10th March signed by Pres. & attached as Exhibit "B".

Prosecution closes.

Defence enters a submission on the grounds that the Prosecution has not established a prima facie case of desertion in the he has not proven the intent not to return at any time, & requests the charge be reduced to A.W.L.

Prosecution replies.

Court closes to consider the submission.

Court reopens - submission is disallowed & trial continues.

DEFENCE.

The accused elects to give evidence on oath.

The accused sworn states:- On 11th Dec 44 I was late for my convoy from C.C.O.D to Bern Belgium where I met my officer. My officer told me to put my truck around the other side of the park which I did. After parking my vehicle I returned

to where I had been speaking with my officer but found he & convoy had gone. I could not go back to the depot because it was too late so I waited until the next day & then went into Brussels. When I arrived in Brussels at St. John's Barracks I found the convoy had left for Ghent. I decided to take rest because I was tired of one as I had been working quite hard lately & had been refused a pass which was due to me. I remained in Brussels. I stayed there 3 or 4 days & met a girl. I decided to stay with her for awhile & then return to my unit in Ghent. I remained there with all intentions of going back. I was in uniform when apprehended & had all my papers with me. Furthermore I had my suit case packed ready to leave as I had had a quarrel with the girl. but people did not do so because they had locked the door and kept the key. Although she was in the house I couldn't find the key. About 10 mins. after the M.P. & the civ, arrested me & took me to the guard room. When I reported to St. John's Barracks I found an English detachment there who told me the convoy had gone to Ghent. When I parked my vehicle & talked with my officer I was only away about 5 mins. I had money when I arrived in Brussels, approx 1500 frs. which lasted me for some time, the rest of the time the woman kept me. Twice I made up my mind definitely to go but changed my mind because the girl did not want me. On two occasions when I was about to leave me a short time before my apprehension. The reason I had made up my mind to leave was because I was fed up with the girl & realized I had to return to my unit. When the M.P. came to the house I told the girl to [illegible] the door immediately. She did so, & I made no effort to evade arrest. When I first

decided to take my rest I had decided to have 7 days.

Cross exam from P.O.

The reason for wanting to return was not only because of the quarrel but because I wished to go back to my unit. Her name was Mademoiselle Francine Francotte - 92 Rue Jolie. Brussels.

R.P. (83) (b) complied with.

GAC

Prosecution sums.

Defence replies.

Court closes to consider the finding. . . .

Summing Up for Prosecution.

D. 40584 - Pte Leblanc, Gerard

The accused, although he expressed his intention of returning to his unit, made no effort to do so and it was necessary for the Military Authorities, after a lapse of 89 days, to arrest him. The accused, if his intentions were sincere, had ~~of~~ ample time to return and 89 days is definite proof that he did not have the intentions of returning.

Mr. Racicot Lt

Prosecution.

In the Field.
27 Apr 45.

Exhibit 'A'
M. Rousseau Capt
Exhibit "A" GAC

~~CANADIAN PROVOST CORPS~~

Special Investigation ~~Section~~ - 1 Canadian Disciplinary Centre

STATEMENT

PLACE: Field DATE: 7 Apr. 45

SUBJECT:- A.W.L.

Reg No: D140584 Rank: Pte Name: LeBlanc, Gerard
Unit: F.M.R.

STATES: "I have been cautioned that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I fully understand the meaning of this warning and to show that I do so, I sign my name herewith."

Signature G. LeBlanc

BEGINS "I am D140584 Pte Gerard LeBlanc, 21 years of age, single. I joined the Cdn Army 21 May 43. I took my basic training at Sherbrooke Que. I took my advance training at Farnham Que. I arrived in the U.K 1 Dec. 43 where I took further advance training. I came to Normandy France with my Regt the F.M.R on 7 Jul. 44 and was with them in the line, until I was evacuated to hospital in England on or about the 22 Jul. 44 and rejoined my Regt on or about 7 Sept. 44. As I was evacuated in Jul to hospital suffering from being "bomb happy" I am not positive of the exact dates of my evacuation and again rejoining my Regt. I was only back with the Regt 1 day when I sprained my ankle and was again evacuated to hospital and discharged from hospital about a week later to 10 Bn 2C.B.R.G. About 3 days after joining 10 Bn 2CBRG I was sent to 1 CCOD with whom I was with until I went AWL at approx 1800 hrs 11 Dec. 44 and remained A.W.L until apprehended by the C.M.P. at approx 1600 hrs 10 Mar. 45.

I have been in the service for nearly 2 years and never before had a charge against me.

I have read over this statement and it has been read to me and it is the truth. I have had the opportunity to add, change or delete anything I wish.

Signature G. LeBlanc

Statement taken down in writing
and witnessed by
B.1672 Sam McWylie Pte
HQs 2CBRG-1CDC

[signature] Repr

27 April 1945

D-140584 Pre LeBlanc, G. Exhibit E GBC

Gentlemen:-

I would like to bring to your attention, for your consideration in sentencing the accused, that he is the son of a poor habitant French Canadian family, which resides in the less habited part of Quebec and for these reasons, did not have the opportunity to receive an education. Due to this fact he does not quite realize the seriousness of his offence. Furthermore he is but 21 years of age. Having joined the Army when 19 yrs old, came overseas, and landed in France on July 7, 1944 with his Unit. On July 22, was evacuated to a Hospital in England. Upon been discharged from Hospital, was promised leave, but due to the fast movements of reinforcements leave was not granted, but once again re joined his Unit. Sprained an ankle and evacuated once more. After 10 days in hospital, was sent to C.B.R.G. refused leave again and was sent to #1 C.C.O.D.

One day after having worked hard for quite sometime, he proceeded to Boom, but upon reaching there, the convoy in which he was to return had left. So he proceeded to Brussels, St Johns Barracks, trying to catch up with his convoy but it had already left so he decided to rest for a few days. Unfortunately he met a young girl, who coaxed him to live with her, naturally being young, did not resist her supposing charms and was kept there. Twice during his stay, he had decided to return to his Unit, but each time the person managed to make him

change his mind. The third time, she locked him in and hid away the key.

Therefore gentlemen, it would be appreciated if the court would take this facts into consideration, and be as lenient as possible in their sentence.

Wm Pontte Lieut.
Defending Officer
1 Can. Disc. Centre.

27 April 1945

P-140584 Pte. LeBlanc, G. (Fus. M.R.)

Gentlemen:—

So far the Prosecution has not yet ~~taken~~ proved to the Court that the accused did not have the intentions of returning to his Unit.

The accused whereas, while under oath has brought the fact that on two occasions did pack up to return, but was held back by the girl whom he was living with, the third time she locked the door and hid the key away. Furthermore, Gentlemen when the Military Police did arrive to the girl's home, he had all opportunity to escape arrest, but did not put up any resistance. These points gentlemen should go to prove that the intentions of the accused were really & sincerely of returning to his Unit.

W. Leo Neville Lieut
Defending Officer
1 Can. Disc. Centre

Exhibit "C"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D140584	Pte	LEBLANC G	FMR

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL 15(1) 1 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 10 Aug 43

Date of last entry in Field Conduct Sheet ------

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL beginning on the NIL day of NIL

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 47 CBC days in military custody, *i.e.*, No days in open arrest, 47 CBC days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 21 years 5 months

6. The date of his attestation ~~calling up for military service~~ is 25-5-43

7. The service which the accused is allowed to reckon is _____

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of ////	
In the war substantive rank of ////	
In the acting rank of ////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(27835) Wt.24939/3404 24,000 7/44 S.S.E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on Mr^m 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this _____ day of _____

_____

Exhibit "D" GBL

MFM 6
(AFB 122)
40/PAS/100 (3436)

No	Name	Sqn, Battery, or Company	Corps	Date of enlistment	Service or Proficiency Pay
D140584	LEBLANC Gerard		CIC	25-5-43 GC Badges	

Date of last entry in Company Conduct Sheet	No and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No	Signature OC Company, etc	Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
T.C.	43	Pte		Awarded 1 days pay and 14 days CB for AWL Absent 12 hrs 45 mins. forfs 1 days pay total forf 2 days pay			10Aug43		

Duplicate created from MFM 4 28 Mar 45. Record of conduct in Canada other than above entry prior to TOS Cdn Army Overseas-20Nov 43 not available.
"FAMELON" Officer ic Records C Cdn Sec 2 Con HQ 21 A Gp

Certified true copy of MFM 6 in my possession

(PTO)

Summary of Evidence in the case of D-140584 Pte Gerard LeBLANC, Fus Mont-Royal, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Deserting His Majesty's Service

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "B" - Certificate of apprehension dated 10 Mar 45

FIRST WITNESS B-1672 Pte I M WYLIE 1 Cdn Disciplinary Centre sworn states:-

On the 7th day of Apr 45, I interviewed the accused D-140584 Pte Gerard LeBLANC, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity I cautioned him as follows: -"You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence". The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "A".

The accused declines to cross-examine this witness.

B-1672 Pte I M WYLIE

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
1st Apr 45

CERTIFICATE OF ARREST IN ACCORDANCE WITH A.A. SEC.163(1)(JJ) Exhibit B Exhibit-'B'

I certify that No. D140584 Rank PTE Name LABLANE M. Rousseau Capt of

FMR. C.COY. 2 CDN. DIV (Unit) was arrested at 92 JOLLY ST BRUSSELS (place)

at 1600 hrs on 10 MARCH (Date). He was dressed in uniform/~~[illegible]~~ clothes.

Date 10 MARCH

Signat~~[illegible]~~, ~~[illegible]~~ officer into whose custody the above-named person was taken on arrest.

[signature]
R.O. DUNN
11 COY (Rank) CDN PROVOST CORPS.
(Unit or Appointment)

237 A. Pte H. Leblanc 10/L/21
Rayd 22 c. Rgh

See
244 D

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 24th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1. [redacted]

*(2. [redacted]

*(3. [redacted]

[redacted]

President.

Rank	Name.	Regiment
Major	A.T. Dixon	No.1 R.C.A.S.C. Fldg Unit

Members.

Rank	Name.	Regiment
Captain	J.K. McCullough	No.2 Cdn Arty Fldg Unit
Lieutenant	D.H. Jupp	No.1 Cdn Arty Fldg Unit
Lieutenant	T.W. Bryant	No.1 Cdn Arty Fldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [redacted] Brigadier

Commanding Canadian Base Units, Cdn Army.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4713 PTE. LeBLANC, H. (R 22e R reinforcement) No. 2 Cdn Inf Hldg Unit.	First Charge A.A. Sec 12 (1)(a) as per charge sheet	Not Guilty	Not Guilty of desertion but Guilty of Absence without leave.	
	Second Charge A.A. Sec 24 (2) as per charge sheet	Not Guilty	Guilty of loosing by neglect equipment, clothing etc to the value of £4.15.6½	Confirmed
	Third Charge A.A. Sec 40 as per charge sheet	Guilty	Guilty	
	Fourth Charge A.A. Sec 15 (1) as per charge sheet	Guilty	Guilty. To undergo detention for a period of 140 days & and to undergo stoppage of pay until he has made good the amount of £4-15-6½ being cost of loss of equipment clothing etc	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Page. Brigadier (Signed) A. Dixon Major

Commanding Canadian Base Units, Cdn Army
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of March '41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(~~4. The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 26th day of March 1941.

A. Dixon Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this 31st day of March 1941.

L. F. Page. Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of E-4713 Pte Leblanc, H. R.22eR. (2C.I.H.U)

(a) (Dated) Fourth day of April 1941 (Signed) [signature] Lieut. Col. Officer Commanding, No. 2. Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, E-4713, Pte. H. LeBlanc, on the strength of No.2 Canadian Infantry Holding Unit (Royal 22nd Regiment Reinforcement) a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 12 (1) (a)
Army Act

While on active service, deserting His Majesty's Service,

in that he,

at Louisburg Barracks, Bordon, Hants, on the 14th November 1940, at 0615 hours, absented himself without leave, until apprehended by A.P.M. in London, on 17th December 1940, at which time he was wearing civilian clothes. (Total absence 33 days).

Second Charge
Sec 24 (2)
Army Act

Losing by neglect his equipment, clothing, and regimental necessaries,

in that he,

at Witley, Surrey, on the 19th March 1941 was deficient of:

Badge cap		Gloves woolen	0-1-8
Badge shoulder	0-0-7½	Jacket sweater	0-5-7
Boots ankle	1-2-6	jack knife	0-2-10
Brush boot polishing	0-2-1	Shirts Flannel	0-7-10
Brush tooth	0-0-5½	Shirts Service	0-2-11
Cap field service	0-2-2	Shirts Woolen	0-6-6
Comb hair	0-0-2	Shirts Woolen	0-6-6
Disc identity		Bag ration	0-0-2½
Dressing first field	0-0-2	Belt waist	0-4-7
Slings rifle	0-1-3	Bottle water	0-3-0
Straps web supporting	0-2-8½	Braces, pr	0-7-4½
Bayonet	0-16-6	Carriers, cartridge	0-19-6
Pullthrough	0-0-3	Frogs bayonet	0-1-9½
Scabbards	0-5-3	Haversacks	0-10-7½
Sheet ground	0-10-0	Helmets, steel	0-9-9
Gas respirator complete	0-16-10	Packs	0-12-9½
		Straps shoulder	0-8-1½
		Tins mess	0-2-3
		Bottles oil	0-0-7
		Rifles	7-8-0
		Blankets	
		Cape Anti-gas	0-13-6

Total £17-6-10½

Third Charge
Sec.40
Army Act

An act to the prejudice of good order and military discipline

in that he,

at London, on the 17th December 1940, when apprehended by A.P.M. was in possession of passes (A.F.B. 295) knowing same to have been falsified.

A. Dent Major
President
F.G.C.M.

CHARGE SHEET

Fourth Charge While on active service, absenting himself without leave,
Sec 15 (1)
Army Act.

in that he,

at Camp 102, Witley, Surrey, at 2030 hours, 13th February 1941, absented himself without leave, while under close confinement, until surrendering himself, at 1000 hours, on 4th March 1941.
(Total absence 18 days, 11 hours, 30 minutes)

F S Mathewson

(F.S. MATHEWSON) Lt.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit

Camp 102
Witley, Surrey
13th March 1941

To be tried by Field General Court-Martial

L. F. Sup.....Brigadier
Commanding Cdn Base Units

Bordon, Hants.,
This 24th day of March 1941

29 Mar 41

A. Dixon major
President
F.G.C.M.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. E4713 Rank Private

Name Leblanc, H. Regiment R.22 E.R.

is fit

to undergo trial by Court-Martial.

Date 26-MAR-41

W L Boutte / major
M.O. Signature.

#E-4713, Pte. LeBlanc, H., No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 25th day of March, 1941

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. L. Canon
Defending Officer - Lieut. G.F. Chicoine

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President or by any of the officers whose names you have heard read over?
A1 - No, sir.

The president and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Not guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Not guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Guilty, sir.

R.P. 35(B) is complied with in connection with the third and fourth charges.

Prosecutor - The witnesses are not easily available as they belong to the Provost Corps in London and if the defence will admit it I will produce written evidence.

Defending Officer - We have no objection.

First witness for the prosecution, Lieut. L. Canon (Prosecutor) being duly sworn, states:

I produce in evidence A.F.B. 252, Certificate of Apprehension; also, the Declarstion of a Court of Inquiry which establishes the date of the man going absent from Louisburg Barracks, Bordon, Hants.

Prosecutor -- There seems to be a general impression that there has to be intention to prove desertion -- that is true. On the other hand the intention of the prisoner to desert is generally previous to his apprehension and we find that in most cases once the accused is apprehended by civil or military authorities he will make a statement that he had no intention of deserting. I would like to point out that in this particular case the man left Louisburg Barracks on the 14th November, got rid of his military clothing and donned civilian clothes. He certainly intended staying away from the army as he did not surrender himself but was apprehended on the 17th December, 1940. The Manual of Military Law says that if a man

disguises himself so that he may not be given orders by the military, or to avoid any military duties, he should be declared a deserter. Today the Canadian Army is on active service and it is important that every company commander either in the holding units or in the regiments in the field should know where their men are at a moment's notice. They are not in Canada any more and things might change from day to day and certainly if a man goes absent without leave and disguises himself in civilian clothes I think the man is a deserter and has proved the intention to desert from the army. Whether he stays away two or three hours, or thirty-three days, or a hundred and thirty-three days, he may be a deserter. The point I would like to underline is that a man on active service who leave without permission and, especially one who disguises himself in civilian clothes, I repeat, shows his intention to desert whether that intention lasts only for a minute or an hour or for two days. Naturally he will tell us he had not any intention of deserting but, as I pointed out before, it was the intention he had when he went absent without leave.

Defending Officer -- In dealing with a charge of desertion the one thing that must be proved is intention. In this case of a man wearing civilian clothes there is not any proof of intention and it has not been proved that the military clothes were disposed of and nothing else has been proved. I quote Chapter 3(17) M.M.L. Nothing has been proven to show intention of escaping an important service.

Q7 - Do you apply to give evidence yourself as a witness?
A7 - Yes, sir.
Q8 - Do you intend to call any other witness in your defence?
A8 - No, sir.

First witness for the defence, E-4713, Pte. LeBlanc, H., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q9 - Will you tell the Court about your first absence and why you were wearing civilian clothes?
A9 - I had a uniform and it was pretty dirty and I had it washed down at a laundry in Coventry Street and when I received it I didn't have a room then to change and there was a woman in the shelter and she said she would take it for me. When I went with the M.P. to get the uniform she wasn't there. If I had any intention of deserting I wouldn't have told the police I was a soldier.
Q10 - Have you any receipt for the cleaning of the uniform?
A10 - No, sir, but I think they should have it on the books of the laundry.
Q11 - How many days were you wearing the civilian clothes?
A11 - I couldn't be sure.
Q12 - You think the laundry could give you the date?
A12 - I think so, sir. I had worn it quite a bit and it was pretty dirty.
Q13 - How long, one or two days, or a week, or two weeks?
A13 - A little over a week, sir.

Cross-examination by the prosecutor

Q14 - You said the reason you were wearing civilian clothes was because your uniform was dirty?
A14 - Yes, sir.
Q15 - You knew it was against army regulations to wear them?
A15 - Yes, sir, but I was told that a man on seven days leave could wear a suit of civilian clothes. I think I was a disgrace to the army with the uniform I was wearing as it was pretty dirty.
Q16 - How long have you been in the army now?
A16 - Fourteen months.
Q17 - How long had you been in the army when you sent absent from Louisburg?
A17 - About nine months.
Q18 - You had been in the army for a year when you went a.w.l. from Louisburg, isn't that right? You joined the army in November, 1939.
A18 - Yes, sir.
Q19 - In a year you could learn the army regulations couldn't you?
A19 - I haven't done any drilling in England.
Q20 - You have talked to other soldiers and they have told you what to do and what not to do?
A20 - Not that I know of.
Q21 - You were in the army for a year and didn't learn anything?
A21 - I heard many things but not about that.

Q21 - You want us to believe that in over a year in the Canadian Army you didn't know that you couldn't wear civilian clothes?
A21 - I just told you that somebody tole me we were allowed to wear civilian clothes on seven days leave.
Q22 - But you weren't on leave.
A22 - No, sir.
Q23 - When you left Louisburg Barracks on the 14th November where did you first go to?
A23 - I went to London.
Q24 - Did you have a girl friend in London?
A24 - Yes, sir.
Q25 - Did you live with her?
A25 - No, sir.
Q26 - And you stayed in London for 33 days until you were arrested?
A26 - Yes, sir.
Q27 - And if you had not been arrested you would never have come back?
A27 - I would have come back, sir.
Q28 - But you had to be apprehended.
A28 - I was apprehended but I would have come back.
Q29 - When? You want us to believe that you left Bordon with the intention of going away for about forty-five days and then coming back?
A29 - I had the intention of staying about seven days.
Q30 - Then you got to London and decided to make it a little longer?
A30 - I didn't know how long.
Q31 - You hadn't made up your mind?
A31 - I had intentions of coming back around Christmas.
Q32 - You wanted to be with the boys for Christmas?
A32 - Yes, sir, I didn't know many people there.
Q33 - You didn't know when you were coming back?
A33 - I had intention to come back around Christmas.
Q34 - But you were not sure; you were dressed in civilian clothes.
A34 - I had to wait for my uniform before I could come back. I was waiting for it for a few days.
Q35 - Just one more question and answer yes or no. When you went absent and went down to London did you, or did you not, know when you would be coming back?
A35 - I did know then, sir.
Q36 - You just told me that you didn't know; you said you might come back around Christmas.
A36 - I said that when I left Bordon I was coming back in seven days; after that I said around Christmas.
Q37 - But you weren't sure?
A37 - I was pretty sure, but I didn't have my uniform.

Questions by the Court.

Q38 - Could you give the address of the home at which you left the uniform?
A38 - I know it is on Old Compton Street but I'm sorry I don't know the number.
Q39 - Could you give us the name of the woman?
A39 - I'm sorry I don't know the name, sir.
Q40 - How about the laundry?
A40 - The Ninety Minutes Laundry at the corner of Coventry Street in front of the Corner House.

The Court is closed for the consideration of the finding.

President -- Is the prosecution ready to proceed with the second charge that we have to deal with?

Prosecutor -- I think the defence has evidence which is acceptable to the accused. I have already submitted in evidence in the form of the Declaration of a Court of Inquiry, the evidence showing the amount of kit and equipment the accused is charged with as being deficient.

E-4173, Pte. LeBlanc, H., being duly sworn, is examined by the defending officer.

Q41 - Will you tell the Court how you got this receipt for your kit. (Shows receipt to accused and then files it in evidence for the defence)

A41 - Sir, I was a category man and supposed to go back to Canada and from Bordon was sent to the Base Depot at Guillemont Barracks. Everyone turned in their kits and one morning they told me to and I brought it down and they gave me a receipt. Well, I didn't go back to Canada. About the sling, it was on the rifle and the thing you put the bayonet in was there too.

Cross-examination by the prosecutor.

Q42 - Tell us why, when you were apprehended on the 17th December, 1940, and brought to Witley Camp, was the inventory made of your equipment made here when you came back?
A42 - It was at the Q.M. Stores.
Q43 - Why didn't you produce that receipt then?
A43 - I didn't have the receipt then; it was brought over afterwards.
Q44 - You didn't have the receipt when you came back?
A44 - They gave it to me because my name was on my kit bag. They gave it to me in Witley.
Q45 - When was that?
A45 - Quite a while ago.
Q46 - You never thought of giving it to he C.Q.M.S. of your company to check against the articles you were deficient. At the time C.Q.M.S. Gagne made the inventory of your kit why didn't you produce that receipt?
A46 - I did produce it but they told me to produce it at the court-martial.

The Court is closed for the consideration of the finding.

Lieut. L. Canon, No. 2 Cdn. Inf. Holding Unit, is duly sworn.

Q47 - Have you any evidence to produce as to the character and particulars of service of the accused?
A47 - I produce A.F.B. 296 and M.F.M. 6, sir.
Q48 - Is the accused the person named in the statement which you have heard read?
A48 - Yes, sir.
Q49 - Have you compared the contents of the above statement with the regimental books?
A49 - Yes, sir.
Q50 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A50 - Yes, sir.

The accused declines to cross-examine.

Q51 - Do you wish to address the Court?
A51 - No, sir.

The Court is closed for the consideration of the sentence.

Exhibit AA. Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Louisburg Barracks

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants on the 6th day of December 1940, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E4713 Pte. Henry LeBlanc, R. 22nd Regt.(No. 2 Cdn. Inf. Holding Unit)

DECLARATION.

The Court declare that number E4713, Pte. LeBlanc, Henry, R. 22e R. #2 Cdn. Inf. Holding Unit) illegally absented himself without leave, when he failed to answer his name on 0815 hours parade, 14th November 1940, that he is still so absent, and that on the 6th November 1940, that he is still so absent, and that on the 6th December 1940, he was found deficient of the following articles:

Anklets, prs.	£0-3-11	Gloves Woolen	£0- 1- 8
Badge, cap		Jacket sweater	0- 5- 7
Badge collar		Jack knife	0- 2-10
Badges shoulder	0-0- 7½	Knife table	0- 0- 9½
Blouses Serge	1-2- 6	Shirts flannel	0- 7-10
Trousers Serge	1-0- 6	Shirts service	0- 2-11
Boot ankle	1-2- 6	Shirts woolen	0- 6- 6
Brasses button	0-0- 2	Shirts woolen	0- 6- 6
Brush boots polishing	0-2- 1	Spoon table	0- 0- 4
Brush button	0-1- 2	Towels hand	0- 1- 4
Brush Cloth	0-2- 2	Bag ration	0- 0- 2½
Brush tooth	0-0- 5½	Belt waist	0- 4- 7
Cap Field Service	0-2- 2	Bottle water	0- 3- 0
Greatcoat drab	2-8- 6	Braces, prs	0- 7- 4½
Comb hair	0-0- 2	Carriers, cartridge	0-19- 6
Disc, identity		Frogs bayonet	0- 1- 9½
Drawers woolen	0-6- 3	Haversacks	0-10- 7½
Dressing first field	0-0 2	Helmets, steel	0- 9- 9
Forks table	0-0- 4	(CONTINUED OVERLEAF)	
		Total £23. 14s. 10½d.	

Names of President and Members

President: Lieut. R. Dumais (R.22ndR.) No. 2 C.I.H.Unit.
MEMBERS: Lieut. L. Bouchard (R. 22nd R) No. 2 C.I.H.U.
Lieut. G. Vaugeois (R. 22ndR) No. 2 C.I.H.U.
(Signed 6th December 1940)

Signature of Commanding Officer F.S. MATHESON LT-C.L
No. 2 Cdn. Inf. Holding Unit

CERTIFIED TRUE COPY.

(I.H. MacIntosh) Lieut.
Signature of Officer having custody of the Original Record.

(12281) WL34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(3441) WL45729/760 225,000 1/40 " " Forms/B115/56

(Continued from reverse side)

Packs	£0-12- 9¾
Slings rifle	0- 1- 3
Straps shoulder	0- 8- 1½
Straps web supporting	0- 2- 8¾
Tins mess	0- 2- 3
Bayonet	0-16- 6
Bottles oil	0- 0- 7
Pullthrough	0- 0- 3
Rifles	7- 8- 0
Scabbards	0- 5- 3
Blankets	
Sheet ground	0-10- 0
Cape anti-gas	0-13- 6
Gas respirator complete	0-16-10
Total Cost	£23 14s 10¼d

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. E9773 Regiment Lorne Scots.

PASS

Army Form B296. (In pads of 100.)

WOOD NEWTON Rank Pte (Name) Le Blanc. H.

has permission to be absent from his quarters/duty, from 0800 hrs 24-12-40 to 0800 hrs 29-12-40

for the purpose of proceeding to* London

(Station)

(Date) 24-12-40 M G Bonyonne Commanding

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local circumstances or necessary to enable purchase of a rail ticket at reduced fare. [P.T.O.

† Delete whichever is not applicable.

Exhibit C. A.P.

CROWN COPYRIGHT RESERVED

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. E9773 Regiment Lorne Scots.

PASS

Army Form B296 (In pads of 100.)

No. E9773 (Rank) PTE (Name) Le Blanc. H.

has permission to be absent from his quarters/duty, from 0800 hrs 24-12-40 to 0800 hrs 5-1-41

for the purpose of proceeding to* London

(Station)

(Date) 24-12-40 M G Bonyonne Commanding

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local circumstances or necessary to enable purchase of a rail ticket at reduced fare. [P.T.O.

† Delete whichever is not applicable.

Exhibit CC. A.P.

CROWN COPYRIGHT RESERVED

ALL SERVICES.

List of Stores, Plant, Tools, Instruments, &c.

Exhibit B

Issued to Le Blanc. H. Rank Pte

Requisitioned by [illegible]

From [illegible] Date 24/12/40

Indent for Cash No.

Description	Quantity
1 Bty Tpt Stores	1
1 Bty Tpt Stores	1
1 Bty Tpt Stores	1

CHARGE

Army Form B 252
(See King's Regulations)

CANADIAN ROYAL 22nd. REGT. Regiment

INFANTRY HOLDING UNIT. Battery Squadron Troop or Company

CORPS OF MILITARY POLICE LONDON

CHARGE against No. E.4713. Rank PTE.

Name Le BLANC, H.

Place Date of Offence

WHEN ON ACTIVE SERVICE.

OFFENCE (1) Absent from until apprehended by the Military Police at 8 p.m. on 17/12/40, at Piccadilly.W.1.

(2) Being in possession of Army Form B.295, knowing same to have been falsified.

(3) Wearing civilian clothing without permission.

MAJOR
A.P.M. CANADIANS
LONDON AREA.

Names of Witnesses :— G. WILLIAMS
J. [illegible], L/Cpl.
Special Investigation Department,
C.M. Police.

Signature of O.C. Battery, Squadron, Troop or Company } Exhibit A.

Punishment Awarded }

By whom Awarded } [signature]

Adjutant.

P.T.O.

Q4753 Wt.W19035/261 2,000,000 7/40. K. & H., Ltd. G657/47

A

STATEMENT of EVIDENCE in the case of No. H.4715, Pte. H. Le BLANC, Infantry Holding Unit, Canadian Royal Sand. Regt. stationed at Bordon Camp.

Sir,

At London on Tuesday, 17th. December, 1940, at about 8 p.m., I was on duty in Piccadilly, W.1., accompanied by L/Cpl. MOFFAT, C.M. Police, when, acting upon information received I stopped the above named soldier, who was dressed in civilian clothes and asked him to produce his pass. He produced the attached Army Forms B.205, which, on examination, appeared to have been altered. I pointed this out to him and told him I had reason to believe he was an absentee and he replied, "All right, I'll tell the truth. I made those passes out myself." I then cautioned him and told him in the prescribed manner and he replied "I have been absent about a month". The soldier further stated his uniform was in a house at New Compton Street, number not known. He was arrested and taken to the Central London Recruiting Depot and handed over to the Canadian Military Police to be placed under close arrest.

G. Williams
L/Cpl.
Special Investigation Dept.
C.M. Police.

LONDON.
17/12/40.

REMARKS

LONDON. Sir,
17/12/40.

I have read and corroborate the above statement.

G Moffat L/Cpl.
Special Investigation Dept.

Description of Court by which Trial, Status of Officer, Rating of the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of March 1941

[signature] Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

Exhibit D

Army Form B296. AD

Statement as to Character and Particulars of Service of Accused.

#E-4713 PG. Leblanc Henri of the No 2 Canadian Infantry Holding Unit. (Royal 22nd Regiment Reinforcement)

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	2 times	? times.
PG. Leblanc's first N.F.M.C. is not available		
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or,~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

~~or,~~

Previous convictions† of the accused by a court ~~martial or a civil~~ court, summary ~~awards under~~ Section 47 ~~of the~~ Army Act, and dispensations with trial under Section 73 ~~of the Army Act, are set out in the Schedule annexed~~ to this statement.

[illegible]

3. The accused is not under sentence at the present time,

~~or,~~

~~The accused at the present time is under sentence for~~
~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 79 days in Military Custody.

Total 79 days.

Of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 9 Nov 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil

8. The accused is entitled to deferred pay or gratuity in respect of nil years' service.

9. The accused is entitled to reckon nil years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps or department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which Tried, or states of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

Army Form B.122

No. E 4713 Name Leblanc H Squ., Batty., or Company Corps R. 22 R Date of enlistment Sheet No.

Date of last entry in Company Conduct Sheet No. and date of last drunk G.C. Badges Long Service and G.C. Pay Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove	14/10/40	Pte		A. W. L. from 2100 hrs 13/10/40 to 0845 hrs 14/10/40	B51514 Sgt Irvine J.	10 days C.B.	14/10/40	Major R.W. Lent	1 day's pay
Cove	18/10/40	Pte		A. W. L. from roll call 1800 hrs 17/10/40 to 2400 hrs 17/10/40 whilst a defaulter	E. A. Cheng C.S.M.	2 days Fld Punishment	18/10/40	Major R.W. Lent	2 days pay

Certified true copy
8 Feb. 41 R Rouleau Sgt

Exhibit D
[illegible]

[P.T.O.

SUMMARY OF EVIDENCE

in the case of

No. E 4713 Pte. LeBlanc, Henri, No. 2 Canadian Infantry Holding Unit, (Royal 22nd Regiment, Reinforcement) a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

First Witness for Prosecution — Lieut. I.H. MacIntosh, being duly sworn, states:

I am Acting Records Officer of No. 2 Canadian Infantry Holding Unit. I produce herewith:

(a) Declaration of Court of Inquiry
(b) A.F.B. 252 — 17 Dec 40
(c) A.F.B. 295 — 24 Dec 40
(d) A.F.B. 295 — 29 Dec. 40
with statement of L/Cpl G. Williams C.M.P. corroborated by L/Cpl J. Moffat, C.M.P.

All concern the accused, whom I recognize.

I.H. MacIntosh . . . . . Lieut.
(I.H. MacIntosh) (W.N.S.R.)

Accused declines to cross-examine this witness.

Second Witness for Prosecution — E4892 Sgt. Laraby, Lucien, being duly sworn, states:

I am a Sgt. of #1 Company, #2 Canadian Infantry Holding Unit. At 0815 hours on the 14th of November 1940, with the rank of Corporal, I was acting as Orderly Sergeant of #1 Company #2 Cdn. Inf. Holding Unit. At that time, while calling the Roll, I noticed that Pte. LeBlanc, Henri, who was on the strength of our Company, was absent from parade. I made an exhaustive search of the camp and the men's quarters and could not locate Pte. LeBlanc, Henri. I then reported him absent. I did not again see Pte. LeBlanc until some time after the 17th December 1940.

Lucien Laraby . . . . . Sgt.

Accused declines to cross-examine this witness.

Compliance with R.F. 4 (c) (d) (e) certified.

Lawrence Cannon . . Lieut.
(L Cannon)
Officer detailed by Officer Commanding No. 2 Cdn. Inf. Holding Unit to take Summary of Evidence.

Camp 102
Witley, Surrey
13 March 1941

in the case of

No. E-4713 Pte. Le Blanc, H., No. 2 Canadian Infantry Holding Unit (Royal 22nd Regiment Reinforcement) a soldier of the Canadian Army (Overseas).

Evidence taken on oath by order of the Commanding Officer.

Third Witness for Prosecution: F-54635 Cpl. E.H. Bartholomew, being duly sworn, states:

I was on duty in the detention barracks guard room on the morning of 4th March 1941, when Pte. LeBlanc walked in, at about 1000 hours, and surrendered himself to me.

E.H. Bartholomew. CPL.

The accused declines to cross-examine this witness.

Fourth Witness for Prosecution: F40173, Pte. H.H. Wood, being duly sworn, states:

I am Regimental M.P. at Camp 102, Witley, Surrey. On the 13th February 1941, I was on duty in the guard room, with instructions to see that none of the prisoners left the guard room without a runner as escort. At about 2030 hrs we ran out of coal. Pte. LeBlanc and Pte. Robidoux volunteered to get some. I detailed a runner to escort them to the coal yard. He returned a few minutes later and told me that Pte. LeBlanc and Pte. Robidoux dropped the bucket they were carrying, when they reached the coal yard, and fled in different directions.

H.H. Wood. Pte

The accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

L. Cannon. Lieut.
(L. Cannon)
Officer detailed by Officer Commanding #2 C.I.H.U. to take Summary of Evidence.

Camp 102
Witley, Surrey
13th March 1941

in the case of

E 4713 Pte. LeBlanc, H., No. 2 Canadian Infantry Holding Unit (Royal 22nd Regiment Reinforcement) a soldier of the Canadian Army (Overseas)

Fifth Witness for Prosecution F40168 L/Cpl E.R. Jollimore, being duly sworn, states:

On the night of February 13th 1941, I was in charge of the detention barrack, Camp 102, Witley, Surrey, from 1600 hours to 2400 hours. At about 2030 hours, I detailed L/Cpl Patry to take over from Pte. Wood. L/Cpl. Patry reported in a few minutes, and said that he refused to relieve Pte. Wood, because two of the prisoners, Pte. LeBlanc and Pte. Robidoux had escaped. I immediately went around to the guard room and asked Pte. Wood what had happened. He told me that they had run out of coal, and that Pte. LeBlanc with Pte. Robidoux had volunteered to get some. He said that he had detailed a runner to escort the prisoners to the coal yard, and that the runner had returned within a few minutes to report that the prisoners on reaching the coal yard, had dropped the bucket they were carrying, and fled in opposite directions.

Jollimore E.R. L/Cpl.

The accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

L. Cannon Lieut.
(L. Cannon)
Officer detailed by Officer Commanding No 2 Cdn. Inf. Holding Unit to take Summary of Evidence.

Camp 102
Witley, Surrey
13th March 1941

SUMMARY OF EVIDENCE

in the case of

No. B 4713 Pte Henri LeBlanc, (Royal 22nd Regt. Reinforcement) No. 2 Cdn. Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Fifth Witness for prosecution — F59742 Pte. Clow A.L. (W.N.S.R.) No. 2 Cdn. Infantry Holding Unit, being duly sworn, states:

On the night of 13th February 1941, at about 2030 hours, I wad detailed by Pte. Wood to escort Pte. LeBlanc and Pte. Robidoux to the coal yard, to get some fuel for the guard room. When we reached the coal yard, Pte. LeBlanc and Pte. Robidoux dropped the bucket they were carrying, and fled in different directions. I called to them to stop, but they escaped. I returned to the Guard Room, and reported the escape of the prisoners to Pte. Wood.

A.L. Clow .....Pte.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

.....Lieut.
Officer detailed by O.C. No. 2 Canadian Infantry Holding Unit to take Summary of Evidence.

Witley Camp 102
14 March 1941

SUMMARY OF EVIDENCE

in the case of

E-4713, Pte. H. LeBlanc, on the strength of No. 2 Canadian Infantry Holding Unit (Royal 22nd Regiment Reinforcement), a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

Seventh Witness Prosecution E-17009 C.Q.M.S. Gagne, F. having been duly sworn, states:

I am C.Q.M.S. No. 1 Company (Royal 22nd Regiment Reinforcement) Camp 102, Witley, Surrey. On the 19th March 1941 I made an inventory of the kit of E4713 Pte. H. LeBlanc, and found him deficient of the following articles:

Badge cap			
Badge shoulder	0- 0- 7½	Gloves woolen	0- 1- 8
Boots ankle	1- 2- 6	Jacket sweater	0- 5- 7
Brush boot polishing	0- 2- 1	Jack knife	0- 2-10
Brush tooth	0- 0- 5½	Shirts flannel	0- 7-10
Cap field service	0- 2- 2	Shirts service	0- 2-11
Comb hair	0- 0- 2	Shirts woolen	0- 6- 6
Disc identity		Shirts woolen	0- 6- 6
Dressing first field	0- 0- 2	Bag ration	0- 0- 2½
Slings rifle	0- 1- 3	Belt waist	0- 4- 7
Straps web supporting	0- 2- 8½	Bottle water	0- 3- 0
Bayonet	0-16- 6	Braces pr	0- 7- 4½
Pullthrough	0- 0- 3	Carriers cart'ge	0-19- 6
Scabbards	0- 5- 3	Frogs bayonet	0- 1- 9½
Sheet ground	0-10- 0	Haversacks	0-10- 7½
Gas respirator complete	0-16-10	Packs	0-12- 9½
Straps shoulder	0- 8- 1½	Tins mess	0- 2- 3
Bottles oil	0- 0- 7	Rifles	7- 8- 0
Blankets		Capes anti-gas	0-13- 6
Total	£17- 6- 10½		

F. Gagne C QMS

The accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

F. Gagne ..Lieut.

Officer detailed by O.C. #2 C.I.H.U. to take Summary of Evidence.

Camp 102
Witley, Surrey

LIST OF WITNESSES
in the case of

No. E-4713 Pte. LeBlanc, Henri, No. 2 Canadian Infantry Holding Unit (Royal 22nd Regiment Reinforcement) a soldier of the Canadian Army (Overseas)

PROSECUTION

Lieut. I.H. MacIntosh (W.N.S.R.) #2 C.I.H.U.
E-4892 Sgt. L. Larabie (R. 22nd R.) #2 C.I.H.U.
F-54635 Cpl. E.H. Bartholomew (W.N.S.R.) #2 C.I.H.U.
F-40173 Pte. H.H. Wood (W.N.S.R.) #2 C.I.H.U.
F-40168 L/Cpl. E.R. Jollimore (W.N.S R. #2 C.I.H.U.
L/Cpl. G. Williams (Special Investigation Department, C.M. Police)
L/Cpl. J. Moffat (Special Investigation Department, C.M. Police)
F59742 Pte. Clow, A.L. (W.N.S.R.) No. 2 C.I.H.U.
E-17009 C.Q.M.S. F. Gagni (R. 22nd R) #2 C.I.H.U.

LIST OF EXHIBITS

in the case of

No. E.4713, Pte. LeBlanc, Henri, No. 2 Canadian Infantry Holding Unit (Royal 22nd Regiment, Reinforcement) a soldier of the Canadian Army (Overseas)

(a) Declaration of Court of Inquiry
(b) A.F.B. 252 17 Dec 40
(c) A.F.B. 295 24 Dec 40
(d) A.F.B. 295 29 Dec 40

2.4713 Pte. Leblanc N.

See
237 A.

E-4713 Pte. LeBlanc, H.
No.2 C.I.H.U.

Orig

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 24th day of October, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1. [redacted])

*(2. [redacted])

*(3. [redacted])

[redacted]

President.

Rank.	Name.	Regiment.
Major	R. Dupuis	No.2 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	J.B. Beck	No.1 Cdn Eng Hldg Unit
Lieutenant	E.R. Bennett	No.2 Cdn Inf Hldg Unit
Lieutenant	W.D.S. Careless	No.1 Cdn A.S.C. Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4713				
PTE. LEBLANC, H.	First Charge	Guilty	Guilty	
No.2 Cdn Inf Hldg Unit.	A.A. sec 22			
	Second Charge	Not Guilty	Guilty	
	A.A. sec 12(1)(a)			
	Third Charge	Guilty	Guilty	
	A.A. sec 22			
	Fourth Charge	Guilty	Guilty	
	A.A. sec 15(1)			
		TO SUFFER PENAL SERVITUDE FOR THE TERM OF THREE (3) YEARS.		

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
— Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] Brigadier (Signed) [signature] Major

Commanding Cdn Base Units, Cdn Army. President.
Convening Officer (e)

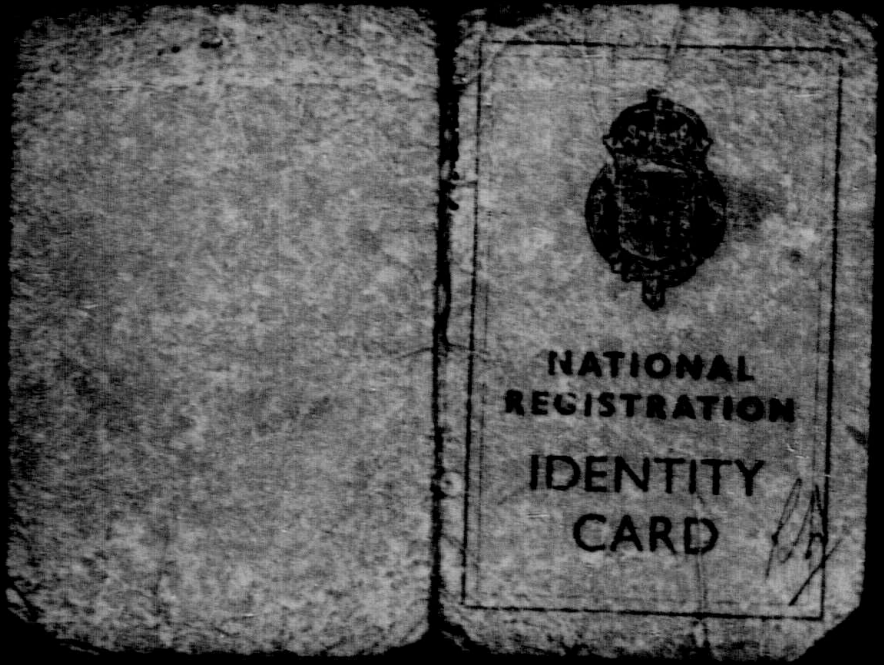
(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

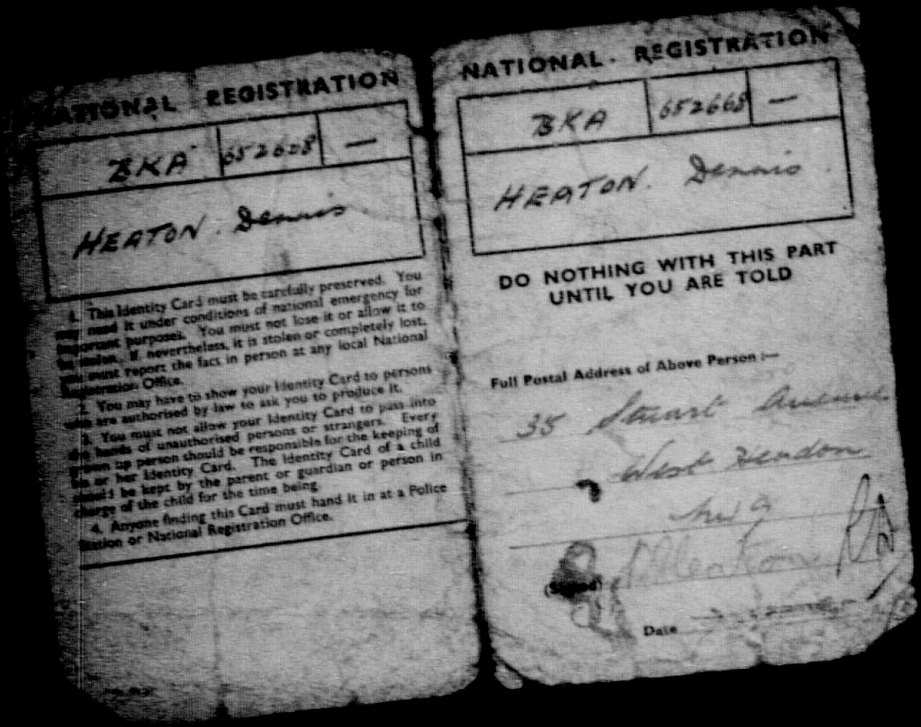
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.


NATIONAL
REGISTRATION
IDENTITY
CARD



NATIONAL REGISTRATION

BKA 652628 —

HEATON. Dennis

1. This Identity Card must be carefully preserved. You may be required to produce it under conditions of national emergency for important purposes. You must not lose it or allow it to be taken from you. If, nevertheless, it is stolen or completely lost, you must report the fact in person at any local National Registration Office.

2. You may have to show your Identity Card to persons who are authorised by law to ask you to produce it.

3. You must not allow your Identity Card to pass into the hands of unauthorised persons or strangers. Every grown up person should be responsible for the keeping of his or her Identity Card. The Identity Card of a child should be kept by the parent or guardian or person in charge of the child for the time being.

4. Anyone finding this Card must hand it in at a Police Station or National Registration Office.

NATIONAL REGISTRATION

BKA 652668 —

HEATON. Dennis

DO NOTHING WITH THIS PART UNTIL YOU ARE TOLD

Full Postal Address of Above Person :—

35 Stuart Avenue
West Hendon
NW9

Signed D Heaton

Date

REVISION

At Laurentide Camp, Witley, Surrey, on the 6th day of November, 1941, at 1600(hours) o'clock, the Court re-assemble by order of Brigadier F.R.Phelan, Commanding Canadian Base Units, for the purpose of re-considering their finding and sentence.

Present, the same members as on the 28th day of October, 1941.

The letter directing the re-assembly of the Court for the revision, and giving the reasons of the confirming authority for requiring a revision of the finding and sentence is read, marked Exhibit A, signed by the president, and attached to the proceedings.

The Court having attentively considered the observations of the confirming authority, and the whole of the proceedings:

do now revoke their finding on the second charge and sentence, and find the accused E4713, private LeBlanc H.,Royal 22e Regiment, Reinforcements on the strenght of No 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas), NOT GUILTY of desertion, as charged, but GUILTY of Absent Without Leave, and sentence the accused to TWO YEARS IMPRISONMENT WITH HARD LABOUR.

Signed at,Laurentide Camp, Witley, Surrey, this 6th day of November, 1941

Roger Rupert
President. Major

Finding + sentence confirmed but sentence remitted to twenty-two months imprisonment with hard labour

F.R.Phelan
Brig

H.Q. Cdn Base Units CBU 5-4-CM

Exhibit A
Roger Dupuis
Major
President

3 Nov 41.

Major R. Dupuis
No.2 Cdn Inf Hldg Unit.

F.G.C.M.
E-4713 Pte. Leblanc, H.
No.2 Cdn Inf Hldg Unit

1. Proceedings in connection with the m/n are returned herewith for revision of the finding on the 2nd charge pursuant to Sect 54(2) Army Act and R.P.120 for the following reasons.

(a) The written statement of P.C. Henry Clark should not have been allowed in evidence, without the Police Constable being personnally present to give his testimony.

(b) The improper admission of this evidence was definitely prejudicial to the accused containing as it did an allegation that he was in possession of a civilian Identity Card.

RECEIVED
5 NOV 1941
HQ & Group Holding Units C.A. (O)

2. In my opinion therefore desertion was not legally proven. However, admissible evidence was adduced to prove the accused guilty of absence without leave from 2200 hrs 5 Apr 41 to 11 Sept 41. A special finding may be made under Army Act Sect 56(4).

3. I direct you to re-assemble the court to consider a revision of the finding on the 2nd charge. Revision of finding will necessitate the passing of a new sentence.

4. You will be guided in your revision by R.P.120 and form on pp 759 - 60 M.M.L.

F.R. Phelan

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

No. 2 C.I.H.U.
For Maj. Dupuis
O.L. McCullough
(O. L. McCULLOUGH) Major
Staff Capt. "A" Gen.
Cdn. Holding Units.

No. 2 Cdn. Infantry
Holding Unit
C.A.S.F.
Received .....
5 NOV 1941
Despatched.....

CHARGE SHEET

The Accused, E4713, Private LeBlanc, H., Royal 22e Regiment, Reinforcements on the strength of No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with;

First Charge
Section 22
Army Act

When in confinement escaping,

in that he,

at Laurentide Camp, Witley, Surrey, at about 2200 hours on the 5th April 1941, when in confinement, did escape from #2 Guard -Detention Room, No. 2 Cdn. Infantry Holding Unit.

Second Charge
Section 12 (1)(a)
Army Act

When on Active Service, deserting His Majesty's Service,

in that he,

at Laurentide Camp, Witley, Surrey, at about 2200 hours on the 5th April 1941, absented himself from his unit until apprehended by the Civil Police in London at about 1415 hours on the 11th September 1941, dressed in civilian clothes and carrying a civilian identity card.

Third Charge
Section 22
Army Act

When in arrest escaping,

in that he,

when in arrest at #5 General Hospital, Taplow, Bucks., on the 21st September 1941, did escape from his escort.

Fourth Charge
Section 15(1)
Army Act

When on Active Service, absenting himself without leave,

in that he,

at about 1630 hours on the 21st September 1941, absented himself from #5 General Hospital, Taplow, Bucks., until apprehended by the Civil Police in London at about 0930 hours on the 26th September 1941.

(F.S. MATHEWSON) Lieut.-Col.,
Officer Commanding,
No. 2 Cdn. Inf. Holding Unit.

Laurentide Camp,
Witley, Surrey.
10 October 1941

To be tried by Field General Court Martial

Farnborough, Hants
This 24th day of Oct 41

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

No. E-4713, PTE. H. LeBLANC, No. 2 Canadian Infantry Holding Unit, tried by Field General Court Martial at WITLEY, Surrey, on the 28th day of October, 1941.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor: Lieut. J.E. Fox, No. 2 CIHU.
Defending Officer: Lieut. T.L. Bullock, No. 2 CIHU.

At 1130 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No, sir.

The President and members are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to B66944, Sgt. T. Pyburn, R.Regt.C., acting as shorthand writer?
A2. No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the first charge against you, which you have heard read?
A3. Guilty, sir.
Q4. Are you guilty or not guilty of the second charge against you, which you have heard read?
A4. Not Guilty.
Q5. Are you guilty or not guilty of the third charge against you, which you have heard read?
A5. Guilty.
Q6. Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6. Guilty.

The accused having pleaded Guilty to the first, third and fourth charges, the provisions of R.P. 35(B) are here complied with.

Q7. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A7. No, sir.

OPENING ADDRESS OF THE PROSECUTOR

I am going to produce witnesses who will give evidence of the date on which the accused went absent, that he was absent, that when apprehended in London he was found in civilian clothes, that he also was in possession of a civilian identity card, the name on the card was not his own, and the date of his apprehension will prove the charge of desertion.

1st witness for prosecution) No. F-40168, L/CPL E.R. JOLLIMORE, No. 2 Canadian Infantry Holding Unit, being duly sworn, is examined by the prosecutor:-

Q8. Give the court your number, rank, name and unit?
A8. I am No. F-40168, L/Cpl E.R. Jollimore of No. 2 CIHU. On the night of 4-5 Apr 41 I was i/c of No. 2 Detention from 1600 hrs until 2400 hrs. As there was no sentry on the outside at that time I had Pte Wood patrol around the outside of the Detention every half hour. At 2000 hrs Pte Wood reported to me that a portion of a bar from the window was missing. I then made a search, called the roll, and found Pte LeBlanc was missing. I reported same to the Pro Sgt. That is all, sir.

Q9. DEFENCE: What date was this, please?
A9. The 4-5 Apr 41, sir.

Q10. THE COURT: You are making it very definite now; is it on the 5 Apr or is it on the 4 Apr 41?
A10. It would be on the 5th, sir, and not on the 4th.
Q11. You are quite definite about that, it was on the 5 Apr 41?
A11. Yes, sir.

2nd witness for prosecution) No. F-40173, PTE. H.H. WOOD, No. 2 Canadian Infantry Holding Unit, being duly sworn, is examined by the prosecutor:-

Q12. On the night of the 5 Apr 41 ---

DEFENCE: I object, sir.

THE COURT: Ask your questions direct, but you must not tell him what you want him to tell you.

Q13. PROSECUTOR: Were you on duty on 5 Apr 41?
A13. Yes, sir.

DEFENCE: I object again.

THE COURT: You must not say that at all. That is not the way you must put your questions. You may ask him the question, but you must not put the words into his mouth.

Q14. PROSECUTOR: What were you doing on the 5 Apr 41?

DEFENCE: I object again, sir.

THE COURT: You must think the matter over a little and figure out your own questions.

Q15. PROSECUTOR: Will you tell the court what you know in the case of the accused, Pte LeBlanc?
A15. I was on Cpl Jollimore's shift on the 5 Apr, and I went outside and took a walk around the det bks. I came to a window, it was open, and one of the cross bars was sawed out. I reported to Cpl Jollimore; he called the roll and found LeBlanc was missing.

Q16. THE COURT: Do you identify the accused as Pte LeBlanc?
A16. I do, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q17. Are you quite sure this was the night of the 5 Apr 41, and not the night of the 4th?
A17. Sir, I know it was the 5th.
Q18. You are quite positive it was the 5th?
A18. Yes, sir.
Q19. At what hour?
A19. I don't just know, but between nine and half past nine, if I am not mistaken.

Q20. THE COURT: What time of day?
A20. In the evening, sir, between nine and half past nine.

Q21. DEFENCE: Was it the night of the 4th to 5th Apr, or the night of the 5th to 6th Apr?
A21. I think it was the night of the 5th.
Q22. The 5th to 6th, or the 4th to 5th?
A22. I am not quite sure of that, sir; it is so long ago.

Q23. That is rather important?
A23. I think the 5th to 6th, if I am not mistaken.

Q24. THE COURT: You say that the bar on the window was cut?
A24. It was sawed.
Q25. What kind of bars were they?
A25. A white one that ran across the window.

(3rd witness for prosecution) No. U-5154, S/SGT G.L. AYRE, Special Investigation Department, Canadian Provost Corps, LONDON, being duly sworn, is examined by the prosecutor:-

Q26. Identify yourself to the court, please?
A26. I am No. U-5154, S/Sgt G.L. Ayre, SID, CPC, London.
Q27. On the night of the 12 Sep 41 you were in London, and doing what?
A27. About 1000 hrs I attended Marleybone Police Court.
Q28. Why did you attend the police court?
A28. Pte Leblanc, whom I now recognise in the court here, appeared there on a charge of being a deserter from the Cdn Army.
Q29. He appeared there on a charge of desertion?
A29. Yes, sir.
Q30. How did he plead to that charge?
A30. He pleaded Guilty to that charge in my presence.
Q31. Then what did you do?
A31. He was handed over to me by the Magistrate to be dealt with by the military. I escorted him to the CPC HQ, London, where he was turned over to the NCO i/c of cells to be detained.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q32. You say the accused pleaded Guilty in your presence to a charge of desertion, or absence?
A32. No, the charge was read, "Are you a deserter from the Cdn Army?" and he said, "Yes." He understood it because he signed the form.
Q33. He was not convicted in that court?
A33. No, he was handed over to be dealt with my the military.

Q34. THE COURT: How was the accused dressed when you saw him in court?
A34. I don't just remember now, sir. Yes, I do: he was dressed in civilian clothes, and I brought him back and then he was sent to hospital. Yes, he was dressed in civilian clothes.
Q35. What identification had he on his person?
A35. I am not quite sure of that, sir. I did not know I was being called in this case this morning or I would have looked it up; I didn't know I was to be called until I arrived here.

KA

4th witness) for prosecution)

LIEUT. W.A. LEASK, No. 2 Canadian Infantry Holding Unit, being duly sworn, states:-

I am Records Officer of No. 2 CIHU and have in my custody the documents of personnel of that unit. I wish to state that on the 11 Sep 41 No. E4713, Pte LeBlanc H., whom I now identify, had no permission to wear civilian clothing. I produce here the following documents:- Certified true copy of the Record of the Declaration of a Court of Inquiry; AF O.1618 dated 11 Sep 41; National Registration Identity Card issued to Dennis HEATON, 15 Stuart Avenue, West Hendon, N.W.9; AF B252 dated 11 Sep 41; AF B252 dated 26 Sep 41; AF O.1618 dated 26 Sep 41; and a statement by Henry CLARK, P.C. No. 108, of the Metropolitan Police.

No cross-examination.

Q36. THE COURT: Where did this identity card come from? How did it come into your possession?

A36. It came into my possession along with the charge when he arrived from the Pro Corps.

PROSECUTOR: That civilian identity card is in support of the statement by the P.C. He was supposed to be a witness here this morning but was unavailable; he could not come, but that is his statement.

The above mentioned statement was duly read, signed by the President, and attached to the proceedings.

DEFENCE: In the copy of the summary of evidence, the carbon copy which I have here shows the name of the accused as "Henry Lee Blanc." I don't know whether the court would be inclined to consider that, if a witness whose documentary evidence is before the court, he did not understand the accused's name or didn't take it down carefully. I am wondering if, in view of that, he properly cautioned the accused that he was being charged with desertion or whether there might have been some confusion in the accused's mind as to whether he was charged with desertion or AWL.

PROSECUTOR: I fail to see how the incorrect spelling of the name like that would have any effect on the case.

DEFENCE: I submit the incorrect spelling of the name at least shows carelessness, sir.

The prosecution is closed.

Q37. THE COURT: Do you apply to give evidence yourself as a witness?
A37. THE ACCUSED: Yes, sir.
Q38. Do you intend to call any other witness in your defence?
A38. Yes, sir.

R.P. 40 & 41 duly complied with.

The Accused, No. E-4713, PTE. H. LeBLANC, No. 2 Canadian Infantry Holding Unit, being duly sworn, states:-

Q39. THE COURT: This is for the first charge of desertion. Well, sir, this is the second charge on the charge sheet, desertion, to which you have pleaded Not Guilty, yes.

A39. Well sir, about being charged with desertion, I am sure, sir, that if I had understood it at the time I would not have pleaded Guilty in court, because I never intended deserting. I was only AWL, and I understood that pretty well, and I was in possession of an identity card. I found that card and later on they told me I should have brought it in, but I didn't know where to take it and I didn't know it had to be taken to wherever they told me, I think it was the Town Hall. I was trying to get married and I thought by using the

4th witness) for prosecution) LIEUT. W.A. LEASK, No. 2 Canadian Infantry Holding Unit, being duly sworn, states:-

I am Records Officer of No. 2 CIHU and have in my custody the documents of personnel of that unit. I wish to state that on the 11 Sep 41 No. E4713, Pte LeBlanc H., whom I now identify, had no permission to wear civilian clothing. I produce here the following documents:- Certified true copy of the Record of the Declaration of a Court of Inquiry; AF O.1618 dated 11 Sep 41; National Registration Identity Card issued to Dennis HEATON, 35 Stuart Avenue, West Hendon, N.W.9; AF B252 dated 11 Sep 41; AF B252 dated 26 Sep 41; AF O.1618 dated 26 Sep 41; and a statement by Henry CLARK, P.C. No. 108, of the Metropolitan Police.

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The above mentioned statement was duly read, signed by the President, and attached to the proceedings.

DEFENCE: In the copy of the summary of evidence, the carbon copy which I have here shows the name of the accused as "Henry Lee Blanc." I don't know whether the court would be inclined to consider that, if a witness whose documentary evidence is before the court, he did not understand the accused's name or didn't take it down carefully. I am wondering if, in view of that, he properly cautioned the accused that he was being charged with desertion or whether there might have been some confusion in the accused's mind as to whether he was charged with desertion or AWL.

PROSECUTOR: I fail to see how the incorrect spelling of the name like that would have any effect on the case.

DEFENCE: I submit the incorrect spelling of the name at least shows carelessness, sir.

The prosecution is closed.

Q37. THE COURT: Do you apply to give evidence yourself as a witness?
A37. THE ACCUSED: Yes, sir.
Q38. Do you intend to call any other witness in your defence?
A38. Yes, sir.

R.P. 40 & 41 duly complied with.

The Accused, No. E-4713, PTE. H. LeBLANC, No. 2 Canadian Infantry Holding Unit, being duly sworn, states:-

Well, sir, this is for the first charge of desertion.
Q39. THE COURT: This is the second charge on the charge sheet, desertion, to which you have pleaded Not Guilty, yes.
A39. Well sir, about being charged with desertion, I am sure, sir, that if I had understood it at the time I would not have pleaded Guilty in court, because I never intended deserting. I was only AWL, and I understood that pretty well, and I was in possession of an identity card. I found that card and later on they told me I should have brought it in, but I didn't know where to take it and I didn't know it had to be taken to wherever they told me, I think it was the Town Hall. I was trying to get married and I thought by using the

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identification card I would be able to do so, but then I found out I would have to change my name and I didn't want to do that, so that is why I kept the card with me, otherwise I would have thrown it away. So far as the civilian clothes are concerned, my uniform was blown up in May. On Wed there was a raid and there was another Canadian and another civilian there and we were helping people out of some buildings and fire bombs, and I tore my pants, and the next day I borrowed a pair from an English soldier on leave, but he had to go away and I had to give them back to him. The person who put my uniform away for me lent me a civilian suit. On the Sat night - I don't know whether the first Sat night or the one after that - a week later, there was another raid, and a few days later my uniform was blown up, because I hadn't seen the person who put it away for me since then, so I didn't give him back his suit either. About this charge of desertion, I can't swear that they charged me with desertion in the police court, I can't swear to it, because I must have been too confused or something, because I am sure I wouldn't have pleaded Guilty of desertion, because I had intentions of getting married and going back to the Army.

CROSS-EXAMINED BY THE PROSECUTOR

Q40. When did you leave your unit?
A40. Sir, I couldn't tell you just the date.
Q41. If you can't remember the date, how about the month?
A41. Sir, the month was in Apr.
Q42. Then you did leave; you didn't stay around. Where did you go to?
A42. I went to London.
Q43. What did you do in London?
A43. I didn't do anything; just walking the streets.
Q44. Where you in uniform or otherwise?
A44. To start with, yes.
Q45. I was not quite clear about your uniform being blown up?
A45. Where my uniform was was supposed to have been the place I was going to get it and have it fixed; it was a sort of Club; and they told me it was lost, and after that I have never seen the man since, but I knew where the uniform was.
Q46. What were you wearing in the meantime?
A46. At the time I saw the soldier I was wearing English uniform, and then I got a civilian suit when the soldier's leave finished, and I had to give him back his uniform.
Q47. When apprehended you were in civilian clothes; how is that?
A47. Because I had these civilian clothes from this other person who had put my uniform away. I don't know whether he removed the uniform or not, but I knew where the uniform was ; it was blown up.
Q48. You were away more than five months, and you say that you intended to return?
A48. Yes sir, I did intend to return.

RE-EXAMINED BY THE DEFENDING OFFICER

Q49. During the months you were in London had you any information either directly or indirectly to the effect your unit was required anywhere except at WITLEY on any duty more important than the duty your unit was doing at that time?
A49. I saw some soldiers nearly every day from the Regt on leave in London and I talked to them, and they never told me anything about the Regt leaving or anything; they said they were still at WITLEY.
Q50. As far as you know, or knew at the time, there was, apart from the regular routine duties being carried out, no special duty which would have required your services here?
A50. That is right, sir.

Q51. THE COURT: Pte LeBlanc, unless you are given permission to be away from the camp, where are you supposed to be? Where your unit is stationed, aren't you?
A51. Yes sir, that is correct, sir.
Q52. You admit having left the camp?
A52. Yes, sir.

Q53. On your own accord?
A53. Yes, sir.
Q54. Without permission?
A54. Yes, sir.
Q55. Deciding yourself as to how long you were to remain away?
A55. Well, I will tell you, sir, on the morning I left I was sick and I went to the M.O. and he said I wasn't sick -- no, it was the morning before, sir -- yes, the same morning I left I went to the M.O. because I was sick, and I think I know more than the doctor whether I am sick or not, and I am sure 24 hrs or 48 hrs bread and water wouldn't have done any good to my pains.
Q56. After you reached your destination, when you decided to leave, you claim that on account of the blitz you dressed yourself in civilian clothes?
A56. Yes, sir.
Q57. Had you stayed in camp you would not have had to dress yourself in civilian clothes?
A57. That is right, sir.
Q58. Then being away and having lost your army clothes due to the blitz, you found yourself very comfortable in civilian clothes?
A58. If I had been able to get into uniform I would have worn it.
Q59. You knew you could have got a uniform at the camp?
A59. I didn't want to come back.
Q60. You didn't want to come back - that is it.
A60. I didn't want to come back in civilian clothes; I could have got a uniform in London but I didn't have enough money to buy one.
Q61. When did you come back?
A61. When they brought me back.
Q62. That is it.

CLOSING ADDRESS OF THE PROSECUTOR

In summing up the case against the accused, I have proved the date of his absence, the fact he did go absent, the fact he was apprehended and did not surrender himself, and that when apprehended he was dressed in civilian clothes, with a false civilian identity card, and I submit, sir, that proves the case. He was away for more than five months and had he intended to go away for only a short time he would have surrendered himself, and I think the evidence conclusively proves that he really intended to desert and stay away.

The defending officer makes no closing address.

The Court is closed for the consideration of the finding.

The Court being re-opened, the accused is again brought before it.

The Prosecutor, LIEUT. J.E. FOX, No. 2 Canadian Infantry Holding Unit, being duly sworn, is examined by the Court:-

Q63. Have you any evidence to produce as to the character and particulars of service of the accused?
A63. Yes sir, I produce AF B-296 and certified true copy of AFM-6.

The above statement is read, signed by the President, and annexed to the proceedings.

Q64. Is the accused the person named in the statement which you have heard read?
A64. Yes, sir.
Q65. Have you compared the contents of the above statement with the regimental books?
A65. Yes, sir.
Q66. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A66. Yes, sir.

No cross-examination.

Q67. THE COURT: Do you wish to make any statement in mitigation of punishment?
A67. DEFENCE: No, sir.
Q68. Do you wish to give evidence yourself or to call any witnesses as to character?
A68. No, sir.
Q69. Do you wish to address the Court?
A69. Yes, sir.

DEFENDING OFFICER:- I have only this to say, that the accused is obviously not a very responsible person. While he has pleaded Guilty to AWL and is quite willing to be punished for it, since there seems to be some doubt that he actually did intend to desert the service and never come back to it, if he should be found technically Guilty on the second charge, the fairly obvious cause of his irresponsibility is that there are long periods of comparative inaction here that naturally tend to make an irresponsible person restless. May I respectfully submit that that should be taken into consideration in mitigating the severity of any sentence that may be imposed upon him. Also some degree of clemency might, I submit, be charitably shown to him in view of the fact that he is defended by an officer who never saw a Court Martial before and who has had the case in hand only since yesterday afternoon.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H., Royal 22e Regt. Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness Prosecution — F40168 L/C Jollimore, E.R., West Nova Scotia Regiment Reinforcements, #2 Canadian Infantry Holding Unit, having been duly sworn, states:

"On 5th April 1941 I was in charge of #2 Detention on the 1600 hrs to 2400 hours shift. There was no sentry on the outside at that time. I had Pte. Wood patrolling on the outside. At about 2200 hours Pte. Wood reported that a prisoner was missing. I immediately called the roll and found that the accused, Pte. Le Blanc was missing. I reported same to the Provost Sergeant.

E R Jollimore L/C
E.R. Jollimore

The accused declines to cross-examine this witness.

Laurentide Camp
Witley, Surrey
30 September 1941

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H., Royal 22e Regiment, Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (O.S.)

Evidence taken on oath by direction of the Commanding Officer.

Second Witness Prosecution — F40173 Pte. H.H. Wood W.N.S.R. Company, No. 2 Canadian Infantry Holding Unit, having been duly sworn, states:

"At Witley Camp, on the 5th of April 1941, I was on duty as Regimental Police at No. 2 Detention, No. 2 Cdn. Inf. Holding Unit. At about 2000 hrs, I was on my round. I noticed that a window was opened; upon investigation, I found that the bars had been removed. I immediately reported the matter to L/Cpl. Jollimore who was the N.C.O. on duty at the time. L/Cpl Jollimore made the roll call and No. E4713, Pte. H. LeBlanc failed to answer his name."

(Signed) F40173 Pte. H.H. Wood.

Accused declines to cross-examine this witness.

Laurentide Camp
Witley, Surrey
30th September 1941

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H. Royal 22e Regt. Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

Third Witness Prosecution DOCUMENTARY

STATEMENT OF HENRY CLARK P.C. 108 d of Metropolitan Police:

"On the 11th September 1941 at 2-15 p.m. I was on duty in Star Street, Paddington, W,2, when I saw a man who stated his name and address as Dennis Heaton, 55 Goodge Street, W. 1, carrying a lady's fur coat. I questioned him respecting his possession of the coat and he said:"I am trying to sell it for my mate's girl friend." I asked him how I could verify this, and he said "See the girl at 55 Goodge St." I told him that I was not satisfied with his statements and that I was going to take him to Paddington Police Station for enquiries to be made, and he said, "Alright you send for the girl." While I detained at the Police Station I searched him and found an Identity Card in the name of Dennis Heaton, Card No. BKA/652668 address, 35, Stewart Avenue, West Hendon N.W. 9. I asked him if the card was [redacted] he said"Sure it is." After interrogation he admitted that he had deserted from the 2nd Infantry Holding Unit, Royal 22nd Regiment, Whitley, Guildford, and that his name was Henry Lee Blanc and that the identity card was not his. Enquiries were made at 55, Goodge Street, respecting the fur coat, and the statements found to be true. The coat was then handed back to the owner Miss Ethel Parry, 63, Whitfield Street, W.1. He was later charged with desertion and he made no reply.

(signature) Henry Clark, P.C. 108 D
(Signature witnessed by J. Winchester, S.I.S.

The accused does not question the statement of the witness and does not require his presence for cross-examination.

Laurentide Camp
Witley, Surrey
30 September 1941

SUMMARY OF EVIDENCE
In the case of

E4713 Private LeBlanc, H., Royal 22e Regt. Reinforcements #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

Fourth Witness ARMY FORM B 252 Statement of S/Sgt G.L. Ayre (SID)
Prosecution
DOCUMENTARY

"Statement of Evidence in the case of E4713 Pte LeBlanc H R.22nd Regt. No. 2 Cdn. Inf. Hold. Unit.
Sir: At London at about 1000 hrs on 12 Sept. 41 I was on duty at the SID Office CMHQ when acting on instructions received I proceeded to Marylebone Police Court where I saw the a/m soldier, who had appeared in court there. He had been arrested by PC 108 "D" Clark, Metropolitan Police on Star St. at about 1415 hrs on the 11 Sep 41 and was charged with being an absentee from the Cdn. Army. He was remanded for Military escort and was then handed over to me and I conducted him to Cdn. Provost Coy H/Qrs where I handed him over to the NCO i-c of cells to be detained. Statement from Civil Police attached hereto.
LONDON
12 Sep 41

(sgd) S/Sgt G.L. Ayre, SID

The accused does not question the statement of the witness, nor does he require his presence for cross-examination.

Laurentide Camp
Witley, Surrey
30 September 1941

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H., Royal 22e Regt. Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

FIFTH
~~Second~~ Witness
Prosecution

E5610 Private Giguere, L.P. R.22e Regt. Reinforcements No. 2 Canadian Infantry Holding Unit, having been duly sworn, states:

"On 21st September 1941 I was on duty at Taplow Hospital on escort duty. I was detailed to guard the accused. This man was permitted to go outside to take exercise. About 1630 hours on that date I was escorting him. We were on the outside of the grounds in a small wood. All of a sudden he turned from me and ran away. I ran after him for some distance, but as it was in the wood I could not get near him.

Giguere L.P. Pte
Giguere, L.P.

The accused declines to cross-examine this witness

Laurentide Camp
Witley, Surrey
30 September 1941

SUMMARY OF EVIDENCE

in the case of

E4713 Private LeBlanc, H., Royal 22e Regiment Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (OS)

Evidence taken under oath by direction of the Commanding Officer.

SIXTH

Witness for Prosecution: Nursing Sister F. MacLeod 5th General Hospital, having been duly sworn, states:

Regarding Private LeBlanc, at about half past three in the afternoon on Sunday 21st September 1941 he was in the ward. I noticed that he had two visitors. Then he went out with the guard. I didn't miss him. I didn't realize he was gone until the orderly room asked for information, stating that the Guard had reported that the soldier had gone. Although this man was under close arrest, he was permitted to go out around the hospital grounds with his guard. This is customary. LeBlanc definitely was not granted a leave on that day he left the hospital.

Fanny F MacLeod N/S.
Nursing Sister F. Mac Leod

The accused does not question this statement, and does not require the presence of the witness for cross-examination

5th Gen. Hospital
Taplow, Bucks
30 Sept 1941

SUMMARY OF EVIDENCE
In the case of

E4713 Private LeBlanc, H. Royal 22e Regiment Reinforcements, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (OS)

Evidence taken under oath by direction of the commanding officer.

SEVENTH

Witness for Prosecution

H33120 Private George Henry SCOTT 5th General Hospital R.C.A.M.C. having been duly sworn, states:

Private LeBlanc had a visitor come into the ward - a young lady - at about 1400 hours on Sunday 21st September 1941. I suppose he went out around the grounds. As far as we are concerned, as orderlies, where they go is none of our business. If they leave the ward they know they have to be back in at a certain time for meals. I knew that the man was under close arrest, but there were no orders posted regarding such cases. I never saw any such orders. Anyway he had an escort. I last saw him that day at about 1400 hours in the afternoon. I did not see him again. He left a small shaving kit, with the razor missing. It was a Red Cross issue. When he was admitted to the hospital he was in civilian clothes.

G H Scott Pte

H33120 Pte G.H. Scott

The accused does not question this statement, and does not require the presence of the witness for cross examination.

5th Gen. Hospital
Taplow, Bucks.
30th September 1941

SUMMARY OF EVIDENCE
In the case of

E4713 Private LeBlanc, H., Royal 22e Regiemt, Reinforcements, on the strength of No. 2 Cdn. Inf. Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

Eighth Witness Prosecution DOCUMENTARY

DENNIS WELCH, Detective C Division, Tottenham Court Road Police Station W 1, on oath said:

"Acting on information received I went to 28 Stephen Street where I saw prisoner. I questioned him and in reply he admitted being absent from the Canadian Forces. When charged he made no reply.

(Signature of informant) Dennis Welch, Detective "C"

The accused does not question the evidence of this witness and does not require his presence for cross-examination.

Ninth Witness Prosecution DOCUMENTARY

ARMY FORM B 252. Statement of Cpl. J.D. Durrant.

"Statement of evidence in the case of E4713 Pte. LeBlanc, H. No. 2 Cdn. Inf. Hold. Unit.
Sir: At LONDON at about 1115 hrs on the 26 Sept 41 I was on duty at Cdn. Prov. Corps H.Q. when acting on instructions received I proceeded to TOTTENHAM COURT Police Stn where the a/m soldier was being held as an absentee. He had been arrested by Det. C. Weld of the Met. Police "C" Division at 28 STEPHEN St. at about 0930 hrs on the 26-Sept-41. I took him into custody and escorted him to No. 6 Prov. Coy H.Q. where I handed him over to the N.C.O. i/c cells to be detained. Statement from Police is att'd.
LONDON
26 Sept. 41 (sgd) J.D. Durrant Cpl M-17197

The accused does not question the evidence of this witness and does not require his presence for cross-examination.

Laurentide Camp
Witley, Surrey
10 October 1941

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H., Royal 22e Regiment, Reinforcements, on the strength of No. 2 Cdn. Inf. Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

Tenth Witness Prosecution — Lieut. W.A. Leask, West Nova Scotia Regiment (#2 C.I.H.U.) states:

"I am Records Officer of #2 Canadian Infantry Holding Unit. I certify that on the 11th September 1941, Pte. LeBlanc, H. had no permission to wear civilian clothes. I produce herewith:

a) Record of Declaration of Court of Inquiry dated 8-5-41
b) Statement by P.C. 108 "D" H.Clark, Met. Police.
c) A.F.O. 1618 - dated 11-9-41
d) National Registration Identity Card issued to Dennis Heaton, 35 Stewart Avenue, West Hendon
e) AFB 252 dated 11-9-41
f) A.F.O. 1618 dated 26-9-41
g) A.F.B. 252 dated 26-9-41

All concern the accused whom I recognize.

W.A. Leask

W.A. LEASK Lieut.

Accused declines to cross-examine this witness.

Laurentide Camp
Witley, Surrey
30th September 1941

SUMMARY OF EVIDENCE
in the case of

E4713 Private LeBlanc, H., of the Royal 22e Regiment, Reinforcements, on the strength of No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by direction of the Commanding Officer.

The accused having been duly warned under R.P. 4 (e) reserves his defence.

Certified that Rules of Procedure 4(c) (d) (e) (f) and (g) have been duly complied with.

Certified that owing to the exigencies of the service, having due regard to the expenses involved, and loss of time, the attendance of the witnesses, giving documentary evidence, could not readily be procured.

Taken down in the presence and hearing of the accused.

(J.E. FOX) Lieut.
Officer detailed by O.C. #2 C.I.H.U. to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
11 October 1941

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No E-4713 Pte. Leblanc, H.

of R 22eR. ...and in my opinion he

is fit to undergo Trial by Court Martial.

Station Laurentide Camp.

Date 28 Oct. 41

Medical Officer

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER

RECORD of the Declaration of a Court of Inquiry assembled at Witley Camp, Surrey on the 8th day of May 1941, by order of Lieut.-Col. F.S. Mathewson, D.S.O., Commanding Officer, No. 2 Cdn. Inf. Holding Unit for the purpose of inquiring into and reporting on the illegal absence of E4713 Pte. LeBlanc, H., of the Royal 22e Regt. Company No. 2 Canadian Infantry Holding Unit.

The Court declares that No. E4713, Pte. H. LeBlanc, illegally absented himself without leave when he escaped from No. 2 Detention, at No. 2 Cdn. Inf. Holding Unit, at 2200 hrs, on the 5th of April 1941, that he is still absent on the 8th of May 1941.

Signed at Witley Camp this 8th day of May 1941

PRESIDENT (O. Gauthier) Lieut. R.22e R. - #2 C.I.H.U.

MEMBERS (P. ROY) Lieut. R. 22e R. - #2 C.I.H.U.

(W.P. CHARLEBOIS) Lieut R.22e R - #2 C.I.H.U.

SIGNATURE OF COMMANDING OFFICER (F.S. MATHEWSON) Lieut.-Col
Officer Commanding
No. 2 C.I.H.U.

CERTIFIED TRUE COPY

J.W. Lemmidge Capt.
Adjutant.
No. 2 Canadian Infantry Holding Unit.

C.A.(O.)

Reg. No. E. 4713.

DESCRIPTIVE RETURN OF: Henry LE BLANC, who was apprehended Star Street (hour) 2.15 pm on the 11th day of September 1941 and was committed to confinement at ... day of ... as a Deserter (or Absentee without leave) from the ... Bn. of the 2nd Infantry Holding Unit

Regiment of Royal 22nd Regiment,

Age 23. Height 5 feet 8½ inches

Complexion Yellow Hair Fair Eyes Blue

Marks NIL In uniform or plain clothes Plain clothes

Probable date and place of attestation	
Probable date of desertion or beginning of absence and from what place.	8/5/41. from Whitley, Guildford
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Police Constable 108D Clark Paddington Green Police Station
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	* At 2.15 pm at Star Street I saw Le Blanc, who was in civilian clothes, carrying a womans fur coat. Owing to his unsatisfactory explanation I arrested him. Enquiry proved that he was in lawful possession of the fur coat. Owing to his age he was questioned as to his joining the army and he admitted he was a deserter from the above unit since May 1941. He was charged [illegible]

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is a deserter. the before-mentioned Corps

[signature] Signature
Residence
Post Town
of Committing Magistrate.

12th September 1941 Date of Signature

Henry Le Blanc Signature of Prisoner

Henry Clark PC 108D Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, that the case was adjourned until ... day of ... pose of obtaining such evidence.

[signature] Signature
Residence
Post Town
of Magistrate.

Date of Signature

2 POLICE COURTS

...hould be taken to insert Army No. and Rank.
... " was apprehended," or " surrendered," as the case may be.
... important for the Public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert " is " or " is not a Deserter " or " Absentee without leave from," or " belongs," or " does not belong to," as the case may be.

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ... of ...

Regiment at ... on ... by ...

who was committed as a Deserter (or Absentee without leave) on the ...

RECOMMENDATION FOR REWARD.

I RECOMMEND* ...

Address ...

for a reward of ...

... Signature of Committing Magistrate.

... Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

CHARGE

Army Form B 252
(See King's Regulations)

No.2.Cdn.Inf.Hold.Unit — Regiment
R.22nd Reg't.Coy — Battery / Squadron / Troop or / Company

CHARGE against No. E-4713 Rank Pte

Name LeBlanc H.

Place London Date of Offence 26-Sept-4

OFFENCE W.O.A.S.was absent without leave fr
-om ? .....until apprehended by the Civil
Police at 28 STEPHEN St.at about 0930 Hrs.on
the 26-Sept-41.

D.A.P.M.
CANADIAN MILITARY POLICE

Names of Witnesses: LONDON AREA.
Det.C.Weld Tottenham Ct.Met.Police
Cpl.Durrant Cdn.Prov.C.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Q7394 Wt.W3349/1166. 2,000,000 11/40 K. & H., Ltd. 0657/42

CHARGE

Army Form B 252
(See King's Regulations)

R. 22nd Regt. — Regiment
No.2 Cdn.Inf.Hold.Unit — Battery / Squadron / Troop or / Company

CHARGE against No. E-4713 Rank Pte.

Name Le Blanc , H.

Place London Date of Offence 11 Sep.4

OFFENCE WOAS - A.W.L. from ----- until
arrested by the Civil Police on Star St. at
about 1415 hrs. on the 11 Sep.41 (2) Improp-
erly dressed i-e wearing civilian clothes
at the same time,date and place.

D.A.P.M.
CANADIAN MILITARY POLICE

Names of Witnesses:— LONDON AREA.
PC. 108 "D" Clark,H Metro. Police
S/Sgt. Ayre, G.L. Cdn.Prov.C.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Q7394 Wt.W3349/1166. 2,000,000 11/40 K. & H., Ltd. 0657/42

Statement of **EVIDENCE** in the case of

B-4713 Pte. Le Blanc, H.
R.22nd Regt. No.2 Cdn. Inf. Hold. Unit.

Sir,

At London at about 1000 hrs. on 12 Sep.41 I was on duty at the SID Office CMHQ when acting on instructions received I proceeded to Marylebone Police Court where I saw the a-m soldier, who had appeared in court there. He had been arrested by PC 108 "D" Clark, Metropolitan Police on Star St. at about 1415 hrs. on the 11 Sep.41 and was charged with being and absentee from the Cdn. Army. He was remanded for Military escort and was then handed over to me and I conducted him to Cdn. Prov. Coy. H/Qrs. where I handed him over to the NCO i-c of cells to be detained. Statement from Civil Police attached hereto.

London
12 Sep.41 ..... S/Sgt. Ayre G.L. (SID)

Sir,

I was NCO i-c of cells when the a-m soldier was brought in to be detained.

London
12 Sep.41 ..... A-3797 Cpl. Rutter, S.G.

REMARKS

Statement of **EVIDENCE** in the case of

B-4713 Pte. LeBlanc H.
No.2.Cdn.Inf.Hold.Unit

Sir:

At LONDON at about 1115 Hrs. on the 26-Sept-41. I was on duty at Cdn. Prov. Corps H.Q. when acting on instructions received I proceeded to TOTTENHAM COURT Police Stn. where the a/m soldier was being held as an absentee. He had been arrested by Det.C. WELD of the MET. Police "W" Div. at 28 STEPHEN St. at about 0930 Hrs. on the 26-Sept-41. I took him into custody and escorted him to No.2.Prov.Coy.H.Q. where I handed him over to the N.C.O.i/c cells to be detained. Statement from Police is att'd.

LONDON
26-Sept-41 ..... Cpl.
B-4197 Durrant J.D.

Sir:

I was the N.C.O.i/c cells when the a/m was brought in to be detained.

LONDON
26-Sept-41 ..... Cpl.
B-23561 Mitchell R.

REMARKS

DESCRIPTIVE RETURN OF ~~apprehended~~ Henry Le Blanc No E 46718 who ~~was apprehended~~ at Stephen Street (hour) 9.30 a.m. on the 26th day of September 1941 and was ~~committed to confinement at~~ handed to Escort on the 26th day of September 1941 as ~~a Deserter~~ Absentee without leave) from the 2nd Bn. of the Canadian Infantry Holding unit Regiment of Infantry at Witley Surrey

Age 23 Yrs Height 5 feet 8 inches
Complexion Pale Hair Light Brown Eyes Blue
Marks None In ~~uniform~~ plain clothes

Probable date and place of attestation	11th November 1939 Dublin Rifle & Hampshire
Probable date of desertion or beginning of absence and from what place	21st September 1941 Deptford Barracks
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Dennis Welch Detective C Div Tottenham Court Road Police Station W.1.

Particulars of the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

On or about the above date I acting on information received proceeded to 28 Stephen Street where I saw Private Le Blanc. I questioned him and he readily admitted being absent from the Canadian Forces. I then charged him with being absent from the before-mentioned Corps.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and he declared in my presence that he is ~~not~~ absentee from the before-mentioned Corps.

F. C. Wm. P. Boyd Signature
Tottenham Court Residence
Marlborough Street Post Town
London W.1. Committing Magistrate.
26th September 1941 Date of Signature

R. Le Blanc Signature of Prisoner
James Welch, Detective "C" Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances herein stated, but that evidence of the truth or falsehood of such confession is not then forthcoming and that the case was remanded until the ..... day of ..... for the purpose of obtaining such evidence.

D.A.P.M. Signature
CANADIAN MILITARY POLICE Residence
LONDON AREA. Post Town of Magistrate.
Date of Signature

POLICE COURTS

re should be taken to insert Army No. and Rank.
sert "was apprehended" or "surrendered," as the case may be.
is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
sert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be

METROPOLITAN POLICE.

No. 995.
(Thin Typing)

STATEMENT OF WITNESS.

Paddington *Station.* "D" *Division.*

11th September 19 41.

Name Henry Clark

Address

Age 24 . Occupation Police Constable

Statement On the 11th September 1941 at 2-15 p.m. I was on duty in Star Street, Paddington, W.2. when I saw a man who stated his name and address as Dennis Heaton, 55, Goodge Street, W.1. carrying a lady's fur coat. I questioned him respecting his possession of the coat and he said " I am trying to sell it for my mate's girl friend". I asked him how I could verify this and he said " See the girl at 55, Goodge Street". I told him that I was not satisfied with his statements and that I was going to take him to Paddington Police Station for enquiries to be made, and he said " Allright you send for the girl." While detained at the Police Station I searched him and found an Identity Card in the name of Dennis Heaton, Card No. BKA/652668 address, 35, Stewart Avenue, West Hendon, N.W.9. I asked him if the card was his and he said " Sure it is." After interrogation he admitted that he had deserted from the 2nd Infantry Holding Unit, Royal 22nd Regiment, Whitley, Guildford, and that his name was, Henry Lee Blanc and that the identity card was not his. Enquiries were made at 55, Goodge Street, respecting the fur coat and the statements found to be true. The coat was then handed back to the owner Miss Ethel Parry, 63, Whitfield Street, W.1. He was later charged with desertion and he made no reply.



RECEIVED
17 SEP 1941
Wm. Hart, Printing
Mich. D.A.R.S.

Signature Henry Clark PC 105°

Signature witnessed by [illegible]

S.P. 19476/50,000 Dec. 1939 w154 (8)

No. E 4713. Name Leblanc. H. Sqn., Battery, or Company R22aR. Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Date of enlistment 15-11-39 G.C. Badges | Sheet No. | Signature O.C. Company, etc.

Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 122) H.Q. 1171-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with order	By whom awarded	Remarks
I Wing	16-10-40	Pte		AWL 2100 hrs 11-10-40 to 0945-14-10-40	M.F.M. "4"	10 days CB 1 day Pay			
2/C i H 4	4-4-41	Pte		F.G.C.M. H.W.L. 20.30 hrs. 13-2-41 etc. 10-00 hrs. 4-3-41.	M.F.M. 4.	140 days Pte 271 days pay			

Certified true extracts from M.F.M. 4

[signature]

Asst. Adjutant,
O I/c Records

No. 2 Canadian Infantry Holding Unit.
C. A. (O.)

(F.T.O.)

Description of Court by which tried, or status of Officer, dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of Oct 1941

[signature]

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

E4713 Pte. LeBlanc, H. of the R.22e R. (#2 C.I.H.U.) Reinforcement, A soldier of the Canadian Army (Overseas)

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil

or,

There are no entries in the Conduct sheets of the accused.

~~2. The accused has not been previously convicted.~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. [illegible] 30,000 2/40 W. S. Ltd. [illegible]

3. ~~The accused is not under sentence at the present time,~~

or,

The accused at the present time is under sentence for 140 days detention beginning on the 25th day of March 1941

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and ..... days in Military Custody.

Total ..... days.

Of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 22

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 9-11-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil

8. The accused is entitled to deferred pay or gratuity in respect of nil years' service.

9. The accused is entitled to reckon two years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name E4713 Pte. LeBlanc, H. of the Royal 22e Regiment Reinforcements #2 Cdn. Inf. Holding Unit

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	25-3-41 Witley	A.A. 12(1)	To undergo detention	Nil
		A.A. 24(2)	for 140 days and to	
		A.A. 40	be put under Stoppages	
		A.A. 15(1)	of pay for £4.15.6½	

(*Continued overleaf.*)

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of October, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) The shorthand writer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of October, 1941.

Roger Dupuis Major
~~President of the Court Martial.~~

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this ... day of ... 19...~~

* See footnote (6) on page 762 M.M.L. 1929.

Roger Dupuis Major
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 11th day of November 1941.

J. H. Nolan Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of E 4713 Pte Leblanc H.

(a) (Dated) 20 Nov 41 (Signed) [signature] Lieut. Col. Officer Commanding, No. 2 Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

GG-73 (case #3)

PTE LEBLANC H.

See A-237 for 1st case

See D-244 - 2nd case

E-4713, Pte. Henri LEBLANC GG-73
R. 22e R. - 6 C.I.R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FIFTH day of JUNE, 1943.

Whereas it appears to me, the undersigned, an officer in A/Command of HEADQUARTERS "A" GROUP CDN RFT UNITS, CANADIAN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ MG

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint~~ MG

~~*(1. Three Officers to form the Court.)~~ MG

~~*(2. A Field Officer as President.)~~ MG

~~for the following reasons, namely:—]~~ MG

Proceedings [illegible] 24 Jun 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W. Lavigne (R. de Mais.)	6 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Capt.	R. Paquet (Fus. M.R.)	6 C.I.R.U.
Lieut.	P.E. Labelle (R. de Mais.)	6 C.I.R.U.
Waiting Member Lieut.	J. Leduc (Gen. List)	6 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(M.E. Greene) Colonel,
A/ Commanding "A" Group Cdn Rft Units,
C.A.(C). Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4713, Pte. Henri LEBLANC R. 22e R. - 6 CIRU	First Charge A.A.Sec. 15(1)	Guilty	Guilty	I confirm the findings + sentence of the Court, but remit 6 months A.W.
	Second Charge A.A.Sec. 40	Guilty	Guilty	
	Third Charge A.A.Sec. 40	Guilty	Guilty	
	Fourth Charge A.A.Sec. 40	Guilty	Guilty Sentenced To be imprisoned with hard labour for two years. W Lavigne maj pres	
	SEE CHARGE SHEET ATTACHED			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) M.K. Greene (Signed) W Lavigne, maj
(M.K. Greene) Colonel,
A/ Commanding "A" Group Cdn Rft Units, Pte Pass 6 CIRU.
C.A.(O). Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the seventh day of June 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter)~~ wh
*(4. ~~The officers under instruction)~~ wh
were duly sworn.

*Omit if not applicable.

Signed this Seventh day of June 1943

W Lavigne maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of Wh 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 7 day of June 1943

A.W. Baker A/Col
Confirming Officer.
COMMANDING "A" GROUP CDN. REIN. UNITS. C.A.(O).

Promulgated and extracts taken in the case of E 4713 Pte Henri Leblanc R.22e R - 6 C.I.R.U.

(a) (Dated) 8 June 43 (Signed) L.G.A. Barrette Capt Adj.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.401/6/850 50 000 2/43 A.& E.W.Ltd. Gp.896

CHARGE SHEET

The accused, No. H-4713, Private Henri LEBLANC, of the Royal 22e Regiment, on the strength of No. 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged, on active service, with:

First Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 12 00 hours on the 30th day of April, 1943, until he was apprehended in London at 1645 hours on the 29th day of May, 1943.
(Total absence: 29 days, 4 hours, 45 minutes).

Second Charge
Section 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in London, at 1645 hours on the 29th day of May, 1943, was dressed in civilian clothes without due authority from his commanding officer.

Third Charge
Section 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in London, at 1645 hours on the 29th day of May, 1943, was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

Fourth Charge
Section 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in London, at 1645 hours on the 29th day of May, 1943, was in possession of a document purporting to be a genuine pay book (NDM 1), knowing it not to be genuine.

(H.O. TASCHEREAU), Lt-Col.
Commander,
"H" Wing, 6 Cdn.Inf.Rft.Unit

Algonquin Camp,
Witley, Surrey,
3rd day of June, 1943.

This soldier is to be tried by Field General Court Martial.

5 Jun 43

(M.K. Greene) Colonel,
A/Commander,
"A" Group Cdn Rft Units,
C.A.(O).

WL

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Algonquin Camp Wetley ON THE 7th DAY OF June 43

TRIAL OF:-No. E 4718 Pte Henri Leblanc Unit R.22 R 6 C/RU

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court. WL

The Court satisfy themselves as provided by R.P. 22 & 23. WL

The accused is brought before the Court.

Prosecutor:- (Name) Lt John Langevin (Unit) Gen Lab. 6 C/RU

Defending Officer:- (Name) Lt. B. Cote (Unit) F.M.R. 6 C/RU

At 1000 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings. WL

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No WL

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President Major W. Lavigne .....(Unit) R. S. Mech 6 C/RU

Members Capt. R. Paquet .....(Unit) F.M.R 6 C/RU

Lt. P. E. Labelle .....(Unit) R. S. Mech. 6 C/RU

~~The officers under instruction are duly sworn.~~ WL

Q2 ~~Do you object to.....acting as short-hand writer? A2 -~~ WL

~~The shorthand writer is duly sworn.~~ WL

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with. WL

The summary of evidence is read, signed by the President, and attached to the proceedings. WL

Court is closed to consider its finding. Court is re-opened.

Name Lt. John Langevin ...(Unit) Gen Lab. 6 C/RU sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes WL

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No. WL

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Statement by the accused in mitigation of Sentence.

At the outbreak of War I enlisted in the Navy but after two months I transferred to the army thinking that we could go into action sooner. Because what I want is to fight the Enemy and if I am a bad boy it is because I have been so long not going into action. I ask to the court if I could not transfer to commandos, where I could go to fight. If I get a long sentence I'll be a burden to the Canadian Army instead of an asset.

The Court is then closed for the consideration of the Sentence.

Signed at Algonquin Camp.
this seventh day of June 43

W Langevin maj.
pres.

W Langevin maj. pres.

SUMMARY OF EVIDENCE

In the case of No 4713, Private Henri LEBLANC, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution.

Lt R.W. Scott, Cdn Armd Corps, 6 CIRU, having been duly sworn, states:

I am Lt R.W. Scott, Cdn Armd Corps, 2 IC of "P" Company, 6 CIRU. I hereby produce the following documents concerning the accused, whom I now recognise:

(a) Copy of the Declaration of a Court of Inquiry, dated 26 May 43. This document is marked 'Exhibit "A"' and is attached to the Summary of Evidence.

(b) Certificate of arrest in accordance with PC 2797 of 10 Apr 42, dated 30 May 43. This document is marked 'Exhibit "B"' and is attached to the Summary of Evidence.

(c) Statement of B-95472, L/Cpl Steinberg, D., Cdn Provost Corps, dated 29 May 43. This document is marked 'Exhibit "C"' and is attached to the Summary of Evidence.

The accused declines to cross-examine this witness.

R. Scott .....Lt.

Second Witness for the Prosecution. Documentary.

The following statement, by L/Cpl Steinberg, D. (B-95472), Canadian Provost Corps, is then read to the accused:

"Sir,

At London, at about 1645 hrs on 29 May 43, I was on duty at the Detention Office, No 6 (Area) Coy. Cdn Provost Corps, when on information received I proceeded to Picadilly Circus, where I saw the a/m soldier. He was being held by the Civil Police, who had checked him for identity (He was dressed in civilian clothes). I examined his MBM 1, Part I & II, and he admitted that they were false and that he was an absentee from the Canadian Army. He also had a false AFB 295 in his possession. I placed him under arrest and escorted him to No 6 (Area) Coy, Cdn Provost Corps, Detention Room, where he was handed over to the NCO IC cells to be detained."

London
29 May 43.

(Signed) D. Steinberg, L/Cpl.

A statement of this witness' evidence, purporting to be signed by him, has been read to the accused, and is included in this Summary of Evidence. Owing to loss of time involved, the attendance of this witness, giving documentary evidence, can not, in my opinion, be readily procured. The accused does not require the presence of this witness for cross-examination.

W Langevin maj. .....Lt.
(Officer taking Summary).

The accused, having been duly cautioned in French in accordance with RP 4 (E) and Overseas RO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, at Algonquin Camp, Witley, Surrey, on the 2nd day of June, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

W Langevin maj. .....Lt.
Officer taking Summary.

Algonquin Camp,
Witley, Surrey,
3rd day of June, 1943.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Algonquin Ca Witley, Surrey on the 26th day of May 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of E-4713 Pte Leblanc, H., Royal 22e Regiment, 6 CIRU.

DECLARATION

The Court declare, that E-4713 Pte Leblanc, H., R 22e R, 6 CIRU:
1-Did illegally absent himself without leave from 1200 hrs 30 Apr 43, That he is still so absent at 1200 hrs on 26 May 43.
2-That on 25 May 43 he was deficient and is still deficient of the following articles to the value of £10.12.5:

ARTICLES		VOCABULARY VALUE	APPRAISED VALUE
Badges, cap	1	0. 0. 5	0. 0. 3½
Blouses, battle dress	2	2.15. 4	2. 1. 6
Trousers, battle dress	2	2.15.10	2. 1.10½
Boots, ankle, prs	2	2. 3. 0	1.12. 3
Brush, cloth	1	0. 1. 1	0. 0. 9¾
Brush, shaving	1	0. 1. 4	0. 1. 0
Brush, tooth	1	0. 0. 4½	0. 0. 3½
Greatcoat	1	3.17. 0½	2.17. 9
Comb, hair	1	0. 0. 2	0. 0. 1½
Dressing, first field	1	0. 1. 1	0. 0. 9¾
Gloves, woollen, prs	1	0. 2. 7½	0. 1.11½
Holdall	1	0. 0. 9	0. 0. 6¾
Housewife	1	0. 2. 3	0. 1. 8¾
Pullover, Jersey	1	0. 6. 9	0. 5. 0
Knife, clasp	1	0. 5. 3½	0. 3.11¼
Razor	1	0. 1.10½	0. 1. 4 7/8
Shirts, angola	2	0. 9. 2	0. 6.10½
Towel	1	0. 0.11½	0. 0. 8¾
Shirts, gym	1	0. 1.11	0. 1. 5¼
Vest, cotton, gym	1	0. 1. 6	0. 1. 1½
Haversack AG	1	0. 0.7	0. 7. 2¾
Anti-dim	1	0. 0. 1½	0. 0. 1
Ointment AG	2	0. 2. 4	0. 1. 9
Eyeshields	5	0. 3.10	0. 2.10¼
		£ 14. 4. 7	£ 10.12. 5

Names of President and Members:

President: Lt P.E. BEAUVAIS, Fus MR

Members: Lt J.M. PANET, Gen List

Lt J.P.T. CHARETTE, Gen List

Signature of Commanding Officer W.E. MORGAN, Colonel

Certified true copy [signature] CAPT
ADJT. 6 CDN. INF. BDE. UNIT

Compiled from MFM 4 - Original incomplete --- Last sheet destroyed 15 May 40 - No record of previous entries.

M.F.M. 6 (A.F.B. 199) (15M—7-41 (1219-25) H.Q. 1772-39-1652)

No. E-4713 Name Leblanc, H. | Sqn., Battery, or Company | Corps R 22e R | Date of enlistment 15 Nov 39 | G.C. Badges N/A | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. C.E. Lavesque, Lt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	13 Oct 40	Pte		AA 15-1 AWL from 2100 hrs 13 Oct 40 to 0945 hrs 14 Oct 40 (12 hrs 45 min)		10 days CB	14 Oct 40	Major Lent	Forf 1 days pay for AWL
Field	17 Oct 40	Pte		AA 15-1 When a defaulter AWL from 1800 to 2100 hrs 17 Oct 40 (3 hrs)		2 days FP 2 Days pay	18 Oct 40	Major Lent	
Field	15 Nov 40	Pte		AA 15-1 AWL from 2200 hrs 15 Nov 40 to 18 Dec 40 (33 days)		140 days detn	25 Mar 41	FGCM	Forf 52 days pay for AWL & 79 days for time in arrest
				AA 15-1 When in arrest AWL from 2030 hrs 13 Feb 41 to 1000 hrs 4 Mar 41 (18 days 12 hrs 30 min)			Escaped from detn - 5 Apr 41		
Field	5 Apr 41	Pte		AA 15-1 When in custody AWL from 2200 hrs 5 Apr 41 to 12 Sep 41 (160 days)		22 months Impt HL	28 Oct 41	FGCM	Forf 160 days pay for AWL & 45 days for CMHQ 16 Oct42 361 days rem.

Certified true copy
Officer having custody of original documents

Sentence suspended by Sen Offr

EXHIBIT "C"

Army Form B 252 (See King's Regulations)

CHARGE

No. 6 C.I.R.U.

Regiment
Battery
Squadron
Troop or
(Company

R.22 R

CHARGE against No. [redacted] Rank Pte.

Name LeBlanc, H.

Place London Date of Offence 28 May 45

OFFENCE W.O.A.S. was in possession of a document purporting to be a service leave pass, well knowing it to be false. (2) Was in possession of a false M.P.U.1 Pt 1 A.F.O. when checked by the Provost Corps at Piccadilly Circus at about 1645 hrs. CAPT.

Names of Witnesses :— (Sd) H. Leblanc Pte.
(Sd) QW. FERN) D.A.P.M.
LONDON AREA
L/Cpl. Steinberg, D. Odn. Provo at Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

84589 WLW2572/2000 2,000,000 7/41 K. & H., Ltd. G667/47 P.T.O.

Statement of **EVIDENCE** in the case of

E-4713, Pte. LeBlanc, W.
R.22 R., No.6 C.I.R.U.

Sir: At London about 1645 hrs., on the 29 May 43, I was on duty at the Detention Office, No.6 (Area) Coy., Cdn. Provost Corps, when on information received I proceeded to Piccadilly Circus, where I saw the a/m soldier.

He was being held by the Civil Police, who had checked him for identity, (he was dressed in civilian clothes). I examined his A.B.M.1 pt.1&2 and he admitted that they were false and that he was an absentee from the Canadian Army. He also had a false A.B.295 in his possesaion.

I placed him under arrest and escorted him to No.6 (Area) Coy., Cdn. Provost Corps, Detention Room where he was handed over to the N.C.O.i/c cells to be detained.

London
29 May 43

.....L/Cpl.
B-95472, L/C. Steinberg, C

REMARKS

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4713	Private	Leblanc, H.	Royal 22e Regiment, 6 CIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—As a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Army Act 15 (1)	times	2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused~~.

~~The accused has not been previously convicted, or~~.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~.

4. The accused has been in confinement, awaiting trial on the present charges, for days in civil custody, and 5 days in military custody, making a total of 5 days, of which days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 15 Nov 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 238 da

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 238 days service.

9. The accused is entitled to reckon 1 year 238 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~is in possession of or entitled to (state any military decoration or award)~~.

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental ~~rank of~~

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of dated ~~his regiment (or corps or department) the rank of dated~~

1 (H.) (5852) 150 12/5000 6/41 A.A.F.W. Ltd. Gp.688

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-4713 Rank Private Name Leblanc, H. of R 22e R, 6 CIRU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
FGCM	Field 25 Mar 41	Army Act 15 (1) AWL from 15 Nov 40 to 18 Dec 40 (33 days)	140 days detention	
		Army Act 15 (1) When in arrest AWL from 13 Feb 41 to 4 Mar 41 (19 days)		
FGCM	Field 28 Oct 41	Army Act 15 (1) When in custody AWL from 5 Apr 41 to 12 Sep 41 (160 days)	22 months imprisonment with hard labour	361 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of [illegible] 1943

Raymond Lavendel Lunt
Officer having custody of original documents

13. The accused has served as a non-commissioned officer continuously without reduction to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Wb

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....Lt. P. Magnan, R.22R. 6 C.I.R.U.....

if he is available.

Algonquin Camp,
Witley, Surrey,
3rd day of June, 1943.

.....R. G. Blanc.....

EXHIBIT "B"

Wlanigne maj. pres.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. E-4713. . Rank .Pte. . . Name . LeBlanc, H. . . . . .

Unit .R.22.R. No.6 C.I.R.U. . . . was arrested at .London. . . .(place)

at .1645 . .(hour) on . 29 May 43.(date) and that at the time of his arrest he was wearing (~~Military Uniform~~) or (Civilian clothes) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
30 May 43

.....R. Edgar Lieut. . . Capt.
(W. Fern) D. A. P. M.,
London Area

Wlanigne maj. pres.

MEDICAL OFFICER'S CERTIFICATE. 7-6-43

I certify that I have this morning examined No. E4713. LEBLANC. H

.....R22R. F. Cot.....

and that, in my opinion, he is fit/~~unfit~~ to undergo trial by Court-Martial.

.....[illegible] Capt.

SK-63.

Mc. LeBlanc, N.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 2137 Pte Henry Joseph LeBlanc N.S.R.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. 12(1)(a)	Not Guilty	Not Guilty	of desertion but guilty of absence without leave.
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~present under sentence for~~ beginning on (date) [illegible] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 45 days, of which 30 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for one (1) year

(Sgd) ..... Judge-Advocate, if any. 12 May 45 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall read 'to undergo detention for a period of six months' and I confirm the finding and sentence so varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 17 May 45 (Sgd) [illegible] Brig

Commanding [illegible] Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G2137 Pte LeBlanc H.J	25 May 45	[illegible] Capt. a/adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ORDERLY ROOM 8-5-45 HEADQUARTERS 8th INF. BDE RECEIVED 9 JUN 1945

RECORDED AT CMHQ IN AD 51/63

CPA(H) (in lieu of AFA3) 40-7-42-2-1000 (1944)

FIELD GENERAL COURT-MARTIAL 4/38B

Convened by Order of Lt-Col R. T. A. ROBERTS Comd 8 Can. Inf. Bde. dated 11 May 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 2137	Pte		HENRY JOSEPH	LEBLANC	N.S.R.

PROCEEDINGS REVIEWED 9 June 45 J. J. Brody Capt REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at [illegible] in (country) Germany on (date(s)) 12 May 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 32/43.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all instrs given in ROE. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied/that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) HC

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ HC

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans ~~The shorthand writer is sworn.(1)~~ HC

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F. C. Glassco	R. de Chaud.
Member	Capt.	P. C. Rea	Q.O.R. of C.
Member	Lt.	J. Hurst	Q.O.R. of C.
Judge-Advocate			
Prosecutor	Lt.	M. H. Rogers	N.S.R.
Defending Offr	Capt.	R. G. Albert	N.S.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea. HC (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. HC

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 HC.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 C1 P146

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, see Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s), by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(C).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed ~~on the~~.....charge(s), and allowed ~~on the~~.....charge(s), and that, accordingly, the trial will proceed, ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. No. Do you intend to call witnesses on your behalf?
Ans. No. Are they witnesses as to character only? Ans. No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D. and Ex. C. respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, G/2137 Pte. Henry Joseph LEBLANC, North Shore (New Brunswick) Regiment, a soldier of the Canadian Army overseas is charged with:

FIRST CHARGE
A A SEC 12 (1)(a)

WHILE ON ACTIVE SERVICE

DESERTING HIS MAJESTY'S SERVICE

in that he

in the field at 2300 hrs 24 MAR 45 after having been warned for action against the enemy on Operation, "PLUNDER", with intent to avoid such service absented himself without leave from 2300 hrs 24 MAR 45 until surrendering himself to a member of No 7 Pro Coy, Cdn Pro Corps at 2330 hrs 29 MAR 45. (Absent 5 days 30 Mins).

In The Field,
7 MAY 1945.

(O L Corbett) Major.
T/Comd North Shore (NB) Regiment.

To be tried by Field General Court Martial.

(J.A. Roberts) Brigadier
Comd 8 Cdn Inf Bde.

11 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-2137	Pte		Henry Joseph	LEBLANC	N Shore R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 11 May 45 endorsed by me, "To be tried by Field General Court-Martial";

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person and to consist of the Offrs appointed below or detailed hereunder.

~~4. Unless another authority is hereby appointed to act as Judge-Advocate, the Judge-Advocate shall be appointed by the convening officer.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J. C. Blaseau	R. de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D. C. Lea	Q.O.R. of C.
Lt	J. Hunt	Q.O.R. of C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	N/A	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in Germany (Country.)

(Signed personally. RP 105 fn 2.) Jan Ghabitis

Brigadier (Rank.)

Date 11 May 45

Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAO (2) (Sec of AFAS) 40-P.R.C./1247 (M91)

(See overleaf for notes and notes for use on trial.)

NORTH SHORE (NEW BRUNSWICK) REGIMENT

This is to certify that I have examined , G/2137 Private Henry Joseph LeBLANC, North Shore (New Brunswick) Regiment, and in my opinion he is fit to undergo trial by Field General Court Martial.

In The Field.
12 May 1945.

(J McCabe, Capt) RCAMC.
M O, North Shore (NB) Regiment.

FIRST WITNESS: FOR PROSECUTION

Lt. Mc Kenna J.P. having been duly sworn states:

While in command of number nine platoon, "C" company, North Shore Regiment my duty was to inform my platoon that operation Plunder was to take place at approximately 11.30 hours the 24. Mar. 45. I did this to what I thought was my complete platoon. I warned them that any person absenting himself from the company would be considered as a deserter. From the time we left our concentration point and just before we arrived at our off loading point I checked my platoon and found Pte Leblanc J. F. absent from my platoon at approximately 23.30 hours 24 Mar 45. I went through the natural procedure of informing my Company Commander.

Cross Examination

Ques: Lt. Mc Kenna did you personally inspect your platoon before briefing it.

Ans: No.

Ques: Do you remember having seen the accused at the briefing

Ans: No.

Ques: When you left concentration area was your platoon complete.

Ans: Yes. RP83(b) Complied with.

2nd WITNESS FOR PROSECUTION

Sgt. M. Goldin having been duly sworn states:

I am platoon sgt. of number nine platoon, "C" company, North Shore Regiment. We had our morning parade and a little scheme and the Commanding Officer spoke to the men and explained that we were going into action shortly. And after that Mr. Mc Kenna briefed the platoon and told us that any man a.w.l. from noon that day would be charged with desertion. He asked me if the platoon was present and I told him I thought they were all there.

Prosecution Ques:

Was there any possibility of another attack across the Rhine River that day.

Ans: Yes.

Cross-Examination:

Ques: When Mr. Mc Kenna called his platoon together the morning of the 24 March 45 for briefing, did you call the roll of your platoon before turning it over to Mr. Mc Kenna.

Ans: No, sir.

Ques: Did you call the roll of your platoon at the concentration area that same day.

Ans: No, sir.

Ques: When did you first notice the absence of the accused.

Ans: About 15 minutes before we embarked on the boats. R183(b) Complied with.

Certificate of Apprehension produced to Court and marked Exhibit "A"

Defence Motion

In the evidence given by the witness for the prosecution, there is nothing to prove that the accused Pte Leblanc was ever warned or briefed for the forthcoming operation. On no occasion on the 24th Mar 45 did sergeant Holden ever call the roll of his platoon.

Plea of Mitigation

The accused is 19 years of age. He joined the army voluntarily at the age of 18, in Oct. 1943. He came overseas in Oct. 1944, later coming to the continent where he served 4 months in action with the North Shore Regiment. His conduct sheet does not show any serious crimes and with the length of service he has given, his conduct on the whole has been quite good. He was very young for a man to serve in action and added to this nervous condition which he claims to have, is reason enough to excuse this man for any serious crime that he may commit. I would ask the court to take these facts into consideration when passing sentence and to show leniency towards a man of such age.

Exhibit "A" 96.

G-2137 Pte LEBLANC H.J.

NORTH SHORE REGT 3 Cdn Div

"C" Coy

D-135224 L/cpl Grant W.J.

Cdn Provost Corps No 7 Company

29 th March 5 2330

xxxxxxxxxxxxxxxxxx

Li

O.i/c Nijmegen Det

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G/2137	PTE	LEBLANC, H J	NORTH SHORE (NB) REGIMENT

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:

For A A SEC 15 (1) 2 times.

For ____ times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet 3 APR 45

Date of last entry in Field Conduct Sheet 23 OCT 44

[redacted]

*Strike out if not applicable.

[redacted]

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 45 days in military custody, *i.e.*, 0 days in open arrest, 45 days in close arrest; [redacted]

5. The present age of the accused is 20 Yrs 8 Mos

6. The date of his attestation [redacted] is 2 Oct 43

7. The service which the accused is allowed to reckon is 1 Yrs 7 Mos

[redacted]

†State the military decorations (if any) held by accused.

[redacted]

	Date of Promotion.
In the substantive rank of N/A	N/A
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 86960/1602 20,000 3/44 51-4761. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 7th day of MAY 45

for T/Comd North Shore (NB) Regiment.

(J L Corbett) Major.

No. G/2138 Name LEBLANC, H J | Sqn, Battery or Company | Corps C I C | Date of enlistment 2 Oct 43 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFH 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"SHEET NO 1 DESTROYED - 2 APR 44" "DATE OF LAST ENTRY - 3 APR 44" "NO. OF CASES OF DRUNKENNESS - NIL"									
Field	5/6/44	Pte		A A SEC 15 (1) WOAS: AWL from 2359 hrs 5 Aug to 0715 hrs 6 Aug 44 (Absent 7 hrs 16 mins)."	Cpl. Northrup	7 Days' C B	7 Aug 44	Maj H M Logan	Forf 1 day's Pay FR&I 149 (1)(a).
Field	23/10/44	Pte		A A SEC 15 (1) WOAS: "AWL from Place of Parade from 0725 hrs 23 Oct to 0735 hrs 23 Oct 45. (Absent 10 mins)."	Maj J W K Smeltzer	3 Days' C B	24 Oct 44	Lt F M Burtt	

CERTIFIED TRUE COPY
[illegible] Capt a adjt
11 MAY 45

(PTO)

SUMMARY OF EVIDENCE IN THE CASE OF G/2137 Pte. Henry Joseph LEBLANC, "C" Coy, North Shore (New Brunswick) Regiment.

By direction of the Commanding Officer the evidence is taken on oath.

1ST WITNESS

Lieut. J P McKenna, 9 Platoon, "C" Coy, North Shore (New Brunswick) Regiment, having been duly sworn, states:

"At 2300 hrs 24 MAR 45 I was in command of No 9 Platoon, "C" Coy, while proceeding from our debussing point to our off loading point. I checked my platoon and found Pte. LeBlanc missing.

Prior to 2300 hrs that same day, I briefed my platoon for an attack upon the enemy during Operation "PLUNDER" and warned them that any one absenting himself from then on would be classed as a deserter. The Platoon Sgt. reported to me that the platoon was present but I didn't particularly notice if Pte. LeBlanc was present.

I also present a certificate of surrender under A A Sec 163 which states that Pte. LeBlanc surrendered himself to No 7 Cdn Pro Coy at 2330 hrs on 29 MAR 45 and is att as Exhibit "A".

The accused declines to cross examine the witness.

J P McKenna

(J P McKenna) Lt

2ND WITNESS

D/143724 Sgt. Goldin, M, "C" Coy, North Shore (New Brunswick) Regiment, having been duly sworn, states:

"I was Platoon Sergeant of No 9 Platoon until 1 MAY 45 at approximately 2300 hrs on 24 MAR 45 I found that one man of my platoon was missing. I immediately called the roll and found that the accused, Pte. LeBlanc who I now recognize was absent I had seen him about 15 minutes before that. Pte. LeBlanc has not been with his Platoon since. I was present when No 9 Platoon was warned for operations, "PLUNDER" by our Platoon Commander, Lt. J P McKenna. To the best of my knowledge all the platoon including Pte. LeBlanc was present at that warning."

The accused declines to cross examine the witness.

(D/143724 M Goldin) Sgt. M. Goldin

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) does not wish to give evidence or make a statement.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

P L Chiasson

(P L Chiasson) Capt.
North Shore (NB) Regiment.

In The Field.
7 MAY 1945.

LIST OF WITNESSES

FOR THE PROSECUTION

	Lt	J P	McKenna	N Shore r
D/143724	Sgt	M	Goldin	N Shore R

For the Defence

N - I - L.

In The Field.
7 MAY 1945.

(O L Corbett) Major.
T/Comd North Shore (NB) Regiment.

LIST OF EXHIBITS

EXHIBIT "A" - CERTIFICATE UNDER THE ARMY ACT SEC 163 (1) (j).

In The Field,
7 MAY 1945.

O L Corbett Major.
(O L Corbett) Major.
T/Comd North Shore (NB) Regiment.

STATEMENT OF THE ACCUSED

I, G/21137 Pte. Henry Joseph LEBLANC, "C" Coy, North Shore (New Brunswick) Regiment, desire that the Convening Officer appoint Lieut. J C SUTTON, North Shore (New Brunswick) Regiment to represent me at my trial.

H J Le Blanc

(G/21137 H J LeBlanc) Pte.
"C" Coy, North Shore (NB) Regiment.

In The Field.
7 MAY 1945.

40-33

Pte. Leblanc K.R.

RECORDED AT CMHQ IN AB 160. 40-33

FIELD GENERAL COURT-MARTIAL

CFA66 (to item of AFA31) 40/P & S/1698 (40/50) 4/38B

Convened by Order of Lt Col. E.M. Smith 1 Comd 4 Cdn Armd Bde dated 14 Dec 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K. 54563	Pte.	Hector Raymond	Leblanc	L.S.R.(M)

PROCEEDINGS REVIEWED 4 Ops Services Limit 2 Feb 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 18 Dec 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". For general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6, AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1002 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 549. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ~~an interpreter~~? Ans ~~No~~

~~The Interpreter is sworn.~~(1) Do you object to ~~a shorthand writer~~? Ans ~~No~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if not employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR.	C.O. CURRIE.	28 Cdn Armd Regt (CAC)
Member	CAPT.	E.R. WATKIN.	21 Cdn Armd Regt (CAC)
Member	CAPT.	E.S.W. BIGNELL.	22 Cdn Armd Regt (CAC)
Judge-Advocate			
Prosecutor	MAJOR.	H.G. DAWSON.	L.S.R.(M).
Defending Offr	A/CAPT.	G.H. BURKE.	L.S.R.(M).

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer or Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ.)

A8. The accused Pte Hector Raymond LeBlanc before arraignment make(s) no objection(s) and plea(s)

(3)

(3. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding on each plea, record per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Revised Form B.

J. PRESIDENT OR [illegible] INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.W.O.L.	Guilty.	GUILTY.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....

(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 19 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 submitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one year.

Date 18 Dec 44. (Sgd) [signature] Maj. President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 94. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 13.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court but remit 6 months of the sentence

~~I withhold confirmation of the finding on the charge of [illegible] and direct that accused be tried again on that charge.~~(1)

(1. AA 57A. Delete if not used.)

Date 21 Dec 44 (Sgd) [signature]

Commanding (R.W. Moncel) Brig, 4 Cdn Armd Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K.54563 Pte LeBlanc H.R.	28 Dec 1944	[signature] Lieut.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO. Sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken (1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement made in this way on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1. 60(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes Sir.
(1. *If evidence has already been given by accused or witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces a document(1) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(1) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Sir .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused K-54563 Hector Raymond LeBlanc
a member of The Lake Superior Regiment (Motor)
a soldier of the Canadian Army Overseas placed
on Active Servine is charged with:

First Charge
Sec 15 (1)
ARMY ACT

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself from his unit, The Lake Superior Regiment (Motor) from 1000 hrs 4 Nov 1944 until he reported to "B" Coy Orderly Room at 1600 hrs 29 Nov 1944.

(Total time absent 25 days 6 hours)

(H. A. Leard) Lt-Col
The Lake Superior Regiment (Motor)

In the Field
6 Dec 44

To be tried by Field General Court Martial.

In the Field
14 Dec 44

(E.M. SMITH) Lt-Col
A/Comd 4 Can Armd Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAS 40/PAM/1697 (2nd Ed))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 54063	Pte		Hector Raymond	LeBlanc	Lake Sup R (H)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	C. O. Currie	2 Cdn Armd Bde

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be appointed by	21 Cdn Armd Regt
Capt	To be appointed by	22 Cdn Armd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be appointed by	Lake Sup R (H)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 14 Dec 44

A/ Commanding 4 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

18 Dec 44

I certify that I have this day examined
K 54563 Pvt. LeBlanc, H. R.
and in my opinion he is fit to undergo
trail by FGCM.

C E Vowell Capt
Signature of Medical Offr

H45573 1st Woodcock W.G.

1st Woodcock having been duly sworn states The accused was in my platoon and during the time he served with me his services were satisfactory.

Plea in mitigation of punishment

The accused has given good and faithfull service. He has a clean charge sheet. This is the first crime. His services would be of value to the regiment. He left the LOR camp when only a Pte was in charge, which I think is not conducive to good discipline. In consideration of the existing reinforcement difficulty I feel that the accused should be given a ~~[illegible]~~ lenient punishment rather than be allowed to spend a long period in detention.

[illegible]

Exhibit A.
Page one.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F-54563 Pte LeBlanc, H.R., "B" Coy, Lake Superior Regiment (Motor), CAO, charged with Absenting himself without leave (AA 15(1).

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS

H-10501 Pte Hendrick M.J., 6 Pl "B" Coy, Lake Superior Regiment (Motor) duly sworn states:-

I am H-10501 Pte Hendrick M.J. On the 4 Nov 44 I was senior private in charge of "B" Coy L.O.Bs. There was no officer present after breakfast. I returned from checking two drivers to make sure they were present and was looking for Pte LeBlanc to give me some assistance in some work. I had seen him at breakfast at 0800 hrs. The last time I saw him was at 0900 hrs. He was walking across the field towards "A" Echelon. On the 5 Nov 44 Pte LeBlanc had come with me to the L.O.B. camp on orders from Lt. Henderson. I checked again several times during the day and still could not find him. I reported the matter to Sgt Woodcock who returned from leave at 2000 hrs, 4 Nov 44.

The accused declines to cross-examine this witness.

(H-10501 Pte Hendrick M.J.) Pte Hendrick

SECOND WITNESS

H-46415 CSM Usher H.W., "B" Coy, Lake Superior Regiment (Motor) duly sworn states:

I am CSM Usher of "B" Coy, Lake Superior Regiment (Motor) of which Pte LeBlanc is a member. On the 5 Nov 44 word came up from "A" Echelon about the absence of Pte LeBlanc. I listed Pte LeBlanc as an absentee on my casualty report. I did not see Pte LeBlanc until he reported to me at 1600 hrs 27 Nov 44. I immediately placed him under close arrest. On the 4 Nov 44, Lt. Henderson told me he was sending Pte LeBlanc L.O.B.

The accused declines to cross-examine this witness.

(H-46415 C.S.M. Usher) CSM

Exhibit A.
Page two.
[illegible]

THIRD WITNESS

H-45573 Sgt Woodbeck H.G., Pl Sgt, No. 6 Pl "B" Coy, Lake Superior Regiment (Motor) duly sworn states:

I am H-45573 Sgt Woodbeck H.G. I returned from leave on 4 Nov 44 about 2000 hrs. Pte Hendrick reported to me that the accused was absent. I called the roll next morning and the accused was still absent. He failed to return while we were L.O.B.

The accused declines to cross-examine this witness.

H.G. Woodbeck
(H-45573 H.G. Woodbeck) Sgt

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not want to make a statement.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consistingof two pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E) and (F) have been complied with.

[illegible]
(R. Styles) Major
The Lake Superior Regiment (Motor)

In the Field
6 Dec 44.

Exhibit B

M.F.B. 355
7M—8-40 (6400-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-54563	Pte	LeBlanc H.R.	Lake Superior Regiment (M)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets~~ ~~or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AA 40 1 times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

~~2. The accused has not been previously convicted~~

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time.~~

~~or,~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 19 ~~13~~ days in military ~~Air Force~~ custody, making a total of 19 ~~13~~ days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 20 years 7 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 5 Aug 43

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

~~9. The accused is in possession of or entitled to no air force decoration or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military military

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of December 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

L. E. Pope

(L. E. Pope) Capt & Adjt

Exhibit 5

Name LeBlanc H.R. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 5 Aug 43 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /S136 (2903)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	25 Feb 44	Tpr		Original Sheet Destroyed 15-2-44 Conduct to the prejudice of Good Order & Mil Disciplineon 25-2-44 did thru neglect turn into [illegible] stores one pr of Air Force boots that had been burnt and a hold cut in the toe (AA 40)	Documentary	14 days C.B.	28-2-44	Lt J ETB Henkey	Placed under stoppage of pay for cost of Boots 16.33
Field		Pte		BLOOD DONOR - NO SPICE [illegible]	3 July 44		---	W.D.	Gallman

CERTIFIED TRUE COPY FROM [illegible]

L. E. Pope
(L.E. Pope) Capt & Adjt

(P.T.O.)

WWW-113.

Pte. Le. Blanc Jr.

V

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : G1520 Pte Joseph LeBLANC, West N.S.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(2) ~~Alternative~~	NOT GUILTY	NOT GUILTY	
2nd (Alternative) Sec 40 ~~Alternative~~	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present undergoing sentence for~~ ~~beginning on~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo Detention for a period of (6) six months

(Sgd) ~~Judge Advocate, if any~~ 23 Jun 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation ; KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Findings and sentence confirmed

~~I direct that the accused be not committed~~ to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 28 Jun 44 (Sgd) Commanding 3 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G1520 Pte LEBLANC J West N.S.R.	30 Jun 44	West N.S.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AO 160. WWW-113.

FIELD GENERAL COURT-MARTIAL

CPA98 (To face of AFA31)

By Order of Brig. W.E. Bernatchez DSO Comd 3 Can Inf Bde dated 18 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G1520	Pte		Joseph	LeBLANC	West N.S.R.

PROCEEDINGS REVIEWED 26 Sep 44 7 JUL 1944 Capt

etc REVIEWING OFFICER, JAG BRANCH, CMHQ

Held in the Fd in (Country) Italy on (date(s)) 23 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1540 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to as interpreter ? Ans~~ ~~The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	L.F. Trudeau	R 22eR
Member	Capt.	H.J. Hanning	Can Inf (4th R
Member	Lieut	Y.M. Budreski	West N.S.R.
Judge-Advocate			
Prosecutor	Lieut	W.S.R. Jones	West N.S.R.
Defending Offr	Lieut	M.A. Craig	West N.S.R.

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. ~~The accused before arraignment makes(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62 ; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a supernth sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No [redacted] (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ([redacted]) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is [redacted] allowed on the 1st charge(s) and [redacted] disallowed on the ..... charge(s), and the[redacted], accordingly, the trial will proceed on the [redacted] but the accused is [redacted] found Not Guilty on the [redacted] charge[redacted].(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans No [redacted] Do you intend to call witnesses on your behalf ? Ans No [redacted] Are they witnesses as to character only ? Ans N/A

(1. *RP* [redacted] *115* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1) [redacted] Or, [redacted] and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2) [redacted]

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or [redacted] of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No [redacted]

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ([redacted]) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No [redacted] (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted].(2)

(1. *When several accused tried [redacted] see RP 34(F). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

CHARGE SHEET

The accused, G1520 Pte Joseph LeBLANC, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas - AAI, stationed in the Field is charged with:-

1st Charge
Sec 18(2)
Army Act

When on Active Service, WILFULLY MAIMING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE,

in that he,

in the Field on 2 Jun 44 did by discharging his bren gun wilfully maimed himself by puting a bullet through his right foot, with intent thereby to render himself unfit for service.

Alternative
Charge
Sec 40
Army Act

When on Active Service, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field at approx 1500 hrs 2 Jun 44 ~~did~~ so negligently handled a bren gun as to cause it to be discharged and thereby injured his right foot and rendered himself temporarily unfit for service.

In the Field
3 Jun 44

(R S ~~W~~ Waterman) Lt col.,
Comd West N S R.

To be tried by Field General Court Martial.

In the Field
3 June 44

.....Brigadier,
Commanding 3 Can Inf Bde.

HH Pres

(8)

CF A96 (In lieu of AFA8)
4(1)/P&R/1097 (DHQ)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G1520	Pte		Joseph	LeBLANC, West NSR	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 June 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior General offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint any three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P Trudeau	R 22e R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	P Trudeau	Carl dYorg R
Capt	H J Haining	Ret Hq
Lieut	G H Bourassa	Ret HQ

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	A D Taylor	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)

On Active Service in the Fd
in ITALY (Country.)
Date 16 June 44

(Signed personally. RP 105 fn 2.)
Brigadier (Rank.)
Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS
(See overleaf for notes and notes for use on trial.)

(8)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&R/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G1520	Pte		Joseph	LeBLANC,	West NSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Jun 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	F Trudeau	R 22e R
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	H J Heining	Carlt &York R
Lieut	G R Budreski	West NSR
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lieut	A D Taylor	West NSR
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 18 Jun 44

Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

PROSECUTION 1st Witness 1. (10)

K 92313 Pt MacDougall, J. having been duly sworn states — On the day of the accused's injury, I was laying, with my back towards him, next to him. I now recognise the accused. I heard a shot, getting up quickly LeBlanc was laying back on his right side the Bren gun had fallen, partially into the ditch, I shouted to the S. B.'s and pulling the Bren gun out of the ditch I set it to one side clear of the ditch. Before laying down I saw LeBlanc clearing the gun — he had the gun stripped at the time, the magazine was definitely off when he was clearing the gun; as the weapon was stripped down.

After the shot was fired and I went to LeBlanc's assistance the weapon was completely assembled. The magazine was on the gun. Pte. LeBlanc was on the Bren gun, a lot he had for about a week. At the time I heard the shot - I heard LeBlanc say "Jesus Christ, I'm shot!" he offered no explanation as to how it occured. He was laying on his right side, his feet in the ditch, and the gun was pointing into the ditch.

X by Defence - I don't know for how long LeBlanc had been with the unit before this happened — he was with the section for about a week, in that week the unit was not under fire ~~that week~~. I didn't notice any mags around when he was cleaning the gun. (By sec had done no firing during the week) LeBlanc was with us.

Question by court After the shot I took the mag

H/Pte.

off the gun there were more than one round on it. I did not notice the position of change lever.

RP 83 (6) complied with.

Re Exam by Pros

All the mags belonging to the gun were filled — at all times. It was daylight when the shot was fired.

Re Exam. by court - When we took over as #1 & #2 on the gun, the mags had already been filled - LeBlanc and I checked them together. It was usual to carry a full mag on the gun, with the action left forward.

Re Exam by Accused

RP 83(6) complied with

Pte

2nd Witness III (12)

F 89809 Pte Carrigan H - having been duly sworn states: I recognize the accused, Pte LeBlanc. I was in the same section as he. At the time of LeBlanc's injury I was laying down, I heard a shot, I got up and saw MacDougall taking the Bren gun out of the way - and heard someone shouting from SB's. I didn't see LeBlanc cleaning the gun. ~~[illegible]~~, when the shot was fired I lifted my head and the first thing I saw was MacDougall lifting the gun. R.P. 83(b) complied with.

3rd Witness

Capt H Mendelson - having been duly sworn states - I am M.O of the West N.S.R. I now recognize the accused. On the 2 June 44 Pte LeBlanc was brought to my R.A.P, he was then suffering from a gsw of the right foot, I rendered F.A. treatment and he was then evacuated to the 9th Can. fd. amb. The bullet passed thru the foot, entering the dorsum (instep) of foot and coming out thru the sole

R.P. 83(b) complied with

Pres. closed

HH Pres

Statement by Pros. - re LeBlanc (13)

I submit that the injuries of the accused were caused by his negligence. The question is not whether this negligence was wilful or [redacted], it is not a question of intent. We have no means of determining the intent of the accused. The test is not whether he meant to injure himself, we know that the accused was injured while he was handling a Bren gun. The Bren is a fool proof weapon, the accused must have placed a magazine on the gun which he knew to be loaded, he cocked the gun and he released the trigger so that a round was discharged into his foot. For this to be done accidentally is too much of a stretch of the imagination. Under these circumstances the test of negligence is answered conclusively by the fact the accused was wounded. The fact that the accused was wounded by a Bren gun held in his own hands is proof of his negligence.

H
Pros.

Statement by defending officer: re Leblanc (14)

Prosecutor suggests that the ~~[illegible]~~ test of negligence in this case is the fact that he has been wounded by a fool-proof weapon - the bren gun. But as in all criminal charges - so in this one - the prosecution must prove guilt beyond a reasonable doubt. "Neglect" required to be proved under sec 40 is wilful or culpable neglect - not merely the result of forgetfulness, error of judgement, or inadvertence. If we applied the test laid down by the prosecutor then the burden of proof ~~of~~ would shift to the accused - and the accused would, in effect, have to prove that he was not guilty.

The only evidence against the accused is that he cleaned the bren gun, put on a full magazine as was the custom with his coy. Up to that point he is just doing his duty. Whether the gun was cocked & safety catch not applied or whether the gun was mechanically defective we don't know. In any case it cannot be said that ~~his actions~~ the wound is a result ~~[illegible]~~ of wilful or culpable neglect. Criminal negligence must be shown before the accused can be convicted. I submit that there is more than a reasonable doubt in this case and that the accused must be ~~[illegible]~~ acquitted.

McLeod Craig Lt.
Defending Officer

HH
Pres.

DEFENSE

1.

(15)

Plea for mitigation—

The accused had only been in the army less than a year up to the time of the accident, he only has four charges on his conduct sheet and only one involves a sentence of detention — the accused had not been with the W.D.S.R very long and in view of his short period of Training I think he should be shown leniency.

Medical Officer
Defending Officer.

H.A.
Pres

Ex A (16)

STATEMENT AS TO THE CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No...G1520.....Rank....Pte.....Name LeBlanc J.....West Nova Scot Regiment

1. The following is a fair and true summary of the entries in the regimental Conduct Sheet of the Accused :

Within the last 12 months	Since Enlistment.
Sec 15 (1) A A 4 Entries	4 entries

No of instances of gallentry or distinguished conduct NIL

The accused is NOT under sentence at the present time

The Accused has been under Close arrest awaiting trial on the present charge for.....days of which no days were spent in Hospital

The present age of the accused is.....20.....years

SCHEDULE

On conviction by Court Martial, a summary awards under Sec 47 of the Army Act, and of cases in which trial has been dispensed with of accused, No.....Rank.....Name.....
of the West Nova Scotia Regiment

N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody

Signed this...5.....day of...June.....1944

(Officer i/c Regtl records
West Nova Scotia Regiment)

The above statement (with schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the President, and annexed to the proceedings.

Pres

(6)

SUMMARY OF EVIDENCE in the case G1520 Pte Joseph LEBLANC, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas - AAI.

By Order of Lt col R S E Waterman, Officer Commanding, West Nova Scotia Regiment.

Evidence taken on Oath.

First Witness For Prosecution

K98313 Pte MacDougall J, West Nova Scotia Regiment, having been duly sworn states:-

"I was laying on my blankets reading and G1520 Pte LeBlanc was cleaning the bren gun. My back was towards him. I heard a shot and turned around. Pte LeBlanc said "I am shot". He was seated on the edge of drain, and had the bren gun pointed into the drain. I pulled the bren gun out of the way and got a stretcher bearer."

Signed: J MacDougall

Questions by Officer taking Summary:

Q. Was the magazie on the bren gun when you went to see what happened ?
A. Yes sir it was, also the barrel.

The accused declines to cross-examine this witness.

Second Witness For Prosecution

F89809 Pte Carrigan H, West Nova Scotia Regiment, having been duly sworn states:-

"I was laying down near the accused, G1520 Pte LeBlanc J who was cleaning his bren gun. I heard the shot and saw Pte McDougall take the bren gun away and send for the stretcher bearer."

Signed: Carrigan H

Question by Officer taking Summary:

Q. Did you notice if the magazine was on the bren gun ?
A. I do not know sir.

The accused declines to cross-examine this witness.

Third Witness For Prosecution

Capt H I Mendelson, Medical Officer, West Nova Scotia Regiment, having been duly sworn states:-

"I am Medical Officer West NSR. At approx 1545 hrs 2 Jun 44 G1520 Pte LeBlanc J was brought to the RAP. He was suffering from a gunshot wound of the right foot. I rendered first aid treatment and he was then evacuated to the 9th Cdn Fd Amb."

Signed: H I Mendelson Capt

The accused declines to cross-examine this witness.

HH Pres.

(7)

The accused having been duly cautioned as follows:-
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence", Declines to make any statement.

Certified RP 4 (c) (d) (e) & (f) has been complied with.

Taken down by me in the presence and hearing of the accused this 2nd day of June 1944.

In the Field
2 Jun 44

D.S. Campbell Lt
Officer taking Summary.

Pres.

MFM 6 (AFB 122) 40/P&S/136 (3438) (17)

No. G1520 Name LeBlanc J | Sqn, Battery, or Company | Corps Ex-B CTC | Date of enlistment 12 June 45 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc D Crulman Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Elminster NB	17 Aug 43	Pte		Awl from 0600 hrs 17 Aug 43 to 0235 hrs 19 Aug 43. 1 day 20 hrs 35 mins	Cpl Robichaud Pte Dunham	3 days pay line of detn (2 days auto forf)	19 Aug 43	Maj Harkey	2 days stw forf of pay.
Valcartier	8 Nov 43	Pte		AA Sec 15 Awl from 0700 hrs 8 Nov 43 to 1620 hrs 11 Nov 43 - 3 days 9 hrs 20 mins	Sgt Hodgson	5 days CB	15 Nov 43	Maj Sherman	4 days pay FRI (7)(a) 149.
Debert NS	26 Dec 43	Pte		Awl from 2215 hrs 26 Dec 43 to 2230 hrs 30 Dec 43 - 75 hrs 15 mins, Sec 15 AA.	Sgt Applin	7 days CB	31 Dec 43	SB Burns Capt	3 days for pay.
Debert NS	17 Jan 44	Pte		Awl 0630 hrs 17 Jan to 2130 hrs 21 Jan 44.	Doc.	168 hrs detention	22 Jan 44	Col Gallespie	5 days pay - awl " " FRI

Certified true copy from the regimental books in my custody [signature] Officer i/c Records West NSR - 30 May 44

[signature] Pres. (RTO)

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(9)

MEDICAL OFFICER'S CERTIFICATE
(KR (CAN) PARA 557)

I certify that I have this morning examined

No ..G 1520..... Rank ...Pte..... Name ....LEBLANC, J.....

of ..West NSR..... and in my opinion is

FIT/~~UNFIT~~ to undergo Trial by Court Martial.

Station ..Field.....

Date ..~~30~~ 25 June 44.....

[signature] Pres. ..... Ah Jacobs Capt.....
(Medical Officer)

6D-117.

Pte. Leblanc, J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(4) A.A.	N.G.	not guilty	
2nd	1 in A.A.	N.G.	guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~In present under sentence for~~ ~~imprisoning (etc)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

forty two days Field Punishment

(Sgd) —
Judge-Advocate, if any.

14 March 1945
Date awarded.

(Sgd) [signature]
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57. Confirmation and promulgation: AA 54, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

The decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) DS

(1. AA 57A. Delete if not used.)

(Sgd) E. Lee Burns MAJ-GEN

Date 23 Mar 45

Commanding GO/c Cdn Sec 1 Ech HQ 21 Army Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
6/147738 PTE LEBLANC J.	27 Mar 45	[signature] Captain R.M.P. (Ex)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5D-117

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA81) 40/P & R/1606 (2084)

Convened by Order of Commander, 2nd Army Troops Comd dated 12 March 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G/147738 Pte		Jacques	Leblanc	85 Can. Bridge Coy. RCASC.

REVIEWED PROCEEDINGS Billy Capt 24 Apr 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 14 March 1945.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/24.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant matter. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Mr C. [illegible] as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to — (Sworn) as shorthand writer? Ans —

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.A.H. Lewis Barnard R.C.	R.W.H.
Member	Captain	M.R.H. Harris R.C.	R.A.
Member	Lieut.	W. Fortier 85 Canadian Bridge Coy.	R.C.A.S.C.
Judge-Advocate	—	—	
Prosecutor	Lieut.	R.B. Tolman	R.A.
Defending Offr	Captain	S. Stephens	85 Canadian Bridge Coy. R.C.A.S.C.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G/147738 Pte J. Leblanc before arraignment make(s) (no) ~~(a)~~ plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 117), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~plead~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. ~~The Court is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"A" Vol III Page 60

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Give evidence as a witness. Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans I wish to call a witness as to character.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex A1 respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Defending Offr will make plea in mitigation. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Cs
Schemeth
Maj.
President.

CHARGE SHEET

The accused, S-43738 Pte. LEBLANC, J of 85 Cdn Bridge Coy RCASC, a soldier of the Canadian Army Overseas is charged with:

1st Charge
Section 18(4)
Army Act

WHEN ON ACTIVE SERVICE STEALING PUBLIC PROPERTY

in that he

in the field on or about 19th February 1945 stole 3 kilos of pork and 3½ kilos of coffee, or thereabouts, public property.

2nd Charge
Section 22
Army Act.

WHEN ON ACTIVE SERVICE WHEN IN LAWFUL CUSTODY ATTEMPTING TO ESCAPE.

in that he

in the field on 19 February 1945 when in close arrest broke away from his escort and attempted to escape.

Alex. Gagnon

(Alex Gagnon)-Major
Officer Commanding
85 Cdn Bridge Coy
R.C.A.S.C.

Field

1 March 1945

To be tried by Field General Court Martial

12 Mar 45

D.A.S. Browne
Brig,
Comd Second Army Tps.

W 14

FIELD GENERAL COURT-MARTIAL

De Lehaney Major President.

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-49738	Pte		Jacques	LEBLANC	85 Cdn. Bridge Coy. R.C.A.S.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 12 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". Dale

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ Dale

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Dale

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Dale

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major.	De S.H. LEWIS - BARNED M.C.	R. W. K.
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Lieutenant	W. FORTTER	85 Cdn Br Coy RCASC.
Captain to be detailed by Comd 101 Rft. Gp.		
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

-	- -	-
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

-	- -	-
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in B L A (Country.) — D A L Browne (Signed personally. RP 105 fn 2.) — Brigadier, (Rank.)

Dat 12 Mar 45 — Commanding Second Army Troops. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 85 (In lieu of AFA 3) 40/P & S/1897 (6145)

Prosecution

1st Witness. Mrs A. Munters, of Lumen, Limbring, Belgium, sworn, states: ~~[illegible]~~ ¶

At about ~~[illegible]~~ 0200 ¶ hrs on 19 Feb. my husband & I were in bed. A soldier came & awakened us. It was the accused, whom I recognise. He had a piece of pork of about 3 kgs. and a lot of coffee of 3 to 3½ kilos. He asked if my husband would like to buy them. My husband replied, asking if he would get into trouble. Accused replied that there was too much pork & coffee in the kitchen. He bought the Pork and the coffee, paying to accused about 7/8 Belg. francs altogether.

We went back to bed. In the morning my husband went to see the soldiers. Later he returned the pork & coffee to another soldier, whom we call 'Staff'. I do not know his name.

Later I saw accused in my kitchen. He never returned the 700 frs: he never spoke. It has never been returned.

Cross Ex.

I have had soldiers living in the kitchen, since the British came to Belgium. No food ~~[illegible]~~ ¶ is kept in the kitchen.

Accused slept in the kitchen with another 3 soldiers. I do not know if the name of one was Mayert.

Accused had lived in my house for many 6 weeks.

There were 2 kitchens - my kitchen & the soldier's kitchen. The soldier's food was kept in their kitchen. My husband's & my room was three away from the kitchen. The rooms between were unlocked. There is a door between our room & the next room which cannot be closed. I never went to the soldier's kitchen - they used to come to us frequently.

I thought it very unusual for a soldier to come into my room at 0 rooms. We always keep the light on.

I could have seen him any time in the day. He never discussed selling food, nor did any other soldier.

before the soldier came in. I did not know it was wrong to buy Army food. I had never seen a Belgian govt. order on it.

There was always a soldier in the Army kitchen.

No Re-le.

To Coml.

There were 2 kitchens, mine & the Army kitchen. None of my food ever went into the Army kitchen. No Army food ever came into my kitchen.

2nd Witness. Mrs. J. O. Munters, of Lumen, Lumboing, Belgium, Sworn, States:

Mine a. Munters is my wife. On 19th Feb. at 8 o'clock my wife & I were asleep in bed. Accused, whom I had recognised, came in & woke us up. He asked me if I would like to buy 3 ks. of pork & 3½ ks. of coffee, because he said there was too much rations in the kitchen. He was allowed to sell it. I could not get into trouble by buying it. I bought the coffee & pork, for which I paid accused 700 frs. Later in the morning I went & spoke to "Staff" ~~[illegible]~~ 4 ~~at~~ As a result of this conversation I returned pork & coffee to the kitchen. I never recovered the money.

Cross-le.

I have had soldiers in my house for 5-6 weeks. It has been only Canadians, except for the Maquis before that.

I have never seen nor heard any order forbidding the purchase of food from allied soldiers, nor have I discussed this subject with friends. I have known accused for about 6 weeks.

I was always working during the day & away. My wife does not go out to work. The soldiers food was kept in the soldiers kitchen, a separate one in the same house as our kitchen. The front room was kitchen of the soldiers, the second they sleptin, the third was our kitchen & the 4th our

bedroom. The soldier would have to pass through 2 doors to get to our bedroom.

I had been in bed since 2130 hrs. I was sound asleep & awoke in a fright. There was no light in the room, but the light from the kitchen shone through the glass door. It was fairly dark. It was light enough, when the door was open.

I only talk Flemish, one language. Accused spoke to me in Flemish. I did not understand a few words. Some French words came into it.

Pr. Le

I recognised accused's voice very well.

To Court

I was away every day till after 1900 hrs & did know accused to say good evening to. I actually saw the Pork but the ~~vo~~ containing coffee was closed.

3rd Witness M 66482 Pte x C A Blair, "F" Bailey Pln. 85 Cm. Bridge Cy Rc Abt, Swan, States:

I am wrongly known in the plan as "Staff". I was billeted in house of Mrs & Mrs Munters in Lumen. They used to call me Staff. On 19 Feb 1945 at about 0800 hrs Mrs Munters came into the hall way next to my kitchen.

After a conversation she went away & returned quite a while after with Bacon & coffee. There was 7 lbs of coffee & about 3 lbs. of Pork. (7½ lbs)

Cross Le

The soldier's kitchen was in the same house as the Munters. I slept in the room next to the kitchen. The next room was the Civvies kitchen. Pte Cooks & Myles & ~~[illegible]~~ accused & I slept in the room. So far as I know, accused does not speak Flemish. There is a light in the Munters' bedroom.

At no time have I seen a soldier remove any food. I have never been any food the missing other than the pork

and coffee. I have been working in the kitchen for the past 6 weeks. All the doors were kept unlocked. There was always somebody in the cook house. Mrs Munter came into the kitchen & talked to me many a time.

Re Le.

The bacon was Canadian ration. I could not say about the coffee. The tin was of the Canadian type.

To Court.

I am a helper in the cook house. The tins of coffee were of the same type as is always issued as Canadian rations.

Our ration is one 7 lb tin of coffee per pl. per 2 days. We draw once a week. I think. I am not sure.

4th Witness. Lieut. J. E. R. Gendron O. C. Fox Bailey Plan 85 Cdn. Bridge Coy RCASC, Swan, States.

On 19 Feb. 1945 Pte Mayer made a report to me. As a result I went to see a Mrs Munter. As a result I called over to me accused, whom I recognise. I asked accused if he had sold any food to Mr or Mrs Munter. Accused denied having done so.

I asked Mrs Munter, in front of accused, if she had bought any Army rations + if so from whom. She admitted to having bought rations - she seemed afraid to say from whom.

She indicated with her eyes that it was accused but said nothing. I put accused under open arrest.

Cross Le.

Pte Mayer, Blair, Pte Royer + accused all, I believe, slept in the house. I have never seen the kitchen unattended, though it could be. My pl. would often go down to the village for the evening. I spoke to Mrs Munter first, before speaking to her in front of accused.

Re Le.

I spoke to Mrs Munter in French.

To Court.

Mrs Munter talks French very well. I am a French Canadian. Accused talks a few words of Flemish. I have heard him talk half-Flemish - half English - half French.

5th Witness. 3 12 1938 Cpl. W. Huard, 85 Cdn. Bridge
Coy RCASC, Sworn, States

At about 7 0 15 hrs. on 19.2.45 I was on duty in the Guard Room. Accused, whom I recognise, was brought in under 2 escorts. One had a chit saying "the man" was to be held in close arrest. The chit was signed by Sgt. Allandyce, but it showed no number or name of the man to be held. The escort said they did not know who the prisoner was. Accused admitted to it. I ordered accused back to the lorry, with the 2 escorts, to get his equipment. He went out & returned with his equipment. I began to get a room next to the cell, ready for his equipment.

As a result of what I heard, I ran out of the Guard Room. I ran on to the road & saw accused running away from the Gd Room. I shouted to him to stop & return - he kept on going.

I halted a passing vehicle & got on it; I saw accused passing through a gate into a yard; he had left the road.

I ran after him & saw him in a field, still running. Cpl. Lewis had caught me up - he had a Sten Gun. Accused continued running across a field. I shouted again to him to come back. He still kept going. Cpl. Lewis fired his Sten in the air. We kept on behind accused. We doubled back past the Guard room. Cpl. Lewis picked up a rifle & fired towards accused, who then stopped. We caught up to him & brought him back to the Guard Room.

Cross-ex.

When accused first went off, he was in the Guard Room. There were in the Guard Room 2 guards, 2 escorts, Cpl. Lewis & myself.

Accused did not attempt to hide while running away. I don't think accused knew where he was heading for. He was running aimlessly.

I collected the party today including P H Maybert, who should have been a witness. I brought them down here. P H Maybert is now AWOL, since last night.

No Re-ex.

K 75643 Cpl. N. Lewis, 85 Cdn. Bridge Cy RCASC, Sworn states:

At about 1015 hrs. on 19 Feb. I was on duty in the Guard Room. Accused whom I recognise, was brought in under 2 escorts. A note was handed to Cpl. Howard & Shea on time. It said "Place this man under cl arrest". The escort, when asked, said it was accused. I don't remember accused saying anything.

Later accused broke away from the Guard Room: I chased him eventually brought him back to the Guard Room.

Cross Ex.

Accused made no attempt to hide while running away. There was no resistance. He did ~~not~~ appear to be heading towards a road, but not in any special direction.

No Re Ex.

Prosecution closed.

Accused, sworn, states:

I have been in my unit for over a year. I was about 6 weeks in Lumen before this happened. At no time did I sell any government property to any civilians. On or about 18 Feb. I never approached anybody at about 0 200 hrs + attempt to sell them any goods. I slept in the same house as Mr + Mrs Munitis.

Pte Cooks, Blair & Maygent slept in the same room with me. I do not speak Flemish at all. I know no Flemish words.

On my way to H.Q. when I arrest, we stopped at a café, and had each a cognac. Then I bought a bottle of cognac, & drank it in my way down to H.Q. The guards was Pte Roy and the other guard was really the driver. I went to school until I was 16. I was then in Class VI.

Cross Le.

I do not know who took the food, nor who went to Mr + Mrs Munitis bedroom at 0 200 hrs. I know them quite well. We have been quite good friends. I don't know why they should lie now. They are certainly not telling the truth. I never had 700 frs. I do not know who had. I paid 250 frs for the cognac. I paid about 20 frs. each for the three cognacs we had first. I drank all the cognac except one drink which Pte Roy had. I drank the cognac because I knew it would be of no use to me, after reaching the Guard Room.

I do not remember who handed over the chit, nor I saw it handed over. I don't remember telling Cpl. Howard I was under arrest. I do not remember going to the vehicle. I do not know what happened to my equipment.

I don't remember running. I stopped because there was a Canal. Everything went blank. I do not remember being fired at. I must have been drunk. I have been drunk before. I do not remember running. I do remember the Canal.

No Re Le

2nd Witness

D/ 143330 Pte Payette - G. 85 Cdn. Bridge Co RCASC, sworn, states.

I was asked to drive a prisoner from Lumen to Coy HQ. it was accused, whom I recognise. The other escort was Pte Roy.

On the way down, I noticed accused had a bottle. I stopped the lorry: it is not allowed to carry liquor. The bottle was about half empty when I saw it.

When I was stationary, accused drank the other half of the bottle. I do ~~not~~ remember stopping in front of a café on the way down. I did not see accused enter the café, but he may have.

Cross Ex.

I stopped ~~to~~ of urinate & to get hold of some cigarettes from my pocket. I never entered the café. I did not see any of my party enter the café. I did not have a cognac.

Accused sat next to me in the vehicle - the bottle was sticking out of his blouse. The bottle had written on it Fine Vieille. I don't know what else: I think it would be a 20 oz. bottle.

I asked accused & he told me it was liquor.

I should say accused was feeling "all right". I think he understood what was going on - he was staggering about a bit.

I have known accused for about a month. I have never been out with him. Accused worked in the kitchen.

Re Ex.

There are about 65 men in a Bridging plan.

Defence Closed.

Closing address by Defending Officer.

The two changes should not be too closely related to each other.

No reasonable evidence of guilt on first charge.

Accused could have approached Mrs Munters at any time during the day - & Mrs Munters any evening. O roo hrs is not a normal time.

Conflicting evidence of lights in bedroom.

Accused is not sufficiently proficient in Flemish or negotiate a deal in that language. Transaction is alleged to have been carried out in Flemish with the husband not in French with the wife.

Kitchen could have been left unattended.

It may not be significant, but it is conclusive that the Maybe has disappeared.

Accused is not the type who wared "reason" his course of action. 2nd Witness of defence may be covering himself, by denying taking any drinks.

Accused was scared, inflamed by drink, & ran aimlessly. This was hardly an organised attempt to escape.

Closing Address by Prosecutor.

If the Munters are to be believed, accused is guilty. Mrs Munster said there was light in her room - Mrs Munster has clarified this.

Mrs Munters may not talk French - Mrs Munster does, & she was present during the transaction.

Drunkenness is no excuse. May be considered in mitigation. No confirmation of accused's drunkenness asked for by Cpl's Lewis & Huard.

If so drunk, could he have run so fast! He hobbled away from his escort made a fair attempt to escape.

Evidence of character 14

Lieut J. S. R. Gendron, RCASC on former oath states:

Accused is a good worker. I have never had any difficulties & he has always been obedient & willing.

I shall be glad to have accused back in my plan. He has been in my plan for about 6 weeks, but I have known him for longer than that.

Plea in Mitigation.

Smallness of offence should be considered.

Method of running away suggests the action of a scared man, scared by the unusual circumstances in which he found himself.

Refers to accused's record.

Educational abilities are low.

Asks that if he is sentenced to detention, he should go to a Canadian Detention Barracks, where French with which he is more familiar than English, is spoken.

A Establishment Instr. n.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G-49738	Pte	LEBLANC J.	85 Cdn Bridge Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 9 (2) one times.

For A.A. Sec 15 (1) two times.

For A.A. Sec 40 one times.

For ..... times.

Date of first entry in Field Conduct Sheet 16-5-42

Date of last entry in Field Conduct Sheet 10-8-44

2. [illegible]

*Strike out if not applicable.

*3. [illegible]

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 23 days in military custody, *i.e.*, NIL days in open arrest, 23 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27 yrs 10 mos 16 days.

6. The date of his attestation is 7 JULY 1941

7. [illegible]

8. [illegible]

†State the military decorations (if any) held by accused.

9. [illegible]

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NOT APPLICABLE		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of March 1945

J. S. Higgins Lieut & Adjutant

No G-49738 Name LeBlanc, J. Sqn, Battery, or Company 23 Coy Corps Cdn. Forestry Corps Date of Enlistment 9-7-41 GC Badges nil Service or Proficiency Pay nil

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Darnaway	16-5-42			Cond. Prejudice: S. 40 AA	CSM Lawson	admonished	18-5-42	Major Keane	
"	14-1-43	Pte.		W.O.A.S. A.W.L. 8 days, 9 hrs. 25 mins.	Sgt. Champ Sgt. Fraser	Forf. 9 days pay FRI 149(1)	23-1-43 (a)	Major J.H. Keane	14 days F.P.
"	30-3-43	Pte.		AWL Sec 15 AA (I day, 3 hrs. and 55 Mins.)	CSM Lawson	Forf. 14 days 23 days pay.		pay FRI 149(I)(b)	Tot. forf.
Field	9 Aug 44	Pte		AA Sec 9(2) Did not report to kitchen when ordered to do so.	D-121042 Cpl R.G. Blackwell	forf. 2 days pay FRI 149 (I) (a) 149(2) Total 28 days FP Forf 28 days pay	1-4-43 10 Aug 44	Major Keane Major Alex Gagnon	7 days CB Forf. 4 days pay FRI forf. of 6 days pay. Forf 28 days pay FR&I 149 (2)

CERTIFIED TRUE COPY 1 Mar 45

(J.S. HIGGINS) LIEUT & ADJT Officer having custody of original

(PTO)

42-89

Pte L. Blanc J.

"DWM" SCHEDULE. "DWM"

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G. 1520 Pte Joseph Le Blanc R 22eR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	S 12(1)(a)AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 n 4 para 2 RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To undergo imprisonment~~ for "DWM" ~~in penitentiary etc (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo imprisonment with hard labor for a period of two years.

(Sgd) N/A "DWM" 27 Jan 45 (Sgd) "D.W.McAdam Major"

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be released from custody pending further orders~~ (1) "PEB"

(1. AA 57A. Delete if not used.)

(Sgd) "P.E. Bernatchez" Brigadier

Date 29 Jan 45 Commanding 3 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
G.1520 Pte J. Leblanc	30 Jan 45	"P.A. Tremblay Lt" Adjutant Royal 22nd Regiment C.A.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY:- (D.M.Owen) Capt. Cdn Sec 2 Ech AFHQ. 15 Oct 45

RECORDED AT CMHQ IN AB 160 42-89

CFAB6 (In Duplicate of AFA3) 40/P & S/1666 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col HP Bell-Irving A/ Comd 3 Cdn Inf Bde DSO dated 26 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G.1520	Pte		Joseph	Leblanc	R22R

PROCEEDINGS REVIEWED
"W.B. BATE" Capt.
A/DJA
Cdn Sec 2 Ech AFHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) "DWM" 27 Jan 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~ "DWM" assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns ROs. For guidance on procedure where a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (A) attached thereto.(1) "DWM" The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ triable by military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 "DWM" hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) "DWM" ~~[illegible]~~ "DWM"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E4201 Pte Maingu ~~The~~ Interpreter? Ans No

The Interpreter is sworn.(1) ~~The shorthand writer is sworn.(1)~~ NA "DWM"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ "DWM", are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.W. McAdam	MMSR
Member	Capt	G. F. McIntyre	C Y R
Member	Lieut	L. Turcott	R 22 R
~~Judge Advocate~~		"DWM"	
Prosecutor	Capt	F. Marcotte	R 22e R
Defending Offr	Capt	G. Payette	R 22e R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G1520 Pte Joseph LeBlanc before arraignment make(s) (no) ~~a~~ plea "DWM" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does "DWM" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ "DWM" considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without withy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (E); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

"DWM" B1. The President ~~of the Court~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s)[2] "DWM" call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 2. 2. MML p 54 para 47.*)

"DWM" B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)[1]. If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans. No [5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

"DWM" B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his "DWM" (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed and he (they) "DWM" changes (change) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

"DWM" B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1] "DWM"

(*1. RP 25(E). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....[1]

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Argument on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. Do you intend to call witnesses on your behalf?

Ans. Are they witnesses as to character only? Ans.

(*1. RP 155. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans. No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces a Statement as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C, and Ex D respectively.[3]

(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 358. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment?[1] Ans. Yes, in mitigation of punishment.[2]

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~[2]

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas-RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DWM

CHARGE SHEET

The accused G1520 Private Joseph LEBLANC, Royal 22e Regiment, a soldier of the Canadian Army Overseas (CMF) on active service is charged with:-

FIRST CHARGE
Section 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, in Italy. At approximately 0200hrs on the 10 Dec 44 when his coy with which he was then serving had been warned to proceed to a forward area, with intent to avoid so proceeding absented himself from his said coy until apprehended by a member of the Cdn Provost Corps at 1540hrs 5 Jan 45.

Total absence: 26 days, 13 hours, 40 mins.

In the Field,
22 Jan 45.

(U.A. Turcot) Major,
T/Comd, Royal 22e Regiment.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

IN THE FD
26 Jan 45

"HP BELL-IRVING"
(HP BELL-IRVING) Lt Col.
A/COMD 3 Cdn Inf BDE

'DWM'

LJB
26 Jan 45

"DWM"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8) 40/FA8/1607 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on an active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.1520	Pte		Joseph	LeBlanc	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has (~~have~~) committed the offence[X] set forth in the Charge Sheet[X] attached and on (*date*) 26 Jan 45 endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; ([redacted] *(Delete part in brackets when not required for compliance with RP 105(C).)*

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. [redacted] at [redacted]. *(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)*

5. [redacted] *(RP 106(E). Delete, if none appointed.)*

PRESIDENT.

Major *(Rank.)*	D.W. MCADAM *(Must be named. RP 106.)*	WNSR *(Unit.)*

MEMBERS.

Capt	G.F. McIntyre	C Y R
Lt *(Rank.)*	L. Turcott *(Named or detailed. RP 106.)*	R 22 R *(Unit.)*

WAITING MEMBER.

Lt *(Rank.)*	M. Martin *(Named or detailed, if any. RP 106.)*	WNSR *(Unit.)*

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in Italy *(Country.)*

"H.P. Bell-Irving" *(Signed personally. RP 105 fn 2.)* Lt. Col *(Rank.)*

Date 26 Jan 45

A/ Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"DWM"

MEDICAL OFFICERS CERTIFICATE

I [redacted] certify that I have this morning examined No. G.1520
Rank Pte Name LeBlanc J. of R 22 R
and in my opinion he is FIT to undergo trial by Court Martial

Station In the Field
Date 27 -1 - 45

"P. Goldstein Capt"
(Medical Officer)

Exhibit "DWM"

E 3 "DWM"

F.G.C.M. in the case of G.1520 Pte LeBlanc J.

Address in mitigation of punishment.

B.1520 Pte LeBlanc J. The accused is 20 years old, join the army [redacted] 12th of June 1942 arrived in Italy 9 of April 1944, Went through the Hitler line was wounded and spent four months in Hospital - [redacted] came back with the unit 18th November 1944and on 9 of December [redacted] with some friend for spaghetti in a house took some wine and decided to go AWL. The accused realise his mistake, and his willing to go back with his unit again. I ask the court to consider [redacted] just and ask your clemency to favor the accused. those fact

"DWM"

"DWM"

[redacted] Exhibit "A" DWM

In the case of:- 21820 Pte. J. Leblanc, Royal 22e Regiment, Canadian Army Overseas(CMF).

By the direction of the Commanding Officer the summary evidence is taken under oath.

First witness for the prosecution

D62010 L/Sgt Turenne, Royal 22e Regiment, having been duly sworn states:-

" I am and was at all times material hereto L/Sgt of the Royal 22e Regiment, posted to "D" Coy. On the 9 Dec 44, at approximately 1400hrs; the platoon commander warned the platoon that we were going forward in a few hours. Pte. Leblanc was present on that parade. The coy at that time was in reserve at RUGHI, At approximately 0200hrs on the 10 Dec 44, I formed up the platoon and checked it with the platoon commander, before we left for the front line. Pte. Leblanc was not on parade, I searched around for him but xx did not find him. I reported him absent to the CSM from 0200hrs, the 10 Dec 44.

R Turenne L/Sgt

The accused declines to cross examine the witness.

Second witness for the prosecution

Lieutenant P.A. Tremblay, Royal 22e Regiment, having been duly sworn states:-

" I am Lieutenant, P.A. Tremblay, Adjutant, of the Royal 22e Regiment. I hereby produce the following document, Certifbate in accordance with the Army Act. 163(i)(jj)., marked exhibit "A", attached to the proceedings.

P.A. Tremblay Lt.

The accused declines to cross examine the witness.

QUESTION TO THE ACCUSED

Do you wish to make any statement or give evidence upon oath you are not obliged to do so but any statemnt you make or any evidence you give will be taken down in writing and may be used as evidence.

ANSWERED BY THE ACCUSED

I reserved my defence.

The accused has been cautioned in French according R.O. 1424.

I certify that the foregoing summary of evidence has been taken down in writing by me in the presence and hearing of the accused and that R.P. 4 (a)(d)(e)(f) and (g) have been complied with.

[redacted] Capt. R22R.
Officer detailed to take summary.

In the Field.
22 J an 45.

DWM

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163 (1) (ii)

Ex A.

I certify that;

No. G. 1520 Rank Pte Name LeBlanc J...

of the ROYAL 22e REGT OF CANADA, 1 Cdn. Div - - - - -

was arrested at CANADA CLUB ROME at 1540 hrs

on the 5th day of January 1945.

S
W
O

"P.E. Gregg's"

Rank Lieut.

Date 5/1/45 Appointment (if any) Staff.

Commanding RAAC

"DWM"

EXHIBIT "A"

Ex 'C' 'DWM'

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G-1520	Pte	LeBlanc J	Royal 22e Regt

1. The following is a fair and true summary of the entries in the ~~regimental and squadron~~ Field battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For under AA sec 154	one time	four times.
For under AA sec 40	one time	one times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct Nil

—or—

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, ~~or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and 23 days in military custody, making a total of 23 days, of which 6 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 years.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12-6-43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ~~nil~~

8. The accused is entitled to deferred pay or gratuity in respect of 1 2 years service.

9. The accused is entitled to reckon ~~service for the purpose of determining his pension, etc.~~

10. The accused is ~~in possession of, or entitled to, no military decoration or military award (or is in possession of or~~ entitled to (*state any military decoration or reward*) C.V.S.M. & Clasp

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~

12. (*In the case of an officer.*) The accused holds in the army the rank of ~~, dated~~ ~~and in his regiment (or corps or department) the rank of dated~~

(47984) W1.21746/1417 20,000 10/42 A.& E.W.Ltd Gp.698
(23967) W1.19016/1237 12,000 5/43 " "

'DWM'

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G-1526 Rank Pte Name Leblanc J of Royal 22nd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N.A.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of January 1945

[illegible] Capt
Ex Adjt Royal 22nd Regt

19. The accused has served as a non-commissioned officer commissionally, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through; except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

'DWM' Exhibit D 'DWM'

FIELD CONDUCT SHEET.

Date of Enlistment } 12 June 43 Army Form B122 Sheet No. [illegible]

*No. G1520 Name LEBLANC J Sq., Batty., or Company } "B" Bay Corps CIC

Date of last entry in Company Conduct Sheet } NA No. and date of last drunk } NA G.C. Badges } NA Long Service and G.C. Pay } NA Signature O.C. Company, etc. } A LANGLAIS CAPT

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
Edmunston NB	17 Aug 43	Pte		AA Sec 15(1) ~~[illegible]~~ A.W.L. from 2600 hrs 17 Aug 43 to 0235 hrs 19 Aug 43 (abt 1 day 30 mins hrs & 30 mins)	Cpl Robichaud Pte Dunham A	3 days pay in hen of hlt for 2 days pay	19 Aug 43	Major R Harley 2 days [illegible] for of pay
Valcartier	8 Nov 43	Pte		AA Sec 15(1) A.W.L. from 0700 hrs 8 Nov 43 to 1600 hrs 11 Nov 43 (3 days 9 hrs 30 mins)	Sgt Hodgson ~~[illegible]~~	5 days CB.	15 Nov 43	Major G A Stearns 4 days pay FR & 1149
Debert NS	26 Dec 43	Pte		A.W.L. from 2215 hrs 26 Dec 43 to 2230 hrs 30 Dec 43 (about 75 hours & 15 mins) AA-15	Sgt Upton	1 days CB.	31 Dec 43	B Laurence Capt for 3 days pay FR 1
Debert NS	17 Jan 44	Pte		AA Sec 15(1) A.W.L. from 2630 hrs 17 Jan 44 to 2130 hrs 21 Jan 44	Doc	167 hrs detention	22 Jan 44	Col Gillespie 5 days pay for A.W.L. 1 day's pay F.R.S.

*Serial Number in case of enemy prisoner of war

(22403) Wt. 31378—1969 1000M 10/42 D.L. G. 51

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
At Sea	4 Apr 44	Pte		AA Sec 40 Conduct to the prejudice etc ... failing to attend Defaulter's Parade	Sgt Miller W	72 hours Detention	5 Apr 44	RN Nicholson Capt (Lpboard Almgat on voyage)

Certified true copy of original:

[illegible]
Capt Adj 1 Aug 1st Regt

In the case of:- C1580 Pte. Leblanc J. Royal 22e Regiment.

FOR THE PROSECUTION

Dc2410 L/Sgt Turenne R Royal 22 Regiment
Lieutenant P.A. Tremblay Royal 22e Regiment

FOR THE DEFENCE

NIL

LIST OF EXHIBIT

Exhibit 'A' Certificate in Accordance with the Army Act 163(i)(jj)

I desire the services of an officer detailed by the Regt R22R

If he is available.

I hereby acknowledge a receipt of a true copy of a summary of evidence taken prior to my trial by FGCM. I further more acknowledge a receipt of a true copy of a charge sheet into which I am brought into court-martial.

J. Leblanc Pte

In the Field,
22 Jan 45.

S 5-142

Ste. Leblanc, Jos.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G24014 Pte John Arthur LEBLANC Nth NS Highrs att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) GBC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 90 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years

(Sgd) _____ Judge-Advocate, if any. 9 Apr 45 Date awarded. (Sgd) "George B H Cox" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) GSMG

(1. AA 57A. Delete if not used.)

Date 10 Apr 45 (Sgd) "GSN Gostling" (GSN Gostling) Brigadier, Commanding 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G24014 Pte LEBLANC J A	18 Apr 45	"J Midhurst", Lt-Col. Cond 1 Cdn Disciplinary Centre

C.A. # 86 - 2 - 1
@ 11-4-45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5G-142

CFA96 (In lieu of AFA21) 40/P & D/1865 (4/43)

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brigadier G S N Gostling Comd 2 CBRD dated 3 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G24014 Pte		John Arthur	LEBLANC	Nth NS Highrs att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL

Held in the Fd in (country) BELGIUM on (date) 9 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29/22

A1. The President, Members, ~~waiting Member, JA, if any, and Offr under instr, if any,~~ assemble, and the GBC Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns' ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 18-22, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. ~~At ... hours~~ trial commences. GBC

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) GBC

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans~~ ~~The Interpreter is sworn.~~(1) ~~Do you object to ... as shorthand writer? Ans~~ ~~The shorthand writer is sworn.~~(1) GBC

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the GBC ranks, names and units of the offrs comprising the Court, etc:

President	Major	GBH	COX	CAC att 1 Cdn Disciplinary Centre
Member	Major	RS	LEFROY	Seaforth Highrs att 1 Cdn Disciplinary Centre
Member	Captain	JE	Cantmel RCA	att 1 Cdn Dis Centre
Judge-Advocate	_____	_____	_____	_____
Prosecutor	Captain	JH	Labrie R de Maie	att 1 Cdn Dis Centre
Defending Offr	Captain	ND	Bowler RCR	att 1 Cdn Dis Centre

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See DI p 2.)

A8. The accused G24014 Pte John Arthur LEBLANC before arraignment makes (has) ~~(has)~~ plea GBC (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to that cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~does~~) GBC not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B GBC

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRD Vol 6 P 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 68(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, in mitigation of punishment attas Exhibit 'D'.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any (2)~~.
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G24014	Pte		John Arthur	LEBLANC	Nth NS Highrs att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 3 Apr 45 endorsed by me, (~~or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

GSWG

PRESIDENT.

Major	GBH COX	CAC att 1 Cdn Disciplinary Centre
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Major	A E LEFROY	Seaforth Highrs att 1 Cdn Disciplinary Centre
Capt	G B CARTMEL	RCA att 1 Cdn Disciplinary Centre
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM	"GSN Gostling"	Brigadier
(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)

Date 3 Apr 45 Commanding (G S N Gostling) 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 557)

I certify that I have this day examined G24014 Pte
(Rank)
LeBlanc J A and in my opinion he is fit/~~unfit~~ to undergo
(Name)
trial by Court Martial.

Station 1 Cdn Disciplinary Centre "A A Toms" (Sgd)
Medical Officer

Date 9 Apr 45 1 Cdn Disciplinary Centre

CHARGE SHEET

The accused, G-24014 Pte Johnny Arthur LEBLANC, North Nova Scotia Highlanders, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 2359 hrs 13 Aug 44 until apprehended at 1600 hrs 8 Jan 45.
(Absent 147 days 16 hrs 1 minute)

In the Field,
31 Mar 45

"A C Hood"
(A C Hood) Lt Col
Comd
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

"G S N Gostling"
(G S N Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

In the Field,
3 Apr 45

Summary of Evidence in the case of G-24014 Pte J A LEBLANC, North Nova Scotia Highlanders, attached to 1 Cdn Disciplinary Centre a soldier of the Canadian Army Overseas.

Charge- Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt 11 Order No 4 dated 21 Jan 45.

Exhibit "B" - Certified true copy of Extract from Pt 11 Order No 12 dated 11 Feb 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

"Maurice Rousseau" Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
30 Mar 45

Exhibit "B"
"M Rousseau" Capt

PART II ORDER EXTRACT FROM

99/NO/NNS/1 (A5c)

TO: OC.,
No 1 CDN DISCIPLINARY CENTRE
Cdn Army Overseas

28 Mar 1945

EXTRACTS FROM: UNIT. NORTH NOVA SCOTIA HIGHLANDERS

Part II Order No. 12 dated 11 Feb 45.

STRENGTH INCREASE

TOS on app from des wef 1600 hrs 8 JAN 45
G 24014 Pte LeBLANC J A

Certified to be a true extract from the regimental books and documents in my custody

"J R Fenelon" Capt
Officer IC Records, "C"
Cdn Sec GHQ 2 Echn 21 Army Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

"JEK"
Originating clerks initials JEK for
Officer in Charge
Canadian Section GHQ 2nd Echelon

"MRousseau" Capt

PART II ORDER EXTRACT FROM

99/NO/NNS/1 (A5c)

TO: O C.,
No 1 CDN DISCIPLINARY CENTRE,
Cdn Army Overseas

28 Mar 1945

EXTRACTS FROM: UNIT. NORTH NOVA SCOTIA HIGHLANDERS

Part II Order No. 4 dated 21 JAN 45.

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 13 AUG 44 Still absent 2359 hrs 4 SEP 44 (22nd day)
G24014 Pte LeBLANC JA

Certified to be a true extract from the regimental books and documents in my custody

"JR Fenelon" Capt
Officer IC Records, "C"
Cdn Sec GHQ 2 Echn 21 Army Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

"JEK"
Originating clerks initials JEK for
Officer in Charge
Canadian Section GHQ 2nd Echelon

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of extract from Pt 11 Order No 4 dated 21 Jan 45	"A"
Certified true copy of extract from Pt 11 Order No 11 Dated 11 Feb 45	"B"

I, G24014 Pte LEBLANCE JA, acknowledge having received one copy of the Summary of Evidence and one copy of the charge sheet, free of charge on 30 Mar 45.

"JA LeBlanc"
G-24014 Pte LeBlanc JA

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G24014	Pte	LEBLANC J A	NNS Highlanders

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For 15 (1) AWL 1 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 22 APR 43

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 90 "JAD" days in military custody, *i.e.*, Nil days in open arrest, 90 "JAD" days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 Years

6. The date of his attestation / calling up for military service is 24 Jul 42

7. The service which the accused is allowed to reckon is .....

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

9. [*If the accused is a warrant officer or N.C.O.*]. The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of ///////	
In the war substantive rank of ///////	
In the acting rank of ///////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(26064) Wt.42128/4399 42,000 11/44 A.& E.W.Ltd. Gp.698 Forms/P.Z 6/War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9th day of April 1945 "JA Dibb" Capt

Exhibit C
MFM 6

No. G24014 Name LEBLANC J | Sqn, Battery, or Company | Corps NNSH | Date of enlistment 27-4-42 | GC Badges | Service or Proficiency Pay | (AFB 122) 40/PAM/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		AA 15 (1) AWL 11 hrs 15 mins		2 days CB	22Apr43		

Certified to be a true extract from the regimental books and documents in my custody

"WC Williams" Lieut 15 Mar 45
Officer IC Records "X"
Cdn Sec 2 Ech HQ 21 A Gp.

(PTO)

Exhibit "D" GBC

Plea in Mitigation

G24014 Pte LEBLANC J.A.

The accused is 21 yrs of age, enlisted in July 42 and arrived overseas in April 44. He went into action 20 Jun 44 and served two months in the line until 13 Aug 44 when he went absent from his Unit while in the rest area.

The accused states that he went absent simply because he was discouraged because of no mail from home.

I ask that the Court consider this man's previous good record and show some degree of leniency when determining sentence. He has been in close arrest 90 days.

"ND Bowler" Capt
Defending Officer

47-20

Pte. Le Blanc J. B.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 97535 Pte. Leblanc, J.C. Calg Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to be imprisoned without Hard Labours for two (2) years.

(Sgd) Judge-Advocate, if any. Capt — 8 Jan 45 Date awarded. — (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I Confirm

~~I direct that the accused be kept committed to prison or detention barracks until further orders.~~ (2)

(2. AA 57A. Delete if not used.)

Date 14 Jan 45 — (Sgd) — Commanding 1 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. F 97535 Pte LeBlanc J.C. — Date 15 Jan 45 — Signature of Offr. Lieut Capt The Calgary Highrs

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, p. 4T-20

CIPAB6 (To lieu of AFAB) 40/1 & 8/1/608 16(44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. W.J. Megill Comd 5 C.I.B. dated 4 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-97535	Pte	John Cecil	Leblanc	Calg Highrs

PROCEEDINGS REVIEWED

REVIEWING OFFICER, PROCEEDINGS OF TRIAL. JAG BRANCH, C.M.H.Q.

Held in the Fd in (country) Holland on (date(s)) 8 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 9/77

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) SMcD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~ Stay

The Interpreter is sworn.(1) Do you object to D 36570 S/Sgt. Parker R.W. HQ 2 Cdn Inf Div as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col.	F.W. Court	To Scots (M.G.)
Member	Major	F.A. Robertson	5 Cdn Fd Regt RCA
Member	Major	M. Share	18 Cdn Fd Amb
Judge-Advocate	Capt.	E.K. McDonnell	HQ 2 Cdn Inf Div.
Prosecutor	Lieut	J.K. Kidd	To Scots (M.G.)
Defending Offr	Capt.	W.C. Newman	5 Cdn. Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused F 97535 Pte. LeBlanc, J.C. before arraignment make(s) (no) (~~a~~) plea SMcD (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See part 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D-E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 37(D) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(E). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by continuing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1) Nil
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s)~~.(3)(4) Nil
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. No Sir, Neither Do you intend to call witnesses on your behalf ? Ans. Yes Are they witnesses as to character only ? Ans. Yes .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), ~~if any~~, of Not Guilty, and states to the accused that the finding(s) Nil of the Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1) Nil
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(1) Nil
(*1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, through my Defending Officer .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F-97535 Private John Cecil LEBLANC, The Calgary Highlanders, a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE
Section 41
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN A PLACE NOT WITHIN HIS MAJESTY'S DOMINIONS, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MANSLAUGHTER

in that he,

In the Field, at Groesbeek, Holland, on 1st December, 1944, unlawfully killed M-106339 Pte Melidones, S., The Calgary Highlanders, CAO.

ALTERNATIVE CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

In the Field, at Groesbeek, Holland, on 1st December 1944, so negligently handled a rifle as to cause it to be discharged and thereby killing M106339 Pte. Melidones, S.

In the Field
11 Dec 44

Ross L. Ellis Lt-Col.
.....
R.L. Ellis (Lieut-Col)
The Calgary Highlanders, CAO.

To be tried by F.G.C.M.
[signature]
Comd 5 Cdn Inf Bde
4 Jan 45
[signature]

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-97535	Private		John Cecil	LEBLANC	Calg Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ([illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Jan 45 endorsed by me, ([illegible]" To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt.Col.	F. W. Court	Tor Scots (MG)
(Rank.)	*(Must be named. RP 106.)*	*(Unit.)*

MEMBERS.

Major	F. A. Robertson	5 Cdn Fd Regt
Major	M. Share	18 Cdn Fd Amb
(Rank.)	*(Named or detailed. RP 106.)*	*(Unit.)*

WAITING MEMBER.

Major	R. MacDuff	R.H.C.
(Rank.)	*(Named or detailed, if any. RP 106.)*	*(Unit.)*

JUDGE-ADVOCATE.

Capt.	E. K. McDougall	2 Cdn Inf Div
(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in Holland *(Country.)*

[signature] *(Signed personally. RP 105 fn 2.)* Brigadier *(Rank.)*

Date 4 Jan 45

Commanding 5 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCM OF
F-97535 Pte LeBlanc, J C, Calg Highrs, HELD ON
8 JAN 45.

JA to accused

Now I want you to understand on behalf of the Court that these are very serious charges. You can be sentenced to penal servitude on the first charge and I want you to understand that. On a charge of manslaughter, by pleading guilty it means that you admit that you did unlawfully kill M-106339 Pte Melidones, S, of the Calg Highrs. It means that you killed Melidones with the highest degree of negligence. Now I want you to understand that and I want you also to understand that no witnesses will be called here today after you plead thus. The Court will merely read the summary of evidence and hear any statement from you that you wish them to hear and any plea in mitigation that either you or your Defending Officer wish to make.

Defending Officer

There is only one thing I wish to say then at this point, I withdraw the plea. My understanding of manslaughter was that not the highest degree of negligence was necessary but only the amount of neglicence that would involve conviction under the criminal code.

JA

We are not operating under the crominal code but under English criminal law and as I have shown the amount of negligence must be of the very highest degree and I shall so advise the Court. If you have a different conception of the degree of negligence involved, I advise you to change your plea to not guilty.

Defending Officer

In that case I am forced to.

JA to accused

You must now understand that as a plea of not guilty has been tendered on the first charge, the Court will automatically enter a plea of not guilty on the second charge as we cannot accept any other plea.

First Witness for the Prosecution, B-135587 L/Cpl Kisur, M, Calg highrs, being duly sworn, is examined by the Prosecutor.

Q.1 - Will you give the Court your number, rank and name?
A.1 - I am B-135587 L/Cpl Kisur, M, 16 Pl, D Coy, Calg Highrs.
Q.2 - On 1 Dec 44 around 1300 hrs where did you go?
A.2 - That day it was just after lunch and I went upstairs.
Q.3 - Will you tell the Court in your own words just what happened after that on that day?
A.3 - I went upstairs and went to a room and found Ptes BanDriel, Melidones, LeBlanc and Grant in the room. Melidones was lying on the bed in the meantime so I went and laid down right beside him on his right. Then I asked him for an envelope. He reached in his blouse pocket and felt out some envelopes. It was stuck together so he raised himself up a bit to try to undo the envelopes. Then I heard a rifle bolt action and Pte LeBlanc says "Mel" and the rifle went off, sir.
Q.4 - Where was this house?
A.4 - Where we went on our forward position, where the regiment was located at this time. I just forget the name of the place - in this area.
Q.5 - Did you just hear the rifle bolt in action once?
A.5 - Yes, sir.
Q.6 - And after the rifle went off?
A.6 - LeBlanc hollered "Mel Mel". He was in pretty bad shape there for a while.
Q.7 - Where was Pte Melidones hit?
A.7 - I can't tell you. When he got hit he just went slowly back and I ran downstairs for a stretcher bearer.
Q.8 - You were on his right and he was lying on the bed on which side?
A.8 - On his back, sir.
Q.9 - Do you know who was handling the rifle?
A.9 - Well no, sir, I wasn't paying attention. I was waiting for Mel to get these envelopes that werestuck together.
Q.10 - You heard the rifle discharged?
A.10 - I just heard the bolt pushed, sir.
Q.11 - You can't tell the Court who was handling the rifle?
A.11 - LeBlanc had the rifle in his hands after the shot went off and yelled "Mel Mel".
Q.12 - When you got off the bed and ran out of the room was anything said?
A.12 - I don't really know. I didn't know what was wanted but when he went slowly back I got scared and ran downstairs. I figured he was hit but I didn't even know where he got hit.
Q.13 - Did you see LeBlanc check the rifle?
A.13 - No, sir.
Q.14 - Do you know how long LeBlanc has been in the army or with the Calgarys?
A.14 - Way before me, sir, I just come in October, sir.
Q.15 - Since before October, as far as you know?
A.15 - Yes, sir.
Q.16 - Do you know whose rifle was involved in the shooting?
A.16 - Grant said it was his rifle, sir, after the shooting occurred.

JA

Q.17 - You did not know until after the shooting?
A.17 - Yes, sir.
Q.18 - Was the accused present when Grant said that?
A.18 - No, sir.
Q.19 - Was it said in the presence of the accused?
A.19 - No, sir.

JA

Then I will instruct the Court to disregard that.

Prosecutor

Q.20 - Where is Pte Grant today?
A.20 - I will tell you, sir, we were up in a forward position and Gerry fired a grenade into a slit trench. He picked it up to throw it out and it went off in his hand.
Q.21 - Is he in the hospital?
A.21 - Yes, sir.
Q.22 - You didn't see Pte LeBlanc check the rifle, you just heard the bolt action?
A.22 - Yes, sir.
Q.23 - If you take your rifle, and have ten rounds in the magazine, and pull the bolt action open and slide it back what happens?
A.23 - You shove a round in the breech.
Q.24 - If I pull the bolt action back, put my finger on the magazine and then push the bolt shut what happens?
A.24 - The barrel is empty, sir.

Cross-examined by the Defending Officer.

Q.25 - Cpl Kisur, did you ever notice any ill feeling between Melidones and the accused?
A.25 - No, sir, they were the best of friends.
Q.26 - Now dealing with this handling of the rifle. Assuming there are ten rounds in the magazine, you pull the bolt back. Have you ever experimented with pulling the bolt back, putting your thumb in the chamber and shoving the bolt forward to see whether or not with certain actions a round would be put forward in the chamber?
A.26 - I don't know, sir, I have never tried it.
Q.27 - You are not suggesting to the Court that you are an expert on the action of a rifle?
A.27 - No, sir.
Q.28 - What you would expect is if you pulled the bolt back all the way there would not be a round in the chamber?
A.28 - Yes, sir.
Q.29 - You would be greatly surprised if you did not pull the bolt all the way back, then pushed it forward, and found a round in the chamber?
A.29 - Yes, sir.
Q.30 - Were you watching the actions of the accused before the round was fired?
A.30 - No, sir.
Q.31 - If you didn't see him check the rifle it would be because you weren't watching?
A.31 - Yes, sir.

Questioned by The Prosecutor declines to re-examine the witness.

Questioned by the Court.

Q.32 - Could you tell us what the accused did in the Calg Highrs?
A.32 - No, I can't tell you that, sir.
Q.33 - What Coy is he in?
A.33 - D Coy, sir.
Q.34 - What sort of a Coy is D Coy?
A.34 - A good Coy, sir.
Q.35 - I don't doubt that, but is it a rifle Coy?
A.35 - Yes, sir.
Q.36 - Was the accused a rifleman?
A.36 - I believe he was a Bren gunner, sir. I am not quite sure.
Q.37 - That town you didn't remember the name of, if you heard it would you remember it?
A.37 - Yes, sir.
Q.38 - Was it Groesbeck?
A.38 - Yes, sir.

The Prosecutor puts the following questions to the accused

with permission of the Court, through the Court.

Q.39 - What was going on in the room before this? Was there any fooling around?
A.39 - Yes, sir, we were fooling around. After luncheon, we had finished our guard, and we always went upstairs and fooled around, joking around.
Q.40 - Did Pte LeBlanc say anything besides "Mel Mel" after the shooting?
A.40 - I just heard him say "Mel Mel".

JA

Q.41 - How big was this room?
A.41 - It was one with a large bed and another small bed for one person, and a little space in between the two beds.
Q.42 - The size of a normal bedroom in these Dutch houses in which we have billets?
A.42 - Yes, sir.

In the opinion of the Court and JA it is not necesaaryto comply with RP 83(B).

The Witness withdraws.

Second Witness for the Prosecution, Capt A R Turnbull, RCAMC, attached to the Calg Highrs, being duly sworn, is examined by the Prosecutor.

Q.43 - Would you tell the Court your rank and name?
A.43 - Capt A R Turnbull.
Q.44 - On 1 Dec 44 at approximately 1300 hrs you were called in to examine a body. Would you tell the Court in your own words what you saw when you entered that spot and what position the body was in?
A.44 - That is not right. On 1 Dec 44 I was still in Brussels.
Q.45 - Then you didn t see the body of Melidones?
A.45 - No, I didn t see the body.
Q.46 - Not later?
A.46 - No.
Q.47 - You never saw it?
A.47 - No.

The Defending Officer declines to cross-examine the witness.

JA

Q.48 - Capt Turnbull, you are in the Medical Corps?
A.48 - Yes, sir.
Q.49 - In civilian life you practiced medicine?
A.49 - Yes, sir.
Q.50 - As a doctor, if a bullet or missile were to enter a body below the right eye and to come out at the base of the skull what effect would that have on a person?
A.50 - In my opinion I would say it would kill.

No questions by the Court.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Witness for the Prosecution, M-38167 Pte Mammel, A, Calg Highrs, being duly sworn, is examined by the Prosecutor.

Q.51 - Would you give the Court your number, rank and name?
A.51 - I am M-38167 Pte Mammel, A, D Coy, Calg Highrs.

Q.52 - On 1 Dec 44 at approximately 1300 hrs you were called in to view the body of Pte Melidones just what occurred?
A.52 - Well, sir, I was called up from Coy HQ and I went up to 16 Pl. They were in a house at that time, and when I came up there they told me he was upstairs and they thought he was still alive. I went up, took a look at him, and found him to be dead.
Q.53 - Who was in the room?
A.53 - No one but another stretcher bearer from 18 Cdn Fd Amb.
Q.54 - When you went up was Melidones' body lying on the bed?
A.54 - Yes, sir, lying on the bed with a field dressing on his face.
Q.55 - How did you know he was dead?
A.55 - I felt his pulse and listened for a heartbeat.
Q.56 - You assumed he was dead?
A.56 - I did.
Q.57 - Was Pte Grant there at that time?
A.57 - No, sir.
Q.58 - Was Pte VanDriel in that room?
A.58 - No, sir.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

Q.59 - Whose body did you see?
A.59 - Pte Melidones', sir.
Q.60 - What action did you take after you thought the man was dead?
A.60 - I had brought a stretcher along, and we made it up and took him down to the RAP.
Q.61 - Who saw him at the RAP?
A.61 - Sgt MacIver, sir.
Q.62 - Did no doctor see him?
A.62 - I have no proof of that as I left him in charge of Sgt MacIver, sir.
Q.63 - Do you think you were quite qualified to say the man was dead at that particular time?
A.63 - Well, of course I am just a stretcher bearer, sir, not a doctor of ~~anaesthesiology~~ medicine. But I have certainly seen plenty of dead people.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Fourth Witness for the Prosecution, B-113286 Pte VanDriel, L W, Calg Highrs, being duly sworn, is examined by the Prosecutor.

Q.64 - Would you give the Court your number, rank and name?
A.64 - I am B-113286 Pte ~~Van~~ Driel, L W, Calg Highrs.
Q.65 - On 1 Dec 44 after lunch where did you go?
A.65 - I was up in a room of our billets where we slept.
Q.66 - Who was in the room?
A.66 - Pte Grant, LeBlanc, Melidones and myself, sir.
Q.67 - Where was Pte Melidones?
A.67 - Lying on the bed, sir.
Q.68 - Was anybody else on the bed?
A.68 - Yes, sir, Pte Kisur.
Q.69 - Where was Pte LeBlanc standing?
A.69 - At the end of the bed, sir.
Q.70 - Where was Pte Grant standing?
A.70 - As close as I remember, I believe he was lying on a cot in the room beside the bed.
Q.71 - Where were you?
A.71 - leaning against the cot, sir.
Q.72 - Tell the Court in your own words just what happebed after that?
A.72 - LeBlanc picked up a rifle then, opening the bolt and looked

at it and closed the bolt, pointed it at Melidones and said "Hey Mel", and the rifle was discharged. Just after the rifle was discharged LeBlanc sort of went to pieces. Pte Kisur and I ran down for a stretcher bearer.

Q.73 - What did [illegible] Pte LeBlanc do?
A.73 - He jumped on the bed, yelled "Mel Mel", went to pieces.
Q.74 - Did you see Melidones open and close the bolt?
A.74 - It was LeBlanc, sir.
Q.75 - He opened and closed it?
A.75 - Yes, sir.
Q.76 - If you take a rifle, open the bolt, with ten rounds in the magazine, then closed the bolt, what would happen?
A.76 - Put one in the barrel, sir.
Q.77 - If you took a rifle and opened the bolt, kept your thumb over the magazine, then closed the bolt, what would happen?
A77 - The rifle is empty.
Q.78 - Did you see LeBlanc discharge the rifle?
A.78 - It all happened so fast I can't say. He sort of pointed the rifle at Melidones and it went off.
Q.79 - Did you shoot Pte Melidones?
A.79 - No, sir.
Q.80 - Did Pte Kisur shoot him?
A.80 - No, sir.
Q.81 - Did Pte VanDriel shoot him?
A.81 - No, sir.
Q.82 - Did Pte Grant shoot him?
A.82 - No, sir.
Q.83 - Did Pte Melidones shoot himself?
A.83 - No, sir.

Defending Officer

I object, sir. Those are leading questions.

JA

I don't think they are. Not that sort of questions.

Prosecutor

Q.84 - Where was Pte Melidones hit?
A.84 - In the face.
Q.85 - While he was lying on the bed?
A.85 - Yes.
Q.86 - Did you know he was killed?
A.86 - I knew he was hit.

JA

I don't think we can allow that question, and I advise the Court to disregard it.

Q.87 - Whose rifle did you see Pte LeBlanc pick up?
A.87 - At the time I didn't know whose rifle it was, sir.
Q.88 - Where is Pte Grant today?
A.88 - In hospital, sir.
Q.89 - What was going on in the room before the rifle was discharged?
A.89 - We were more or less just talking, laughing, joking around.
Q.90 - Was there any fooling with rifles?
A.90 - No, sir.
Q.91 - Did Pte LeBlanc while you were in the room say anything after the shooting?
A.91 - He just went hysterical and started more or less crying. It's hard to describe it.
Q.92 - Did he say any words?
A.92 - He started to yell "Heh Mel Mel" and grabbed him on the bed.

Cross-examined by the Defending Officer.

Q.93 - What relationship was there between Melidones and the accused? Were they on friendly terms?
A.93 - They were on friendly terms.
Q.94 - Was everybody in good humour at that time?
A.94 - Yes, sir.
Q.95 - There were no hard feelings?
A.95 - No, sir.
Q.96 - Were you watching closely when LeBlanc checked the rifle?
A.96 - I would not say closely, sir.
Q.97 - Did you notice how far he pulled the bolt back?
A.97 - No, sir, I just saw him open it.
Q.98 - You just saw him open it, check it and push the bolt forward?
A.98 - Yes, sir.
Q.99 - You did not know if there was a round in the chamber before he picked it up?
A.99 - You don't know what rifle LeBlanc looked at?
A.99 - No, sir.
Q.100 - You don't know if it was defective in any way?
A.100 - No, sir.

Re-examined by the Prosecutor.

Q.101 - It was not your rifle?
A.101 - No, sir.
Q.102 - Pte Melidones was very well liked by the men in your Coy?
A.102 - Yes, sir.
Q.103 - And in the whole Bn?
A.103 - Yes, sir.
Q.104 - Had Pte LeBlanc ever been with you in action against the enemy?
A.104 - No, sir.
Q.105 - Were you at Hoogerheide?
A.105 - Yes, sir.
Q.106 - With the Bn? Was he with the Bn?
A.106 - I don't know, sir. I was with D Coy all the time I was at Hoogerheide.
Q.107 - He could have been in action and you didn't know about it?
A.107 - Yes, sir.

No questions by the Court.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Fifth Witness for the Prosecution, M-11617 Sgt MacIver, D T, Calg Highrs, being duly sworn, is examined by the Prosecutor.

Q.108 - Would you tell the Court your number, rank and name?
A.108 - Sir, I am M-11617 Sgt MacIver, D T, Calg Highrs.
Q.109 - On 1 Dec 44 at about 1300 hrs I understand you were called in to view a body. Will you tell the Court in your own words just what happened, whether you fulfilled that mission?
A.109 - I went to D Coy area at approximately 1330 hrs.
Q.110 - Where was the area?
A.110 - It was near Groesbeck, sir, and I examined the body of Pte Melidones and I found that a missile had entered his face just below the right eye and had come out at the back of the head just by the base of the skull. I reported this to the MO, sir.
Q.111 - Was he or was he not dead?
A.111 - My own opinion is that he was, sir.
Q.112 - What did you base that opinion on?
A.112 - Just the type of wound, sir, and the fact that the way the body was lying, the eyes, and I definitely noticed that the pupils of the eyes were wide open and didn't change as I flashed my hand across them.

Q.113 - Did you check his pulse?
A.113 - I can't say for sure, sir, but I believe I did.
Q.114 - There was no doubt in your mind whether he was dead or not. Then why did you go to the MO?
A.114 - He was the man I should report it to, sir.
Q.115 - Who is the MO?
A.115 - Capt Kipling, sir.
Q.116 - How long have you been in the Medical Service?
A.116 - Six months, sir.
Q.117 - You have seen lots of dead bodies during that time?
A.117 - Yes, sir.
Q.118 - Where was the body?
A.118 - It was in a field, sir.

The Defending Officer declines to cross-examine the witness.

No questions by the Court.

In the opinion of the Court and JA it is not necessary to comply with RP 83(3).

The witness withdraws.

Sixth Witness for the Prosecution, Capt C L Keatley, Calg Highrs, being duly sworn, is examined by the Prosecutor.

Q.119 - Would you give the Court your rank and name?
A.119 - I am Capt C L Keatley, "A" Coy, Calg Highrs, C A O.
Q.120 - I hand you a paper. Is that your signature.
A.120 - That's right.
Q.121 - This is the summary of evidence in the case of Pte LeBlanc. Were you the officer detailed to take this summary?
A.121 - Yes.
Q.122 - You took this summary?
A.122 - Yes.
Q.123 - The accused made a statement in the summary. What warning did you give the accused?
A.123 - Before the accused made any statement or before the summary was taken I warned Pte LeBlanc that if he gave any evidence it may be used against him in the court-martial.
Q.124 - Did you read the warning to him out of the MML?
A.124 - No, we only have one copy of MML and it was needed in the Bn Orderly Room.
Q.125 - Is this the warning you gave here at page 617 of MML, RP 4(E)?
A.125 - Yes, but perhaps not in those exact words.
Q.126 - The statement which Pte LeBlanc made in the summary is the one he gave verbally to you?
A.126 - That's right.
Q.127 - Will you read that statement?

Defending Officer

I object to the reading of that statement. I would like to cross-examine the witness at this point on the taking of that statement from the accused.

JA

All right, on the matter of the statement, as a trial within a trial, you can cross-examine now.

Defending Officer

Q.128 - In point of fact you did not use the words set out in this summary of evidence in your warning to Pte LeBlanc?
A.128 - Yes, these words in the summary are the ones I used in my warning. I had a copy of a summary taken for a previous

court-martial with this warning on it and I gave this same warning to Pte LeBlanc.

Defending Officer

In that case, then, I have no objection whatsoever.

Prosecutor

Q.129 - Will you please read from this Summary of Evidence both the warning you gave the accused and his statement?
A.129 - Yes (reads reads the warning and Pte LeBlanc's statement from page 3 of the Summary of Evidence).

The Defending Officer declines to cross-examine the witness.

No questions by the Court.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

The Defending Officer makes the following motion.

I move that the case now be adjourned until Pte H E Grant can be produced, for purposes of cross-examination, being named in the summary. I want to obtain the details about this rifle, how it was loaded, whether or not it was loaded and so forth. They have a great deal of bearing on the defence. I would also like to find out if possibly the rifle was defective and nobody but Grant can be produced to testify as to this unless the prosecution can produce another competent witness. And I move that there be an adjournment for that purpose.

The Prosecutor replies to the motion of the Defending Officer.

I think before we can go on a motion such as that, Grant - as we have heard - has gone to hospital and that means he might never come back to this theatre of war. He might be in Canada in a month's time. That motion would then frustrate justice altogether. We are obliged to bring witnesses here only if they are available. I myself want to go definitely on record and state I object to that motion.

President

The Court will close to consider the motion of the Defence.

The Court is closed.

The Court is re-opened and the accused is again brought before it.

President

The motion has been disallowed by the Court.

JA to accused

Pte Leblanc, you now have three choices as to what you wish to do in your own defence. In the first place you need not say anything at all. In the second place you can give evidence upon oath in the same manner as any other witness but if you do so you are liable to be cross-examined on that evidence by the Prosecutor, by the Court and by myself. In the third place, you may make a statement no upon oath and if you do so you cannot be questioned by anyone. It is only just to tell you however that a statement not on oath will not carry as much weight with the Court as a statement upon oath.

Defending Officer

Pte LeBlanc does not wish to give evidence upon oath nor to make a statement, sir.

First Character Witness for the accused, Major Bruce McKenzie, Calg Highrs, being duly sworn, is examined by the Defending Officer.

Q.130 - Will you tell the Court your name and rank, please?
A.130 - Yes, I am Major Bruce McKenzie of the Calg Highrs, C A O.
Q.131 - Do you know the accused, sir?
A.131 - Yes, I know the accused.
Q.132 - Would you tell the Court what he is considered to be as a soldier?
A.132 - The accused came to my Coy approximately the first week in Sep 44. I was not there at the Coy at the time, being in hospital, but returned there 17 Sep 44. I then saw the accused and knew he was one member of my fighting team. From that time the accused fought under my command from 17 Sep 44 up until he was wounded in Hoogerheide and during that time I have never had any cause to judge him other than as being a good soldier. No report came in to me that he was not a good soldier, and I do remember at times seeing his work carried out very satisfactorily. He worked right up with the Coy, came in the battle of then up to the Albert Canal, through St. Leonard's, up towards Hoogerheide and did a good job at the Hoogerheide show until he was wounded. When he did returned to the Coy it was just before we came to this area. None of his Sec Comnds, Pl Commds ever had a word against him but have always said he was a reliable soldier and at no time ever showed any thoughtlessness or carelessness.
Q.133 - What were his duties?
A.133 - He was a member of a section.
Q.134 - As a rifleman or Bren gunner?
A.134 - He was a rifleman first, I believe, and then took over the Bren gun.
Q.135 - Do you happen to recall his age, sir?
A.135 - No, I am not just sure of that I judge him to be about 23.

JA

You can tell the Court that.

Defending Officer

As a matter of fact he is 21 years of age, sir.

The Prosecutor declines to cross-examine the witness.

No questions by the Court or JA.

In the opinion of the Court and JA it is unnecessary to comply with RP 83(B).

The witness withdraws.

The Prosecutor makes the folllowing closing address.

Mr. President and Members of the Court. We have heard one witness Pt Kisur, he stated he was in the room with Pte VanDriel, Pte LeBlanc, Pte Melidones, and Pte Grant. And he stated that there wasa rifle fired in that room but he did not hear the actual shot fired. Then we have the evidence of Pte VanDriel who stated he saw LeBlanc pick up the rifle and heard the shot fired and he stated what reactions LeBlanc had after the shot was fired. We did not have the evidence of Pte Grant because he is not available, being wounded with a hand grenade, evacuated to hospital and more than likely is going back to Canada. Then we have the evidence of Pte Mammel, the stretcher bearer, which is of little value of course in that he was not competent to say whether Pte Melidones was dead or not. Then we have heard the evidence of Sgt MacIver, the medical orderly and also that of the MO, Capt Turnbull, who gave us their opinions. Then we had the statement of Pte LeBlanc as given to Capt Keatley at the summary of evidence and In that statement I just wish to draw attention to a certain sentence. I quote, "I then got up and moved to the end of the bed by the window. I picked up a rifle that was leaning against the wall. A few minutes before this I saw Pte Grant cleaning this same rifle. I turned to Pte Grant and said to him 'This is a nice clean rifle.' I then opened the bolt, looked into the chamber, found it clear and closed the bolt. The bolt closed very easily and I was sure there wasn't a round in the chamber." That is the facts of the case. I draw your attention to it for one reason, and one reason only, that action of opening the bolt and closing it shows the highest degree of negligence, and then in firing the rifle after closing the bolt. To point a gun at a person is an unlawful act. I will leave the explanation of the law on that point to the JA. I do wish however to point out to the Court and in doing an unlawful act, pointing a rifle at someone, the accused has shown the very degree of negligence described by law, and I wish to draw the attention of the Court to page 110 of MML, starting at the bottom of page 109, sec 26 and continuing to the end of the second paragraph on page 110. (reads the citation to the Court). In this case the evidence shows that a soldier picked up a rifle, negligently examined the rifle and negligently discharged the rifle. To continue to the end of Sec 26 on page 110 of MML and then I wish to read to you Sec 27 on Page 110 (reads the citation to the Court). Now Mr. President and Members of the Court here we have a situation which fits right into that example shown in the book. Again, a man who picks up a rifle and points it at someone else is committing an unlawful act under the Army Act, sec 40. He examines therifle to see whether it is loaded or not. On the evidence of the witnesses here this morning, I would not say that there was negligence in that act, but in closing the bolt and firing the rifle we have the negligence. So much for the law in the case. We have an example of this charge of manslaughter right in the army act and that example applies to this particular instance. In this case there is no doubt orquestion as to what happened, or who is dead. As to the accused's character evidence given by Major McKenzie, I might say that it was a very good estimate of the accused but I would like to point out to you that I was with the Calg Highrs for three months, with a MG Pl, and I know Pte Leblanc as a very competent soldier, very cool under fire. Also I was unfortunately in the hospital with Pte LeBlanc's Pl Comd and LeBlanc even at that time was so loyal to him that he walked to the hospital bringing him fruit, etc., showing that his mind was definitely on the army and he was always loyal.

The Defending Officer makes the following closing address.

May it please the Court, the law on this subject has been well quoted by the Prosecutor and the only thing I draw to your attention, I quote from Stone's Justices' Manual, page 1526, footnote (6) (reads the citation to the Court). The evidence before the Court is that the accused did take precautions. The

evidence before the Court is that the accused did take precautions. Any witness who was watching the accused stated the accused LeBlanc did look in the rifle, that he pulled the bolt back and looked into the chamber. The Prosecutor has assumed in his address and also in his examination-in-chief, that there were rounds in the magazine. The evidence of the witnesses before the Court contains no evidence that anyone saw any rounds in the magazine or in the chamber of the rifle. The rifle is not here. The defence is hampered. What caused the rifle to be discharged after it has been inspected? I am not in a position to tell the Court what could have happened. The rifle is not here. Whether it was defective in any way I am not able to show. Or of there was a round in the chamber or in the magazine. Whether, if there was one, it was covered up by something or obscured. We can't tell. It is not here. We can't see it. We can conject but you cannot convict a man on a charge of manslaughter on conjecture. It is the duty of the Court we say to produce positive evidence, not for the Court to mame good guesses. We can all make a good guess that of course this rifle was not defective. But there is not a tittle of evidence to support the assumption of the prosecution that there was one round or ten rounds in the chamber or the magazine, or that the rifle was not defective. The only evidence is that the accused did examine it before pointing it. He saw it before the trigger was pulled. Whether he examined it sufficiently would depend a great deal on what he saw in that gun. As I see it there is a complete gap, not the slightest bit of evidence, as to where that round came from. Was it covered up? Could it have been seen? There is no doubt from the evidence before the Court that LeBlanc was complete amazed by the result, amazement which could spring from the fact that he had checked the rifle. You have heard quite plainly from people who thought well of Pte Melidones and state nothing but praise for the accused. You heard the evidence, how the accused spoke and became hysterical after it happened. You have no intent of the accused. It was not wilful. On the contrary he certainly was broken hearted about it. As I say, if he had not checked it he would not have cared whether it was loaded or not in view ofhis training. How well did he check it? The evidence shows he looked at it. All that is required normally. We have no evidence to the contrary. No evidence as to whose rifle it was. He looked at it, something happened, and thereafter the rifle was forgotten. Nobody examined it or looked at it, and Pte Grant is not here so he can't tell you, I can't tell you and the accused can't tell you. We are assisted to some extent by Stone's Jusrices' Manual, just as reputable a book as MML in dealing with civil law, in determining from the evidence we have heard whether this case is proven. I would like to read to you the law on manslaughter as it is set out by Mr. Justice Brett (reads to the Court). He checked the rifle but how well he checked it but I submit to the Court that we do not know beyond a reasonable doubt and it must be resolved in his favour. I submit to the Court that the finding on the first charge should be not guilty. Now dealing with the second charge (reads the charge to the Court). You again must have an element of negligence and I submit that the mere fact that the rifle went off after he looked at it does not mean he did not look at it carefully. To point a rifle at a soldier after you have checked the rifle is not negligence at all. We point rifles at people in practice, in training and we put bayonets on them too. There is a greater amount of negligence than just pointing a rifle and how well he checked it again cannot be determined unless we know what condition the rifle was in. So on the second charge all that has been established is that he did take care which maye have been sufficient if the rifle was in perfect order. We can't state what order it was in. The natural tendency is to say of course the rifle is all right. But can you make that assumption? I submit that in no case of this kind can we make that assumption, and if the rifle is not all right, and he had looked carefully at the barrel and magazine, then he is not guilty of the second charge. To point a

gun at a soldier I submit is not in itself an offence. We do it in many circumstances.

The JA sums up as follows.

Mr. President and gentlemen. The accused stands before you today charged with two very serious charges, laid in the alternative. A life has been taken, there is no doubt as to that, and it is now your duty to decide from the evidence put before you today whether or not the accused is guilty or not guilty of alternatively either manslaughter or negligence as contemplated by AA 40 or whether he is not guilty of both. I am only endeavouring to advise you on the law on a difficult charge and if in so doing I happen to touch upon the facts I wish to remind you that you are the sole masters of the facts and that anything I may say concerning them will merely be an expression of my own opinion. I ask you to regard it as such. The charges are laid in the alternative. That means that you must decide the first charge before you proceed to considering the second charge. If fact it is only if you find the accused not guilty of the first charge that you even have to consider the second charge. The net result of this advise is that you may only find the accused guilty of one of these charges but you may, of course, find him not guilty of both. Now thefirst charge is manslaughter and we have heard the law about it from both the Prosecuting and Defending Officers. As I have said, it is an exceedingly grave charge. Archbold, in Criminal Pleading, Evidence and Practice tells us on page 859 this (reads the citation to the Court). Still that does not help us very much in this case. Going on to Stone's Justices' Manual which the Defending Officer has already cited, I would like to read from page 1526 thereof (the citation is read to the Court). That I believe is as close as we can come to it. And at page 1527 there is the following (reads the citation to the Court). From that you will appreciate that an essential ingredient of manslaughter is negligence of a very high degree, a negligence showing such disregard for life and safety of others as to amount to a crime against the state. I have given you now two of the best civil authorities on the subject and I would now like to turn to the MML which is the most important military authority and in most cases is as sound as any civil authority. At page 117, the second and third paras of that page read as follows (reads the citation to the Court). And we have the same principle there as was given to us by Stone. And again I repeat I think that it the best application of the law that I can find. Now you have heard the facts of the various witnesses, with the exception of Pte Grant. You have to decide today, and I believe I am being fair when I say there is no great dispute as to the facts; there can be no doubt that the accused picked up the rifle and that prior to this he had seen Pte Grant cleaning the rifle although Pte Grant is not here to tell us, but we have had that from the accused's own statement; it is equally clear that he opened the bolt, closed it, pointed it in the direction of Pte Melidones and then the rifle was discharged. Pte LeBlanc swears there was no round in the chamber when he pushed the bolt back. Yet we have the tragic fact that the rifle did discharge and as a result of that discharge Pte Melidones was killed. That is the act gentlemen as put before you by the Prosecuting Officer and it is not your task to decide whether or not the manner in which the accused handled that rifle showed negligence so gross and culpable as to be a crime against the state. I ask you to consider this from every angle. You have heard the history of the accused so far as is allowed. I ask you to consider all the circumstances of this occurrence and then decide whether this accused soldier is guilty or not guilty of manslaughter. Passing on to the second charge. This charge deals also with negligence. To a military court, however this is a far more familiar negligence. This neglect as contemplated by the Army Act under Section 40 is one which

every regimental officer knows very well. The neglect contemplated by Section 40 must also be culpable, that is, it must be blameworthy. It is that type of neglect which is prejudicial to both good order and military discipline, and please note, gentlemen, I have stated that this must be prejudicial to both good order and military discipline. Amendmat 30 to Section 40 says of neglect (reads the citation to the Court). I can't put the composition of neglect as contemplated by the Army Act any clearer. Now in considering both these charges you must first decide whether or not the particulars of the charges have been proved. Then if you should decide that they have been proved, you must decide whether or not these proved ~~charges~~ particulars constitute the offence charged. Ask yourselves how great the degree of negligence was in the light of my remarks thereon with reference to each charge. As a result of this occurrence a life has been lost. That is a most sad and unfortunate affair. If a crime has been committed then the perpretator of that crime should be punished. But please do not consider that some one person must be punished purely because a life has been taken. The loss of life makes the offence more serious but remember that there must be an offence. You must be satisfied that negligence, to either one of the drgrees I have given you, exists before you can punish. For if it does not exist there has been no offence committed and the accused must be found not guilty. The gravity of the offence must not have the effect of influencing your judgement as to the existense of the offence. We carry British justice with us wherever we go. Discipline must be maintained and justice must be administered. Lives are being lost daily operationally but this life was not lost in such a manner. You, as a tribunal, must decide this case by British criminal law. Under such law the onus of proof rests upon throughout on the prosecution. Under such law every man is deemed to be innocent until the contrary is established beyond a reasonable doubt. Under such law no accused person need ever find himself in the position of having to prove his innocence. I have used the words reasonable doubt and although most of you are probably familiar with that expression I must give you its legal meaning. Reasonable doubt is a doubt which arises out of the evidence or lack of evidence. It is such a doubt as would make a reasonable man in the conduct of his own affairs and in a matter of importance to him, pull up, hesitate and seriously consider whether the thing he thinks of doing is right and wise. It must however be a real and substantial doubt and not the idle reflection that nothing in this life is 100% certain. It is a doubt that bases itself on ~~gaps mon hom~~ serious gaps or loopholes in the evidence, a doubt that persists actively and positively. It is the doubt of a man who has heard all the contentions of the prosecution and yet who is not satisfied that the accused must have done what he is charged with doing. If such a doubt exists in the minds of any members of this Court then he is bound by law to interprete that doubt on behalf of the accused.

Mr. President, are there any further matters on which you wish me to advise the Court?
A. - No.
Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.
Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.

The Defending Officer makes the following plea in mitigation.

As the Court has seen now the accused has had only one ~~anima~~ offence since joining the army and that is a minor offence under AA ~~#~~ 15(1). You have heard how the accused has conducted himself while in action and if given the opportunity will no doubt do so again. In view of that I ask the Court to take into consideration that the accused has already been sentenced in his own mind. From now until the day he dies the accused cannot forget that he killed, or at least was involved in the death, of his friend; ~~Am~~ a ~~Man~~ who was well liked and respected in the Coy and in the Bn. I ask the Court to this extent to put themselves in his place. If you caused ~~the~~ death of a friend of your own it is something you can't foeget morning, noon or night, that is always with you. And by looking at the accused you can see the effect it is having on his mind. He certainly was conscious of of what he had done as soon as it happebed. I ask the Court to bear that in mind in determining the punishment necessary to prevent the accused from doing this again or discouraging others from doing it. As regards LeBlanc, actually no further punishment is necessary for that purpose. What further punishment is awarded him is now in the hands of the Court, but I certainly submit it will be no greater than that under which he is already suffering. Just one thing more. The accused is not a ~~nnn~~ careless type, you can tell that, in fact I hate to think what when this case is over it will lead to. I ask the Court not only to remember the dead but also the living., to regard the accused as a soldier, and to consider the load he bears ~~until~~ in his mind until the day he dies.

M.F.B. 355
221M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F97535	Pte	LeBlanc, J.C.	The Calgary Highlanders CA(O)

1. The following is a fair and true summary of the entries in the Regimental and Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Sec 15(1) one time	Sec 15(1) one times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct nil

or,

[illegible] of the [illegible].

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[illegible] under Air Force Act [illegible] under A.F.A. 73 [illegible] annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The [illegible] day of [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs

6. [illegible] attestation paper

7. [illegible]

8. [illegible]

9. The accused is in possession of or entitled to no air force decoration, or air force award military military military

10. [illegible] Air Force the regimental rank of [illegible]

11. [illegible] Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	nil			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of December, 1944

[illegible] Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5 Jan 45

F97535 TEMPORARY

No Name Le Blanc | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | J.C. | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Nov 44	Pte		WOAS - AWL from 1630 hrs 23 Nov 44 until time of apprehension at 0715 hrs. 24 Nov 44 Absent 14 hrs 45 mins AA Sec 15(1)	Documentary	15 days pay	27 Nov 44	Lieut-Col R.L. Ellis	15 days pay [illegible] 1 days pay [illegible]

Certified True Copy.

[illegible] Capt Adj
The Calgary Highers

(PTO)

No F97535 Name Le Blanc JC | Sqn, Battery or Company | Corps CIC | Date of enlistment 7 Mar 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Nov 44	Pte		WOAS, AWL from 1630 hrs 23 Nov 44 until time of apprehension at 0715 hrs 24 Nov 44 (absent 17 hrs 45 mins) AA Sec 15(1)	Documentary	15 days Pay	23 Nov 44	Lt-Col R.L. Ellis	15 days Pay [illegible] 1 day Pay
Field	19 Dec 44	Pte		AA Sec 41. WOAS; When in a place not within His Majesty's Dominions, committed a civil offence, that is to say, manslaughter.	L/c. Kiser M. Capt A Turnbull. Pte Mammel A. Pte Van Dijck L. Sgt McIver. Capt C. Keathy	to be imprisoned without hard labor for two (2) years.	8 Jan 45	FGCM.	

Certified True Copy of Temporary M & M 6.

[illegible] Capt & Adjt.
The Calgary Highers [illegible]

(PTO)

Summary of Evidence in the case of F-97535 Pte. LeBlanc, J.C., "D" Company, The Calgary Highlanders, Canadian Army Overseas.

By the direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

B-155587 Pte. Kisur, M., "D" Coy, The Calgary Highlanders, C.A.O., having been duly sworn states;

I am B-155587 Pte. Kisur, M., 16 Pl. "D" Coy, The Calgary Highlanders, C.A.O.

On the 1 DEC 44, right after lunch, I went upstairs in the house we were billeted in and I saw Ptes. LeBlanc, Grant, VanDriel and Melidones in one of the rooms. We were chatting and joking and fooling around. Pte. Melidones was lying on a bed and I went over and got down beside him. I asked Pte. Melidones for an envelope for a letter I had just written. The envelopes he had were stuck together and he was trying to get them a part, as he was doing this he raised himself slightly from the bed. Just at this time I heard a bolt action on a rifle and Pte. LeBlanc yelled " Mel " and just then a rifle was discharged. Pte. Melidones sank back very slowly onto the bed. I realized Pte. Melidones had been hit and I then ran downstairs to get an attached stretcher bearer. Pte. VanDriel came down stairs right behind me. The stretcher bearer went upstairs immediately. I did NOT go back up stairs.

B-155587 Pte. Kisur, M. was cross-examined by the accused.

Question (i) Have you ever noticed any ill-feeling between Pte. Melidones and myself?

Answer (i) None whatever. I considered you two the best of friends.

Mike Kisur
B-155587 Pte. Kisur, M.

SECOND WITNESS

F-65662 Pte. Grant, H.E., "D" Coy, The Calgary Highlanders, C.A.O., having been duly sworn states;

I am F-65662 Pte. Grant, H.E., of 16 Pl. "D" Coy, The Calgary Highlanders, Canadian Army Overseas.

On the 1 DEC 44 just after lunch, approx 1300 hours, Ptes. LeBlanc, Kisur, Melidones, VanDriel and myself were in an upstairs room in the house our Pl. was billeted. We were talking and joking. I had just finished cleaning my rifle and it was leaning against the wall. The magazine of my rifle was fully charged with ten rounds and there was NOT a round in the chamber. I saw Pte. LeBlanc pick my rifle up open the bolt and look to see if there was a round in the chamber. He then closed the bolt and pointed it at Pte. Melidones. He called out " Mel " and then the rifle was discharged. I looked over at Pte. Melidones and saw blood on his face. I left the room immediately and then saw the stretcher bearer go upstairs.

F-65662 Pte. Grant, H.E. was cross-examined by the Accused.

Question (i) Have you ever noticed any ill-feeling between Pte. Melidones and myself?

Answer (i) None whatever. You seem to be the best of friends.

H. E. Grant
F-65662 Pte. Grant, H.E.

MEDICAL OFFICER'S CERTIFICATE

I hereby certify that I have this day examined F-97535 Pte. LeBlanc, J. C. and in my opinion he is fit to undergo trial by Court Martial.

8 Jan 45

J. Cleak Capt
Medical Officer

Pr Court

THIRD WITNESS

B-113286 Pte. VanDriel, L.W., "D" Coy, The Calgary Highlanders, C.A.O., having been duly sworn states;

I am B-113286 Pte. VanDriel, L.W., of 16 Pl., "D" Coy, The Calgary Highlanders, C.A.O.

On or about the 1 DEC 44 at approx 1300 hours I was in an upstairs room of a house that our Pl. was billeted. In the room were also Ptes. Melidones, Kisur, Grant and LeBlanc. We were all joking in a very friendly manner. Pte. LeBlanc picked up a rifle, opened the bolt then closed it and then pointed it at Pte. Melidones. LeBlanc then yelled "Mel" and the rifle was discharged. When I saw that Pte. Melidones had been hit I followed Pte. Kisur downstairs to get a stretcherbearer.

B-113286 Pte. VanDriel, L.W., was Cross-Examined by the Accused.

Question (i) Have you ever noticed any ill-feeling between Pte. Melidones and myself?

Answer (i) None whatever.

L.W. VanDriel
B-113286 Pte. VanDriel, L.W.

FOURTH WITNESS

M-38167 Pte. Mammel, A. "D" Coy, The Calgary Highlanders, C.A.O., having been duly sworn states;

I am M-38167 Pte. Mammel, A. "D" Coy H.Q., The Calgary Highlanders, Canadian Army Overseas.

I am a stretcher bearer in "D" Coy. At approx 1300 hours 1 DEC 44 a runner from 16 Pl. came to "D" Coy H.Q., with information that one of the men in 16 Pl., had been wounded. He asked me to bring a stretcher with me. I made arrangements for a stretcher to be sent to 16 Pl. and then went down there myself.

On arriving where 16 Pl. were billeted I went upstairs and found Pte. Melidones on the bed. After examining him I found that he had been shot through the head and that he was dead.

The accused declines to cross-examine the witness.

A. Mammel
M-38167 Pte. Mammel, A.

FIFTH WITNESS M11617 Sgt MacIver, D.T., Bn HQ, The Calgary Highlanders, CA(O), sworn, states:-

I am M11617 Sgt MacIver, D.T., Medical Sgt, The Calgary Highlanders, CA(O). At about 1330 hrs 1 Dec 44 I went to "D" coy area and examined the body of M106339 Pte Melidones, S., and found that a missle had entered his face below his right eye and had come out at the back of his head near the base of the skull. I went back to the R.A.P. and reported this to the M.O.

The accused declines to cross-examine the witness.

D.T. MacIver
M11617 Sgt MacIver, D.T.

SIXTH WITNESS Capt. A.R. Turnbull, RCAMC, attached to The Calgary Highlanders, CA(O), sworn, states:-

I am Capt. A.R. Turnbull, Medical Officer attached to The Calgary Highlanders, CA(O). It is my opinion that a wound, the nature received by Pte Melidones, would kill him immediately.

The accused declines to cross-examine the witness.

A.R. Turnbull (Capt)
A.R. Turnbull (Capt) RCAMC

The accused was warned as follows:-
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given as evidence.

The accused wishes to make a statement.

F97555 Pte LeBlanc, J.C., "D" coy, The Calgary Highlanders, CA(O), sworn, states:-

I am F97555 Pte LeBlanc, J.C., of 16 Platoon, "D" coy, The Calgary Highlanders, CA(O). Shortly after lunch on 1 Dec 44 I was in a bedroom upstairs in the house that 16 Platoon "D" coy were using as billets. In the room there were Pte Melidones, Pte Grant, Pte Vanderlei and Pte Kisur. We were all chatting to one another. I was lying on the bed and Pte Melidones was beside me. I then got up and moved to the end of the bed, by the window. I picked up a rifle that was leaning against the wall. A few minutes before this I saw Pte Grant cleaning this same rifle. I turned to Pte Grant and said to him, "This is a nice clean rifle." I then opened the bolt, looked into the chamber, found it clear and closed the bolt. The bolt closed very easily and I was sure that there wasn't a round in the chamber. At this time I was facing the bed. Pte Kisur was on the bed with Pte Melidones. I had the rifle in my hands at the "on guard" position, with the rifle pointed half way up to the ceiling of the room. I said "Mel" and as he looked up I squeezed the trigger and the rifle discharged. I couldn't believe that I had hit him. I ran over to the bed when I realized he was wounded and said to him "Mel, Mel" and then I don't seem to remember what happened. Pte Melidones and I were the best of friends and I certainly had no intention of injuring him in any way.

F97555 Pte LeBlanc, J.C.

The accused does not wish to call any witnesses on his behalf at this point.

I certify that the foregoing Summary of Evidence, consisting of four (4) pages, was taken down by me in the presence of the accused and that R.P. 4 (c), (d), (e) and (f) have been complied with.

In the Field
6 Dec 44

(C.L. Keatley), Captain,
Officer Detailed to Take
Summary of Evidence.

46-141

Pte Leblanc L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E110101 Pte. Leonard LeBlanc R.de Chaud.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

As present under sentence for N/A beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which N/A days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention FOR 90 days

(Sgd) ..... 3 Jan 45 (Sgd) [signature]
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 561-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Jah Bing
(1. AA 57A. Delete if not used.)

Date 5 Jan 45 (Sgd) Jas A Roberts
Commanding 8 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.
E 110101 Pte LeBlanc. 7 Jan 45 [signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED FEB 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 42 141

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AF43) 40/P & S/1658 (2804)

Convened by Order of Lt. Col. S.M. Lett T/Comd 8th Can Inf Bde dated 1 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit
E 110101	Pte	Leonard	LeBlanc	R de Chaud

PROCEEDINGS REVIEWED
[signature]
STAFF OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 3 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1515 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	R de Chaud
Member	Capt.	D.A.J. Parc	R de Chaud
Member	Capt.	A.C. Mac Callum	N Shore R
Judge-Advocate			
Prosecutor	Capt.	L.N. Begin	R de Chaud
Defending Offr	Capt.	L. Leclerc	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E110101 Pte Leonard LeBlanc before arraignment make(s) (no) (a) plea
Guilty (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PROCEEDINGS REVIEWED OKAY See G.O.C. 2 Feb 21 Army Gp.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on No charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....
Do you intend to call witnesses on your behalf?
Ans.....
Are they witnesses as to character only? Ans.....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-53, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

EXHIBIT "C"

No. E-11010 Name Leblanc Leonard Sqn, Battery, or Company Support Corps C.I.C. Coy Date of enlistment 25 Feb 43 GC Badges n/a Service or Proficiency Pay

3/17 MFM'6 (AFB 122) 40/PAS/136 (5418)

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No one Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Falaise		—		15-12-43 Certified true copy R.T. Boulanger Capt Officer i/c Records					

(PTO)

CHARGE SHEET

THE ACCUSED E-IIOIOI PTE LEONARD LEBLANC OF LE REGIMENT DE LA CHAUDIERE, A SOLDIER OF THE CANADIAN ARMY OVERSEAS IS CHARGED WITH:

1ST CHARGE
ARMY ACT
SEC I5(1)

WHILE ON ACTIVE SERVICE, ABSENTED HIMSELF WITHOUT LEAVE

in that he:

In the Field, absented himself without leave from 0900hrs IO Nov 44 until surrendering himself to Cdn Provost Corps at 1700hrs 29 Nov 44 in the town of Gent. (TOTAL ABSENCE I9 DAYS 8 HRS)

SIGNED IN THE FIELD
THIS 13 OF DEC. 44.

(G.O. TASCHEREAU) LT-COL,
COMMANDING,
LE REGIMENT DE LA CHAUDIERE.

TO BE TRIED BY F.G.C.M.

SIGNED IN THE FIELD
THIS 1st DAY Jan 45

(S.M. LETT) Lt-Col
T/Comd 8 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
E-110101	Pte		Leonard	LEBLANC	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 1 Jan 45 endorsed by me, (~~or by any offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated below.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I have appointed Judge Advocate to act for the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	J.A. Ross		R de Chaud

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	~~J.E. McLean~~ D.A.J. PARE		3OR of C
Capt	A.C. MacCallum		N Shore R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D.A.J. Pare		R de Chaud

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 1 Jan 45

Commanding 6 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 86 (In Lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Statement in mitigation of punishment

I want the Court to consider that P 6 Leblanc Leonard has fought in the BRESKENS POCKET. On the 24 Oct 44 the fight was very bitter, when his company having made an advance of two miles was encircled and taken heavily shelled. The company to which P 6 Leblanc belonged was taken prisoner and taken to KNOCKE by the Hs. There the Nations were of a poor quality and there was a NON-STOP shelling, even aerial bombardment.

On the 31 Oct 44, when the company men were freed, the were exhausted physically and their morale was down. No rest was granted to them and they kept on going with the Hunt

Those are the facts that the Court must consider.

Exhibit "A"

SUMMARY OF EVIDENCE

In the case of E110101 Pte Leonard LEBLANC of Le Regiment de la Chaudiere, a soldier of the Canadian Army overseas.

The C.O. directs that the evidence be taken on Oath.

1st WITNESS:- Capt R.L. Boulanger, of Le Regiment de la Chaudiere, having been duly sworn states:-

I am Capt R.L. Boulanger Adjutant and Officer i/c records at Le Regiment de la Chaudiere and I certify that on 6th Dec 44 the a/m accused came to this unit under arrest.

R.L. Boulanger Capt
(R.L. BOULANGER) Capt
LE REGIMENT DE LA CHAUDIERE.

2nd WITNESS:- Lieut A.Atkinson of Le Regiment de la Chaudiere, having been duly sworn states:-

I am Lieut Atkinson of #4 Pl Le Regiment de la Chaudiere. At 0900 hrs 10 Nov. 44 on morning parade I noticed that E110101 Pte Leblanc L. was AWL. He did not show on any parade after that date nor did I see him anywhere in Bn. lines.

W.A. Atkinson Lt
(W.A. Atkinson) Lieut
LE REGIMENT DE LA CHAUDIERE.

The accused declines to cross examine this witness.

QUESTION TO THE ACCUSED:

Do you wish to make any statement or to give evidence upon Oath. You are not obliged, unless you wish to do so, but whatever you say or evidence you give will be taken down in writing and may be given as evidence.

ANSWER :- Yes Sir, I wish to state that I reported myself as absent without leave to Cdn Provost Corp at Gent at 1700 hrs 29th Nov. 44.

L Blanc L
(E110101 Pte Leblanc L.)
LE REGIMENT DE LA CHAUDIERE.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused and that the rules of procedure A/B/C/D/E/F/G/ were complied with.

R Rochon Capt
(R.Rochon) Capt
LE REGIMENT DE LA CHAUDIERE.

LE REGIMENT DE LA CHAUDIERE

MEDICAL REPORT

DATE 7 Jan 46

I certify that I have this [illegible] examined

No. E110121 Rank Pte Name Lt Blanc L.

and in my opinion is Fit or Unfit to undergo trial by Court-Martial.

P. Gauthier

P. GAUTHIER C[illegible] RCAMC
M.O. R DE CHAUD

EXIBIT "B"

ARMY FORMS 296
(WAR)

TATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be).
E-IIOIOI	Pte	Leonard Leblanc	Le Regiment de la Chaudiere

NOTE.-- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The number herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the Charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court;//

For ~~AWL~~ RR ....times.

For..... .....times

For..... .....times

For..... .....times

Date of first entry in Field Conduct Sheet..nil...

Date of last entry in Field Conduct Sheet..nil...

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

#3. The accused at the present time is under sentence for.....n/a.....beginning on the..n/a..... day of.....n/a.....

4. The accused has been awaiting trial on the present charges for..n/a.....days in civil custody; and for...36.....days in military custody, i.e., ...15.....days in open arrest...21..... days in close arrest; of which...N/A....days were spend in hospital.

#Strike out if not applicable.

5. The present age of the accused is..23 yrs-.....

6. The date of his attestation / calling up for military service is..25 Feb 43.....

7. The service which the accused is allowed to reckon is..I Year IO Months..

8. The accused is in possession of %

%State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date--

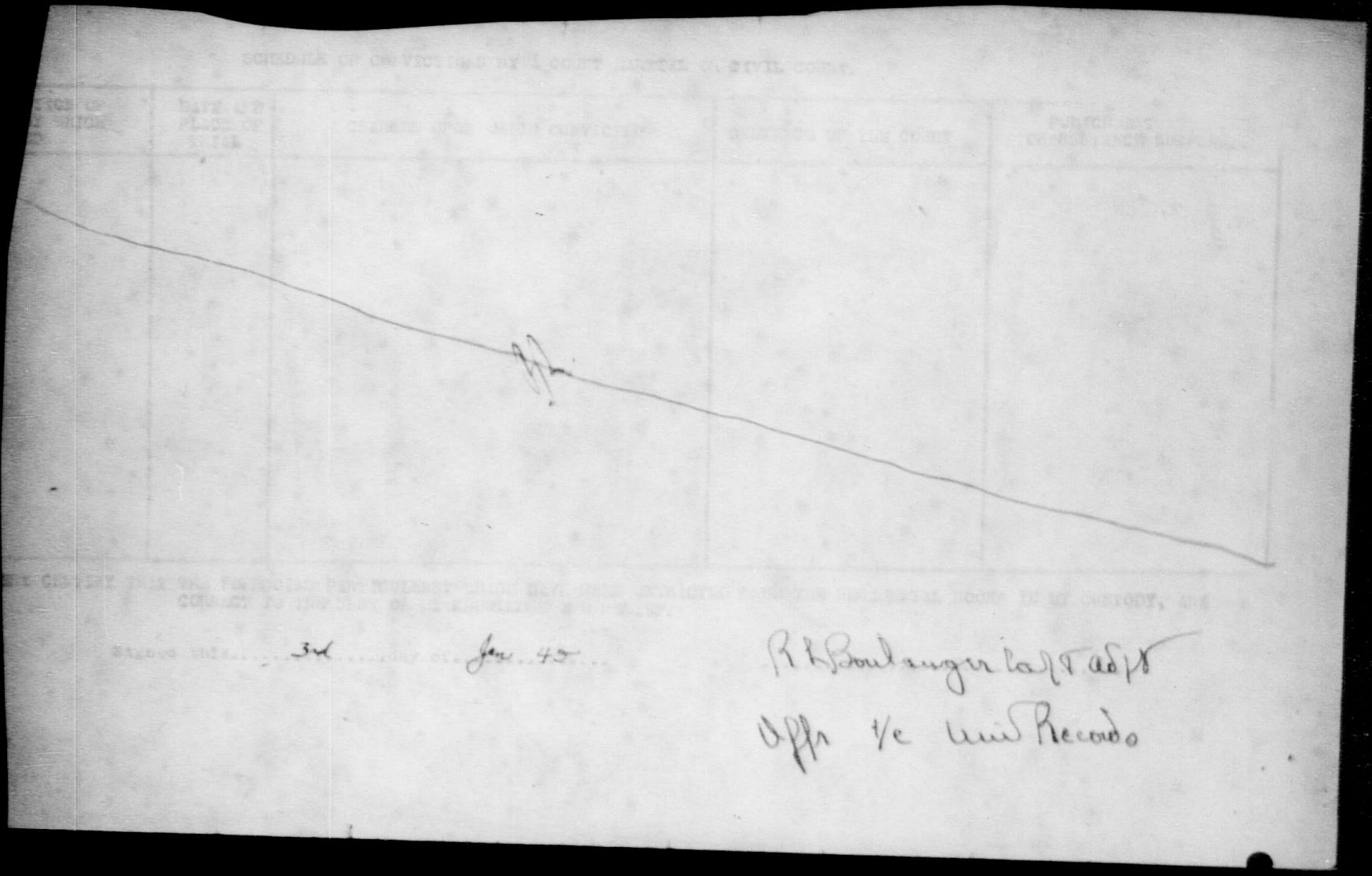
Date of Promoti

In the substantive rank of..n/a.....

In the war substantive rank of..n/a..... .....

In the acting rank of.....n/a..... .....

INSTRUCTION.-- If any matter in any of the above paragraph cannot be stated from the regimental books the paragraph must be struck through.



SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT.

[illegible]	DATE AND PLACE OF TRIAL	CHARGES UPON WHICH CONVICTED	SENTENCE OF THE COURT	PUNISHMENT OR SENTENCE SUSPENDED

[illegible] CERTIFY THAT THE [illegible] PARTICULARLY [illegible] HAVE BEEN EXTRACTED FROM THE [illegible] BOOKS IN MY CUSTODY, AND CORRECT TO THE BEST OF [illegible] KNOWLEDGE [illegible].

Signed this 3rd day of Jan 45

R L Boulanger Capt Adjt

Offr i/c Unit Records

QQ-23

L/BDR LEBLANC L.J.

QC-23

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 16th day of September, 1943

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

Proceedings Reviewed

[signature] 9 Oct 43

[signature] President

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C. Osler	1 Cdn Lt AA Regt, RCA

Members.

Rank.	Name.	Regiment.
Captain	To be detailed by OC 32 Cdn Corps Tps Coy, RCASC	
Lieutenant	To be detailed by OC 31 Cdn Corps Tps Coy, RCASC	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]

(E.A. McCusker) Brigadier

Commanding D.D.M.S. 1 Cdn Corps

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-43002 Pte (L/Bdr) Lawrence Joseph LEBLANC 7 Cdn Anti-Tank Regt, RCA.	First Charge Section 18 (4) Army Act. (For particulars of the above charges see charge sheet attached.)	Not Guilty	Guilty To undergo Detention for 90 Days. 22 Sept 43 [signature] President	27 Sept 43 Confirmed E. A. McCusker E.A. McCusker, Brig. D.D.M.S., 1 Cdn Corps.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) E. A. McCusker (Signed) [signature]
(E.A. McCusker) Brigadier
Commanding DDMS 1 Cdn Corps
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st + 22nd day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~*(3. The interpreter)~~ [initials]
~~*(4. The officers under instruction)~~ [initials]

were duly sworn.

Signed this 22nd day of September 1943.

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

[initials]

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ [initials]

Signed this 27 day of Sept 1943

E. A. McCusker
~~Confirming Officer.~~
E.A. McCusker, Brig.
D.D.M.S., 1 Cdn Corps.

Promulgated and extracts taken in the case of G43002 Pnr. (L/Bdr) LeBlanc, L.J.

(a) (Dated) 30 Sept. 43 (Signed) [signature] Lt.-Col.
(J.A. Millies) Comd
7 Cdn A.Tk. Regt. R.C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

THE ACCUSED, G.43002 L/Bdr Lawrence, Joseph, LEBLANC, of the 113th Battery, 7 Cdn., Anti-Tank Regiment R.C.A. is charged with [illegible]

FIRST CHARGE: [illegible], Stealing public property,

AA Sec 18(4)

in that he

While in the Field, on 31 Aug 43, stole two pairs of boots, public property from the Quarter Master Stores of the 113th Battery, 7 Cdn., Anti-Tank Regiment R.C.A.

Signed in the Field
this 9 day of Sep 1943,

[signature]
(J.A. Gillies), Lt.Col.
comd 7 Cdn A.Tk.,Regt.,R.C.A.

Approved under K.R.(can) 540 and Dir's R.O. 2223 on behalf of the J.A.G. Cdn Army Overseas.

[signature]
Major
D.J.A. 1 Cdn. Corps

To be tried by Field General Court Martial.

[signature]
(E.A. McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

In the Field
16 Sep 1943.

[signature]
President

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No. G. 43002 A/L/Bdr.

of LeBlanc, L.J. of 113 Bty. 7 ATk Regt and, in opinion

he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 21 Sept. 43

H. Goldberg
~~(M. Bruser)~~ (H. Goldberg) R.C.A.M.C. Capt.

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. 4 Bdr Le Blanc of 7 A/Tk Regt RCA and, in my opinion

he is fit ~~unfit~~ to undergo trial by Court-Martial.

22 Sept 43

Station

Field ✓

H. Goldberg
~~(M. Bruser)~~ R.C.A.M.C. Capt.

PAGE 1.

Accused G-43062 Pte (A/Bdr) LeBLANC L. J. 2 Cdn. Anti-Tank Regt. R.C.A.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ENGLAND on 21 Sept 43
(Country) (Date)

PRESIDENT: MAJOR C. OSLER - 1 Cdn Lt. AA Regt. R.C.A.

MEMBERS: CAPT. W. B. KELLY - 32 Cdn. Corps Troops Coy RCASC
LIEUT. G. C. PARKER - 31 Cdn. Corps Troops Coy RCASC

~~JUDGE ADVOCATE~~ (if any): _____

~~OFFICERS UNDER INSTRUCTION~~: _____

PROSECUTING OFFICER: Capt J. P. Hall Lawyer? Ans. No.

DEFENDING OFFICER: Lt. K. M. Parsons Lawyer? Ans. No.

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).)

The Court, in private (R.P. 22 Fn.1), satisfy themselves that it is properly convened (A.A. 49: R.P. 105) and constituted; that the accused is/are amenable to Military Law and that each charge discloses an offence. (R.P. 106)

The accused is/are brought before the Court and at 1600 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can) 597; Army Council Letter 167) that the accused is/are fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused (R.P. 110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P. 110(E)). Ans. No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27, and 111.) (Forms of Oath on Page "D".)

President to accused:
~~Do you object to _____ as interpreter? Ans. _____~~ do
do.

~~The interpreter is duly sworn.~~

Do you object to L/Bdr McKegney as shorthand writer? Ans. No.

The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)

The Charge Sheet(s) is/are initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~/has not elected trial by Court Martial (A.A. 46 (8).). do

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62 (E), 108); or as to the jurisdiction of the Court (R.P. 34); or in bar of trial (R.P. 36), or as to accused's mental fitness to stand trial (A.A. 130, R.P. 57), record such pleas and evidence (if any) on separate sheet(s), to be initialed by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P. 112).

He pleads as follows:

First Charge Not Guilty	Sixth Charge _____
Second Charge _____	Seventh Charge _____
Third Charge _____	Eight Charge _____
Fourth Charge _____	Ninth Charge _____
Fifth Charge _____	Tenth Charge _____

(For procedure on alternative charges, see R.P. 37, fn. 2.)

Further proceedings are recorded on Pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all charges.)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President.)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.F. 39(A).) Ans. No.

2. The Prosecutor's opening address (If any) (R.F. 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D'.)

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.F. 40 fn. 1; R.F. 70 fn. 1.)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.F. 40 fn.2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.F. 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans. Yes
Q. Do you intend to call any other witnesses in your defence? Ans. No
Q. Is he a witness as to character only? (R.F. 40(B)) Ans. N/A.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see R.F. 40, 41 and 42.)

8. The Court is now closed to consider the Finding (R.F. 43, 117).

9. The Court being re-opened, the accused is again brought before it and the Findings of 'Not Guilty'(if any) are pronounced and (if Findings of 'Not Guilty' on all charges) the accused is released. (R.F. 117 (2)).

10. Statements of Character and Service (A.F.B. 296) and Field Conduct Sheet (M.F.M. 6), signed in the manner required by ..... See 163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked 'F', and 'G', initialled by the President and attached to the Proceedings. (R.F. 44; Overseas R.O. 3151.)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.F. 46.) Ans. Yes.
(No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

12. President to accused:
The Court is closed for consideration of the Sentence. The Sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be proclaimed later and the proceedings in Open Court are accordingly terminated. (Overseas R.O.3262).

(Record Finding and Sentence on Page 2 of A.F.A. 3.)

(Punishments - A.A. 44, K.R. (Can) 563-566; Sentences of F.G.C.M. - R.F. 118; one sentence only to be awarded - R.F. 48; sentence should be dated.)

(Signature of President)

Prosecution:

First Witness

Robert Whitton P.C. 429B having been duly sworn states:
I am Robert Whitton P.C. 249 B Division of the Metropolitan Police.
At 5 P.M. on the 31 Aug. 43. I was on duty in plain clothes with P.C. Frank Brockway in Churton Street S.W.1 when I saw the Canadian Soldier L/Bdr. LeBlanc carrying a small attache case enter a second hand shop in Churton Street.
He said th the woman in charge of the shop "do you want to buy a pair of boots". She replied" I don't buy boots". He then said " I am hard up and need some money".
I then said to thim " what kind of boots are they". He replied "Army Boots". I said"Im am a Police Officer let me see these boots" He said "why they are my own boots". He opened the case and produced a pair of new Canadian Army Issue Boots. I said "have you any others or anything else in the case. In the case were another pair of similar boots marked size 8½.
I said " I am not staisfied that you are in proper possession of these boots and shall take you to the Police Stationso that enquiries can be made".
I cautioned him and commenced walking towards the Police Station. On thw way he said "I handed in a pair of old boots to the Q.M. for exchange.
At Gerald Police Station he was detained and later handed over to the Cnadaian Provost Corps.

Questioned by the Prosecution:

Q. Do you recognize the accused as the man in question.
A. Yes Sir.
Q. Can you identify the boots as the ones in question.
A. They are similar Bnots.

Cross Examined By The Defence.

Q. Were there boots for sale on display?
A. No actually it was a second hand furnitureshop.
Q. When you were taking L/Bdr. LeBlanc to the Police Station did you notice whether or not he was wearing boots or civilian shoes.?
A. He was wearing boots or shoes of a civilian type.
Q. Did you at any time ask for or see the pass which LeBlanc was carrying.?
A. Yes I examined it.
Q. Was the pass properly made out?
A. I believe so I examined it.
Q. Did he address you or the woman when he said he was hard up for money?
A. No Sir he addressed it to the woman.

Re-Examined by the Prosecution

Q. ~~Have you identified~~ Can you indentify this statement as being in your handwriting?
A. Yes Sir it is.

This statement was submitted to the Court read, marked by the President as Exhibit "A" and attached to the proceedings.

In the opinion of the Court it is unnecessary to comply with R.P.83(B)

Prosecution

Second Witness

[illegible]d Brockway P.C. 110B Division Metropolitan Police having been duly sworn states:
I am Frank Brockway P.C.110 B Division Metropolitan Police. I was on duty on 31 Aug.43 in plain clothes with P.C. 429 Whitton B Division Metropolitan Police when I saw a Canadian Soldier who I now know to be L/Bdr. LeBlanc enter a second hand furniture shop #26 Churton Street S.W.1 . He said to the woman in charge of the shop "do you want to buy a pair of boots".? She replied "I don't buy boots". He then said "I am hard up and want some money". P.C. Whitton then said to him "what boots are they" He replied "Army Boots". We told him we were Police Officers and wished to see the boots. He replied "why they are my boots" He opened the case he was carrying and produced a pair of new Canadian Army Issue Boots size 7. in the Case were a similar pair of boots size 8½. P.C. Whitton then said to him "I am not satisfied that you are in proper possession of these boots and will take you to the Police S Station for enquiries to be made"
L/Bdr. LeBlanc was cautioned and he said "I handed in an old pair to the Q.M. Stores for them" He was then taken to the Gerald Police Station where he was detained and handed over to the Canadian Provost Corps.

Q. Can you identify this statement as being in your handwriting?
A. Yes I can.

This statement was submitted to the Court read, marked by the President as exhibit "B" and attached to the proceedings as such.
In the opinion of the Court it is unnecessary to comply with R.P.83(B)

Third Witness

C30629 Sgt. L.A. Denton Special Investigation Section Cdn. Provost Corps London.having been duly sworn states:
I am C 30629 Sgt. Denton, L.A. Special Investigation Section Cdn. Provost Corps London.
The accused on the 31 Aug. 43. was apprehanded by civil Police on a charge of being unlawfully in possession of W.D. property and was subsequently handed over to Cdn. Provost Corps Members and escorted to #30 Henrietta St. Covent Gardens. His case was handed over to me for further investigations.
At 1000hrs.1 Sept. 43. I interviewed the accused and informed that I was a Sgt. employed in the Special investigation Section Cdn. P.C. and after giving him the usual caution I questioned him with regards to the origin of the two pairs of W.D. Canadian Army Issue Boots. suspected of being stolen. I then asked the accused if he cared to make a st statement[illegible] under caution and he said he would.
I then asked him if he would like to do it in his own handwriting and he said yes he would. I got some paper and ink and after writing the correct caution at the head of the statement which he signed to certify that he had read it and then [illegible] wrote the statement.

Thisstatement was submitted to the Court,read and marked by the President as exhibit "C" and attached to the proceedings.

Q. Cand you identify these boots as being the ones in question?
A. Yes I can as I initialled them on the bottom myself.

The boots were submitted to the Court as exhibit "D" [illegible] by the President as Exhibit "D" and attached to the proceedings.

In the opinion of the Court it is unnecessary to comply with R.P.83(B)

PROSECUTION

Fourth Witness

K5067 BQMS Sanders, J.V. having been duly sworn states:

I am K5067 BQMS. Sanders, J.V.

Q. Tell the Court in your own words what you know about this case.

A. On the morning that the unit left on manoeuvres I locked the Battery Quarter Stores and left the keys with L/Bdr. LeBlanc one of the N.C.O.s of the rear party. He stated that he was going on a course in a short time so I instructed him to turn the keys over to L/Bdr. Vansickle another of the Battery N.C.O.S. on rear party. He was in turn to hand the keys over to Sgt. McPhee who was away on pass.

About 2 or 3 weeks later whilst still on manoeuvres the Battery Commander called me to the Battery Office, showed me a statement made by L/Bdr. LeBlanc to the Provost Corps concerning the sale of 2 pairs of Army Boots.

He asked me what I knew about it and I explained to him that I had left the keys with L/Bdr. LeBlanc when we left the unit.

The next day the Bty. Commander and myself journeyed back to the unit to check the stores left behind. I checked the stores by an inventory made by myself at the time the unit left and found a few articles missing which are: 2 pairs of Boots ankle, 2 prs. Rubber Boots half high, 2 prs. of Denim Trousers, and 10 tins of corned beef, I reported these articles to Capt. Dawes.

Cross Examined by the Defence

Q. Can you tell us if the statement which was shown to you is the same as is presented in this court today ?

A. I believe it to be the same but I am not positive of the word sale.

Q. Did your check include the stores in the field or only those in the unit ?

A. Only the stores at the unit.

Q. Has L/Bdr. LeBlanc's private kit been searched for the remainder of these missing articles ?

A. No not to my knowledge.

Q. Then having recovered the 2 prs, of boots ankle your are still deficient the remainder of the articles.?

A. Yes I am .

Q. Have you reissued to L/Bdr. LeBlanc a pr. of boots since your return from the exercise ?

A. Yes I have a pr. of his own boots.

Q. Do you know of any other prs. of boots in your stores which were at any time on issue to L/Bdr. LeBlanc.

A. No. there are not any.

Q. How many prs. of boots are on issue to L/Bdr. LeBlanc.

A. He should have two prs.

Q. Is he in possession of a new pr. of Boots.

A. Not to my knowledge he has not been issued a new pr. pf boots.

In the opinion of the Court it is unnecessary to comply with R.P.43(B)

DEFENCE

L/Bdr. LeBlanc being duly sworn states:

I am G43002 L/Bdr.LeBlanc L.J.

Q. Will you tell the Courtin your own words how you came into possession of these boots and how you were trying to raise money on those boots for a certain period of time.?

A. I obtained the boots which were given in as exchange throught a medium of indirect exchange. At no time have I had more than 2 prs. of boots These boots were to act in turn as a medium of exchange for cash on a loan basis. I believe this to be quite possible as a week or 2 previous I ha had done so with a pr. of skates. The skates were not in what is known as in a dramacular ~~xxxxxx~~ sense of the word a pond shop, still they were redeemable the same as the boots were to have been had the sale been allowed to be completed.

Q. I understand that you obtained these boots on exchange from our stores while you were in charge of Q.M.Stores.

A. Yes Sir.

Q. Is there anything else that you would like to add to the statement you made in London?

A. No Sir.

Cross-Examined By Prosecution.

Q. How many prs. of boots have you on charge now ?

A. 2 prs. of Boots.

Q. How many prs. of Boots did you have on your charge on 31 Aug. 43.

A. I have been charged by signature for 2 prs. of boots.

Q. Did you take these boots from the Q.M. Store in the presence of the Q.M. Sgt. or his Clerk?

A. No Sir the QMS. and his clerk were away at the time making it thus impossible to deal with the said issue at that time.

Re-Examined by Defence

Q. Where are the boots now on charge to you?

A. The other pr. of boots to the best of my knowledge are stored with the rest of my surplus kit in a building known as the Technical Stroes.

Q. Is that building under the jurisdiction of the BQMS.

A. Yes Sir.

To qualify the statement as to the intention of selling the boots on a loan basis, I may support it by the fact that they were brought to a store in the heart of London, in an area heavily policed by the R.C.M.P. rather than to a civilian who once having had the boots could not or would not return the same for the sum of money to regain the boots to my possession.

In the opinion of the Court it is unnecessary to comply with R.P.83(B)

PROSECUTION

Summing up By Prosecuting Officer

May I point out to the Court while considering the facts of the case that L/Bdr. LeBlanc is charged with stealing and not selling W.D. Property.

He has made several attempts to justify the sale of the boots but admits in his own evidence taking the boots in question from the Q.M. stores, full knowing they were not his property.

I might also point out that the accused was left in a position of responsibility by his Commanding Officerand ask for consideration of the fact that he violated this responsibility which the C.O. had placed on him.

The Prosecuting Officer having been duly sworn States:
I am Capt. J.P. Hall and I hereby produced and submit AFB 296 statement as to character and record of service and MFM 6 Field Conduct Sheet relating to the accused.
These are read and marked by the President as exhibits "E" &"F" respectively and attached to proceedings.

In the opinion of the Court it is unnecessary to comply with R.P.83(B)

STATEMENT IN MITIGATION OF PUNISHMENT BY DEFENDING OFFICER

To draw attention to the present MFM6 . In the last year 3 minor offences were committed.

1. Neglect under Sec. 40 when A/L/Bdr. LeBlanc acting as an instructor in C.G.S. forgot to warn a junior for duty for the next day.
2. Under Sec. 40 Improper possession of a pr. of civilian shoes. This occurred when L/Bdf. LeBlanc returned from a course and was ordered by his unit to move to another location. In the unpacking and repacking of his kit all the accumulation of kit one picks up in a year or so with a static unit he was assisted by friends and it was ultimately found that there was a pr. of civilian shoes of xxxxxx size which did not fit him which had been inadvertently placed in his kit.
3. 59mins. A.W.O.L.

I would like to point out that these three charges are very slight for this young man who has been on active service since 2 Sept.39. As L/Bdr. LeBlanc has not been with this unit very long I would like to submit to the Court an indication of the opinions held by his senior Officers in his last unit when he was reccommended for O.C.T.U.

I will submit these as exhibits of character and refernce.

1. one signed by Lt. Col DePencier
2. One signed by Major J.M. Savage.
3. An application for O.C.T.U. recommended and signed by Major Wingert.
4. An application for O.C.T.U.

These are read by the President and marked as exhibit "H" and attached to the proceedings.

In the opinion of the Court it is not necessary to comply with xxxxxx R.P.83(B).

Campbell McLeod
President

Exhibit 'A'

METROPOLITAN POLICE.

No. 992.

STATEMENT OF WITNESS.

Gerald Road Station. "B" Division.

31st day of August 1943.

Name Robert Whitton PC 429B

Address Gerald Road Police Station SW1

Age . Occupation Police Constable

Statement: At 5pm on the 31st August 1943, I was on duty in plain clothes with PC 110B Brockway at Churton Street Police, SW1, when I saw a Canadian Soldier whom I now know to be No C43002 Lce Bdr. Lawrence Joseph Le Blanc, enter a second hand shop. He was carrying a small case.

I heard him say to the woman in charge of the shop. "Will you buy a pair of boots". She replied "I don't buy boots". He then said "I am hard up and want some money". I then said to Le Blanc "What kind of boots are they". He replied "Army Boots".

I said to him "I am a police officer, let me see the boots" He said "Why they are my own boots" He then opened the case and took out a pair of new Canadian Army issue boots marked size 7E. I looked in the case and saw another pair of similar boots marked 8½.

I said to him "I am not satisfied you are rightfully in possession of these boots and will take you to the police station so that further enquiries can be made" I cautioned him, and he replied "I handed in an old pair to the stores for exchange. He was taken to Gerald Road police station where he was detained until being handed over to escort of Canadian Provost Corps

Signature Robert Whitton PC 429B

Signature witnessed by

M.P.-37-11307/100m G6 (8)

Exhibit 'B'

METROPOLITAN POLICE.

No. 992.

STATEMENT OF WITNESS.

Gerald Road Station. "B" Division.

31st day of August 1943.

Name Frank Brockway P.C. 110"B"

Address Gerald Road Police Station S.W.1.

Age . Occupation Police Constable.

Statement: On Tuesday 31st August 1943 at 5pm: whilst on duty in plain clothes, accompanied by P.C. 429"B" Whitton, I saw a Canadian Soldier, who I now know to be L. Bdr. Lawrence Joseph Le Blanc, Reg. No. 04 3002 of the Royal Canadian Artilery enter a second hand shop at 26, Charlton Street, S.W.1. and say to the proprietress "Will you buy a pair of boots" she replied "I don't buy boots." He then said, "I am hard up and want some money." P.C. Whitton then said to him "What boots are they" and he replied "Army boots". P.C. Whitton then said "I am a Police officer, let me see them." Le Blanc said, "Why, they are mine." He opened the case he was carrying and produced a new pair of Army boots pattern size 7. On looking into the case I saw a pair of boots similar to the others but size 8½. P.C. Whitton then said "I am not satisfied that you are properly in possession of these boots and shall take you to the Police Station for enquiries to be made. He then cautioned Le Blanc and Le Blanc replied "I handed an old pair into the Q.M. Stores in exchange" We took him to Gerald Road Police Station where he was detained and handed over to the Canadian Provost Corps.

Signature F Brockway P.C. 110"B"

Signature witnessed by

B.F.-37-11307/10/m G6 (8)

Exhibit "C"

Quote No.

CANADIAN PROVOST CORPS

LONDON AREA

CANADA

TELEPHONE: TEMPLE BAR 3618.

30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2

1st. Sept. 43.

I Reg. No. G.4300, L/Bdr. LeBLANC, L.J. have been cautioned that I am not obliged to say anything unless I wish to do so, but w hatever I do say will be taken down in writing and may be used in evidence.

This is to certify that I have read over the above caution and to show that I understand its meaning, I sign my name here.

L/Bdr. LeBlanc L.J.

On August 31, 1943 at approximately 1645 hrs. I was apprehended by 2 civil policemen in plain clothes in the region of Victoria. I am alleged to have been trying to dispose of a pair of army boots for a sum of money.

The reason for the act is:- Approximately 3 weeks ago I received a letter from Canada from the girl I had intended to marry on my return, saying that she had fallen in love with another man during my absence. I felt needless to say very badly over this. I determined that in future that I should let nothing come between myself and any other nice girl I was taking out that would cause a parting; for naturally after having spent seven years in the service I had begun to feel that I was letting the best portion of my life slide away without accomplishing anything toward my future happiness.

Hence, owing a debt of £30- to the mother of a girl in Seven Kings, and having been reprimanded by this girl Sunday morning August 29 I gave her my word that I should repay the money this week. I had made this promise, I was bound to keep it.

L/Bdr. LeBlanc L.J.

Exhibit 'C' 10.

Quote No.

CANADIAN PROVOST CORPS

LONDON AREA

TELEPHONE: TEMPLE BAR 3818.

30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

CANADA

Too, I was part of the rear party of my unit and at some times had access to the S.M. Stores of my battery. I decided after weighing the matter thoroughly, 1. that seeing as I had money owing to me by some of the lads in my unit, and couldn't collect as they were away, 2. A telegram home would not dispense any funds within at least 2 to 3 weeks 3. the remainder of the rear party were broke, 4. any negotiable goods were packed away with my regiment (my own convertable goods of course) 5. Ill circumstances and bad breaks mounting up during my period of service overseas seemed to build this debt into a paramount event.

I felt that by using the same number of boots that I was issued with I could convert those into cash on a loan basis and that having been done I could straighten up the whole affair with my unit when I came into money through ordinary channels

L. J. Le Blanc
L/Bdr
7th Regt RCA

Lewis H. Denton. Sgt.
1-9-43.

File: 2 CARU 10-0-6 Vol 11

No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

28 Aug 43



C.C.
7 Cdn A.Tk Regt

G 43002 L/Bdr Le Blanc, L.J.
Application for O.C.T.U.

1. Prior to being s.o.s. this Unit, the m/n soldier submitted O.C.T.U. application which was not submitted due to same not being fully completed.

2. His Bty Comd recommends that his application be given consideration as his work in this Unit was most satisfactory.

3. For your information, please.

(C.E. de Pencier) Lt.-Col. RCA
A/Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

B/A

OCTU/LeBLANC/

Exhibit H

8 July 43

"A" Battery, "P" Training Wing,
No. 2 C. A. R. U.

Officer Commanding,
"P" Training Wing,
No. 2 C. A. R. U.

O.C.T.U. APPLICATION - G43002 L/Bdr. LeBlanc: L.J.

1. Page 3 - Major Wingerts estimates indicated by ticks- my own observations over a very limited period agree with his in all cases except(6) and (7) and are indicated by crosses.

2. Para 11 - L/Bdr. LeBlanc has been employed as inst. of all Basic Training. His work has been most satisfactory, particularly in anti-gas training.

3. Para 12 - Candidate does NOT wish to change to any other arm.

4. Para 13 - Candidate has completed Basic and Advanced Training.

5. Para 14 - Qualified R.Q.M.S. on joining C.A.S.F.
C.M.H.Q. 701 - A/Gas - 14 Jun 41 - "D"
C.M.H.Q. 701 - No. 4 A/Gas - 25 Oct. 42 - "D"
2 C.A.R.U. Course (M.C. Orderly) - 23 Nov. 42 "C"
C.M.H.Q. 803 Ser 22 (M.C. Instructor) - 22 ~~MAY~~ Dec. 42- "Q"
2 C.A.R.U. S.A. Refresher - 13 Jun 43 "Q"
2 C.A.R.U. N.C.O. Refresher - 5 July 43 "Q"

6. Para 15 - Excellent (M.F.M. 6 attch'd)

(J. M. Savage) Major, R.C.A.,
Officer Commanding "A" Battery, "P" Training Wing,
No. 2 C.A.R.U.

Exhibit "A" (3)

G43002 - L/Bdr. LeBlanc: L.J.
APPLICATION FOR O.C.T.U.

BATTERY COMMANDER

RECOMMENDED: J.H. Finger Major OC
"A" Bty "P" Trng Wing 2 CARU

DATE: 15 May 43

WING COMMANDER

RECOMMENDED:

DATE:

APPLICATION INITIATED BY:
L/Bdr. LeBlanc L.J.

PART C. Recommendations

1. I certify that No. ..... Rank ..... Name .....
was interviewed by me on ..... 194..... and is in my opinion suitable for training for a commission in ..... (Arm, Corps or Service) I therefore recommend this applicant for consideration by the O.C.T.U. Selection Board.

Date ..... Signature .....
Commanding .....

2. I certify that No. ..... Rank ..... Name .....
was interviewed by me on ..... 194..... I request that this application be deferred for ..... months, at which time I will reconsider it.

Date ..... Signature .....
Commanding .....

3. I certify that No. ..... Rank ..... Name .....
was interviewed by me on ..... 194..... and is in my opinion not suitable for training for a commission. I therefore do not recommend this applicant for consideration by the O.C.T.U. Selection Board.

Date ..... Signature .....
Commanding .....

(Above this line to be completed by Unit Commander)

PART D. Decision of O.C.T.U. Selection Board:

REMARKS:

Recommended for (1) .....
(2) .....
(3) .....
Grade .....

Date ..... Signature .....
(President O.C.T.U. Selection Board)

PART E. Acceptance for Other Arms.

(To be completed by the designated representative of the Arm, Corps or Service for which candidate is recommended where this differs from the one in which he is serving).

I certify that No. ..... Rank ..... Name .....
is acceptable for training for a commission in .....

Date ..... Signature .....
Rank .....

I certify that No. ..... Rank ..... Name .....
is acceptable for training for a commission in .....

Date ..... Signature .....
Rank .....

I certify that No. ..... Rank ..... Name .....
is acceptable for training for a commission in .....

Signature .....
Date ..... Rank .....

(Above this line to be completed by C.M.H.Q.)

PART F. Postings and attachments.

From ..... To ..... Auth. ..... Date .....
From ..... To ..... Auth. ..... Date .....
From ..... To ..... Auth. ..... Date .....

(C.M.H.Q. 1000 11/43
80-P & S/43 (2772)

Enclosure #1
C.O.

PRE-O.C.T.U. No.:

O.C.T.U.

Application Form for Officer Cadet Training

(Above this line to be completed by C.M.H.Q.)

ARM OR SERVICE (and classification)

TRAINING
Basic—C.T.S.
British Pre-O.C.T.U.
British O.C.T.U.
Canada
(Strike out whichever is NOT applicable and initial)

"M" Test Score :
Selection Board Grading :
Pre-O.C.T.U. Grading :
O.C.T.U. Grading :

PART A. Particulars of Candidate. (To be completed by the Candidate in his own handwriting)

I hereby make application to be considered for O.C.T.U. training and desire to be commissioned in Artillery (Arm, Corps or Service) I am willing to serve in commissioned rank in any Arm, Corps or Service.

Signature L. J. LeBlanc

1. Surname LeBlanc
2. Christian Names Laurence Joseph
3. Unit # 2 C.A.R.U.
4. Regimental Number G43002 5. Date of Joining Unit 6 April 1943
6. Present Rank Lance Bombardier 7. Date of Last Promotion 16 April 1943
8. Medical Category A 9. Age 22 10. Date of Birth January 27, 1921
11. Place of Birth Saint John New Brunswick Canada (Town or township—County or Province—Country)
12. Date and place of Enlistment 2nd September 1939 St. John N.B.
13. Religion (State denomination) Roman Catholic
14. Nationality British 15. Nationality at Birth British
16. Second Nationality (if any)
17. Name and Nationality at Birth of Father Dominque A. LeBlanc British
18. Name and Nationality at Birth of Mother Evangeline LeBlanc British
19. Married or Single Single
20. Nationality at Birth of Wife
21. Number of Children and Ages
22. Name of Next of Kin D. A. LeBlanc
23. Relationship Father
24. Address of Next of Kin 196 Princess St. St. John N.B.
25. Educational Qualifications:
(a) High School Complete.
Preparatory Complete.
Collegiate Complete (Name, location and number of years)
Matriculation (Middle School)
or (Upper School) Senior Matriculation
High School Leaving Certificate

(b) Technical / Commercial / Vocational: N.A.

Industrial High School: N.A.
(Name, location and number of years)

Completed Fourth Form or Grade? Yes

(c) College or University: St Joseph's University 2 years (N.B.)
(Name of Institution, courses or years completed and degree)
St Thomas University 1 year (N.B. Chatham)

(d) Foreign Languages (State if written or spoken): French spoken fluently

26. Previous War Service (State Arm, Force, and regimental particulars): N.A.

27. Previous service in P.F. or N.P.A.M. (State unit and particulars of service): 1937-1939 (incl) No 14 Field Ambulance. RCAMC. 1937 pte 1938 promoted to corporal 1939 promoted to R.C.D.M.S.

28. Courses attended and results P.F. or N.P.A.M. (State details and dates): Sergeants Qualification course. Sussex New Brunswick in 1939. Qualified "Distinguished"

29. Civil occupation: Student

30. Name of last employer and dates of employment: N.A.

31. Have you ever been convicted by the Civil Power or by Court Martial? If so, state date and circumstances.: No.

32. Have you previously been admitted to an Officer Training Unit? If so, give particulars.: No.

33. Have you at any time held a commission in any branch of H.M. Forces? If so, give particulars.: No.

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THE ABOVE PARTICULARS ARE CORRECT AND COMPLETE.

DATE 25 June 1943 SIGNATURE L.J. LeBlanc

(Above this line to be completed by the Candidate in his own handwriting).

PART B. Estimates of personal characteristics and particulars of military service. Unit Commanders will initial in appropriate space opposite each heading.

(1) Leadership.	Unknown.	Needs urging and constant supervision; always follows others.	Does only what he is told; avoids responsibility; dislikes taking lead.	Carries out ordinary assignments satisfactorily; prefers to follow.	Ready to take initiative when course is clear; needs a little assistance. ✓	Quick to grasp a situation and take initiative in acting promptly.
(2) Sense of Responsibility.	Unknown.	Unreliable, irresponsible.	Indifferent; apt to leave things to others (passes the buck).	Moderate sense of responsibility; has to be checked periodically when given a job.	Responsible and conscientious; has common sense; can be relied upon. ✓	Very responsible and dependable; strong sense of responsibility; has abundant common sense.
(3) Alertness.	Unknown.	Dull; slow; unadaptable.	Learns slowly; stodgy; needs everything clearly explained.	Fairly alert; average learner; grasp of new ideas sometimes slow or incomplete.	Learns quickly; quick at grasping new ideas. ✓	Exceptionally quick and keen to understand, learn and solve difficulties; quick and decisive in action.
(4) Administrative Ability.	Unknown. ✓	Repeats same mistakes; does not improve.	Learns procedures slowly; needs direction always.	Accepts limited responsibility; can handle familiar situations.	Can make decisions and handle new situations; good sense of proportion.	Initiates organization; clear thinker; quickly sees relative importance of factors.
(5) Energy and Persistence.	Unknown	Inert; puts little effort into work; easily discouraged; lazy.	Slack; half-hearted effort, loses interest.	Moderately persistent; average application; gets things done.	Active; industrious; persevering. ✓	Vigorous; enthusiastic in what he undertakes; never discouraged by difficulties.
(6) Group Value.	Unknown.	Discourteous; little regard for feelings of others; uncooperative, prejudiced, generally not liked.	Inconsiderate; no tact; thoughtless; off-hand; individualistic; difficult to work with or change attitudes; few friends.	Respectful; moderately helpful, considerate and co-operative; can be converted to new ways; liked by some. ✓	Polite; conscientious in fulfilling obligations; helpful and considerate of others; generally liked. ✓	Very courteous; thoughtful; very considerate of others; co-operative, gives his best and gets the best out of others; liked and admired.
(7) Appearance.	—	Unprepossessing.	Not a very favourable impression. Untidy.	Moderately favourable.	Distinctly favourable impression; neat.	Impressive; smart. ✓
(8) Speech.	—	Slovens; indistinct; ungrammatical; poor vocabulary.	Lazy; hesitant; limited vocabulary.	Average articulation; average vocabulary.	Clear articulation; expresses ideas clearly; good vocabulary. ✓	Well-articulated; precise; distinct; fluent; exceptionally good use of words. ✓
(9) Basic knowledge of Arm.	Unknown.	Very poor.	Poor.	Fair.	Good. ✓	Excellent.
(10) Instructional Ability.	Unknown.	Very poor.	Poor.	Fair.	Good. ✓	Excellent.

11. Remarks: Particulars of the candidate's employment in the unit and other details, including special qualifications for his present arm, which have influenced the Commanding Officer in recommending the candidate or in withholding his recommendation, will be included.

12. If commission is desired in Arm other than that in which the candidate is now serving, remarks as to the suitability of the candidate and technical qualifications, if any.: N.A.

13. Training standards attained in Canadian Army (A.F.). (State details).

14. Courses attended and results, Canadian Army (A.F.). (State details and dates).

15. Military Character
(Certified true copy of M.F.M.6 to be attached)

(Above this line to be completed by the Unit Commander)

SUMMARY OF EVIDENCE in the case of G.43002 L/Bdr Lawrence, Joseph, LEBLANC, of the 113 Bty., 7 Cdn A.Tk., Regt.,R.C.A. a soldier of the Canadian Army (Overseas).

By the direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS:- Robert Whitton, Police Constable 429B of Gerald Road Police Station S.W.1.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is attached to this Summary of Evidence as Exhibit A.

Having regard to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.

Capt

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS; Frank Brockway, Police Constable 110B of the Gerald Road Police Station S.W.1.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is attached to this Summary of Evidence as Exhibit "B"

Having regard to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.

Capt

The accused does not demand the attendance of this witness for cross-examination.

THIRD WITNESS; C.30629 Sgt L.A.Denton, Canadian Provost Corps S.I.S.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is attached to this Summary of Evidence as Exhibit "C".

Having regard to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.

Capt

The accused does not demand the attendance of this witness for cross-examination.

...../2

FOURTH WITNESS: K.5067 BQMS Sanders J.V. of the 113 Bty., 7 Cdn A.Tk., Regt., R.C.A. having been duly sworn states:

About 7 Sep 43, I was called to the Battery Office by Major D.J.Halfhide, Battery Commander 113 Bty., and was shown a copy of a statement concerning Army issue boots in L/Bdr LeBlanc's possession signed by Sgt L.A. Denton Cdn Provost Corps S.I.B. He then asked me what I knew about the affair and I explained to him that the morning the Bty left Paxhill Park I locked the Bty., Quarter Stores and left the keys with L/Bdr LeBlanc who said he was going on a course in a few days, so I gave him instructions to turn the keys over to L/Bdr Vansickle the other N.C.O. on the rear party. On 8 Sep 43, Capt D.K.Dawes Bty., Capt 113 Bty., and I journed back to Paxhill Park to check the stores which were left behind. I checked stores with the inventory ~~inf~~ made at the time the Bty., left Home Station and found some articles missing i.e. Two pairs boots ankle, Two pairs rubber boots half-high, 2 pairs denim trousers and 10 tins of tinned beef. I reported these deficiencies to Capt Dawes.

J. V. Sanders

The accused declines to cross-examine this witness.

FIFTH WITNESS. G.4045, Sgt McPee E.G. of the 113 Bty., 7 Cdn A.Tk.,Regt.,RCA., having been duly sworn states:

The keys left for the Q.M.Stores 113 Bty., were turned over to me on Monday 23 Aug 43, when I returned from pass by L/Bdr Vansickle of the rear party. As I was working at R.H.Q. at the time and there were some kits to go into the stores I returned them to L/Bdr Vansic kle who retained them until Saturday 28 Aug 43, when he delivered them to me saying he was proceeding on course the following day. On 1 Sep 43, following a telephone call from Cdn Provost Corps C.M.H.Q. I went into the stores. The lock was still on the door, but the screws on the hasp had been freshly burned. I pointed this out to two members of No. 3 Provost Coy., who called to investigate the case. I had no means of checking any losses in the stores as the BQMS was away on manoeuvres. L/Bdr LeBlanc was turned over to me at Haywards Heath Station under escort on 2 Sep 43, and I took him in charge.

E. G. McPee
G. 4045 Sgt

The accused declines to cross-examine this witness.

The accused having been cautioned in accordance with Rule of procedure 4 (e) Makes no statement.
Certified that Rule of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 9th day of September 1943, In the Field.

(D.J.Hall) Capt.
Investigating Officer.

E. enlisted

No. C43002 Name LeBlanc, L.J. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 2/9/39 | G.C. Badges | Service or Proficiency Pay | MPHQ (A.F.O. 123)

Date of last entry in Company Conduct Sheet: n-a | No. and date of last drunk: N-a | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet No. 1 destroyed after 2 years service 2/9/41. No entries - 2-9/41.					
Field	20/8/42	Bdr		A.A. Sec. 40 - Negl ot 21/8/42	BSM Johnson	Reprimanded	22/8/42		
Field	26/9/42	Bdr		Sec. 40 A.A. Improper Possession of 1 pr. civilian shoes.	Lt. Murray CSM Potter	Severely Reprimanded	28/9/42		
Field	31/1/43	Cnr.		A.A. sec. 15(1) AWL from 2300 to 2359 hrs., 31 /1/43 (59 mins)	Sjt. Collings	3 days C.B.	2/2/43		
				Certified that this is a true extract from the Regt'l. Books in my possession					

.....Capt.
(J.D. Hunt) Adjt.
7 Cdn A.Tk. Regt. R.C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Exhibit E

ARMY FORM B 295.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G43002	Gnr.	LeBlanc, L.J.	7 Cdn A.Tk. Regt. R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Captain
Adjutant

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For A.A. Sec. 15(1)	1 times	1 times.
For A.A. Sec. 40	1 times	2 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and four days in military custody, making a total of four days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 22 years

6. The date of his ~~commission~~ attestation specified in his record of service is 2.9.39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N-S

8. The accused is entitled to deferred pay or gratuity in respect of 23/4 years service.

9. The accused is entitled to reckon 2 3/4 years service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~which he is not entitled to wear~~).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N-S

12. (*In the case of an officer.*) The accused holds in the army the rank of N-S dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

(*1445-6) Wt. 30254/3012 75,000 12/40 A.& E.W.Ltd. Gp.698/

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G43002 Rank L/Bdr Name LeBlanc, L.J. of 7 ATk Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of Sept. 43

Capt.
(W.B. Hall) Adjt. 7 Cdn A.Tk. Regt. RCA

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

COUNTER NUMBER 78922

HOUR 9.15

OPERATOR'S INITIALS DS

RELIEVING OPERATOR JJ

AK123.

Plé. Leblanc L. J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B118399 Pte Laurie Joseph LEBLANC - CIC - 2 CITR

	Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) ..... (1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 46 days, of which 22 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of forty seven (47) days.

(Sgd) ..... 17/12/44 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 26 Dec 44 (Sgd) K G Blackader

(K G Blackader) Brig

Commanding 13 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B118399 Pte Leblanc LJ 26 DEC 1944 45

ENTERED ORDER NO. ....

DATE 28 Dec 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 13 MAR 1945 DIRECTOR OF MEDICAL SERVICES CANADA

RECORDED AT CMHQ IN AB 160 4K-123.

FIELD GENERAL COURT-MARTIAL

CFAQS (To lieu of AFAQ) 40/P & S/1698 (8144) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 16 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B118399	Pte		Laurie Joseph	LEBLANC	CIC 2 CITR

Trooper Kinnies Escort 12 Jan 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date*) 19 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused :~~ Do you object to P.28126 ~~as interpreter ?~~ Ans .....

~~The Interpreter is sworn.(1)~~ Do you object to SJT AH SINCLAIR as shorthand writer ? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No, Sir(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-col	D.L.	REDMAN	HQ CRU
Member	Capt	A.S.	THOMPSON	2 CITR
Member	Lt	A.	INTERNOSCIA	4 CITR
~~Judge-Advocate~~				
Prosecutor	Lt	P.	SAPERIA	2 CITR
Defending Offr	Lt	JF	LAKE	2 CITR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed~~ and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO, SIR.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... (charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. TO GIVE EVIDENCE
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. plea by my Counsel (NOTE ATT)(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 118399 Pte. Laurie Joseph LEBLANC, CIC, on the strength of 2 Cdn. Inf. Trg. Regt, a soldier of the Canadian Army Overseas, is charged with:

SEC 15(3) ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, whilst undergoing field punishment did absent himself without leave from 3 CIRU, from 2300 hrs 13-Oct-44 and remained absent until surrendering himself to Civil Police at London, at 2110 hrs, on the 3-Nov-44.

(Total time absent: 20 days, 22 hrs. and 10 minutes)

Laurentide Camp

12 Dec 44

Lawrence Lee
.....
(J.A. Wilson)Col
Comdr
2 CITR

To be tried by Field General Court Martial.

K G Blackader

(K G Blackader)Brig
Comd
13 Cdn Inf Trg Bde

In the Field
16 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to seperate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. 43 Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B118399	Pte		Laurie Joseph	LEBLANC	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (*date*) 16 Dec 44 endorsed by me, (~~myself or my successor in office~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~and that it is expedient that they should be tried at (place) [illegible]~~

(*Delete part in brackets when not required for compliance with RP 103(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

~~I hereby appoint (a) the Offrs from the Court, if a FK Offr as President, for the same trial as Members.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~I hereby appoint as Judge Advocate for the aforesaid trial.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT-COL	D L REDMAN, VD	EQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	2 CITR
Lieutenant	to be detailed by Commanding Officer	4 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	4 CITR

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 16 Dec 44

K G Blackader (*Signed personally. RP 105 fn 2.*)

Brigadier (*Rank.*)

(K G Blackader)
Commanding 13 Cdn Inf Trg Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS6 (In lieu of AFA3) 40/P & S/1847 (4931)

(*See overleaf for oaths and notes for use on trial.*)

CASE OF

B.118399 Pte LEBLANC LJ 2 CITR

E-1
STATEMENT BY
ACCUSED

The accused, having been duly sworn, states:

Sir, the reason I went AWL - my Mother died 2 yrs ago and my father died about 3-4 mths ago and I got a telegram in Jul about it and I proceeded o/s right after that as soon as I was 19, and I don't know but I haven't been able to think straight and all that and I guess I didn't realize it at the time I went AWL and then when I gave myself up I had to go to hosp. Sir, my education is 1 yr high school and when I go back to Canada I think I'll go back to Toronto to my old job as shipper.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

MED OFFRS CERTIFICATE 2 CITR/11

K.R.Can Para 557

I certify that I have this morning examined No. B11.399 Pte LEBLANC L.J. and in my opinion he is FIT to undergo trial by Court-Martial.

Station: Laurentide Camp
Date: 19 Dec 44

[signature] Capt RCAMC Attached to 2 CITR

E-3

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Plea in Mitigation in the case of B 118399 Pte LeBlanc L.J.

Pte LeBlanc has been in the army since 26 Oct 43. He enlisted voluntarily at the age of 18 and came overseas as soon as he reached the required age of 19 this year.

Pte LeBlanc has had a troubled domestic life as his mother died in March 42 and approximately 3 months ago, his father died. Undoubtedly these recent bereavements have had a serious effect on this young soldier and his present crime until now was committed when he learnt of his father's death.

CFA 170(4444) PLEASE WRITE ON BOTH SIDES

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

2

The accused has been in military custody for 46 days awaiting his trial, part of the time of which was spent in hospital due to an old knee injury that is troubling him again. Apparently the accused is to have an operation on this knee as soon as the present case has been cleared up.

Pte. LeBlanc surrendered himself voluntarily to the civilian police and in my opinion, should be given the lightest punishment possible.

J. F. Lake Lt.
Defending Officer.

CFA 170(4444) PLEASE WRITE ON BOTH SIDES

SUMMARY OF EVIDENCE

In the case of B 118399, Pte. Laurie Joseph LEBLANC, CIC, on the strength of 2 Cdn. Inf. Trg. Regt, a soldier of the Canadian Army Overseas.

By the direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS
~~FOR THE PROSECUTION~~

I am Lieut. W.L. Butler of Regimental Headquarters, 2 CITR. I produce as exhibits for the prosecution the following:"

Exhibit "A": Certified true extract 3 CIRU D O Pt 2 # 240 d/14-Oct-44 showing B 118399 Pte. Leblanc L.J. sentenced to 28 days F.P. 13-Oct-44

Exhibit "B": Certified true extract 3 CIRU D O Pt. 2 # 241 d/16-Oct-44 showing B 118399 Pte. Lablanc L.J. to have illegally absented himself without leave from 2300 hrs 13-Oct-44.

Exhibit "C": Army Form Q1617 certifying that B 118399 Pte. Lablanc L.J. surrendered himself to the Civil Police at London 0910 P.M. (2110 hrs) 3-Nov-44. Which certificate is date 3-Nove-44 and signed by Officer of Police in charge of Marylebone Lane Station.

...W.L. Butler...Lieut
(W.L. Butler)

The accused declines to cross-examine this witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oathe? You are not obliged to say anything or give evidence unles you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) & (F) have been complied with."

Laurentide Camp

13 Dec 44

EXAM

...P. Saperia...Lieut
(P. Saperia)
Officer detailed to take the Summary of Evidence.

3 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II
issued by
COLONEL A.S. PEARSON, OBE, ED.,
COMMANDER

Exhibit B

Last Order
No.240
14 Oct 44

No. 241
16 Oct 44

18. ABSENCE WITHOUT LEAVE

(a) The u/m are absent without leave from times shown:

B118399 PTE LEBLANC L J CIC 2300 hrs 13 Oct 44 (SUS)

"W.E. Thorne" Capt.
for (M.R. MEDLAND) CAPT & A/ADJT
3 CDN INF RFT UNIT

CERTIFIED TRUE EXTRACT OF THE ORIGINAL DOCUMENT WHICH IS IN MY POSSESSION.

Medland Capt
(M.R. Medland) Capt. & A/Adjt.,
3 Cdn Inf Rft Unit

3 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II
issued by
COLONEL A.S. PEARSON, OBE, ED.,
COMMANDER

Exhibit A

Last Order
No. 239
13 Oct 44

No. 240
14 Oct 44

9. PUNISHMENTS

(c) B118399 PTE LEBLANC L J AA40 AA40 AA 15(1) AWL from 0800 hrs 29 Sep 44 to 1200 hrs 11 Oct 44 (Absent 12 days 4 hrs) Awarded 28 days Fd Punishment and to forfeit 28 days Pay FR&I 149 (2) on 13 Oct 44.
Forfeits 13 days Pay FR&I 149(1)(a)
TOTAL FORFEITURE: 41 days Pay.

CERTIFIED TRUE EXTRACT OF THE ORIGINAL DOCUMENT WHICH IS IN MY POSSESSION.

for "J.H. Galloway" Lieut.
(M.R. MEDLAND) CAPT.,
A/ADJUTANT
3 CDN INF RFT UNIT

Medland Capt
(M.R. Medland) Capt & A/Adjt,
3 Cdn Inf Rft Unit

Exhibit C

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.315 D. C. BARNES.

at New Quebec Street, W.1, (hour) 9-10 p.m. on the 3rd day of Nov. 1944 as being No. B-118399

(Rank and Name) Pte. Laurie Joseph Le-BLANC

a deserter (or absentee without leave) from 13/10/44 from No.3. Canadian Re-Inforcement Unit, Aldershot. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 19 Height 5' Feet 9 Inches

Complexion Fresh Hair Brown

Eyes Hazel.

Marks Scar right ankle and scar index finger right hand.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	30/10/44 Toronto.
Probable Date of Desertion or beginning of absence, and from what place	13/10/44 Aldershot.

R. Spencer Inspector.

Signature of Officer of Police in charge of Marylebone Lane Station.

3rd November 1944. Date of Signature

Army Form C.1617.
R.A.F. Form 1617

PART 2

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at .....

Date of Signature.

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B118399	PRIVATE	LEBLANC L.J.	CIC ~~3 CIRU~~ 2 C I T R

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA 15(1)	1 times	AA 15(1)	1 times
For	AA 40	2 times	AA 40	2 times
For		~~times~~		~~times~~
For		~~times~~		~~times~~

Number of instances of gallantry or distinguished conduct NIL

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule~~ A.F.A. 73 ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 46 days in ~~Air Force~~ military custody, making a total of 46 days in custody, of which 27 days were spent in hospital.

5. The present age of the accused according to his record of service is 19 years, 6 months ~~attestation paper is~~

6. The date of his ~~commission~~ attestation specified in his record of service is 26 Oct 43 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is One Year,

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ Air Force ~~the regimental rank of~~

E & O E

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Dec 44 Baperia Lieut Asst Admin Offr

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

~~W.E. Thorne~~

~~(W.E. THORNE) CAPT.,~~
~~Records Officer,~~
~~3 Cdn.Inf.Rft.Unit.~~

No B118399 Name LEBLANC L.J. Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 26-10-43 GC Badges | Service or Proficiency Pay 1.50 | MFM 6 (AFB 122) 40/P&S/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No ONE | Signature OC Company, etc James Inrig Major. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIRST SHEET DESTROYED 26 APR 44. DATE OF LAST ENTRY (NIL). NUMBER CASES OF DRUNKENNESS NIL. LAST INSTANCE NIL.									James Inrig Maj.
Field	29-9-44	PTE		(1)AA 15(1) AWL from 0800 hrs 29-9-44 until 1200 hrs 11-10-44 (Time Absent 12 days 4 hrs); (2)AA 40 Cond to the prej of good order and mil discip. making a false statement; (3) AA 40 Neglect to the prej of good order and Mil discip. not in possession of MBM 1 Part 1 Service Book.	Doc't'y	28 days F.P., forf 28 days pay under FR&I 149(2).	13-10-44	Lt.Col.A. B. Noble.	Forf 13 days pay FR&I 149 (1)(a). Total Forf 41 days pay.
Field	6-11-44			CERTIFIED TRUE COPY OF MFM 6 IN MY POSSESSION.					

XXXXXXXXXXXXXXXXXXXX 19 Dec 44

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

Superior Lieut
Asst Admin Offr
2 C I T R

(PTO)

2 CITR/13

LIST OF WITNESSES

In the case of B.118399, Pte. Laurie Joseph LeBLANC.
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lt. W.L. Butler, Reg. H.Q.
2.
3.

(For the Defence)

NIL.

LIST OF EXHIBITS

In the case of B.118399, Pte. Laurie Joseph LeBLANC.
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

Exhibit "A": - Certif. True Extract 3 CIRU DO Pt.2 #240 of 14 Oct 44 showing accused sentenced to 28 days F.P. 13 Oct 44.

Exhibit "B" - Certif. True Extract 3 CIRU D.O. Pt. II, #241 of 16 Oct 44 showing accused A.W.L. from 2300 hrs. 13 Oct 44.

Exhibit "C" - Army Form O.1617, showing accused having surrendered to Civil Police at 2110 hrs. 3 Nov 44.

(For the Defence)

NIL

REQUEST FOR DEFENDING OFFICER

I, B.118399, Pte. Laurie Joseph LeBLANC,
hereby request that the Convening Officer appoint any available officer to represent me at my forthcoming trial by Court-Martial, should he be available.

Laurentide Camp,
12 Dec 44

L.J. LeBlanc Pte.
(L.J. LeBlanc)

RECEIPT FOR DOCUMENTS.

I, B.118399, Pte. Laurie Joseph LeBLANC.
hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
12 Dec 44

L.J. LeBlanc Pte.
(L.J. LeBlanc)

SE - 76

Ste. LeBlanc, P.Q.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-116 399 Pte Lawrie Joseph LeBlanc

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	except that the absence ended at 2nd April 1945 RAC ~~0020 hrs~~ and not 1220 hrs as shown in charge
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of 120 days RAC ~~to~~ and to be put under stoppage of pay until ~~forfeiture forfeiture of pay to the amount of £7-0-0~~ RAC he has made good. the sum of £21-0-5 in respect of absence and return to unit

(Sgd) ..... 13 April 1945 (Sgd) R A Cameron Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567 577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, M/ML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence.

~~I direct that the accused be not committed to prison or detained in military custody until he is discharged.~~ (1. AA 57A. Delete if not used.)

(Sgd) E W Timms Maj Gen

Date ..... Commanding ~~Division~~ Confirming Officer.

13 APR 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-116399 Pte. LeBLANC, L.J.	23 Apr 45.	W.G.R. LINDSAY)Colonel. Commanding Officer Royal Can Con Hospital.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 5E-76

CFA96 (In lieu of AFA3) 40/P & S/1690 (40/0)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Major General E.G. Weeks Comd Administration CMHQ dated 11th April 1945

ACCUSED.

As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 116 399	Pte	Lawrie Joseph	LeBlanc	902 Aty Trg Regt A patient in Roman Way Conv Hospital.

PROCEEDINGS REVIEWED 27 Apr 45 Sqn Ldr Leycraft Asst REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 13 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF CT. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn HQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 44B, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, (32).)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) RAC The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3) RAC

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1400 hours trial commences. RAC

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) RAC The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2) RAC

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ..... RAC

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... RAC The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major R.A. CAMERON	R.C.A.	2 CARU
Member	CAPT R.W. DAVIS	C.I.C.	A patient in Roman Way Convalescent Hosp.
Member	LIEUT A. KRIEGER	C.I.C.	A Patient in Roman Way Conv Hosp
Judge-Advocate			
Prosecutor	CAPT A.G.G. WILLIAMS	~~C.I.C.~~ R.C.A.	A patient in Roman Way Conv Hosp.
Defending Offr	LIEUT A.M. TEDFORD		A patient in Roman Way Conv Hosp.

Questions by President: Is the Prosecutor a lawyer? Ans Nil. Is the Defending Offr a lawyer? Ans Nil.(2)

(1. RP 28, 29, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused B-116399 Pte Lawrie Joseph LeBlanc before arraignment make(s) (no) (~~a~~) plea(s) RAC.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (not) RAC not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 44A to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N/A.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~their~~ plea(s) of Guilty to Not Guilty on Both charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly. R.A.C. C.A.C.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) R.A.C.
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "X", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by commencing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 12 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. N/A.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "Y" and Ex "Z" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. N/A.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to give un oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2202, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RAC

CHARGE SHEET

The accused, B-118399 Private LEBLANC, Laurie Joseph, on the strength of No. 2 Cdn Infantry Training Regiments, a patient in Roman Way Convalescent Hospital, a soldier of the Canadian Army, Overseas, is charged with:-

WHEN ON ACTIVE SERVICE ABSENTED HIMSELF WITHOUT LEAVE

in that he

FIRST CHARGE
SECTION 15(1)
ARMY ACT

At Colchester, Essex, on the 4th day of March 1945, absented himself without leave from about 2130 hours on 4 March 45 until apprehended by London Civil Police, at about 2335 hours on the 10th day of March 1945, thereby incurring costs of apprehension and return to his unit in the sum of £ 0-8-2
(Total time absent: 6 days 2 hours 5 minutes)

SECOND CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTED HIMSELF WITHOUT LEAVE

in that he

At Colchester, Essex, on the 17th day of March 1945, when in arrest, absented himself without leave from about 1645 hours on 17 March 45 until he surrendered himself to the London Civil Police at Regent Street, W. 1, at about 1220 hours on the 3rd day of April 1945, thereby incurring costs of apprehension and return to his unit in the sum of £ 0-12-3
(Total time absent: 16 days 19 hours 35 minutes)

In the Field

6 April 1945

J.G.K. Lindsay Col.

(J.G.K.Lindsay) Colonel,
Officer Commanding,
Roman Way Convalescent Hospital.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field

11th Apr 45.

Ernest Weeks

(EG Weeks) Major-General,
In Charge of Administration,
CANADIAN MILITARY HEADQUARTERS

RAC

R.A.C.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-118399	Pte		Laurie Joseph	LEBLANC	No 2 Inf Trg Regt, (a patient in Roman Way Conv Hospital)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~(xxx)~~ committed the offence(s) set forth in the Charge Sheet~~s~~ attached and on ~~xxx~~ this date endorsed by me, ~~[illegible]~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	RA	CAMERON	RCA	2 CARU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Captain	RM	DAVIS	CIC	A patient in Roman Way Conv Hosp.
Lieutenant	A	KRIEGER	CIC	A patient in Roman Way Conv Hosp.

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Lieutenant	IE	CRUICKSHANK	CIC	A patient in Roman Way Conv Hosp

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

[signature] (Signed personally. RP 105 fn 2.) (Rank.)

(EG Weeks) Major-General
In Charge of Administration
~~[illegible]~~ CANADIAN MILITARY HEADQUARTERS
Convening Officer.

Date 11th Apr 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Approved,
(Lt.Col.
9 Apr 45 ADJAG CMHQ

R.A.C.

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)

13 Apr 45

This is to certify that I have, this morning, examined Pte. LEBLANC, L.J., B-118399 of No. 2 C.I.R., patient in Roman Way Convalescent Hospital, and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Medical Officer.

Offices Plea in Mitigation of Sentence by Defending

Mr. President and gentlemen of the court in view of the fact that the accused has pleaded guilty there is little I can say. However there are certain facts which I feel should be placed before the court before any decision be arrived at as regards the nature and amount of punishment to be awarded.

Pte Leblanc for some time prior to his army life was separated from his family — he being in Toronto and his home in N.B. nevertheless like any solid Canadian citizen with guts this lad joined the army at the age of 15 and asked to be sent overseas as soon as he had turned 17. During that time the accused

had not a single crime
to his record in fact he was
such a good soldier that
he was sent to the School
of Instruction and made
a 4 cpl.

A few days before his de-
parture to this side of the
world, during the latter part of
1944 Pte. Leblanc received
word of his father's death.
Imagine the state of this
lads mind upon landing
in England: filled with grief
and worry, away from the
rest of his family and friends
and possibly never to ~~return~~
see them again and add
to this the monotony of a
training camp. Naturally
he had to seek some relief
and unfortunately chose to
go A.W.O.L. about the only
course open to a pte. I often
wonder how you, I or

any other officer would
what under similar con-
ditions. Not much differ-
ence I'm afraid.

Examine his record and
you will find only two previous
crimes both AWOL appearing
on his sheet for 1½ yrs ser-
vice. Not a bad record by
any means. I am sure you
will admit & yet with only
an AWOL of approx 6 days
this lad was rewarded
for courts martial. Look
you do you think he has
been tried fairly when one
considers the long & frequent
periods of absence which ex-
ists in the Can army today.
Naturally the young wants
weird rebels at such treat-
ment & consequently be bob
out of confinement until
he realized the useless-

was of his gratuo and surrendered himself to the military police.

The defence agrees that the accused has committed a crime but is certain that the court will agree with me when I say that neither this nor his other crimes were malicious acts but resulted from a mind distraught from worry, grief and sorrow. Under the circumstances I beg the court to give this case special consideration and award the minimum amount of punishment as is possible under military law.

Summary of Evidence

Summary of Evidence on the Case of B.118399 Pte Le Blanc, Laurie Joseph, No 2 C.I.T.R. a patient in Roman Way Convalescent Hospital, R.C.M.C., a Soldier of the Canadian Army, Overseas, charged under Section 15(1), Army Act.

By order of the Commanding Officer this Summary of Evidence is taken on oath

First Witness

H 3053 Cpl Dicker, A. J., on strength of Roman Way Convalescent Hospital, having been duly sworn states as follows:

About 2200 hrs. 4 March 45 90 night N.C.O. on H Spider, I called the roll on Ward 5 and Pte Le Blanc, whom I now recognize, did not answer his name and the bed normally occupied by him was vacant. I checked several times during the night and he was still absent at 0630 hrs. 5 March 45 He has continued to be absent from his ward up to and including 13 March 45. I took Roll

calls daily, between these dates at 2200 hrs and 0630 hrs.

A J Wicker H 3053 Corpl

The accused declines to cross examine this witness

Second Witness

H 16526 Cpl. Sanders W.H. on strength Roman Way Convalescent Hospital having been duly sworn states as follows:

At about 1515 hrs, 13 Mar 45 I received a phone call from the Rom's office to send an escort to North Station Colchester to take over from Nob Provost Coy. Pte Le Blanc, whom I now recognize. He was escorted to Roman Way Convalescent Hospital Guard Room and I placed him under close arrest at about 1600 hrs 13 March 45.

H 16526.
Cpl Sanders W.H.

The accused declines to cross examine this witness

Third Witness

C 34460 Sgt. Burns, W.L., on strength Roman Way Convalescent Hospital, having been duly sworn states as follows:

As Permanent Orderly Sergeant, I now present A.F. 01618 showing Pte Le Blanc as having been taken into custody at 2335 hrs 10 March 45 in London - (Marked Exhibit "A." I also present Expense Voucher. showing the cost of apprehension in the amount of £0-8-2. (Eight Shillings & Two Pence) marked Exhibit B.

C 34460
Sgt Burns WL

The accused declines to cross examine this witness.

I present D.O. No 21 dated 15 March 45 showing Pte Le Blanc as being AWL from 2130 hrs 4 March 45 and as having returned from A.W.L. 2335 hrs 10 Mar 45 Marked - Exhibit C.

C34460
Sgt Burns WL.

The accused was cautioned as follows.

Do you wish to make a statement or to give any evidence on oath? You are not obliged to do so or to give any evidence but whatever you say will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence

I certify that the foregoing Summary of Evidence, consisting of three pages was taken down by me in writing in the presence and hearing of the accused and that the Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

Signed at Roman Way Convalescent Hospital this 15th day of March 45 at Roman Way Convalescent Hospital.

A. J. Drinton Maj
Officer Detailed to take Summary of Evidence.

Exhibit 2 R.A.C.

Supplementary

Summary of Evidence

Summary of Evidence in the case of B 118399 Pte Leblanc, Laurie Joseph, No 2 C.I.T.R., a patient in Roman Way Convalescent Hospital, Lcamc, a soldier of the Canadian Army, Overseas, charged under Sections ~~[illegible]~~ 15(1), Army Act.

By order of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness

F 36734, Pte McKinnon, L.A., on strength Roman Way Convalescent Hospital having been duly sworn states as follows:

While on duty, 17 March 45, at Regimental Policeman, I escorted Pte Le Blanc, whom I now recognize, at 1645 hrs. to No 1 and who was under close arrest awaiting trial at the time kitchen. We both went in Got our suppers, went to the table and sat down. Pte Le Blanc asked if he might go for some ~~more~~ tea. I ~~[illegible]~~ gave him permission to do so. In about a minute I noticed he did not return. I immediately went to look for him and he was nowhere to be found in the kitchen. I then immediately reported ~~to the~~ his escape to the Guard room

I then looked around Camp and proceeded out to the gate. I did not see a Sign of Pte Le Blanc anywhere. Le Blanc has been continuously absent without leave from 1230 hrs 17 Mar 45 until about 1515 hrs. 5 April 45.

L.A. MacKennan

The ~~witness~~ accused declines to cross examine this witness.

Second Witness

H. 16526 Cpl Sanders W.H., on strength Roman Way Convalescent Hospital having been duly sworn states as follows.

At about 1330 hrs. 4 April 45 I received a phone call from the Rsm's Office to proceed to North Station Colchester to take over from No 6 Provost Coy., Pte Le Blanc, whom I now recognize. I escorted him to the Guard Room Roman Way Convalescent Hospital and placed him under close arrest at 1515 hrs.

H. 16526
Cpl Sanders W.H.

The accused declines to cross examine this witness

Third Witness

G45695 Sgt. Scott. C.R. on Strength Roman Way Convalescent Hospital

I now present.

1. Certificate of Surrender - Showing Pte Le Blanc as having surrended himself to ~~not~~ P.C. 364 C Wild at 12.20 Am. 3 April 1945 Exhibit A,
2. Expense Voucher as the amount of 12 s 3d. Exhibit B,
3. Charge Sheet - Exhibit C,
4. D.O.'s No 22 dated 20 March 45
   No 24 dated 23 March 45
   No 26 dated 6 April 45

Showing Pte Le Blanc absent without leave on the 17 March 45, 8th day - and as having ~~returned~~ surrended himself at 0020 hrs 3 April 45 - Exhibit D.

C R Scott Sgt

The accused declines to cross examine this witness

The accused was cautioned as follows

"Do you wish to make a statement or to give any evidence on oath? You are not obliged to do so ~~but~~ to give any evidence but whatever you say will be taken down in writing and may be given in evidence"

The accused declines to make a statement and reserves his defence

I certify that the foregoing Summary of Evidence, consisting of four pages was taken down by me in writing in the presence and hearing of the accused and that the Rules of Procedure, 4(c), (d), (e) and (f) have been complied with.

Signed at Roman Way Convalescent Hospital this 6th day of April 1945.

A. J. Drinton Maj
Officer detailed to take
Summary of Evidence

RAC

DESCRIPTIVE RETURN OF § Pte. Le Blanc, Laurie Joseph No B118399 who was apprehended at 11.35 p.m. (hour) on the 10th day of MARCH 1945, ~~and was committed to confinement at~~ ~~on the~~ ~~day of~~ ~~as a Deserter (or~~ Absentee without leave) from the ~~the of the~~ Military Hospital, Colchester.

Regiment of Canadian Army.

Age 20 Height 5 ft ~~10½~~ feet 10½ inches

Complexion Fresh Hair Lt Brown Eyes Hazel

Marks — In uniform or plain clothes Hospital blues.

Probable date and place of attestation	Oct 1943. Toronto. Canada
Probable date of desertion or beginning of absence and from what place	4th March 1945.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Police Constable 310 'C' Pryan.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	I arrested Le Blanc for attempting to steal a motor car on 10th March 1945. On 12th March 1945, I told him I had reason to believe he was an absentee. He said "That's right, since 4th March."

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† Absentee the before-mentioned Corps.

Signature Residence Post Town

Date of Signature

12th March 1945

Signature of Prisoner

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature Residence Post Town of Magistrate

Date of Signature

§ Care should be taken to insert Army No. and Rank.

‡ Insert "was apprehended" or "surrendered," as the case may be.

* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O 1618

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate

Date

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

R.A.C.

Expense Voucher Pe— Ref : KR & O (Can) 539

Reg No. D-118399 Rank Pte Name Le Blanc L.J. Unit R.W.Com. Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London

Date	Particulars	Amount
13/11/45	Escorts return fare from LONDON To Colchester	8 2
	Prisoners single fare to LONDON From	
	Prisoners fare from London to Colchester	own Tickets
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	
	Total £	8 2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

A. J. Gillis Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps London

1/35 CMHQ 100-55
40 P & S/483 (6762)

R.A.C

IMMEDIATE

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police, *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 459/1940).

(27609) Wt.22901/3249 30,000 7/41 A.& E.W.Ltd. Gp.698

Exhibit A1

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 384 "C" Wild.

at Regent Street, W.1. at (hour) 12.30am. on the 3rd. day of April, 1945 as being No. B.118399

(Rank and Name) Private Laurie Joseph LEBLANC

a deserter (or absentee without leave) from Colchester.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 19 Height 5 Feet 11 Inches

Complexion pale. Hair brown.

Eyes blue.

Marks none visible.

In uniform or plain clothes Hospital blue.

Probable Date and Place of Attestation	October, 1942 Toronto, Canada.
Probable Date of Desertion or beginning of absence, and from what place	17th. March, 1945. Colchester.

Signature of Officer of Police in charge of West End Central Station

3rd. April, 1945.

Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

----- N I L -------

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

R.A.C.

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No B-118399 Rank Pte Name Le Blanc, L.J. Unit Ramway Conv. Hosp.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London to Colchester

Date	Particulars	Amount		
4-Apr-45	Escorts return fare from LONDON To Colchester		8	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Colchester		4	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	12	3

Exhibit B1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. E. Stevens Lieut

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

CMHQ 1000:55
40/P&S/483/3639

F.A.C

CHARGE

Army Form B 252
(See King's Regulations)

Romanway Conval. Hospital. ..... Regiment
C.M.H.Q. ..... Battery / Squadron / Troop or / Company

CHARGE against No. B-118399. ..... Rank Pte.

Name LeBlanc.L.J.

Place London. ..... Date of Offence 3-April-45.

OFFENCE W.O.A.S. was A.W.L.

LONDON D.[illegible]

Names of Witnesses:—

P.C. 364 "C" Wild. ..... Civil Police.

Signature of O.C. Battery, Squadron, Troop or Company } .....

Punishment Awarded } .....

By whom Awarded } .....

.....*Adjutant.*

3 3 44 G.H.Q.P.P. 200M

P.T.O.

Statement of **EVIDENCE** in the case of
B-118399. Pte. LeBlanc. L.J.
Romanway Conval. Hospital.
C.M.H.Q.

Sir:

Documentary evidence is attached for the m/n soldier.

REMARKS

R.A.C.

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)
DAILY ORDERS PART II
Issued by
Colonel J.G.K. Lindsay - [illegible] Officer Commandng

Last Order No. 20 9 Mar 45.

This Order No. 21 15 Mar 45.

SECTION "A" - OFFICERS

1. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours [illegible] money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) w.e.f. dates shown: (inclusive)

			RETURNED.
Capt.	Walter Simeon SELLARS	from 5 Mar 45 to	13 Mar 45
Lieut.(N/S)	Bertha Isabel THOMPSON	" 5 Mar 45 to	13 Mar 45
Lieut.(N/S)	Dorothy Anne QUEHL	" 6 Mar 45 to	14 Mar 45

(b) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 4 Mar 45 to 11 Mar 45. (Inclusive) Returned.
Lieut. (P/A) Johanne LOEKEN,

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE:

(a) T.O.S. from [illegible] List No.1 C.G.R.U. on discharge from No.18 Cdn Gen Hospital w.e.f. 14 Mar 45.
C-100306 Cpl. KYD, J.M. (MM)

2. ATTACHMENTS:

(a) Attached f.a.p. from No.1 C.A.S.C.R.U. for period 12 Mar 45 to 12 Apr 45. (Auth: CM[illegible] 7 [illegible] 45.)
B-54632 Pte. CHISHO[illegible] Cook Gp. "B"

3. HOSPITAL

(a) Discharged from No.18 Cdn Gen Hospital w.e.f. 13 Mar 45.
C-100306 Cpl. KYD, J.M. ([illegible])

4. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) w.e.f. dates shown:

				RETURNED.
F-5133	Gnr.	DENSMORE, T.G.	from 28 Feb 45 to	9 Mar 45.
H-41580	Rfmn.	WILSON, R.	" 28 Feb 45 to	9 Mar 45.
B-55185	Sgt.	MARLEAU, [illegible]	" 2 Mar 45 to	11 Mar 45.
F-88567	Pte.	MacDOUGALL, A.	" 2 Mar 45 to	[illegible]
L-18106	Gnr.	SHIRRAN, [illegible]	" 2 Mar 45 to	11 Mar 45.
D-3787	L/Sgt.	HOLLOWAY, L.	" 5 Mar 45 to	14 Mar 45.
L-107670	Pte.	TAYLOR, S.	" 5 Mar 45 to	14 Mar 45.

(b) Granted 7 days Sick Leave with Sick Leave all'ces in accordance [illegible] ART 793 FR&I (O's) from 4 Mar 45 to 11 Mar 45. [illegible]th: ORO 3363 as amended by ORO 5476)
H-20816 [illegible] DUCHARME, W. No.1 C.O.R.U.
(Patient in Roman Way Convalescent Hospital.)

(c) Granted 9 days Sick Leave with Sick Leave All'ces in accordance with ART 793 FR&I (O's) from 2 Mar 45 to 11 Mar 45. (Auth: ORO 3363 as amended by ORO 5476.)
C-64131 L/Sgt. MacK[illegible], A.[illegible] No.1 C.E.R.U.
(Patient in Roman Way Con[illegible] Hospital.)

Certified True Copy of Record
[illegible]

[illegible] Major
Registrar
Roman Way Convalescent Hospital
R.C.A.M.C. C.A.(O)

4. LEAVE OF ABSENCE: (cont'd)

(d) Granted 8 days Sick leave with Sick Leave allowances in accordance with AR(T) 793 FR&I (O's) from 5 Mar 45 to 13 Mar 45. (Auth : ORO 3363 as amended by ORO 5476.)
W-11991 Cpl. PULLEN, R.A. No.1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

5. ABSENT WITHOUT LEAVE:

(a) A.W.L. from 2130 hours 4 Mar 45. Returned from A.W.I. 2335 hours 10 Mar 45.
B-118399 Pte. McMANUS, J.J. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(b) Our D.O. No. [illegible] para 3(c) d/6 Mar 45 insofar as it refers to the u/m is hereby cancelled.
H-20816 Pte. DURHAM, W.R. No.1 CONVRU.
(Patient in Roman Way Convalescent Hospital.)

(c) Our D.O. No. 17 para 3(a) d/27 Feb 45., No.18 para 4(a) d/2 Mar 45, No.20 para 4(a) d/9 Mar 45 insofar as they refer to the u/m are amended to read:
" GNR
A-35494 L/Bdr. STIRK, W.R. No.1 C.I.T.R.U.
(Patient in Roman Way Convalescent Hospital.)

6. APPOINTMENTS:

(a) Appointed L/Cpl. w.e.f. 6 Mar
B-115604 Pte. BURKE, W.B.

7. PROMOTIONS:

(a) Confirmed in the rank of Sgt. w.e.f. 13 Mar 45. (Auth: Appendix to ORO 4668 para 24(c).)
C-36792 Pte. (A/Sgt.) DOLL, D.L.

8. PUNISHMENTS: (Patients)

(a) On 9 Mar 45 awarded 14 days C.B. and a summary forfeiture of 6 days pay for an offence under A.A.Sec. 15(1) A.W.I. from 2200 hours 4 Mar 45 to 2245 hours 8 Mar 45. (Total absence: 4 days 45 minutes.)
Forfeitures: 5 days pay FR&I 149(1)(a)
2 days pay FR&I 149(2)
Total Forf.: 7 days pay.
A-35343 Gnr. DUNFORD, C. No.1 C.I.T.R.

(b) On 10 Mar 45 awarded 28 days C.B. and a summary forfeiture of 28 days pay for an offence under A.A.Sec. 15(1) A.W.I. from 2200 hours 19 Feb 45 to 1800 hours 7 Mar 45. (Total absence: 15 days 20 hours.)
Forfeitures: 28 days pay FR&I 149(2)
16 days pay FR&I 149(1)(a)
Total Forf.: 44 days pay.
A-35494 Gnr. STIRK, W.R. No.1 C.I.T.R.U.

(c) On 10 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for an offence under A.A.Sec. 15(1) A.W.I. from 2159 hours 28 Jan 45 to 1030 hours 3 Feb 45. (Total absence: 5 days 18 hours 31 minutes.)
Forfeitures: 6 days pay FR&I 149(1)(a)
5 days pay FR&I 149(2)
Total Forf.: 11 days pay.
C-748 Pte. TYRICK, K.B. No.1 C.I.T.R.

8. PUNISHMENTS: (Patients) (cont'd)

(d) On 14 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for an offence under A.A.Sec. 15(1) A.W.L. from 2130 hours 11 Mar 45. to 1445 hours 13 Mar 45. (Total absence: 1 day 17 hours 15 minutes.)
Forfeitures: 5 days pay FR&I 149(2)
2 days pay FR&I 149(1)(a)
Total Forf:. 7 days pay.
D-76921 Tpr. TOBIN, E.T. No.1 C.A.C.R.U.

(e) On 14 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for an offence under A.A.Sec. 15(1) A.W.L. from 2200 hours 9 Mar 45 to 2100 hours 13 Mar 45. (Total absence: 3 days 23 hours.)
Forfeitures: 5 days pay FR&I 149(2)
4 days pay FR&I 149(1)(a)
Total Forf:. 9 days pay.
B-31019 Sgmn. WALBOURN, G.W. No.1 C.S.R.U.

(f) On 14 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for an offence under A.A.Sec. 15(1) A.W.L. from 2245 hours 9 Mar 45 to 2200 hours 13 Mar 45. (Total absence: 3 days 23 hours 15 minutes.)
Forfeitures: 5 days pay FR&I 149(2)
4 days pay FR&I 149(1)(a)
Total Forf:. 9 days pay.
D-82646 Pte. STUART, J.A. No.1 C.A.[illegible]

(g) On 14 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for an offence under A.A.Sec. 15(1) A.W.L. from 2200 hours 9 Mar 45 to 1600 hours 13 Mar 45. (Total absence: 3 days 18 hours.)
Forfeitures: 5 days pay FR&I 149(2)
4 days pay FR&I 149(1)(a)
Total Forf:. 9 days pay
K-46190 Gnr. PEARSON, R.W. No.2 C.A.R.U.

(h) On 14 Mar 45 awarded 14 days C.B. and a summary forfeiture of 6 days pay for an offence under A.A. Sec. 15(1) A.W.L. from 2345 hours 10 Mar 45 to 1000 hours 13 Mar 45. (Total absence: 2 days 10 hours 15 minutes.)
Forfeitures: 6 days pay FR&I 149(2)
3 days pay FR&I 149(1)(a)
Total Forf:. 9 days pay.
D-5246 Pte. SEGUIN, A. No.4 C.I.R.R.

9. MARRIAGES, BIRTHS AND DEATHS:

(a) Granted permission to Marry W/206584 Pte. Charlotte Phelan A.T.S., on or after 7 May 45. (Auth: 10/Hamilton E/1 (AMD 1) dated 7 Mar 45.)
F-79153 Pte. HAMILTON, E.A.

(b) Son, Ivan, born at Redhill, Surrey, Eng. on 11 July 44. (Wife) Rosaleen Mary Davies.
B-76148 Sgt. DAVIES, J.H. No.3 C.I.R.R.
(Patient in Roman Way Convalescent Hospital.)

(c) Son, George Frederick, born at Sydney Nova Scotia, Can., on 3 Nov 44. (wife) Mary Sarah Chase.
G-28243 Pte. CHASE, G.F. No.2 C.I.C.R.

R4C

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)

This Order No. 26 6 Apr 45

DAILY ORDERS PART II

No. 25 3 Apr 45

issued by

Colonel J.G.K. Lindsay -MBE - Officer Commanding

SECTION "A" OFFICERS.

1. COURSES:

(a) Qualified "Q" as Remedial Physical Training Instructor at C.M.H.Q. Course (Roman Way Conv. Hospital, Remedial P.T. Course No.1.) from 21 Aug 44 to 20 Sept 44. Capt. Donald Johnston FLETCHER.

SECTION "B" OTHER RANKS.

1. STRENGTH INCREASE:

(a) T.O.S. from No. 1 C.A.M.T.R.U. w.e.f. Apr 45. (Authy CMHQ REC/7936 dated 26 Mar 45.)
C-65555 Cfmn. LADE, S.J. Armourer Gp. "C"

2. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) w.e.f. dates shown:

				RETURNED.
C-44113	Pte.	HANSEN, A.S.	from 22 Mar 45 to	1 Apr 45.
M-45211	Cpl.	WASHBURN, H.L.	" 26 Mar 45	
H-35797	A/Cpl.	CAMPBELL, R.	" 26 Mar 45 to	4 Apr 45.
M-25898	Pte.	McINNIS, W.J.	" 27 Mar 45 to	5 Apr 45.

(b) Granted 9 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 24 Mar to 2 Apr 45. (Returned)
B-146837 Pte. POND, J.W. No.1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(c) Granted 3 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 28 Mar 45 to 30 Mar 45 (inclusive) (returned)
A-110356 Pte. HORTICK, A.S. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(d) Granted 4 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 30 Mar 45 to 2 Apr 45. (inclusive) (returned)
M-10660 Cpl. PHILP, A.W. No.1 COMERU.
B-89168 Cpl. PISHER, S. No.1 COMERU.
(Patient in Roman Way Convalescent Hospital.)

(e) Granted 5 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 26 Mar 45 to 30 Mar 45. (inclusive)(returned)
D-77298 Tpr. LEVESON, A. No.1 CAC RU.
(Patient in Roman Way Convalescent Hospital.)

(f) Granted 5 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 29 Mar 45 to 3 Apr 45. (returned)
K-23039 Bdr. FORSTNER, W.R. No.1 C.A.R.U.
(Patient in Roman Way Convalescent Hospital.)

Certified true copy of record in my possession

A. Winston Maj
O/C Records
Roman Way Convalescent Hospital
R.C.A.M.C. CA(O)

Roman Way Convalescent Hospital
R.C.A.M.C. CA(O)

2. LEAVE OF ABSENCE: (cont'd)

(g) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 27 Mar 45 to 2 Apr 45. (inclusive) (returned)
L-10454 Bdr. BRACK, J.F. No.1 C. Recep Depot.
(Patient in Roman Way Convalescent Hospital.)

(h) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 29 Mar 45 to 4 Apr 45. (inclusive) (returned)
M-15942 Pte. COX, E.K. No.1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(i) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 30 Mar 45 to 5 Apr 45. (inclusive) (returned)
B-51794 SOLOMON, F.M. No.1 C. Recep Depot.
(Patient in Roman Way Convalescent Hospital.)

(j) Granted 8 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 28 Mar 45 to 5 Apr 45. (returned)
D-143245 Tpr. ABRAMOVITZ, M. No.3 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

3. ABSENT WITHOUT LEAVE:

(a) A.W.L. from 1630 hours 17 Mar 45. Returned from A.W.L. 0020 hours 3 Apr 45.
B-118399 Pte. LeBLANC, L.J. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

4. TRADESMEN'S QUALIFICATIONS:

(a) Qualified "Q" as Remedial Physical Training Instructor at C.M.H.Q. Course (Alton Conv Hospital, Remedial P.T. Course No.1.) from 1 Sept 43 to 30 Sept 43. and has completed 3 months satisfactory service as a Remedial P.T. Instructor and has complied with the provisions of O.R.O. 4426 para 3, sub-para 2 as a Non-Tradesman [illegible]
(Auth: 2/P.T./1/9 (AMD 1) dated 27 Feb 45.)
A-103010 Pte. GATES, P.R. No.2 C.Con Depot.

(b) Qualified "Q" as a Remedial Physical Training Instructor at C.M.H.Q. Course (Roman Way Conv Hospital, Remedial P.T. Course, No. [illegible] from 21 Aug 44 to 20 Sep 44.
B-29178 [illegible] MASON, J.A. R.W.C.H.

5. TRADESMEN'S RATES OF PAY:

(a) Ceases to draw Tradesmen's Rates of pay Storeman Gp. "C" w.e.f. 5 Apr 45. (Auth: 5/CMHQ WEL/1/9 (SD 2) d/23 Feb 45.)
D-95719 A/RQMS. THOMPSON, G.C. Stmn. Gp. "C"

6. PUNISHMENTS: (Personnel)

(a) On 2 Apr 45 was reprimanded for an offence under A.A.Sec. 15(1) A.W.L. from 2359 hours 11 Mar 45 to 2300 hours 22 Mar 45. (Total absence: 10 days 23 hours 1 minute)
Forfeitures: 11 days pay FR&I [illegible]).
B-5210 Sgt. STEWART, G.W. No.17 C. Base Dent Coy (c) attached.

6. PUNISHMENTS: (cont'd) (Patients)

(b) On 5 Apr 45 awarded a summary forfeiture of 6 days pay for an offence contrary to A.A.Sec. 11.
Forfeitures: 6 days pay FR&I 149(2)
C-37425 Pte. BOND, R. No.3 C.I.T.R.

(c) On 3 Apr 45. awarded 14 days C.B. for an offence under A.A. Sec. 15(1) A.W.L. from 2130 hours 1 Apr 45 to 0700 hours 3 Apr 45 (Total absence: 1 day, 9 hours 30 minutes)
Forfeitures: 2 days pay FR&I 149(1)(a)
M-1237 Pte. ZIMMERMAN, L.J. No.1 C.I.T.R.

(d) D.O. No. 24 para 5(b) dated 27 Mar 45 insofar as it refers to the u/m is amended by deleting:
" and placed under stoppages of pay in the amount of 10 shillings to make good the cost of repairs to the door in the Detention Cell of Roman Way Convalescent Hospital. "
L-4304 Sgt. SANDERS, F.J. No.5 C.I.T.R.

7. MARRIAGES BIRTHS AND DEATHS:

(a) Granted permission to marry Miss Sheila Drake on or after 28 May 45. (Auth: 406/Marry "D"/1 (Pers 3) dated 2 Apr 45.)
M.23 Sgt. BAILEY, D.E. No.2 CAC RU.
(Patient in Roman Way Convalescent Hospital.)

(b) Married with permission to Miss Ethel Doreen Sprudd at Cardif, S. Wales on 15 Mar 45.
M-5350 Spr. DAINES, W.A. No.1 C.E.R.U.
(Patient in Roman Way Convalescent Hospital.)

(c) Son, Ross Kenneth, born on 3 Mar 45 at Wembley, Middlesex, (wife) Mrs. Beryl Grace Jean Wakefield.
B-84290 Pte. WAKEFIELD, K.G. No.2 C.I.T.
(Patient in Roman Way Convalescent Hospital.)

8. NEXT OF KIN:

(a) Change of next of kin from Mrs. Sarah Daines, (mother) to Mrs. Ethel Doreen Daines, (wife) 80 Llantrissant Str., Cathays, Cardiff, S. Wales.
M-5350 Spr. DAINES, W.A. No.1 C.E.R.U.
(Patient in Roman Way Convalescent Hospital.)

9. HONOURS AND AWARDS:

(a) Having complied with C.R.O. 4630 is entitled to the award of the " 1939 - 43 STAR ".
B-39928 Pte. THIBEAULT, L.J.

10. STRENGTH DECREASE:

(a) S.O.S. to No.1 Cdn. Repat. Depot w.e.f. 5 Apr 45.
(Auth: RBC ZUK 151 dated 3 Apr 45.)
L-2417 Pte. HEIN, H. Postal Sorter Gp. "C"

J.G.K. Lindsay

(J.G.K. LINDSAY) Colonel.
Commanding Officer,
Roman Way Con Hosp.

R.A.C.

Registrar

Last Order
No. 23
23 Mar 45.

ROMAN WAY CONVALESC[illegible] HOSPITAL
R.C.A.M.C. C.A.(O)
DAILY ORDERS PART II
issued by
Colonel J.G.K. Lindsay - MBE - Officer Commanding

This Order
No. 24
27 Mar 45.

SECTION "A" OFFICERS:

1. STRENGTH INCREASE:

(a) T.O.S. from No. 1 Cdn. Reception Depot w.e.f. 13 Mar 45. (Auth: 44/Dispatch/3/4 (AG 2a) d/6 Mar 45.)
Major. William Wolf PASCOE.

2. PROMOTIONS:

(a) To be Lieut. (O/T) w.e.f. 27 Dec 44. (Auth: Supp to CAORO 5619 d/23 Mar 45.)
2/Lieut. (O/T) Helen Marguerite CARSON.

SECTION "B" OTHER RANKS

1. ATTACHMENTS:

(a) Ceases to be attached from No.1 Cdn. Admn. Trans Coy w.e.f. 22 Mar 45.
A-108431 Pte. WATSON, [illegible]

(b) Ceases to be attached from No.1 Cdn. Admn. Trans Coy w.e.f. 27 Mar 45.
G-19068 Cpl. HOLMES, N.M.

2. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours with money all'ce in lieu of rations in accordance with ART 789 FR&I(O's) w.e.f. dates shown:

				RETURNED:
C- 50135	Cpl.	HARLAND, W.J.	from 15 Mar 45 to	24 Mar 45.
B-143301	Pte.	GORDANIER, F.	" 15 Mar 45 to	24 Mar 45
A-105819	Pte.	UTTLEY, L.A.	" 15 Mar 45 to	24 Mar 45
D-86093	Pte.	QUAYLE [illegible]	" 3 Mar 45 to	12 Mar 45
B-114682	Pte.	NAUNTON, T.F.	" 17 Mar 45 to	26 [illegible]
M-17197	Cpl.	OVERLAND, O.E.	" 16 Mar 45 to	25 Mar 45.

(Att'd from 24 Educ Sec.)

(b) Granted 14 days P.L. with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 12 Mar 45 to 26 Mar 45. (Returned)
F-56182 [illegible] DOYLE, J.D.

(c) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) w.e.f 19 Mar 45 to 26 Mar 45. (Returned)
K-71876 Sgt. WATT, J.D. No. 5 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(d) Granted 7 days Sick Leave [illegible] Sick Leave all'ces in accordance with ART 793 F[illegible] (O's) from 17 Mar 45 to 24 Mar 45. (Auth: ORO 3363 as amended by ORO 5476)
B-73688 Rfmn. GOWANS, W.S.K. No. 1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

Certified True Copy
[illegible] Roman Way Convalescent Hospital
[illegible] Major
Registrar
Roman Way Convalescent Hospital

Expt. D

2. LEAVE OF ABSENCE: (cont'd)

(e) Granted 9 days Sick Leave [illegible] Sick Leave all'ces in accordance with ART 793 [illegible] I (O's) w.e.f. dates shown:
(Auth: ORO 3303 as amended by ORO 5476.)
B-134842 Pte. MILLER, L.G. from 16 Mar 45 to 25 Mar 45.
(No. 2 C.I.T.R., Patient in Roman Way Conval. Hospital.)
K-65328 Tpr. BEGLEY, D.K. from 17 Mar 45 to 26 Mar 45.
(No. 2 CAC RD. Patient in Roman Way Convalescent Hospital.)

(f) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 19 Mar 45 to 26 Mar 45.
K-62506 Pte. GREEN, K.A. No.3 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

AMENDMENT:

(g) Our D.O. No. 22 para 3(h) d/20 Mar 45 insofar as it refers to the u/m is amended to read:
" No. 4 C.I.T.R. "
B-76143 Sgt. JENKINS, W. No. 6 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

3. ABSENT WITHOUT LEAVE:

(a) A.W.L. from 1630 hours 17 Mar 45. Still A.W.L. 1630 hours 25 Mar 45. (8th day)
B-118399 Pte. LeBLANC, L.J. No. 2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(b) A.W.L. from 2130 hours 25 Mar 45. Still A.W.L. 2130 hours 26 Mar 45. (1st day)
R-101163 Cfmn. CART[illegible] C.R. No.1 COMERU.
(Patient in Roman Way Convalescent Hospital.)

(c) A.W.L. from 2200 hours 25 Mar 45. Still A.W.L. 2200 hours 26 Mar 45. (1st day)
D-57514 Pte. BIRON, A. No. 4 C.[illegible].T.R.
(Patient in Roman Way Convalescent Hospitall

4. APPOINTMENTS:

(a) To be A/Cpl. w.e.f. 27 Mar 45.
K-85331 Pte. MURMERY, E.

5. PUNISHMENTS: (Patients)

(a) On 9 Mar 45 tried by F.G.C.M.
CHARGES: (1) A.A.Sec. 40
(2) A.A.Sec. 37
FINDINGS: (1) Guilty (2) Guilty.
SENTENCE: to be reduced to the rank of Cpl. and to forfeit all ordinary pay for a period of [illegible]ty (60) days.
CONFIRMATI[illegible] Findings and sentence confirmed by Maj. Gen. [illegible]e Administration, C.M.H.Q. on 19 Mar 45.
CLOSE ARREST: In close arrest from 2125 hrs 14 Feb 45 to 1100 hrs 9 Mar 45. (Total time: 22 days 13 hours 35 minutes.)
FORFEITURES: 23 days pay FR&I 149(1)(c)(i)
60 days pay FR&I 149(2) 1 days concurrent with award for close arrest.
Total Forf.: 82 days pay
C-25785 Sgt. HALL, W.H. No. 1 C.B.R.U.

(5) PUNISHMENTS: (Patients) (cont'd)

(b) On 26 Mar 45 was admonished for an offence under A.A.Sec. 19 (Drunkeness, 1st offence and was reprimanded for an offence under A.A.Sec. 40. and placed under stoppages of pay in the amount of 10 shillings to make good the cost of repairs to the Door in the Detention Cell of Roman Way Convalescent Hospital.
L-43041 Sgt. SANDERS, B.F. No. 5 C.I.T.R.

6. MARRIAGES BIRTHS AND DEATHS:

(a) Granted permission to marry Miss Doreen Edith WOODS on or after 24 May 45. (Auth: 10/Archibald L.C./1 (AMD 1) dated 24 Mar 45.)
B-31807 . ARCHIBALD, L.C.

7. NEXT OF KIN:

(a) Change address of next of kin to: Mrs. Julia Herring, Croll, P.O., Manitoba, Can.
B-82114 Spr. HERRING, F.W. No.1 C.E.R.U.
(Patient in Roman Way Convalescent Hospital.)

8. STRENGTH DECREASE:

(a) Our D.O. No. 42 para 2(a) d/23 Oct 44 insofar as it refers to the u/m is hereby cancelled:
B-20268 Gnr. SMITH, G.E.

J.G.K. Lindsay Col.

(J.G.K. LINDSAY) Colonel.
Officer Commanding,
Roman Way Con Hosp.

RAC.

ROMAN WAY CONVALESCENT HOSPITAL
R.C.A.M.C. C.A.(O)
DAILY ORDERS PART II
issued by
Colonel. J.G.K. Lindsay - [illegible] - Officer Commanding

Last Order No. 21 15 Mar 45

This Order No. 22 20 Mar 45

SECTION "A" - OFFICERS

1. COURSES:

(a) On Course to British Postgraduate Medical School from 19 Mar 45 to 23 Mar 45. (Auth: 2/RCAMC/1/7 (AMD 1) d/ 15 Mar 45.)
A/Major. J[illegible] Maurice HARVEY

2. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 10 Mar 45 to 18 Mar 45. (Inclusive) Returned.
Lieut. (P/A) Sarah FINKELMAN
2/Lieut. (H/S) Lorena Joyce PURDY.

3. MARRIAGES, BIRTHS & DEATHS:

(a) Granted permission to marry Capt. T.J. Bell on or after 15 Feb 45. (Auth: 10/Loeken J/1 d/8 Mar 45.)
Lieut. (P/A) Johanne LOEKEN.

(b) Married with permission to Capt. T.J. Bell at Colchester, Essex on 4 Mar 45.
Lieut. (P/A) Johanne LOEKEN.

4. NEXT OF KIN:

(a) Change of next of kin from Mrs. D.J. Klein (Mother) to Capt. T.J. Bell, 12 Field Regt. RCA. (husband)
Lieut. (P/A) Johanne BELL.

5. CHANGE OF NAME:

(a) Having married on 4 Mar 45 is now known as Lieut. (P/A) Johanne BELL. All documents to be amended accordingly (Auth: O.R.O. Supplement 5590.)
Lieut. (P/A) Johanne LOEKEN.

6. HONOURS AND AWARDS:

(a) D.O. No. 19 para 5(a) d/6 Mar 45 insofar as it refers to the u/m is hereby cancelled. (Auth: REC/34/1939 - 43 STAR/ 2/3., REC/66/F/401, d/15 Mar 45.)
Capt. Donald Johnston FLETCHER. C.I.C.

7. STRENGTH DECREASE:

(a) S.O.S. to No.1 Cdn Repatriation Depot w.e.f. 19 Mar 45. (Auth: AT 828 (AG 2a) dated 15 Mar 45., AT 851 (AG 2a) dated 16 Mar 45.)
Lieut. (N/S) Dorothy May RICHARDS
Lieut. (N/S) Lorraine D. CONNELLY.

SECTION "B" - OTHER RANKS

1. STRENGTH INCREASE:

(a) T.O.S. from No.1 CASC RU w.e.f. 17 Mar 45. (Auth: REC/7688 dated 15 Mar 45.
H-46245 Pte. ERB, A. Cook Gp. "B"
K-22067 Cpl. MAYES, W.I. Cook. Gp. "B"

Certifies True Copy
[illegible] by possession
[illegible] Major
Registrar
[illegible]
RCAMC CA(O)

Exh. D

1. STRENGTH INCREASE: (cont'd)

(b) D.O. No.16 para 1(a) d/23 Feb 45 insofar as it refers to the u/m is amended by adding:
" Driver Mech. C . . . "
F-39928 Pte. THIBIDEAU, L.J.

2. ATTACHMENTS:

(a) Attached from Cdn. Aux. Serv. Enter. Unit (Army Shows) for disciplinary Action w.e.f. 14 Mar 45. (Auth: CRU (PTA) d/13 Mar 45.)
G-63203 Pte. CORMIER, L.J.

(b) Ceases to be attached from No. 17 Cdn Base Dental Coy (C) on admission to Old Infirmary Buildings, Reception Stn., Woolmanhill, Aberdeen w.e.f. 13 Mar 45.
B-5211 Sgt. STEWART, G.W. Dent. Asst. "B"

(c) Ceases to be attached from No. 17 Cdn Base Dental Coy (C) w.e.f. 20 Mar 45. (Auth: 17/CDC/1/5 d/14 Mar 45.)
B-117062 Pte. HASTINGS, M.K.

3. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. plus 48 hours with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) w.e.f. dates shown:

			RETURNED.
A- 9955	Pte.	MacDowell, C.A.	from 5 Mar 45 to 14 Mar 45.
G-22302	Pte.	DAIGLE, L.J.	" 5 Mar 45 to 14 Mar 45.
C-97623	S/Sgt.	McDONALD, G.H.	" 5 Mar 45 to 14 Mar 45.
D- 92516S	S/Sgt.	MILLER, H.J.	" 9 Mar 45 to 18 Mar 45.
A-104750A	Cpl.	SIEP, W.C.	" 9 Mar 45 to 18 Mar 45.
M- 15730	Cpl.	LOMAS, A.B.	" 16 Jan 45 to 25 Jan 45.

(b) Granted 14 days P.L. with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 5 Mar 45 to 19 Mar 45. (Returned)
B-46915 Pte. MILLER, E.W.

(c) Granted 7 days Sick Leave with Sick Leave all'ce in accordance with ART 793 FR&I (O's) from 7 Mar 45 to 15 Mar 45. (Auth: ORO 3363 as amended by ORO 5476)
M-20531 Cpl. FULTON, H.W. No.1 CASC RU
(Patient in Roman Way Convalescent Hospital.)

(d) Granted 7 days Sick Leave with Sick Leave all'ces in accordance with ART 793 FR&I (O's) from 8 Mar 45 to 15 Mar 45. (Auth: ORO 3363 as amended by ORO 5476.)
B-64568 Pte. LAWRENCE, A.E. No. 4 C.[illegible]
(Patient in Roman Way Convalescent Hospital.)

(e) Granted 9 days Sick Leave with Sick Leave all'ce in accordance with ART 793 FR&I (O's) from 9 Mar 45 to 18 Mar 45. (Auth: ORO 3363 as amended by ORO 5476.)
H-16699 Cpl. DYER, G.L. No.1 C.S.R.U.
C-121480 Pte. STARR, F.G. No.1 COMERU.
(Patients in Roman Way Convalescent Hospital.)

(f) Granted 7 days compassionate leave with money all'ce in lieu of rations in accordance with ART 789 FR&I (O's) from 8 Mar 45 to 15 Mar 45.
B-63652 Cfmn. MORRIGAN, A.[illegible] No.1 COMERU.
(Patient in Roman Way Convalescent Hospital.)

3. LEAVE OF ABSENCE (cont'd)

(g) Granted 14 days Sick Leave with Sick Leave All'ces in accordance with ART 793 FR&I (O's) from 1 Mar 45 to 14 Mar 45 (inclusive). (Auth: ORO 3363 as amended by ORO 5476.)
L-154302 Sgt. SHIPLACK, P. No.1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(h) Granted 14 days Sick Leave with Sick Leave all'ces in accordance with ART 793 FR&I (O's) from 2 Mar 45 to 16 Mar 45. (Auth: ORO 3363 as amended by ORO 5476.)
B-76143 Sgt. JENKINS, W. No. 6 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(i) Granted 4 days Sick Leave with Sick Leave all'ces in accordance with ART 793 FR&I (O's) from 15 Mar 45 to 19 Mar 45. (Auth: ORO 3363 as amended by ORO 5476.)
M-10946 Cfmn. WEEKS, C.E. No.1 COMERU.
(Patient in Roman Way Convalescent Hospital.)

4. ABSENT WITHOUT LEAVE:

(a) A.W.L. from 2200 hours 18 Mar 45. Still absent 2200 hours 19 Mar 45. (1st day)
E-100856 Pte. HAMILTON, F. No.1 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(b) A.W.L. from 1630 hours 17 Mar 45. Still absent 1630 hours 18 Mar 45. (1st day)
B-118399 Pte. LeBLANC, L.J. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

5. APPOINTMENTS:

(a) To be A/Sgt. w.e.f. 15 Mar 45. (Auth: REC/7688 d/15 Mar 45.)
L-59871 Pte. (A/Cpl.) HOFFMAN, A.R.

6. PROMOTIONS:

(a) Confirmed in the rank of S/Sgt. w.e.f. 19 Mar 45. (Auth: ORO 4688 para 24 (a).)
C-97623 Sgt. (A/S/Sgt.) McDONALD, G.F.

7. TRADESMEN'S QUALIFICATIONS:

(a) Having been Trades Tested is qualified Nursing Orderly Gp. "C" w.e.f. 8 Mar 45. (Auth: TTB report d/12 Mar 45.)
G-45695 Sgt. SCOTT, C.R.

8. TRADESMEN'S RATES OF PAY:

(a) Ceases to draw tradesmen's rates of pay Clerk Gp. "C" w.e.f. 4 Mar 45 and having qualified is granted Tradesmen's rates of pay Clerk Gp. "B" w.e.f. 5 Mar 45.
A-99351 Cpl. KAY, A.S.

(b) Ceases to draw Tradesman's Rates of pay Driver Mech. Gp. "C" w.e.f. 21 Feb 45 on ceasing to employed at his trade.
F-39928 Pte. THIBEAU, L.J.

9. PUNISHMENTS: (Pa[illegible]nts)

(a) On 16 Mar 45 awarded 14 days C.B. for an offence under A.A.Sec. 40.
M-8670 Pte. CLARK, P.I. No.1 C.I.T.R.

9. PUNISHMENTS: (Patients) (cont'd)

(b) On 16 Mar 45 awarded 14 days C.B. for an offence under A.A.Sec. 40.
M-102938 Pte. MERCHANT, J.T. No.1 C.I.T.R.

(c) On 19 Mar 45 awarded 14 days C.B. and a summary forfeiture of 5 days pay for, (1) an offence under A.A.Sec. 40. (2) an offence under A.A.Sec. 15(3) A.W.L. from 2130 hours 11 Mar 45 to 1630 hours 13 Mar 45. (Total absence: 1 day, 19 hours.)
Forfeitures: 2 days pay FR&I 149(1)(a)
5 days pay FR&I 149(2)
Total Forfeiture 7 days pay.
H-20816 Pte. DUCHARME, W.R. No.1 COMERU.

(d) On 19 Mar 45 awarded 14 days C.B. and a summary forfeiture of 7 days pay for, (1) an offence under A.A.Sec. 15(1) A.W.L. from 2200 hours 17 Mar 45 to 2245 hours 17 Mar 45. (2) an offence under A.A.Sec. 25(1). Placed under stoppages in the amount of 12 shillings and three pence, costs of apprehension.
Forfeitures: 7 days pay FR&I 149(2) plus 12/3 stoppages.
C-81069 Pte. TRACY, R.S. No.3 C.I.T.R.

(e) D.O. No. 16 para 5(a) d/23 Feb 45 insofar as it refers to the u/m is amended by adding:
" ABSENCE: A.W.L. from 2200 hours 15 Jan 45 to 2245 hours 29 Jan 45. (Total absence: 14 days 45 minutes.) "
M-101452 Pte. LAWTON, W.J. No.1 C.I.T.R.

10. MARRIAGES, BIRTHS AND DEATHS:

(a) Granted permission to Marry Miss Phyllis Grace Dines, on or after 14 May 45. (Auth: 1C/King M/1 (AMD 1) dated 14 Mar 45.)
B-136508 Pte. KING, M.T.

(b) Granted permission to marry Miss Elizabeth Neil IRONSIDE on or after 22 Apr 45.
A-37279 Pte. HARRIS, A.D. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(c) Granted permission to marry Miss Patricia June GRAYDON on or after 28 Apr 45.
B-113855 Cfmn. WIENS, H. No.1 COMERU.
(Patient in Roman Way Convalescent Hospital.)

(d) D.O. No.3 para 5(a) d/9 Jan 45 insofar as it refers to the u/m is amended to read:
" Granted permission to marry Miss Annie White McARTHUR "
D-72291 L/Sgt. McCOLM, C.H. NO. 3 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

11. NEXT OF KIN:

(a) Next of kin verified as, Mrs. Doris LaFrance, (wife) 52 Seaton Str., Toronto, Ont. Can.
B-93633 Cpl. LeFRANCE, T. No.1 CASC RU
(Patient in Roman Way Convalescent Hospital.)

11. NEXT OF KIN (cont'd)

(b) Change address of next of kin to, Mrs. C.Z. Body, (wife) 69 Mildred ., Orchard Pk., St.Cathrines, Ont, Can.
B-118050 . . BODY, S.A. No.2 C.I.T.R.
(Patient in Roman Way Convalescent Hospital.)

(c) Change of next of kin from Mr. Arthur F. Frape (father) deceased. to Mrs. Lucy Lane Frape, (mother), Fleming, Sask.
L-53858 Tpr. FRAPE, H.V. No.3 C.A.C.R.U.
(Patient in Roman Way Convalescent Hospital.)

(d) Change address of next of kin to:, Mrs. Daisy Ethel Lockwood, (wife) 23 Pownall Crescent, Colchester, Essex.
A-9113 Pte. LOCKWOOD, S.E. No.1 Admn Trans Coy att'd

(e) Change address of next of kin to, Mrs Dorothy Yvonne Loiselle, (wife) Coleman, Alta.
M-34050 Pte. LOISELLE, R.R. No.1 CASC RU
(Patient in Roman Way Convalescent Hospital.)

12. STRENGTH DECREASES:

(a) S.O.S. to Y.3. List No.1 CASC RU on admission to No.18 Cdn. Gen. Hospital w.e.f. 14 Feb 45.
B-55304 Sgt. OLTSHER, P.J. Cook Gp. "B"

(b) S.O.S. to No.1 CASC RU w.e.f. 17 Mar 45. (Auth [illegible] dated 15 Mar 45.)
G-32983 Cpl. GALLIAN, J.J. Cook. Gp. "B"

J.G.K. Lindsay

(J.G.K. LINDSAY) Colonel.
Officer Commanding,
Roman Way Con Hosp.

~~CT. Y.~~ R.A.C.

ARMY FORM B 296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-118399	Pte	LEBLANC, L.J.	No. 2 C.I.T.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec. 15 (1) 1 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 13 Oct 44

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [redacted]

4. The accused has been awaiting trial on the present charges for ~~2~~ ~~15 days~~ days in civil custody; and for ~~15 days~~ days in military custody, *i.e.*, Nil days in open arrest, 17 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 19 yrs 9 mos 19 days

6. The date of his attestation is 26 Oct 43

7. The service which the accused is allowed to reckon is 1 yr 5 mos 11 days

‡State the military decorations (if any) held by accused.

8. [redacted]

9. [redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 32,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Field General Court Martial	19 Dec 44 U.K.	A.A. Sec. 15(1) A.W.L. from 13 Oct 44 until apprehended 3 Nov 44	45 days detention	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 6th day of April 1945

A.S. Dunton Major, w/o Recorder
(A.S.Dunton) Registrar,
Roman Way Conval Hospital.

EX. 82RAL.

MFM6

C. 16
14.3.45

Regimental No. B 118399 Rank Pte

Sheet No. I

3/13B MFM 1 & 2a 40/P & S/119 (7877)

Name Le Blanc Laurie Joseph

	Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority DO Number	Authority Dated
(1)	AWL (13 Sept 44: Still AWL 29 Sept 44 still AWL 7 Oct 44 Appreh: 11 Oct 44 AA 40 (2 off) AA 15(1) Award 28 dys FP. forf 41 dys Pay.	—	—	—	—	—	—
		Pte	13 Oct 44	3 C/RU	UK	240	14 Oct 44
(2) FCGM	AWL 21 Oct 44 8th day. Appreh. 3 Nov 44 AA 15(1) Award 45 dys Detn forf 112 dys Pay	Pte	13 Oct 44	3 C/RU	UK	246	21 Oct 44
		—	19 Dec 44	2 C/TR	"	49	28 Dec 44

Certified true Extract from MFM2.

14 March 1945. [signature] Major

(R. A. C. Johnson). Major

Officer having Custody of Original

LIST OF EXHIBITS

AF. C 1618	Descriptive Return of a Deserter or an Absentee	- Exhibit A
CMHQ 100:55	Expense Voucher	- Exhibit B
Part II Order	No. 21 d/ 15 Mar 45 of Roman Way Conv Hosp	- Exhibit C
A.F. C 1617	Certificate of Surrender to the Civil Police	- Exhibit A-1
AFB 252	Charge Sheet	- Exhibit C-1
CMHQ 100: 55	Expense Voucher	- Exhibit B-1
Part II Orders	No. 22 dated 22 Mar 45, No. 24 dated 27 Mar 45 No. 26 dated 6 Apr 45	- Exhibit C-1

4V.90

PTE LEBLANC MJ.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G.4840 Pte Maurille Joseph Leblanc C Y R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~[illegible]~~ "LFT" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which no days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for period of one year.

(Sgd) "LFT" Judge Advocate ~~of the~~. 26 Jan 45 Date awarded. (Sgd) "L Fernand Trudeau Major" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~[illegible]~~ "PEB"

(1. AA 57A. Delete if not used.)

(Sgd) "P.E. Bernatchez Brigadier"

Date 29 Jan 45 Commanding 3 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G.4840 Pte LeBlanc M. J.	31 Jan 45	"B.A. Kennedy Major" C Y R

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true copy
(DM Owen) Capt.
Cdn Sec 2 Ech AFHQ.
15 FEB 45

4V-90

CFA86 (To Ilen of AFA3) 40/P & S/1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col HP Bell-Irving A/Comd 3 Cdn Inf Bde dated 25 Jan 45 DSO

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G.4840	Pte		Maurille Joseph	LEBLANC	CYR

PROCEEDINGS OF TRIAL.

Held in the Fd in "LFT" ITALY on (date) 26 Jan 45 "LFT"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

"LFT"

A1. The President, Members, waiting Member, ~~& Judge Advocate (Deputy)~~, assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (X) attached thereto.(1) "LFT" The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1315 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~[illegible]~~

(1. KR Can 557. 2. AA 44(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.) "LFT"

A5. President to accused: Do you object to X as interpreter? Ans X

The Interpreter X sworn.(1) Do you object to X as shorthand writer? Ans X

The shorthand ~~writer~~ X sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 108, MML p 742.) "LFT"

A7. The President, Members, ~~Judge Advocate (Deputy)~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L. F. Trudeau	DSO	R 22 R
Member	Capt	F. Peacock		WNSR
Member	Lieut	G. Riva		CYR
~~Judge Advocate (Deputy)~~	"LFT"			
Prosecutor	Capt	W. T. McGrath		CYR
Defending Offr	Lieut	J. R. Laporte		CYR.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused G.4840 Pte Maurille Joseph Leblanc C YR. before arraignment makes(s) (no) (X) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 43(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "LFT"

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B" "LFT"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or [redacted] complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)[redacted].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. [redacted] Court considers the accused's statement.[redacted] The Court decides (not) to advise the accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [redacted] charge(s). [redacted] I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge[redacted] to which the plea[redacted] of Guilty is (are) not changed the President records findings [redacted] Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A; initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(E), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 89(D). 3. RP 40 fn 12. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record with Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 103(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 107. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet[redacted](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement[redacted] and Conduct Sheet[redacted], and in mitigation of punishment?(1) Ans Yes in mitigation of punishment. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted](2)
(*1. When several accused tried separately see RP 104. One sentence only, comprised of the punishments and combinations laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RC 309, 2323, 6006, p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(D), 6006, p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(c), 48(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

[redacted]

The accused 04840 Pte Maurille Joseph LeBlanc, a soldier of the Carleton & York Regt., Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, in Italy, absented himself without leave from approximately 0600 hrs 27 Dec 44 until surrendering himself to L34018 Sgt Scott, J.S. at CATTOLICA at approximately 1700 hrs 5 Jan 45.

Total time absent 9 days 11 hrs.

"J P Ensor"

In the field

(J.P. Ensor) Lt.-col.,
Comd Carlt & York R.

Date 21 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

"H P Bell Irving"

25 Jan 45

(H.P. Bell-Irving) Lt.-col
A/Comd 3 Cdn Inf Bde.

certified true copy
w mc Leach capt
adjt Carlt & York Regt

31 Jan 45

"LFT Pres"

"???
25 Jan 45

(6)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G4840	Pte		Maurille Joseph	LeBLANC	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Jan 45 endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L F Trudeau DSO	R22R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F Peacock	WNSR
Lt	G Riva	CYR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	L Turcott	R22R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 25 Jan 45

A/Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAS (To Item of AFAS) 60-P-8-1/897 74931)

(See overleaf for oaths and notes for use on trial.)

"LFT Pros"

MEDICAL OFFICERS CERTIFICATE
KR CAN 397

(9)

I certify that I have this morning examined
G. 4840 Pte Leblanc M.J.
the Carleton & York Regiment and inmy opinion he is
fit to undergo Trial by Court Martial.

"G. Walsh Capt"
Medical Officer
R.M.O. Carlt & York R.

Station In The Field
Date 26th Jan 1945.

"LFT Pres".

E. 3

(12)

In Mitigation of punishment

January 25th 1945.

G. 4840 Pte Maurille Joseph Leblanc C Y Regt.

President of the Court and Member.

This man is twenty years old and been with the Canadian Active Army for two years. He is been with C Y Regt since last May he been fighting with them since the unit went on rest for Christmas he kept drinking until his unit was back on the line and neglect to appear to his Unit. He is sorry for what happened and his willing to go back with his Regt as soon as possible. Considering that it his first offence of the sorts.

I demand the clemence of the court regarding his youngnest and case.

Thank You.
" Lt. J. R Laporte"
Defensive Officer.

"LFT Pres".

Exhibit "A" (1)

Summary of evidence in the case of G4840 Pte LeBlanc, M.J., a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regt.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution

B134939 Pte Pitchford, W.J. "D" Coy Carlt & York R, having been duly sworn states:-

I am B134939 Pte Pitchford, W.J.. I am a stretcher bearer with "D" Coy H. Carlt & York Regt. On the 27 Dec 44 G4840 Pte LeBlanc, M.J. was working with me. At approximately 0600 hrs 27 Dec 44 I could not find him so I reported him absent without Leave from 0600 hrs 27 Dec 44. I did not see him again until the taking of this summary of evidence.

"W.J. Pitchford"

The accused declines to cross-examine this witness.

Second Witness for Prosecution

L34018 Sgt Scott, J.S. "D" Coy Carlt & York Regt. On the 5 Jan 44 I was in charge of "D" Coy L.O.B. personnel at "X" Area in CATTOLICA. At approximately 1700 hrs 5 Jan 45 Pte LeBlanc, M.J. reported to me, he said he was absent from the unit so I placed him under close arrest.

Having been previously sworn Sgt Scott J.S. D Coy Carlt & York Regt

"Sgt Scott, J.S."

The accused declines to cross-examine this witness.

Question to the Accused
Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but any evidence you give or whatever you say will be taken down in writing and may be given in evidence.

Answer by the Accused.
No.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

In the field

Date 21 Jan 45

"W.T. McGrath, Capt."
Officer taking Summary

certified true copy
W.T. McGrath Capt
adjt Carlt & York Regt
31 Jan 45

Left

MEDICAL OFFICERS CERTIFICATE
KR CAN 397

(1)

I certify that I have this morning examined
G. 4840 Pte Leblanc M.J.
the Carleton & York Regiment and inmy opinion he is
fit to undergo Trial by Court Martial.

"G. Walsh Capt"
Medical Officer
R.M.O. Carlt & York R.

Station In The Field
Date 26th Jan 1945.

"LFT Pres".

E. 3

(12)

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G. 4840 Pte Maurille Joseph Leblanc C Y Regt.

President of the Court and Member.

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I demand the clemence of the court regarding his youngnest and case.

Thank You.
" Lt. J. R Laporte"
Defensive Officer.

"LFT Pres".

CHARGE SHEET.

The accused 44840 Pte Maurille Joseph LeBlanc, a soldier of the Carleton & York Regt., Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, in Italy, absented himself without leave from approximately 0600 hrs 27 Dec 44 until surrendering himself to L34018 Sgt Scott, J.S. at CATTOLICA at approximately 1700 hrs 5 Jan 45.

Total time absent 9 days 11 hrs.

"J P Ensor"
(J.P. Ensor) Lt.-col.,
Comd Carlt & York R.

In the field

Date 21 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

25 Jan 45

"H Bell Irving"
(H.P. Bell-Irving) Lt.-col
A/Comd 3 Cdn Inf Bde.

certified true copy
W. McGeach capt
adjt Carlt & York Regt

31 Jan 45

"LFT Pres"

??? 2 Jan 45

Summary of evidence in the case of C4840 Pte LeBlanc, M.J., a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regt.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution

B134939 Pte Pitchford, W.J. "D" Coy Carlt & York R, having been duly sworn states:-

I am B134939 Pte Pitchford, W.J.. I am a stretcher bearer with "D" Coy H.Q. Carlt & York Regt. On the 27 Dec 44 C4840 Pte LeBlanc, M.J. was working with me. At approximately 0600 hrs 27 Dec 44 I could not find him so I reported him absent without Leave from 0600 hrs 27 Dec 44. I did not see him again until the taking of this summary of evidence.

"W.J. Pitchford"

The accused declines to cross-examine this witness.

Second Witness for Prosecution

L34018 Sgt Scott, J.B. "D" Coy Carlt & York Regt. On the 5 Jan 44 I was in charge of "D" Coy L.O.B. personnel at "X" Area in CATTOLICA. At approximately 1700 hrs 5 Jan 45 Pte LeBlanc, M.J. reported to me, he said he was absent from the unit so I placed him under close arrest.

"Sgt Scott, J.B."

The accused declines to cross-examine this witness.

Question to the Accused
Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but any evidence you give or whatever you say will be taken down in writing and may be given in evidence.

Answer by the Accused.
No.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

In the field

Date 21 Jan 45

"W.T. McGrath, Capt."
Officer taking Summary

certified true copies
W.T. McGrath Capt
Adjt Carlt & York Regt
31 Jan 45

Left

(9)

List of Witnesses

In the case of G4840 Pte LeBlanc, M.J. a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regt.

For the Prosecution

B134939	Pte	Pitchford, W.J.	Carlt & York R
L34018	Sgt	Scott, J.S.	Carlt & York R

For the Defence

NIL

List of Exhibits

In the case of G4840 Pte LeBlanc, M.J. a soldier of the Canadian Army, Overseas, on strength of the Carleton & York Regt.

NIL

I require the services of an officer to defend me at my trial.

Certificate by the accused

I certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses and List of Exhibits pertaining to my trial by Court Martial.

In the Field

Date 21 Jan 45

" M.J. LeBlanc "

"LFT"

certified true copy
w mi Grach capt
adjt Carlt + York Regt
31 Jan 45

"LFT"

Ex "B" (10) ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank	Name.	Regiment (or as the case may be).
G 7840	Pte	Le Blanc, M.J.	Carleton & York Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	See 19 AA times	(1) times
For	See 24 (2) AA times	(1) times
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted ~~or~~ ~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 19 days in military custody, making a total of 19 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 23 May 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 10 mos

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 10 mos service.

9. The accused is entitled to reckon 1 yr 10 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM + 1 Clasp

11. ~~(*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~ WO II

12. ~~(*In the case of an officer.*) The accused holds in the army the rank of~~ ~~dated~~ ~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

"LFT Pros"

(19226) W. 15982/184 125,000 6/41 A.&E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G 4840 Rank Pte Name Le Blanc, M. J. of Ca y Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

WTBM

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Jan 45

W. M. Leach capt
officer i/c Records
Cont + York Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years

In the rank of years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. G4840 Name LeBlanc M. J. Sqn, Battery, or Company | Corps C.D.C. | Date of enlistment 23/3/43 | GC Badges No 1 | Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (5488)

Date of last entry in Company Conduct Sheet 17 Oct. 43 | No and date of last drunk (1) 15 Aug 43 | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc N. S. Rogers Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of awarded of order dispensing with trial	By whom awarded	Remarks
Utopia Winter N.B.	15 Aug 43	Pte	(1)	Original Sheet Destroyed 26 Oct. 43 (1) A.A. Sec 19 Drunkness (2) A.A. Sec 24-4 Wilfully injuring boat property.	Cpl Tomlinson	168 hrs Detention	17 Aug 43	W. B. Monzer Lt. Col.	

certified true copy
W. M. Leach capt
officer ½ Records
Corl + Gorkhet
Unit Field 3 Dec 43

[illegible]

(PTO)

QQ-21

PTE LEBLANC N.

K-40716 Pte. Narcisse LEBLANC
(C.I.C.) 6 CIRU.

Q2-24

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 21st. day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS C.A.(O), , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

4 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-Col	D.L. REDMAN, V.D.	HQ CIRU

Members.

Rank.	Name.	Regiment.
Captain	G.V. Archambault	(RifMais)6 CIRU
Lieutenant	G.A. Stewart	(R.Wpg.Rif)2 CIRU
Waiting Member		
Lieutenant	G. Lavigne	(Rif Mais) 6 CIRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.A. Calder) A/Colonel,
Commanding "A" Gp Cdn Rft Units, C.A.(O).
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-48716 Pte. Terrisse LEBLANC, (C.I.C.) 6 CIRU.	First Charge A.A. Sec 7 (2)	Not Guilty	Not Guilty	Confirmed [illegible]
	Second Charge (ALTERNATIVE) A.A. Sec 40.	Not Guilty	Guilty	
SEE CHARGE SHEET ATTACHED			Sentence To undergo Detention for a period of ninety (90) days. 22 Sept 1943 [illegible]	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

Signed [illegible] A/Colonel (Signed) [illegible]
(C. A. Calder)

Commanding "A" Gp Cdn Rft Units, C.A.(O). *Convening Officer* (*c*) — *President.*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of Sept 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
~~*(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 22nd day of Sept 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 76, M.M.I., 1929.

~~*I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ good

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of Sept 1943.

[illegible] A/Col
Confirming Officer.

COMMANDING "A" GROUP CDN. RFN. UNITS. C.A.(O).

Promulgated and extracts taken in the case of K-48716 Pte Terrisse Leblanc (C.I.C.) 6 C.I.R.U.

(*a*) (Dated) 24 Sept 43 (Signed) [illegible] a/capt adjt 6 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.D.(H.Q.)(1) 60,000 12-42 A.G.R., W. Ltd. Gp.675

CHARGE SHEET

The accused, No K-48716, Private Narcisse Leblanc, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the C anadian Army Overseas is charged with:

First Charge
Sect 7(2)
Army Act.

WHEN ON ACTIVE SERVICE, ENDEAVOURING TO PERSUADE PERSONS IN HIS MAJESTY'S MILITARY FORCES TO JOIN IN A MUTINY,

in that he,

at Algonquin Camp, Witley, Surrey, on the 13th day of September, 1943, did endeavour to persuade the occupants of hut C4, said occupants being members of His Majesty's military forces, to join in a mutiny and not to go on parade at 1800 hours, for which duty, the said occupants of hut C4 had been duly warned.

Second Charge
(alternative)
Sect 40
Army Act.

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at Algonquin Camp, Witley, Surrey, on the 13th day of September 1943, did endeavour to persuade the occupants of hut C4, said occupants being members of His Majesty's military forces, to join in a mutiny, and not to go on parade at 1800 hours, for which duty they, the said occupants of hut C4, had been duly warned.

M Taschereau
.....
(G.C. TASCHEREAU), Lt-Col
Officer Commanding
"H" Wing, 6 Cdn Inf Rft Unit

Algonquin C amp.
Witley, Surrey,
17th day of September 43

To be tried by Field General Court Martial.

21 Sep 43.

(W. A. Calder) A/Colonel,
Commander,
"H" Gp Cdn Rft Units,
C.A.(O).

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT ALGONQUIN CAMP, WITLEY SURREY
ON THE 22 DAY OF SEPTEMBER 1943

The accused K.48716 PTE N. LEBLANC Unit 6 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court. Lt G. Lavigne was duly sworn as interpreter the accused when asked not objection
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT. COL. D.L. REDMAN, V.D. Unit H.Q. C.R.U.

Members CAPT. G.V. ARCHAMBAULT Unit R. DE MAIS. - 6 C.I.R.U.

LIEUT. G.A. STEWART Unit R.W.P.G. R.I.F. - 2 C.I.R.U.

The officers under instruction are duly sworn:-

..... Unit .....

Prosecutor LT. M.P. MENARD Unit R. DE MAIS. - 6 C.I.R.U.

Defending Officer ~~CAPT. J.A. [illegible]~~ LT. R. CHALIFOUX Unit ~~[illegible]~~ C.I.C. - 6 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(b)

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to Character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

The Proceedings follows in longhand

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: K48716 PTE LEBLANC.N
(Rank) (Name)
of #6. C.I.R.U. and in my opinion he is fit / unfit to undergo
trial by Court Martial.

Station [illegible]

Date 22. SEPT. 43.

Sgd [illegible] Capt.
(Medical Officer)

Trial of K48716 Pte N. Leblanc 6 C I R U.

The accused when arraigned pled not Guilty to both of the charges.
The Question under R P 39 A was asked
The answer "no" is recorded.
1st witness for the Prosecution
E8295 Sgt Charbonneau A L 6 C I R U
being duly sworn states
I recognize the accused. On 13 Sept 43
Sgt Gourdeau A/C.S.M of "A" Coy ordered ~~the~~ me to order the Coy to parade at 1200 for Dinner Parade. We got about one half way to the Kitchen when the Platoon from hut C 4. broke off and went some to front and some to back door of Kitchen.
I reported to Sgt Gourdeau. At ~~1600~~ 1645 hrs Sgt Gourdeau ~~notified~~ ordered the men from Huts C 4 and C 5 to fall in at 1800 hours in battle order. I was on the parade at 1645 hrs it was just before break off. I then went into Hut C 4. at about 1650 hrs to take charge of the 1700 supper parade I sat on a bed. The accused got into the middle of the floor and called his friends about him. I think about ½ or ¾ of all the men in hut and asked if they would join in with him so that they would not have to go on the parade at 1800 hrs Some men saw me on the bed but the accused did not see me. He said when anyone starts anything, the others then back out and only one or two got stuck for it. Others were talking but the accused was making the most noise and talk. He called them a bunch of "Chieux" whenever we got caught there

are only one or two of us who stick and get caught. I said nothing and called them to the supper parade. at 1750 hrs I went to C 4 and called the parade the men fell in as usual. I took the parade to Reg'l Parade Ground and I called out the accused and he repeated what he had said in the hut to Sgt Gourdeau.

Cross Examined by Def officer

The accused was in Hut C 4 when I went in at 1650 hrs. The accused made his remarks not as a grouch or joking but as tho he wanted the men actually to do something while the accused was talking I moved my position so that if he turned around he could not see me. I reported this because I did not want any trouble in the hut. He seemed to be the leader.

2nd Witness for the Prosecution

P 488 U4 Sgt Gourdeau B. of 6 C I R U being duly sworn states

On 13th Sept 1943 I was a/c S m of A Coy Sgt Charbonneau reported to me about an incident with the accused at 1650 hrs. I had the accused called out from the 1800 hr parade and Sgt Charbonneau asked him to repeat to me what he had said in the hut. Sgt Charbonneau asked him if he realized what he was doing in the hut before the supper parade and he said "yes I was have been punished in Canada about that. He repeated what he had said in the hut - I made up my mind then to lay a charge for

what he had said in the hut. I told him to get back on the parade. I laid the charge next morning.

Cross Examined by D of Officer.

The accused was standing to attention when he answered Sgt Charbonneau on Parade before me. No one cautioned the accused. I would have decided to lay the charge after hearing what accused said even if he had not said "I have been convicted for that in Canada."

1st Witness for Prosecution recalled at request of D of Officer for further cross Exam with consent of Court states

The accused turned out on 1800 parade properly dressed. When called out he came out with rifle at the slope. I did not caution him I merely asked him to repeat what he had said in the hut. I had not laid any charge against him and had not made up my mind to do so but I wanted the C S M to hear from the accused what he had said. I called him out myself not on orders of the C.S.M. When he had said everything in front of the C S M I said I am warning you as a friend that ~~he~~ you could get into a lot of trouble for what you have said. He answered in an independent way that he didn't care. He knew what he was doing and had just got out of 14 days D detention in Canada for doing the same thing.

The case for the Prosecution is closed. The President advised the accused under note 2 R.P. 40. accused elected not to give evidence

1st Witness for the Defence
E 29243 Pte Trembley C. E of 6 C I R U
being duly sworn states
I have been in England about one
month. I came over with the accused
I know him well. after the ~~afternoon~~ 9th
parade I went to the hut with the
accused. I didnt see Sgt Charbonneau
when accused came in someone was
already talking about the 1800 parade
The accused said this is all right now
but when it comes to doing there will
be only 2 or 3 to go ahead with it
and they'll have to pay for everything
Quite a few soldiers were talking. I
didnt see Sgt Charbonneau until
it was time for ~~supper~~ parade.
all this occured after the supper parade
The accused made his statements by way
of a warning that ~~any~~ if they started they
would find that only a few would stick
and take the punishment
~~Cross Examined by~~ The Prosecutor said he
would not cross examine as it appeared
that the ~~accused~~ witness is not referring
to the conversation before supper.
2nd Witness for the Defence
D 140102 Pte ~~4~~ J C Taillefer of 6 C I R U
being duly sworn states
after 1645 we went to our hut to get
our mess tins for supper. when I went
in with the accused some soldiers
were talking about the 1800 hr parade
The accused said that there would be
only 2 or 3 of them who would remain
in the hut and they would be caught and

punished.

Cross-Examined by the Prosecutor

The men in C 4 form a whole platoon I think it was after supper parade that the accused did his talking. I was in the hut about 10 minutes between the afternoon parade and the supper. I was getting my mess tin. I heard no discussion in that 10 minutes about the 15-00 hr parade by the accused but I heard others talking.

The case for the Defence is closed.

The Def Officer addressed the Court (attached)

The Prosecutor addressed the Court (attached)

The Court is closed for the finding

The Court reopens.

The President announced that the Court finds the accused not Guilty on the 1st charge C.A.O.R.O. 3262 is complied with.

The Prosecutor produced M F B ~~35~~ 296 and cert copy of M F M 6 respecting the accused R P 46(B) is complied with

The Def Officer said he had nothing to add in mitigation to what he had said in his address at the Finding.

C.A.O.R.O. 3262 is complied with.

The Court adjourned to consider sentence

[signature]

"Ploidoyer" MM

Mr. Le President,

Vous avez devant vous un jeune homme canadien français, qui vivait bien tranquille dans son pays, qui ne connaissait rien de l'armée et des ses intrigues. Mais voici qu'un jour ses libertés sont menacés, il n'y a qu'un moyen de les conserver, c'est d'entrer dans l'armée et aller defendre ce qui lui est cher, sa liberté et celle des siens. Il s'enrole donc et après un stage de huit mois dans differents camp du Canada, il est envoyé en Angleterre loin des siens, mais plein de bonne volonté et desireux de remplir son devoir.

Mais voici qu'un mois a peine s'est ecoulé depuis son arrivé en Angleterre, qu'il est amené devant une cour martial pour repondre a une accusation d'une faute qu'il n'a pas commise et qu'il n'a pas même eu l'intention de commettre.

Vous avez entendu les temoignages des temoins Tremblay et Gaillefert, qui sont venus vous dire que l'accusé n'avait pas commencé la discussion, et que loin d'encourager ses camarades, ils les a dissuader en leur disant qu'ils ne gagnaient rien a faire une mutinerie, qu'il avait eu une exemple au Canada et qu'il avait été puni pour cela.

Lorsqu'on lui demande de repeter, il se croit a obliger de repondre car il croit que c'est un ordre, et qu'il va être puni s'il ne s'execute.

Mr le President vous avez un devoir bien delicat a remplir. De votre sentence peut decouler l'avenir de l'accusé. Si vous le punissez pour une faute qu'il n'a pas commise et qu'il n'avait pas l'intention de commettre, ce jeune homme peut être bien desapointé de l'armée Canadienne, et quel va être le resultat. Nous en avons des exemples tous les jours de soldats qui ont été mal compris ou mal jugés et qui aujourd'hui font le ~~[illegible]~~ deshonneur de l'armée Canadienne. Mais si au contraire, vous eclairé l'accusé sur ce qui adviendrait si jamais il était amené devant une cour martial pour une faute qu'il aurait commise et qu'il serait trouvé coupable, le resultat serait tout a fait different, et non seulement l'accusé, mais tous ses confreres vous serait reconnaissant pour le bien que vous auriez fait a un de leur camarades.

Mr le President Merci

Plea in the case of Narcisse Leblanc.

Mister the President.

You have in front of you, a young man, who was living very quietly in his country, who did not know nothing of the army and his intrigue. But one day his liberty are threated. Their is only one way to keep them, its to join the army and fight to keep what it is dear to him, his liberty and the one of his relations and friends. So he joins the army and after eight months in different camp in Canada, he is send in England far from his relatives but anxious to perform his duty.

But one month after being in England, he is brought in a court Martial for an offense he did not commit and never indend to commit.

You have heard the witness Trumbay & Taillefer who come in the court to tell us that the accuse did not start the argument and far from stimulate them he indeed try to dissuade them in telling them that they had nothing to win and everything to loose in trying to do a ~~mutiny~~ mutiny and that he had an example in Canada and that he had been punish for the same reason. When the sergeant ask him to repeat he took he is oblige to answer because he though it was an order and if he does not answer he'll be punish.

Mr the President of the court, you have a delicate duty to perform. The future of the accuse is in your hands. If you punish the accuse for an offense he did not commit, this young man

will be very desapointed of the Canadian Army and what will be the result. we have example every day of soldiers who have nt been understood or misjudge and that now made the dishonor of the Canadian Army But if otherwise you instruct the accuse that if he appear in a Court Martial for an offense he commit and what will ~~be the result~~ happen, the result will be reverse, and not only the accuse but all his commarade will be gratefull to you for the good you made to one of their mate.

Mr. the President

Tank you.

L. Chalifoux Lieut.

Translation of Plea in French which is att.

IN THE CASE OF Pte ~~PERRAULT~~ LEBLANC

The proof brought by Sgt Charbonneau has not yet been contrdicted by any of the defence witnesses. Sgt Charbonneau's statement proves that the accused is guilty of endavouring to persuade the occupants of Hut C-4 No 6 CIRU to join in a mutiny.

The statement of both the defence's witnesses is not valid beaause neither of them where present when the accused pronounced the guilty words

I therefore demand the court to find the accused "Guilty" on the charge pending against him to-day.

M. P. Menard

M.P. Menard Lieut.

Algonquin Camp,
Witley, Surrey,
22nd day of Sept 19[illegible].

In the case of Pte Leblanc.

La preuve amenée par le sgt Charbonneau n'a pas encore été contredit par aucun des temoins de la defence. Sgt Charbonneau dans son temoignage prouve que l'accusé est bien coupable d'avoir tenté de persuader les occupants de la hut C-4, no 6 C.I.R.U. de se joindre a lui dans une mutinerie.

Les deux temoignages de la defence ne sont pas valide ni l'un ni l'autre par que ces deux temoins la n'etaient pas dans la dite hutte lorsque l'accusé a prononcé les paroles coupables.

Je demande donc a la court de trouver le soldat Perrault coupable sur les charges portées contre lui.

Merci

Lieut [illegible]

SUMMARY OF EVIDENCE

In the case of No K-48716, Private Narcisse LeBLANC, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution. E-5295 Sgt Charbonneau, A.E., of the Royal 22e Regiment, on the strength of 6 CIRU, having been duly sworn, states as follows:

On 13 Sep 43, at Algonquin Camp, the occupants of huts C4 and C5 were ordered on parade by the CSM of "A" Company, Sgt Gourdeau, to do 2 hours extra drill that evening and to fall in on parade at 1800 hrs. At about 1650 hours I entered hut C4 and sat on a bed. While I was there the accused, whom I now recognise, began talking to his comrades asking them to stick together and not go on parade that evening. He told them that if they stayed together and refused to go on parade, they would not have to do the extra drill. Upon receiving no favorable answer, he called them a lot of cowards, telling them that they were afraid to stick together and that they would leave one or two to get caught and be punished. Before he could say anything else, I ordered the men to fall in for supper parade. He fell in with the others talking and grumbling all the time. When the parade was called at 1800 hours, the accused was present. I had him come out of the ranks and repeat before the CSM what he had said to the men in the hut, which he did.

Cross-examined by the accused:

Q. 1 Did I see you in the hut ?
A. 1 You hadn't seen me before you spoke.

A. Charbonneau ..... Sgt.

Second Witness for the Prosecution. R-48804 Sgt Gourdeau, E., of the Royal 22e Regiment, on the strength of 6 CIRU, having been duly sworn, states as follows:

On 13 Sep 43, acting upon instructions received from the Company Commander, I gave orders to personnel occupying huts C4 and C5 that they were to fall in on parade at 1800 hours to do two hours of extra drill. When the men came on parade at 1800 hours, Sgt Charbonneau brought Pte Leblanc to me and asked him if he realized what he had done in the hut. The accused answered that he had already been punished in Canada for the same offence and that he knew perfectly well what he had done. He was asked to repeat what he had told the men in the hut. He said that he had asked them to stick together and refuse to go on parade so as not to do any extra drill that evening. He said he had not taken the matter further because he had realized that the men would not stand by him but would leave him to get caught with one or two others.

The accused declines to cross-examine this witness.

E. Gourdeau ..... Sgt.

The following warning is then given to the accused in French: "Do you wish to make any statment or to give evidence on oath ? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

M

SUMMARY OF EVIDENCE

In the case of No K-48716, Private Narcisse LEBLANC, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with;

.....Lt.
Officer detailed to take the Summary of Evidence.

Algonquin Camp,
Witley, Surrey,
16th day of Septemeber, 1943.

MPM/JEN

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. K. 48716 Name Le Blanc N. Sqn., Battery, or Company | Corps Cdn Inf. Corps | Date of enlistment 8 Dec 42 | G.C. Badges N/A | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 4 Jan 43 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. J. Allard Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Last sheet destroyed 8 Jun 43.					
Field Canada	15 Jul 43	Pte		AH 1241 deserting his majesty's service, A.W.L. from 2200 hrs 15 Jul 43 until 0600 hrs 19 Jul 43 (3 days 8 hrs)	Sgt Lamoik Cpl. Gaumont	14 days detn	14 Aug 43	Col. P. E. Poirier	forf 4 days pay for A.W.L.
				Certified true copy consisting of one sheet dated: 22 Sept 43 J. Allard Capt					
				Officer having custody of Original Documents					

(P.T.O.)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-48716	Private	Narcisse LEBLANC	Canadian Infantry corps

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A. A. 12 (1)	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8 Dec 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 261 days

8. The accused is entitled to deferred pay or gratuity in respect of 261 days service.

9. The accused is entitled to reckon 261 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award. ~~He is in possession of or entitled to (state any military decoration or reward).~~

11. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer last held the regimental~~ rank of

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of dated~~ and in his regiment (or corps or department) the rank of dated

(*19548) WL30248/302 75,000 12/40 A.& E.W.Ltd. Gp.498

Major

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K-48716 Rank Private Name Narcisse Leblanc of C.I.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of Sept 43

[signature]
Officer having custody of Original Documents
Records Officer.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years.	
In the rank of	years	
In the rank of	years.	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

LIST OF WITNESSES

In the case of No K-48716, Private Narcisse LEBLANC, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

PROSECUTION

E-5295 Sgt Charbonneau, A.L., Royal 22e Regiment, 6 CIRU.
P-48804 Sgt Gourdeau, B., Royal 22e Regiment, 6 CIRU.

DEFENCE

1. I acknowledge tht I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an Officer to represent me at my trial by Court-Martial. I request the services of

..... R. Chalifoux Lieut

if he is available. 20 Sept 1943 1445

Algonquin Camp,
Witley, Surrey,
17 day of September 1943.

Narcisse Le Blanc

4M-97.
Spr. leblanc P.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C42539 Spr. Leblanc, Paul Emile 3 Bn. RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd	Not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~-~~ N/A beginning on (date) N/A.(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which N/A days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to suffer field punishment for duty (30) dys and to forfeit ordinary pay for a period of thirty (30) days.

(Sgd) J.M. Munro maj. 7 Dec 44 (Sgd) J.M. Munro
Judge-Advocate, if any. Date awarded. President. (RP 45, 46)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) E.L.B.
(1. AA 57A. Delete if not used.)

(Sgd) E. L. Burns Maj Gen

Date Commanding Officer in Chief Section, Base L of C
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C.42539 Spr LEBLANC, PE	15 Dec 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that these proceedings have been examined and found correct in law and practice and that the provisions of the Geneva Convention have been complied with.
Date 15 Dec 44 DJAG Offr i/c Sec. C.M.S. 21 Army Gp

RECEIVED 24 JAN 1945 JAG BRANCH

RECORDED AT CMHQ IN AB 160, 4M-97

FIELD GENERAL COURT-MARTIAL

CFAA6 (To 11th Ed to AFA3) 40/P & S/1000 (40/10)

4388

Convened by: Offr i/c Adl C.S. Lauzon A/Comd Ch Sec CMHQ-1 Cdn 21 Army Gp dated 2 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C42539	Spr.		Paul Emile	Leblanc	3 Bn. RCE

PROCEEDINGS REVIEWED AT THE MEETING OF THE JAG BRANCH DHQ

PROCEEDINGS REVIEWED JAG GHQ 21 Army Gp Date 10 JAN 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 7 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/47

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet N attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ Alt
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Pte Girouard RH as interpreter? Ans No.

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~ Alt
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	J.M. Munro	CAC 9 Bn 2 CBRE
Member	Capt.	S.M. Smith	CAC 9 Bn 2 CBRE
Member	Lt.	W.A. Ogle	CAC 9 Bn 2 CBRE
Judge-Advocate	Maj	B.W. Howard	Ch Sec CMHQ-1 Cdn 21 Army Gp
Prosecutor	Capt.	N.J. Wermenlinger	3 Bn. RCE
Defending Offr	Lt.	J.O.R. Rochon	3 Bn RCE

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) N plea
(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1., RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans .....[5]

(*1. RP 37(B). 2. RP 37(D) fn 8. 3. RP 35(B) fn 3 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.[1]

(*1. RP 39(B), 60(A) (B), 99, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s), and allowed on the 2nd charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (not) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans As a witness on oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.[1] ~~Or: The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~[2]

(*1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans Call a witness as to character.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.[3]

(*1. AFB 353 or AFB 296. 2. AFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans Yes through my def. Offr.....[2]

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA 54(b), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.M.M.

CHARGE SHEET

The accused, C-42539 Spr Paul Emile LEBLANC, "A" Coy, 3 Bn RCE, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at about 1900 hrs, 30 Oct 44, so negligently handled a Belgian rifle as to cause it to be discharged, and thereby injured D-15655 Spr Beauchamp, C., 3 Bn RCE.

SECOND CHARGE
AA Sec 11

WHEN ON ACTIVE SERVICE, NEGLECTING TO OBEY COMPANY DAILY ORDERS

in that he

In the Field, at about 1900 hrs 30 Oct 44, did use a foreign weapon, that is to say, a Belgian rifle or carabine, without authority, contrary to "A" Coy, 3 Bn RCE, Daily Orders Part 1, No 112 dated 10 Sep 44, directing all ranks to abstain from experimenting with, handling, or using foreign weapons or ammunition.

In the Field
30 Nov 44

(Geo.W. Smith) Lt-col., RCE
Commanding Officer, 3 Bn RCE

To be tried by Field General Court Martial.

(C.J. Laurin) Col
A/OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

In the Field
4 Dec 44

J.M.M.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-42539	Spr		Paul Emile	LEBLANC	3 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 4 Dec 44 endorsed by me, (~~[illegible]~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.M. Munro	CAC 9 Bn 2 CBRG.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	S.M. Smith	CAC 9 Bn 2 CBRG.
Lieut	W.A. Ogle	CAC 9 Bn 2 CBRG.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	W.L. Percy	CAC 9 Bn 2 CBRG.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	B.W. Howard	Cdn Sec GHQ 1 Ech 21 Army Group.

On Active Service in the Fd

in Belgium (Country.)

C. Laurin (Signed personally. RP 105 fn 2.) (C.J. Laurin) Colonel (Rank.)

Dat 4 Dec 44

Commanding A/OIC Cdn Sec GHQ 1 Ech 21 A Gp.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Approved:
[signature]
ADJA

MEDICAL OFFICER'S REPORT

I certify that I have this day examined P.E. LEBLANC, Sgt

C42539 & On RCE and in my opinion he is fit

to undergo trial by Court Martial.

J. Sabourin Capt, RCAMC
Medical Officer
Unit 2Bn R.C.E.

Station Field

Date Dec 7/44

A8. Defg Offr submits that a ~~charge~~ was to be alternative. (1)
Prosec. Offr agrees it was in this form when sent to Bn H.Q. - Court advises that matter will be brought to attention of Convening Offr.

D3 B27397 Cpl. Godin L. - A Coy 3 Bn RCR sworn states On 30 Oct 44 about 7 to 7.30 when I was packing my equipment in a cupboard in a corner of the bldg. I suddenly heard a bang. Then I went to see what had happened. I saw Spr. Beauchamp jumping around nervously. He lifted up his pants to find a wound. I told Lt. Desrosiers to bring him to RAP & I followed a few minutes after. I do not know how the accident happened & saw nothing - Belgian rifle # 23731 is mine (Exh. A) identified. No one had permission to use it on 30 Oct & I know of no one in my section having instructions in handling Belgian rifles. Spr Leblanc is in my section - ~~no~~ treats the accused.

To Def. Offr.

I read Coy orders. I have read an order against having or using enemy weapons all enemy weapons were to be returned to QM stores. My order came out in Sept. 44 ~~[redacted]~~ I think. My recollection is it was for enemy weapons only & was before this accident.

To Prosecuting Offr

I never saw "A" Coy pt I DO #112 dated 10/44 that I remember.

To Court.

I couldn't say whether it was a Coy order or not that I saw. But we only saw Bn and Coy orders.

RP. 83(c) complied with

D15504 Spr Foster A. A Coy RCR sworn - through interpreter states. On 30 Oct 44 between 7 & 7.30. Spr Leblanc had a rifle in his hand. He cocked his rifle two or 3 times easing spring. Pressed on the trigger the 1st time nothing happened and then he recocked the gun pressed on trigger for second time. Then the bullet

came out. In front of Leblanc there was a wooden box about 2' to 2½ in front of him. The bullet passed thru the wooden box, then hitting the floor. ~~it~~ Then when it came up it hit a tin can and ~~went through~~ hit Spr. Beauchamp's leg. This is how it happened. Witness identifies accus as Spr. Leblanc. The room had a concrete cement floor. There were 4 or 5 ~~olds~~ solds in the room. I read the Coy orders because I read them in Sgts miss. I only came to the Coy 2 dys before the accident occurred. I came in on 28 Oct. I was on guard on 29. Coy. orders are posted ~~near~~ the Kitchen & mens mess at this time.

To Defy Offr.

I have been in army since 6 June 41. I was in the room, sitting beside Spr. Leblanc when this happened. Leblanc had the rifle pointed at the floor. The floor was cement reinforced by sand & rock & was as hard as this — indicating tile floor — it was so hard that the bullet would not penetrate. The floor of this room is imitation cement. The bullet made a white mark on floor indicating cement. I could not prove that it was cement

To Court.

Spr. Beauchamp was in same room, he was walking from the corner to the stove. Spr. Beauchamp was about 15 to 18 ft from Leblanc. Everyone was at one end & Beauchamp was acrossing from the corner to the stove.

RP 83161 Complied with

E28419 Desrosiers P.E. A Coy 3 Bn. R.C.E. sworn. 3

Through the interpreter
about 7^30, 30 Oct. - Spr. Leblanc was showing Spr. Fortier how the rifle was working. The 1st time he cocked the rifle + pulled the trigger nothing happen - the 2nd time was the same. It was the 3rd time there must have been a bullet in the barrel because it went off. It hit the wooden box then the floor, than a tin can, then hit Spr. Beauchamp in the left leg. I took him to the MO. I was in the room all the time. It was a Belgian rifle. Identifies exhib. A as the rifle. I cant say how many people were in room at time. The floor was like the tile floor of this room. I read orders in the copy not every day but often. Witness shown Pt. I DO. of A Coy. #112 of 10 Sept he has never seen it. I do not redd all of them. I have seen orders that German rifles + enemy equipt were to be kept - everything which belonged to Germany.

To Defg. Offr.

I can't tell when I saw the orders about German weapons. I think that the orders were in ~~Sept~~ between 5 Sept + 4 Oct. + 4, or it might even have been before that. Spr. Leblanc - eased springs twice + pulled trigger + 3rd time he pulled tiger shot went off. There was no one in front of the rifle when Leblanc was first showing it. Later Beauchamp passed in front about at the time the rifle went off.

To Court.

He passed about 7 or 8 ft from the rifle. The order that I saw dealt only with German weapons - nothing about alied. Leblanc

was careful but there was an accident
He had the rifle pointed at the floor. He could
not have pointed the gun up as there was
someone ~~someone~~ living up stairs.

R.P. 83 (b) complied with

S/sgt. D15810 Boisvert A. — RCEME.
Armourer of 3 Bn. R.C.E. Sworn. by the interpreter
I remember inspecting a Belgian rifle.
23731 — Ex. B. It was in good condition.
That was after the accident. There was nothing
wrong with it. I checked the extractor
fire pin, spring magazine, ejector. I
checked it with its own ammunition.
There is nothing wrong with it.

To Defg. Offr.
It is not a rifle which we see often. It
is a tricky rifle.

To Court.
The magazine is always on this type of rifle
I saw the rifle ~~immediately~~ after ~~it~~
the accident happened. A round could be locked in
the magazine. After taking 4 rounds &
removing the safety catch one round might
stay in magazine without being known. If there was
a round in the chamber you could see it
with the bolt pulled back. Then if a bullet
comes up on the plat form on its way to the
chamber it can be seen. The magazine
is supposed to carry ten rounds. ~~would~~ The Canadian
method of easing springs would unload this
rifle but the bolt is harder to operate.
that is stiffer.

RP 83 (b) complied with

D117263 Cpl. Laurin E — Orderly room Cpl.
"A" Coy 3 Bn. Sworn — states.
I recognize Coy Pt I DO # 112 d. 10 Sept 44.
It was typed by me. It was posted
on the notice board at the mens kitchen
and on the board at the mens quarters

near the orderly room. I personally posted the orders in these 2 places. - Submitted as exh. "A."

To Adj. Offr.

I do not remember specifically whether I posted this order. I do not post all orders but ~~on 9 Sept~~ but this order was post on 9th for 10th & I was alone on Sat 9th Sept. & must have posted it. I do not consider that I could have forgotten to post them.

To Ct.

The orders were not protected from the weather. We have had cases before orders were ~~[illegible]~~ down & ~~[illegible]~~ after they were put up.

RP 83(4) complied with

Cpl. Godin recalled. by court.

I had some rounds of the ammo. that goes with the rifle. Spr. LeBlanc knew more about the rifle than I did he had examined it & cleaned it once. He knew I had live rounds, and he could get them if he wanted them. I did not know that LeBlanc had any live rounds for the rifle.

Prosecution closes its case.

Adj. Offr. moves under D4 to dismiss on grounds that no prima facie case has been made out.

Prosecutor says. handling a loaded rifle in billets with men around - a strong rifle - a concrete floor is prima facie a case of negligence - on 2nd charge evidence shows printing & publishing of orders.

Adj. Offr. in reply refers to AA sec 40 - the Adj. Offr. in reply refers to AA sec 40 - the amendment.

D5. 1st witness for accus.

C425339 Spr. Leblanc P.F. A Coy 3 Bn. R.C.R. Sworn. States.

On 30 oct 44 about 1930 I was sitting on a bed showing Spr. Fortier how the Belgian rifle "Ex. B" was working. The rifle was in the rifle rack when I took it + we had brought some bullets from a German pyet box. We had them in the hut with the rifle, + that night I was showing my friend how the rifle was working. I had fired it before. I had loaded the rifle + unloaded it + I was practically certain that no bullet was left in the magazine. I cocked the rifle once released springs, I fired + nothing happened. I cocked it again and fired + nothing happened. I cocked it a 3rd time fired it + it went off. I had it pointed at the floor + the bullet went off + hit a wooden box on floor, but the floor + went through a tin can + hit Beauchamp on the leg. After that Beauchamp took a few steps + said you shot me. He lifted his pants + I noticed a wound on his leg just above the knee. Cpl. Godin said "I never should have got that rifle here" + he went out + threw the bullets away. I had never been told not to handle the rifle by anyone. I took every precaution when handling the rifle I feel I was not negligent. I have always kept my own rifle in my room and have never been forbidden to handle my own rifle in my room.

To the Prosecutor -

I never handled the Belgian rifle in front of anyone in authority to tell me not to handle it. Sgt. Knew we had it except who.

it & it was always kept in the rack where 7
any one could see it. I have fired this
rifle before. once when we found it &
later one afternoon at the rifle ranges.
I knew how it worked. I keep my own
rifle loaded in the room. sgt michaud
saw me handle the rifle & did n't say anything
to me.

To the Court.

~~In this Coy. it everyone keep~~ In my billets everyone
keeps his magazine charged & on his rifle. When
cleaning rifles we unload our rifles
inside by easing springs. I felt the
Belgian rifle was unloaded before I loaded it on that occasion. ~~I pulled the~~
~~trigger each~~ I did eas a spring completely
before pulling the trigger the first time.
working the bolt 5 or 6 times. While
easing springs 3 bullets flew out
on floor. I had put in 3 or 4 bullets when
I loaded it. There might have been
a bullet left in from the ranges ~~that~~
the day before.

RP 83(b) complied with

Prosec. summs. up.

use of Belgian rifle in billets where there
are men. not having counted the bullets
was negligence. Under these circumstances
the negligence was blame worthy

Dlfg offr summs up.

Dlfg Offr. refers to amend to 40.

J.A. Summs up.

(1) Explains to the ct its functions & that of
the J.A.
(2) Explains the relationship between the
particulars of the charge & the offence
itself and discusses
(3) Deals at length with the amend
ment to sec. 40 AA re neglect & the
degree required to constitute an offence

under this heading.

(4) Explains the onus that is on the prosecution & that accused not required to prove his innocence

(5) Deals with doctrine of reasonable doubt. Explains some & point out that if such doubt exists in mind of Ct. it must be resolved in favour of the accused.

(6) asks pres. - prosec & defy Off. if there are any other features of the case which they desire explained & they advise that there are not.

Blust
JA

The first charge is negligence

To handle a loaded rifle in closed billets when there are men around, is negligence

It is even more negligent to handle a rifle in billets when the floor is in concrete because even if the man knows that his rifle should point to the ground a concrete floor is ~~no~~ still very dangerous for ricochets

At last, if the rifle is a foreign one, and no special instructions have been given to the man who is handling it that is in itself a show of great negligence and accidents are bound to happen.

In our case, Spr Leblanc, the accused, did handle a foreign rifle loaded, in billets; there were 4 or 5 OR's in the room, the floor of which was of concrete

Spr Leblanc had never had instructions in the handling of a Belgian rifle which from the evidence is tricky. Further negligence was shown by Spr Leblanc when he did not count the rounds he had in the way

So, he was guilty of the 3 kinds of ~~evidence~~ negligence I enumerated before and is therefore guilty of the first charge

Was this negligence blameworthy

Yes. The wounding of Spr Beauchamp

may not have been wilful, but the act of taking a foreign rifle, handling it in a loaded billet while it was loading, was a wilful act. He was not forced to do that by anyone, he did it of his own free will. Therefore the negligence was wilful & blameworthy.

Blue JA

F1. D15754 CSM. Quinet W. A Coy. 3 Bn. RCE. 9

Sworn.

Since 4 mos. Know Sap Leblanc. Has CSM know him as a good soldier except that he went on charge once. He is friends with everyone in the Coy. Never had trouble with him. His Offence was a minor AWL. - good worker. Kind of man need in the Coy. He is a plumber "B."

F3. Plea in mitigation:

Spr. Beauchamp + Leblanc great friends + this is a great punishment in itself + should be considered sufficient in itself. He is a good worker. He is needed in his unit.

JA

E X H I B I T " A "

"A" Coy D.C. Part I dated 10 Sep 44,
para. 112.

ORDRES DU JOUR PARTIE I

PAR

LE MAJOR J.J.W.DUSSAULT OFFICIER COMMANDANT DE LA CIE 'A'

31eme BATAILLON ROYAL CANADIAN ENGINEERS ARMEE CANADIENNE OUTRE MER.

No 108 ORDRES POUR DIMANCHE LE 10 SEPTEMBRE 1944

Dernier ordre paru No 103

109 ROUTINE

Reveil	à	0730 hres
Dejeuner	à	0800 hres
Messe	à	1045 hres
Diner	à	1200 hres
Souper	à	1730 hres.
RETRAITE	à	2230 hres
RETRAITE	à	2245 hres

EXTINCTION DES LUMIERES

110 FONCTIONS ET DEVOIRS

OFFICIER DU JOUR

Pour le 10 sept 1944 Lt GH.Gariepy

Pour le 11 sept 1944 Lt JR Power

SERGENT DU JOUR

Pour le 9 sept 1944	-	D 15617	Cpl Charbonneau	R.
Pour le 10 sept 1944	-	D 15615	Sgt Bordeleau	A.
Pour le 11 sept 1944	-	D 15689	LSgt Harvey	H.
Pour le 12 sept 1944	-	D 15709	LSgt Chapleau	JB.
Pour le 13 sept 1944	-	D 15720	LSgt Michaud	G.
Pour le 14 sept 1944	-	D 59174	Sgt Helie	C.

111 ESTAFETTES DU JOUR

Pour le 10 sept 1944	-	D 62794	Spr Graveline	L.
Pour le 11 sept 1944	-	D 55765	Spr Jones	L.
Pour le 12 sept 1944	-	D 15598	Spr Shaw	H.

112 MANIEMENT DES MUNITIONS ENNEMIES

1. Un soldat de cette unité s'est infligé des blessures au cours d'un accident qui aurait pu etre mortel alors qu'il maniait avec négligence, avec ignorance et sans autorisation des munitions de l'ennemi. Le meme soldat aussi montre qu'il ignorait tout de fonctionnement d'une des armes allemandes les mieux connues, la grenade a baton. (stick grenade)

2. Officiers et soldats, vous etes tous avertis que vous ne devez pas experimenter, manier ou vous servir des munitions ou explosifs etrangers qu'ils soient de fabrication allemande ou autre, sans avoir reçu au prealable des directives explicites et sans etre sous la surveillance d'un officier ou sous officier specialement autorise a manier les munitions ou les explosifs du type particulier que vous aurez rencontre. Il est bien defendu de deplacer tout depot ou meme un petit nombre de munitions ou explosifs ennemi sans en avoir reçu l'ordre d'un officier de l'ordonnance, sauf dans le cas de circonstances extraordinaire ou il vous faudra agir sans delai, ou encore lorsque vous serez sous la surveillance d'un officier ou d'un sous-officier connaissant a fond les caracteristiques du type de munitions ou d'explosifs en question. Dans ces dernier cas l'officier ou le sous-officier se rend pleinement responsable.

3. Celui qui désobéira a cet ordre sera mis sous charge et tout officier ou sous-officier qui pardonnera ou permettra un manque de discipline sur ce sujet sera puni.

112 (cont)

MANIEMENT DES MUNITIONS ENNEMIES

4. Officiers et soldats vous etes tous avertis qu'il est defendu de porter outde ce servir des armes, des munitions ou des explosifs qui ne vous ont pas ete donnes par l'armee, a moins d'avoir une permission speciale de l'Officier Commandant du 3 Bn RCE, ou dans un cas d'absence necessité urge par les exigences a la presente campagne.

5. Toute infraction aux reglements énonces dans les paragraphes precedents devra etre reportee a L'ADJUDANT. Un rapport detaillé sur les circonstances de l'infraction ou des blessures reçues devra aussi etre adresse a l'adjudant.

113 BLESSURES PERSONNELLES.

1. Un certain nombre de soldats canadiens ont recemment ete soumis a des proces pour s'etre infliger des blessures dans l'intention de se rendre inapte au service. Une cour Martiale Generale de Campagne les a condamnes a deux ans de prison avec travaux forces et a etre licencies de l'armee avec ignominie.

2. On attire l'attention de tous sur les reglementations de la loi des Benifices 1944 qui stipule qu'aucun soldat ne peut recevoir de benifice s'il a ete licencie;

(a) apres une sentence de licenciement avec ignominie.
(b) ayant ete trouve coupable par la cour civile ou une cour Martiale pendant son service.
(c) a cause de mauvaise conduite.

3. Les blessures que quelqu'un s'inflige pour eviter le service militaire impliquent mauvaise conduite unie a la peur, et un soldat convaincu d'une telle offence est possible de licenciement pour cette mauvaise conduite meme si la sentence de la cour ne specifie pas le licenciement avec avec ignominie. Dans ce cas le soldat perd automatiquement LES BENIFICES généreux prévus par la loi de bénifice.

4. On attire l'attention sur Les GROs(21 Army Gp) para 192 et 193. Les Commandants d'unite de formations, verront a faire diligence dans tous les cas suspects, d'unjures personnelles. Il est particulierement important d'obtenir des rapports signes par tous les temoins immediatement apres l'attentat.

5. Les officiers de l'aide legal donneront toute l'assistance en xxx ces cas.

114 BOISSONS ENIVRANTES
K.R. (Can) 441.

1. Nul officier ou soldat ne doit apporter de vin, d'alcool ni de bière aux casernes pour sa consommation personnelle. Les delinquants seront punis.

115 CONSOMMATION D'EAU

(a) Potable; De 0730 à 0830 hres et de 1745 à 1830 hres, les caporaux de section pouront parader leurs hommes au reservoir d'eau (water tank) pour y remplir les gourdes d'eau.

(b) EAU POUR LAVER:

Pl	1	0730 hres	1130 hres	1830 hres
Pl	2	0745 hres	1145 hres	1845 hres
Pl	3	0800 hres	1400 hres	1900 hres
Pl	4	0815 hres	1415 hres	1915 hres.

Ex. "B"

This exhibit was a Belgian rifle
23731 Mfg. St. Etienne. By direction
of the president it was left with
the prosecutor with instructions to
deliver it to the Coy. S.M.

Bluff JA.

CERTIFIED TRUE COPY

No. C42539 Name LEBLANC PE. Sqn., Battery, or Company Corps RCE Date of enlistment 26 Jun 41 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 500M—8-33 (7108) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet 19 Sep 41 No. and date of last drunk NIL Period not reckoning towards freedom from extra fine N/A. Sheet No. 1 Signature O.C. Company, etc. (sgd) Character H Marcuth, Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	27-4-42	Pte		AWL from 1200 hrs 27 Apr 44 till 0700 hrs 29 Apr 42 AA Sec 15 (1)	Lt. C. Gauvin	7 days CB	29-4-42	Lt. Col. Chouinard	forf 3 days pay
Valcartier	22 May 42	H/W		AWL from 2359 hrs 22 May 42 till 2200 hrs 28 May 42 Total 5 days 42 hrs 1 min	Cpl Dolan L/Cpl. Lapointe	168 hrs det	30-5-42	Lt. Col. Chouinard	Forf 6 days pay
Field	5-12 43	Spr		AA Sec 15 (1) AWL from 2359 hrs 5 dec 43 till 2300 hrs 6 dec 43 Absent: 23 hrs 1 mins.	Sjt Dore Cpl Godin	2 days sum forf of pay	6 dec43	Maj J.F. Morazain	1 day auto for of pay
Field	30-3-44	Spr		AA Sec 40 Neglect to report on morning parade.	Sjt Bordeleau	2 day summ for of pay FR&I149 (2)	31-3-44	Maj J.F. Morazain	

(P.T.O.)

Place	Date of offence	Rank	Cause of absence	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26-11 44	Spr		AA Sec 15 (1) AWL from 2330 hrs 26 Nov 44 to 0800 hrs 27 Nov 44 Absent: 8 hrs 30 mins	Sjt Bordeleau Cpl Jodoin	3 days for of pay FR&I 149(2)	28 Nov 44	J.J.W. Dussault Maj	auto for of one days pay FR&I 149 (1)(a).

CERTIFIED TO BE A TRUE AND CORRECT EXTRACT FROM THE REGIMENTAL BOOKS HELD IN MY CUSTODY.

W Wermenlinger Capt

(N.J. Wermenlinger) Capt RCE.
2IC "A" Coy 3 Bn RCE.

Ex "C"

M.F.B. 355
12M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C42539	Sapper	Paul Emile LEBLANC	3 Bn RCE

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct Sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AWL(AA 15(1)) 2 (two)	times	AA 15(1) four (4)	times
For	AA 40, one (1)	times	AA 40 one (1)	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 2 DAYS CLOSE ARREST 9 DAYS OPEN days in military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25 yrs 298 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 26 Jun 41

7. The service which the accused is allowed to reckon towards discharge is nil

8. The accused is entitled to reckon 3 yrs 164 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~no air force decoration, or air force reward~~ military military (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. CVSM & Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of n/a

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated n/a ....., and in his regiment (or corps), the rank of

..... dated .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the~~ present date:—

n/a ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of November 44

[signature] Capt. adjt 3 Bn Ltr.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Summary of Evidence in the case of C-42539 Spr LEBLANC, P.E. of "A" Coy 3 Bn RCE. placed on Active Service.

The Commanding Officer directs that the evidence be taken on oath:.

FIRST WITNESS FOR PROSECUTION

D15754 CSM. OUIMET, W. CSM "A" Coy 3 Bn RCE, having been duly sworn states:

"On 30 Oct 44 at about 1930 hrs, I was in the Serjeants' Mess, when a Sapper whose face or name I do not remember came into the room and told me that D15655 Spr BEAUCHAMP, C, had been shot in the leg. I rushed over to the Medical Orderly's room, and found that Spr COUTURE, C was giving him first aid. I asked Spr BEAUCHAMP, C. what had happened; he said he had been shot in the leg but did not know how it had happened. I then sent for a transport and took him down to 12 Can Gen Hospital in BRUGGE."

The accused declines to cross-examine the witness.

The above evidence was read back to the witness.

.....
(D15754 CSM. Ouimet, W.)

SECOND WITNESS FOR PROSECUTION

B27397 Cpl GODIN, L. of "A" Coy 3 Bn RCE. having been duly sworn states:

"On 30 Oct 44 at about 1900 to 1930 hrs, I was in a cupboard just outside my room, packing my equipment when I heard a shot. I went into the room and saw that Spr BEAUCHAMP, C had been wounded. Spr DESROSIERS, P.E. took him to the Medical Orderly and I followed a few minutes later."

Q1:- "When you came into the room, did you try to find out who had fired the shot?

A1:- No, I thought of taking care of Spr BEAUCHAMP instead.

Q2:- Are you the owner of the Belgian rifle No 23731?

A2:- "Yes".

Q3:- Did you give anyone permission to handle that rifle?

A3:- No, not that day".

Q4:- Did you give anyone permission to use it before that day?

A4:- Yes, I gave Spr LEBLANC, P.E. permission on the day previous. 29 Oct 44.

Q5:- When you came into the room after Spr BEAUCHAMP had been wounded, was anyone in possession of that rifle?

A5:- I did not notice.

SECOND WITNESS FOR PROSECUTION CONT'D

The accused declines to cross-examine the witness.

The above statement was read back to the witness.

L. Godin
(B27397 Cpl Godin, L.)

THIRD WITNESS FOR PROSECUTION

D15504 Spr FORTIER, A. having been duly sworn states:

"On 30 Oct 44, between 1900 hrs and 1930 hrs I was sitting on a bed with spr LEBLANC, P.E. and Spr DESROSIERS, P.E. I was on Spr LEBLANC's left and Spr DESROSIERS was on his right. Spr LEBLANC had a Belgian rifle in his hands; he eased springs; there was ammunition in the magazine and the rounds came out. When there were no more rounds coming out, he pressed the trigger, but nothing happened. He eased springs again and again pressed the trigger; but this time the rifle fired. The bullet went through a wooden box, hit the concrete floor and bounced through a tin box and hit Spr BEAUCHAMP, C in the leg as he was walking in front of the tin box."

Q1:- Whose rifle was it that spr LEBLANC was handling and went off?

A1:- I do not know".

Cross-examined by the accused:-

Q1:- Didn't you hear Cpl GODIN, L. say that the Belgian rifle was his?

A1:- Yes, after the accident, I heard Cpl GODIN say that the rifle was his and that if he had known there would be an accident he would have never carried it around with him. He also said he was going to throww away his ammunition.

The above statment was read back to the witness

A. Fortier
(D15504 Spr Fortier, A.).

FOURTH WITNESS FOR PROSECUTION:

E28419 Spr DESROSIERS, P.E. of "A" Coy 3 Bn RCE. having been duly sworn states:

"On 30 oct 44 between 1900 hrs and 1930 hrs, I was sitting on a bed with spr LEBLANC and Spr FORTIER, A. I was on Spr LEBLANC's right and he was in the center. Spr LEBLANC was showing Spr FORTIER how a Belgian rifle worked. He eased springs and pressed the trigger and nothing happened. He did it again and still nothing happened. The third time, he cocked it again and this time, it went off. The bullet went through a wooden box, hit the concrete floor and made a ricochet through a tin box and hit Spr BEAUCHAMP in the leg. I then took Spr BEAUCHAMP to "A" Coy Medical Orderly.

Q1:- Did any ammunition come out of the rifle the first time Spr LEBLANC eased spring?

A1:- I did not notice any.

FOURTH WITNESS FOR PROSECUTION CONT'D

Q2:- Are you sure the shot went off after he eased springs three times?

A2:- Yes.

Q3:- To whom did the Belgian rifle, with which Spr LEBLANC fired the shot, belong?

A3:- It belongs to Cpl GODIN.

Q4:- How do you know?

A4:- Cpl GODIN, had told me before that he had found a Belgian rifle and had shown it to me.

Cross-examined by the accused.

Q1:- Do you remember how far from me the wooden box was?

A1:- About 2 feet from the rifle.

Q2:- Therefore the rifle was pointing to the floor.

A1:- Yes.

The above statement was read back to the witness.

P.E. Desrosiers
.....
(E28419 Spr Desrosiers, PE.

FIFTH WITNESS: FOR PROSECUTION:

D15810 S/Sjt BOISVERT, A unit Armourer 3 Bn RCE. having been duly sworn states:

"I have examined the Belgian rifle No 23731, manufactured by St ETIENNE and have found no apparent defects. The striker, magazine spring, extractor and bolt are in good working order.

Cross-examined by accused.

Q1:- Did you test it with ammunition?

A1:- Yes, I did, and it worked very well.

Q2:- Is there a possibility that after the bullets had been extracted and the trigger pressed, no action occurred and that on cocking the action once more and pressing the trigger that the bullet was fired?.

A2:- The only explanation I have for this, is that in extracting say three or four bullets that the safety catch might accidentally have been applied thus leaving one bullet in the magazine. After cocking the bolt again twice, the safety catch might have been released and the bullet fired after the second time it was cocked.

The above statement was read back to the witness.

.....
D15810 S/Sjt Boisvert, A.)

SIXTH WITNESS FOR PROSECUTION:

Capt. J.M. MICHAUD 3 Bn RCE having been duly sworn state:

"I am former 2IC of "A" Coy 3 Bn RCE. I hereby produce Coy Daily Orders, Pt I dated 10 Sep 44, which on para 112 prohibits the handling of all foreign weapons, ammunition and explosives not issued by the army, witnou

SIXTH WITNESS FOR PROSECUTION CONT'D

permission of the Commanding Officer. These orders were signed by me for Major J.J.W. CUSSAULT and posted on "A" Coy notice board in front of the Orderly Room. Spr LEBLANC, P.E. was in the Coy lines on and after the day of posting of these orders.

The accused declines to cross-examine this witness.

The above statement was read back to this witness.

(J.M. Michaud) Capt RCE.

Daily Orders dated 10 Sep 44 taken in evidence, read to the accused, marked Exhibit "A" and attached to the proceedings.

(N.J. Wermenlinger) Capt RCE.

SEVENTH WITNESS FOR PROSECUTION

Capt N.J. WERMENLINGER 2IC "A" Coy 3 Bn RCE having been duly sworn states:

"I hereby produce rifle No 23731, made by Manufactures d'Armes St ETIENNE and belonging to Cpl GODIN, L. This rifle was taken into my care after the incident and left by me in "A" Coy Orderly Room. This rifle tagged and marked as Exhibit "B" remains in my custody.

The accused declines to cross-examine this witness.

The above statement was read back to this witness.

(N.J. Wermenlinger) Capt RCE.

The accused was cautionned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declines to give any evidence.

"I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

(N.J. Wermenlinger) Capt RCE.
"A" Coy 3 Bn RCE.

IN THE FIELD
25 NOV 44.

JOINT TRIAL

FF-98 PTE LEBLANC. P.J
FF-99 PTE FORRET

FF-98
FF-99

Correspondence to be PINNED here.

RECEIVED
13 APR 1943
A. & Q.
1st Cdn. Div.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixteenth day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[I am unable to appoint:

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

55

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	P. [illegible] Stetelin	West [illegible]

Members.

Rank.	Name.	Regiment.
Capt	H. Lucas-Bond	HQ & Con Inf Bde
Lieut	P.O. Stayner	Sask L.I. (L.R.)
Waiting Member-Lieut	F.B. Starr	Carlt & York Regt.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3rd Cdn Inf Bde.

Convening Officer.

S.I.
P.H. Stetelin
Pres

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G18136 Pte. Patrick Joseph LeBLANC-Carlt & York Regt.	First Charge Sec 40 A.A.	Not Guilty	Guilty	
		Not Guilty	Guilty	
G32211 Pte. Thomas Horsborough FORSET- Carlt & York Regt.	Second Charge Sec 16(4) A.A.	Not Guilty	Guilty	
	Third Charge Sec 40 A.A.	Not Guilty	Guilty with the exception that the amt. of charges to be H58/6/03 - is £12-4-0 - confirmed of £13-0-0 P.H. Stoholm Major	
			To undergo detention for a period of ninety (90) days — and to be put under stoppage of pay until duly known formally made found the sum of £42-2-6 17 Mar 43 P.H. Stoholm Major	

Confirmed Charles Foulkes Brigadier

21 March 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— no -

(Signed) Charles Foulkes Brigadier (Signed) P.H. Stoholm. Major

Commanding 3 Cdn Inf Bde *Convening Officer* (*e*) West N.S.R. *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of March - 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 17th day of March 1943.

P.H. Stoholm Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

* ~~It is directed that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 21 day of March 1943.

Charles Foulkes Brigadier
Confirming Officer. Commanding 3 Cdn. Inf. Bde

Promulgated and extracts taken in the case of G 18136 Pte (Stf) LeBlanc, PJ Carlt & York Regt. G 32211 Pte Forsett, T.H. Carlt & York Regt.

(*a*) (Dated) 23 Mar 43 (Signed) L. D. Lucas Lt. Col.

Promulgated and extracts taken in the case of G 18136 Pte LeBlanc PJ Carlt & York Regt. G 32211 Pte Forsett. T.H. Carlt & York Regt.

(Dated) 28 May 43 (Signed) L. D. Lucas Lt Col. Carlt & York Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(24) Wt. 28032/1316 20m 2/43 W. & Co., Ltd. Gp. 748/2

The J.A.G., Cdn Army Overseas, having advised that the sentence in these proceedings is invalid, I hereby direct that the record of the sentence be and the same is hereby removed and the accused soldier relieved from all consequences of such sentence, and I do hereby sentence the accused G-18136 Pte. LeBlanc, P.J., the Carlt & York R, to undergo detention for 90 days and to be put under stoppages of pay until he has made good the sum of £21-1-3 in respect of damages caused by him to the Government owned vehicles mentioned in the third charge herein, and I do hereby sentence the accused G-32211 Pte. Forret, T.H., the Carlt & York R, to undergo detention for 90 days and to be put under stoppages of pay until he has made good the sum of £21-1-3 in respect of damages caused by him to the Government owned vehicle mentioned in the third charge herein.

(H.L.N. Salmon)
Major-General
GOC 1 Cdn Div

In the Field
20 Apr 43

Amendment to description of G18136 L/Cpl Patrick Joseph LEBLANC Carlt & York R. one of the Accused person before the Court

---

The Court is satisfied that the above accused is not correctly described. Upon motion of the Prosecutor and with the consent of the Defending Officer the Charge Sheet is amended to read:

G18136 Pte (L/Cpl) Patrick Joseph LEBLANC.

All proceedings will describe the accused as above. (ref R.P.33 (a)

(P.H. Stehelin), Major,
President.

CHARGE SHEET

The accused C18136 (L/Cpl) Patrick Joseph LeBlanc and C322?1 Pte Thomas Horsborough Forret, soldiers of the Carleton & York Regiment, Canadian Army (Overseas) are charged with:-

First Charge
Sec 40 A.A.

While on Active Service conduct to the prejudice of good order and Military Discipline,

In that they,

In the field, between the hours of 2300 hrs 5 Mar 43 and 0130 hrs 6 Mar 43 did without authority or permission remove two W.D. Motorcycles bearing Nos. C4586103 and C4598868 respectively, on charge to the Carleton & York Regiment, from York Hill (Staging Camp) Glasgow.

Second Charge
Sec 18(4) A.A.

While on Active Service, stealing public property,

In that they,

In the field, between the hours of 2300 hrs 5 Mar 43 and 0130 hrs 6 Mar 43, stole petrol, the property of the Canadian Government, in motorcycles, bearing Nos. C4586103 and C4598868, at York Hill (Staging Camp) Glasgow.

Third Charge
Sec 40 A.A.

While on Active Service, conduct to the prejudice of good order and Military Discipline,

In that they,

In the field, did cause two W.D. Motorcycles bearing W.D. Nos. 4586103 and C4598868 respectively on charge to the Carlt & York R, to be damaged to the extent of £13-0s-0d and £29-18s-6d respectively, a total of £42-18s-6d.

Date 14 Mar 43

In the field

F D Tweedie Lt Col

(F.D. Tweedie) Lt.-col.,
Comd Carlt & York Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

Date 16 March 1943

In the field

(C. Foulkes) Brigadier,
Comd 3 Cdn Inf Bde.

B 2.
P. N. Slobodin
Pte

MEDICAL OFFICER'S CERTIFICATE S. 2

K.R. (CAN) PARA 557. P.H. Stitchin Pres

I certify that I have this morning examined

No. G 18136 L/Cpl. Le Blanc, P.J.

of Carleton & York Regiment and in my opinion he is fit
to undergo Trial by Court Martial. unfit

Station In the Field

Date 17 Mch 43

Cabanpbell Capt
Medical Officer

MEDICAL OFFICER'S CERTIFICATE P.H. Stitchin Pres

K.R. (CAN) PARA 557.

I certify that I have this morning examined

No. G 32211 Pte. Forrest, T.H.

of Carleton & York Regiment and in my opinion he is fit
to undergo Trial by Court Martial. ~~unfit~~

Station In the Field

Date 17 Mch 43

Cabanpbell Capt
Medical Officer

A FIELD Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General ~~and District~~ P. H.S. Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 17th day of March 1943 by order of Charles Forbes - Brig.

Commanding 3rd Cdn. Inf. Bde.

, dated the 16th day of March 1943

President.

Major. P. H. Stetelius - West N.S.R.

Members.

Captain H. Lucas Bond. HD. 3 Cdn Inf Bde

Lieut. P. O. Stayner - Sask. L.I. (MG)

(waiting) Lieut. J. B. Starr - Carlt & York Regt.

, ~~Judge Advocate~~ P. H.S.

Trial of* G 18136 (L/Cpl) Pte. Patrick Joseph LeBlanc. and G 32211 Pte Thomas Hornborough Forret - both Carlt & York R.

The order convening the Court, the charge-sheet and the summary P.H.S. (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~ P.H.S.

, ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt W. C. Johnson - Carlt & York R.

P.H.S. ~~counsel~~, or defending officer† Capt. R. G. Simms - Carlt & York R.

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked S I , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

no.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q1261. Wt.W4803/5/60. 40,000 mts. 2140. K. & H. Ltd. G6[illegible]. Forms A 9/Cs.

P.H.S.

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 20 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused ~~is~~ are arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Not Guilty *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

P. H. Nicholson
Pres

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

no

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

P.H.S. Pres

The prosecutor proceeds to call witnesses.

First witness for prosecution. G 17213 Sgt Pike S.B.

being duly sworn, is examined by the prosecutor.

I am ~~was~~ G 17213 Sgt Pike S.B. 1st Sgt of C.Y.R. at all times material hereto. On night of 5 Mar 43 I returned from looking for a broken down M/C at about 2230 hrs, outside of Yorkhill Transit Camp. I went inside to await for LAD staff to return & pick up broken down M.C. Shortly after I heard an M/C go by. I then went out to find out if it was the M/C I had been looking for. It was & I then guided him back to billets and did not come out again till next morning. When I came out I noticed that my M/C C45 86103 was gone. On way back in I was met by Lt Crook. He then told me that my m/c had been taken. My m/c contained W.D petrol. I recognize the ~~Question~~ ~~You~~ accused here present in court. I did not give either of them permission to use my M/C the night of 5/6 Mar 43.

Cross examined by defence.

Question - are vehicles not in authorized car parks immobilized.

P.H. Stebbins Pres

Answer - They should be if no guard is on.

2nd Question - How long have you been an N.C.O. in the Transport Section?

Answer - Over 2 years, sir.

3rd Question - Have both the accused been drivers during that time?

answer - Yes, sir.

4th Question - Have they performed their duties efficiently?

answer - They have.

1st Question by Court.
- Were both accused staying at Yorkhill Camp that night?

answer - Yes, sir.

2 Question - Was there a sentry near spot you parked M/C?

answer - Yes, about 2 yards away.

3rd Question - Was sentry on all night?

answer - I do not know.

2nd Witness for Prosecution. Lt. Crook J.T. having been duly sworn is examined by prosecutor.

I am Lt Crook J.T. Tpt Offr. of C.Y.R.

On night of 5/6 Mar we were stationed in Yorkhill Transit Camp, Glasgow. About 0745 hrs I was awakened by Civilian police ~~& told that~~ and as a result I went out to main dormitory where men were sleeping & found that the police had in custody the accused, whom I recognize now. I then went down to Anderson St Police Station & there the police Inspector gave me the numbers of the M/Cs C 4598868 and C 4586103 on charge to the Transport Offr. and Transport Sgt respectively

P.4 [illegible] Pos

The accused were then cross examined by Inspector Campbell and he turned the accused over to my custody. I took the accused to a a Casualty Clearing Hospital & had their wounds dressed & then returned to Transit Camp and sent accused to dormitory. On arrival at Dukes Camp I placed accused under close ~~an~~ arrest. These damaged M/C's contained W.D. petrol. I did not give permission to either accused to use either M/C on night of 5/6 Mar 43. I visited scene of accident that night. It was approximately two miles from the Transit Camp. From Yorkhill Camp the ground is such that you could coast a vehicle down to main road and along road to a bridge over Clyde River where there was a slight rise, from there the ground was level up to scene of accident. A M/C could ~~be~~ Not be coasted from the Camp to scene of accident. A M/C could be pushed that distance. This would be difficult and would take a considerable time.

1st Question by Court.

- When did you first see the M/C.'s?

Answer

- Next morning at Transit Camp.

2 Question

- What was damage?

Answer. M/C C4598868 had front wheel bent under and frame twisted, forks broken and other damage. M/C C458 had forks bent and headlight torn away. This M/C could be driven.

3rd Question

Was there petrol in these M/C?

Answer

- I do not know.

P.H. Pl. Lehr
Pres

C.H

3rd Witness for Prosecution

G 17449 L/Cpl Bernard A. C.Y.R. having been duly sworn is examined by prosecutor

I am and was at all times material hereto G 17449 L/Cpl Bernard A. Regt'l Policy. C.Y.R. On 5 Mar 43 I was accompanying Sgt Pike to find a broken down m/c in Glasgow. After finding the broken down M/c we returned to Yorkhill Camp to get a transport truck to pick up the m/c. While waiting for transport we heard a m/c go by. We went out and discovered it was broken down m/c returning to camp. While waiting we left our m/c outside the billet, then we went to bed. Next morning when I went out for breakfast my bike was gone. ~~My mk~~ I was using the Transport Officers bike. I recognize the accused and did not give either of them permission to use the m/c on night of 5/6 Mar. The M/c contained W.D. petrol.

1st Question by Court.

How much petrol was there in M/c?

answer - I do not know.

2 - Q. When did you next see M/c?

A. After breakfast on 6 Mar. 43.

~~3rd Q~~ - ~~Ath~~

4th Witness for Prosecution

William Horn, Watchman, 39 Byres Road Glasgow having been duly sworn is examined by prosecutor.

I am William Horn, 39 Byres Road, Glasgow. I recognize accused persons here, having seen them ~~on~~ 6 Mar 43 at 0130 hrs in front of gate of A & J Inglis, Shipbuilders Ferry road, Glasgow where I am employed. At this time I heard a crash and went out with with my torch & on opposite side of road I found two M/c that

C.6. had crashed through the barricade and the two accused. (Forret) - Smaller of the two was lying on his back stunned, he had a wound on his head and was partly unconscious, his trousers were badly ripped. I took him inside the gate, the other one helping him. After awhile they left. Meanwhile I had phoned police and when I returned I found them gone. The smaller of two (he identifies Le Blanc) had a cut on his head. The two m/c were Army vehicles.

1st Question by Court.

Do you know what type of M/c they were?

A. - No.

2 Q. Did you hear M/C's?

A. - No.

3rd Q. - Did you see any other soldiers?

A - There was another soldier standing by crashed m/c who left when I came.

4th Q. Did you have any conversation with the accused?

A. No.

5th Q. Were accused near the M/c?

A. Forret was lying under one & Le Blanc was getting to his feet.

6th Q Did you think this third soldier was with the accused?

A. Yes, I did at first, but he left.

5th Witness for Prosecution.

Hector Rose #252 Constable, Marine Division City of Glasgow Police having been duly sworn, is examined by prosecutor.

I am Hector Rose, #252 Constable Marine Division, City of Glasgow Police. On night of 5/6 Mar 43 acting on instructions I proceeded to Ferry Road and found 2 m/c having apparently hit the ~~road~~ barricade on Ferry Road near River Clyde. There was no person there, just the two m/c lying on road & 2 palings out of barricade. ~~I then saw witness from at the Inglis Shipyard who let~~ The m/c's

Prosecutor [illegible]

appeared to be badly damaged. They were W.D. m/c. Their numbers C 4586103 and C 4598868.
As result of discussion I had with witness Hein I went to Yorkhill Camp Transit Camp & there found 2 men, whom I identify as the accused washing cuts about their heads & hands in washhouse basins. They were asked how they were injured & they said they had been in a fight, one having been hit by bottle. They denied having had m/c. Finally one of them (witness identifies Leblanc) admitted they had had m/c & had been in an accident. The other (witness identifies Fanel) said he could remember nothing. I then charged them with riding the m/c while under the influence of drink, as result of opinion I formed while examining them. I then turned them over to Lt Crook. I think the distance from Yorkhill Camp to the scene of accident is approx. one half mile.

Witness is cross examined by Defence.

1. Q. Was there any form of resistance by accused?
A. - None.

1st Question by Court.

1Q. - Was there any mention of a 3rd soldier?
A. - No

6th Witness for Prosecution. G 17276 Pte Sullivan G.C. soldier of CYR having been duly sworn is examined by prosecutor.

I am G 17276 Pte Sullivan G.C. soldier of CYR. On night of 5/6 Mar 43 I was on fire picquet from 02230 hrs to 0030 hrs in the building at Yorkhill Transit Camp. I did not know Sgt. Pike and L/C Jel Bernard had parked their m/c

outside the building nor did I hear any m/c leave

Witness is cross examined by Defence

1st Q. Did you see the accused between the hours of 2100 and 2300 his night of 5/6 March?

A. No sir.

Question by Court

1st Q. Were you instructed that these m/c were under your care?

A. No sir, I was on fire picquet.

2nd Q. Did you know if there was a proper park with sentries posted for vehicles?

A. Yes sir approx 150 yards away.

7th Witness for Prosecution. Lt A.J. Barry E.M.E. of 3 C.I.B. having been duly sworn, is examined by prosecution.

I am Lt A.J. Barry E.M.E. of 3 C.I.B. I have examined m/c C 4586103 & m/c C 4598868.

M/C C 4586103 is damaged ~~as follows~~ to amount of ~~(estimated)~~

Labour £2-6-0
Parts 9-7-0
£12-4-0

M/C C 4598868 is damaged ~~as follows~~ to amount of. These amounts are only estimated by me.

Parts £14-6-6
Labour 3-12-0
New frame 12-0-0
£29-18-6

G 17213 Sgt Pike S.S. having been recalled states:

When I left my m/c outside of the billet it was undamaged.

Question by Court

1st Q. Why did you not put your m/c in proper car park?

A. I was very tired having been driving all day and it was late at night. I neglected to put my m/c in proper park.

C. 8.

2nd Q. How far was car park from billet?

A. About 150 yards.

3rd Q. Did you tell man on fire piquet to watch your m/c?

A. I did not, sir

G 17449 L/Cpl Bernard A. having been recalled states

When I last saw my m/c outside the billet is was in good running order.

Question by Court.

1st Q. Did you know there was a proper vehicle park with sentries on it?

A. Yes, sir.

2nd Q. How far was park from billet & why did you not park m/c there?

A. approx 50 yards. I did not park my m/c in park as Sgt Pike told me to leave my m/c with his.

Lt. J. T. Crook having been recalled, states:

Question by Court.

1st Q. Did you know there was a proper car park at the Camp?

A. Yes, sir

2nd Q. Did you give instructions to drivers to to put all vehicles in park?

A. Yes, sir.

3rd Q. Did you during evening see either of the m/c's parked in front of billet?

A. No, sir.

4th Q. Then you did not know the m/c's had been left outside the billet?

A. No, sir

J. H. Chetwin
Pres

Prosecutors Closing Address.

I quote an extract from C.R.O. 2918 entitled "Discipline - Misuse of W.D. Vehicle." and refer to M.T. Drivers Regs. auth. by CRO 2060 as amended by C.R.O 2172 & 2183 & 2701.

The gist of these being that if a man is proved guilty of stealing a vehicle he can be charged with stealing W.D. petrol.

The fact that the barrier was considerable distance from the staging camp and the ~~con~~ degree of damage to the machines & the men precludes the theory that the ~~be~~ m/c could have been pushed or coasting when they struck the barrier.

P. H. Plehobis
Pres

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. Yes.

Question. Is he a witness as to character only? *Answer.* Yes

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

1st Witness for defence

The accused

D 2

+ G 18136 L/Cpl Le Blanc P.J having been duly sworn is examined by defence:

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

I am the accused. On the 5 Mar 43 I was driving from 0800 hrs to 1600 hrs. I went out in the evening with Forret & went to a pub. We were quite tired and had quite a few drinks. The liquor seemed to go to my head quickly I was tired. We stayed till the pub closed, I ~~don't~~ remember little about coming from pub & down the street. I don't know how far down the street we went and next thing I remember was getting up & lifting a M/C off Forret. I do not remember how long I had been unconscious. Two soldiers showed us the way back to the camp & when we were in camp three or four civilian police came in & started questioning us, asking us if we had been riding m/cs. At that time I was attending to cut on Forrets' head. They then took us to civilian police station. From there we went to hospital

Cross examined by Prosecution

1st Q - Do you remember taking a m/c that ~~wing~~ evening or riding one at any time during night?

A - No sir, I do not remember.

2nd Q - Why did you make the statement to P.C. Rose that you had taken the m/cs?

A - I was trying to fix Forrets head & the constable kept telling me we had taken the m/cs so I told him we had so he would leave me alone.

3rd Q. How do you think you got your wounds?

A - I do know we had been in a fight and I know Forret was hit on head with a bottle.

P.H. McLaughlin
Pres

4th Q. How do you think you found yourself climbing out from under a m/c?

A. I do not know, possibly I was run down by a m/c.

5th Q. Did you see the two m/c there at time?

A. I dont know, it was quite dark. I was trying ~~to drag one~~ did pull Forret clear of one m/c.

Question by Court.

1st Q. Was there a m/c on you?

A. No, sir.

2nd Q. Did you know who the two soldiers were who helped you back to camp?

A. ~~I do~~ No sir, I didnt know them.

3rd Q. Do you remember what the fight was about?

A. I think they were English or Scotch civilians.

4th Q. How do you think you got cut on your head & hands?

A. In the fight.

5th Q. And not in the ~~fight~~ crash?

A. I dont know, sir.

6th Q. Were the lights on ~~the~~ m/c during or after the crash?

A. I do not remember, sir.

~~[illegible]~~

2nd Witness for ~~Prosecution~~

The accused G. 37211 Pte Thomas Horsborough Forret having been duly sworn, is examined by defending officer:

I am the accused. I was driving all the day of 5 Mar 43, driving approx 140 to 145 miles. We landed in Glasgow about supper time. After supper L/Cpl Leblanc & I went out to a pub. We stayed in the pub till it closed and after leaving there & walking down roads a 100 yards or so I remember going into a dage. After that I dont remember what happened. The next thing I remember I was in the Yorkhill staging camp & L/Cpl Leblanc was washing my cuts.

P.O.W. This [illegible]

The police came in & questioned us there. After they had questioned us we were taken to hospital. After that we returned with Lt. Crook to billets at Yorkhill.

Question by Court.

1st Q. Can you ride a m/c?
A. Not very good, sir.
2nd Q. What do you do in Transport Section?
A. I drive a 15 cwt, wireless truck.
3rd Q. But you can ride a m/c?
A. Yes sir a little, only once over here.
4th Q. Do you remember going to police station being examined by doctor.
A. Yes sir a little, I remember having to walk along a hallway. Afterwards I came away with Lt. Crook.
5th Q. You heard the constable say that they decided not to charge you with drunkiness at police court. How do you reconcile this fact with your state of a daze?
A. I do not know, sir.
6th Q. You do not remember pushing or coasting on a m/c?
A. No sir.
7th Q. The time of crash was approx 2½ hours after pubs closed. Do you think you still were drunk?
A. Yes sir.
8th Q. If you were so tired why did you stay in pub till closing time?
A. I don't know sir.
9th Q. Did anyone else go with you to pub?
A. No sir, only 1/cpl Le Blanc.

[illegible]
Pres.

Character Evidence for Defence

Capt. C.A. Campbell having been duly sworn states:

I am Capt C.A. Campbell, R.M.O. of C.Y.R. ~~[illegible]~~ L/Cpl Leblanc. ~~[illegible]~~ has been in charge of the Water duties of the Bn for last two years. This is a responsible job & calls for good work and assumption of responsibility. He was highly recommended to me by previous R.M.O. I have always found him to be highly efficient and any jobs I have given him have been carried out promptly and well. As far as I know his conduct has always been most exemplary. His conduct and work as far as I am concerned have been highly satisfactory.

Lt. W.W. Wilson having been duly sworn states:

I am ~~w~~ Lt. W.W. Wilson, signal officer in C.Y.R. Pte Forret has been under my command since April 1942 and during that time his character has been as good as any man in the regt that I know of. Never at any time during this time has he caused me any trouble or any one else that I know of.

J.H. Stobbers
Pres

Plea for Mitigation [illegible]

In addition to splendid record of and character, I would like to point out that both accused are married in this country. Pte Forret has a child of 6 mos and Pte Leblanc's wife is in a very delicate condition & a child expected in early part of May. Any punishment will naturally be reflected on the families of the two men.

P.H. Plebehi
Pres

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

See Schedule. Convening Order.

P. H. Stehelin Pres.
Maj.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt. W. C. Johnson Court & York R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked S3 - S3(a) S4 - S4(a) signed by the President, and annexed to the proceedings. AFB 296 - MF m. 6. AFB 296(a) MF m. 6.

Question by the President.

Are the accused the persons named in the statements which you have heard read? *Answer by the Witness.* yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes.

Cross-examined by the accused.

Not

Observation.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* yes. (attached to evidence)

The Court is closed for the consideration of the sentence.

P. H. Stehelin
Pres

F

Sentence.

The Court sentence the accused

Sentence.

See Schedule - Convening Order -

P. H. Stubbs

Pres

P. H. Pres

Summary of Evidence in the case G 18136 49 Patrick Joseph LeBlanc and G 32211 Pte Thomas Harsborough Forest, Carleton & York Regt, Canadian Army (Overseas)

By direction of the C.O. the summary is taken on oath.

1st. Witness for Prosecution

G 17213 Sgt. Pike, S.B. Cpl. Sgt. Carlt. & York Regt having been duly sworn states:-

I am and was at all times material here to G 17213 Sgt. Pike S.B. Cpl. Sgt Carlt & York Regiment. About 2230 hrs. 5 Mar 43. I returned from looking for a broken down M/C and I parked my M/C (C 4586103) outside my billet at Yorkhill Transit camp to wait for the LAD truck that was to pick up broken M/C. A little later I heard a M/C go past the billet, I went out, got on my M/C and went up to the car park discovering the M/C that just returned to be the one the LAD was to go after. I returned to my billet leaving my M/C parked in the same place as before, and did not leave my billet until 0700 hrs the next morning when I found my M/C missing. I thought someone must have taken it to the car park but on meeting Mr Crook I was informed that the M/C had been stolen.

S.B. Pike

P. H. Stebbins
Pres

He left the two accused in my custody. I then proceeded to the casualty Hospital Glasgow, where the wounds of the accused were dressed, then returning to York Hill Transit camp where they were put under open arrest. On arrival at Dukis Camp they were put under close arrest. I gave Sgt. Pike and L/Cpl Bernard permission to use M/C.s to search for broken down M/C.

Accused believes to cross x this witness J. [illegible] Lieut

3rd Witness
6 Prosecution.

G17449 L/Cpl Bernard A. Regt. Police Cult York Regt having been duly sworn state I am and was at all times material hereto G17449 L/Cpl Bernard A. Regt. Police Cult & York Regt. On the night of 5 Mar 43 I was accompanying Sgt. Pike who was looking for a broken down M/C in Glasgow. When found we returned to camp to get a truck to pick up broken M/C. This was about 2230 hrs, 5 Mar 43. We had to wait for a truck so we parked our M/Cs C4586103 and C4598868 outside the billet and went inside. While waiting a M/C went past and Sgt Pike and I went outside, the former going up to the car park on his M/C discovering the M/C having just arrived to be the one the LAD was to go after. We left the M/Cs where they were, just outside the billet, as there was a sentry at the door of the billet, and went inside. I did not come out of the billet until breakfast time next morning discovering the bike

P. H. Stebbins
Pres

were gone.

Q How far away was the tube packed from the sentrees?

A About 6 ft. A. Bernard

Accused tickets to cross examine witness LBB.

P.A. Statutory Pres

Q Was there a guard in that area?
A. Yes.
Q How far away was the guard?
A Just inside the door of the hall.
Q How far was the bike left from the guard?
A About 2 yards.

S.B. Pike
Accused declines to cross examine witness LBG.

2nd Witness for Prosecution

Lt. J. T. Crook T.O. Carlt & York Regt. having been duly sworn states:-
I am and was at all times material hereto Lt. J. T. Crook T.O. Carlt & York Regt. About 0245 hrs 6 Mar 43 I was awakened by the police (Glasgow) and they told me two of my ~~M/Cs~~ Motorcyclists had crashed and they had the two men in custody. I went outside the dormitory and found the men in custody to be G32211 Pte Thomas Horsborough Forest and G18136 L/Cpl Patrick Joseph LeBlanc. I went down to the Anderson St. Police Court and then the constable gave me the numbers of the damaged bikes. By the numbers I knew they were the M/Cs on charge to myself T.O. of Carlt & York Regt. and Tpt. Sgt. Pike. Carlt & York Regt. The two accused were cross examined by Inspector Campbell of the Anderson St. Police Court, Marine Division

P.W. Stebelin Pres

ST.

WILLIAM HORN, (69), Watchman, 39 Byres Road, Glasgow.

STATES:

I am employed as a Watchman by A & J. Inglis, Shipbuilders, Ferry Road, Glasgow and I reside at the above address. About 1.30 a.m. on Saturday, 6th March, 1943, I was in the gatehouse of the shipyard in Ferry Road, when I heard a crash.

After listening for a moment or two I went outside on to Ferry Road and I heard the sound of voices coming from the direction of the River Clyde which is situated on the opposite side of Ferry Road directly opposite the gatehouse.

I had a torch and on going in the direction of the voices I saw three soldiers struggling with two motor cycles on the south footway which is next to the river just where Ferry Road takes a turn at right angles. I saw that two of the soldiers appeared to be injured, one of them being bleeding from the hands and head while the other had a cut forehead.

The third soldier appeared to be uninjured and on speaking to the two soldiers who were injured I saw that they were very much the worse of drink, particularly the one with the injured head and hands who appeared to be dazed and did not know where he was or what had happened.

I saw two Military Motor Cycles on the footway the front wheel of one of them being through the barricade which divides the footway from the river, while the other was lying broadside on the footway and both appeared to be extensively damaged.

I asked the two injured soldiers to come into the gatehouse where I would give them medical aid and they came in but they started an argument in the gatehouse between themselves and went out without receiving attention. The other soldier disappeared while the two injured soldiers were in the gatehouse.

After the men went out I telephoned the Marine Police Office and a short time later the Police arrived but by that time the two injured soldiers had also disappeared leaving the motor cycles at the locus. I think I could identify the soldiers but I do not know what Regiment they are in.

A short time after the Police left, they returned with two soldiers in a van and I identified them as the two soldiers I had previously seen and who had come into the gatehouse.

It was very dark at the time I heard the crash and only a moment or two elapsed from the time I heard the crash until I went out.

The locus of the incident is some considerable distance from any habitation and I am quite satisfied that the men I saw are the men who were in charge of the motor cycles when the accident occurred.

I saw that the rear light of one of the cycles was illuminated but they had no other lights showing.

Wm. H. C. Horn.

I hereby certify that owing to the exigencies of the service this witness was unable to attend the taking of the Summary. R.P. 4 (G)

R. B. Groom Lt.

SP.

HECTOR HOSE, No. 252 Constable, Marine Division, City of Glasgow Police.

STATES:

I am 36 years of age and have 14 years police service.

About 1.45 a.m. on Saturday, 6th March, 1943, I was on duty in the Marine Police Office when I received instructions from Inspector Campbell, Officer on Duty, to go to Ferry Road as he had received information from the Night Watchman at Messrs. Inglis's Yard, Ferry Road, that a short time previously, two soldiers on motor cycles had collided with a barricade in Ferry Road, and that after the collision they had left the machines lying and had gone away, both were alleged to be under the influence of drink.

In company with William Stewart, No. 232 Constable and Daniel McGinlay, P.S.M.367, I went to the locus in the Police Patrol van and found the two motor cycles lying on the south footway in Ferry Road about 40 yards from Govan Ferry. I found that two spars had been broken from the barricade on the north side of the River Clyde at the locus and both machines were considerably damaged at the front.

We saw Horn the watchman and he informed us that he had heard the crash about 1.30 a.m. and found the soldiers standing alongside the machines, both cut about the head and one of them had his trousers badly torn, they both appeared to him to be under the influence of drink. While Horn was telephoning the Marine Police Office both men made off northwards in Ferry Road and as he had heard them mention Yorkhill he thought they must have gone there.

On proceeding to Yorkhill Drill Hall we found after some delay the accused Patrick Joseph Le Blanc (26), 18136, and Thomas Horsburgh Forret (23) G 32211, both of Carleton and York Regiment, Canada, at the wash-hand basins washing cuts about their heads, one of the men Forret had an extensive tear to his right trouser leg. On questioning them regarding their injuries they said that they had been in a fight, and one of them claimed to have been struck by a bottle. They denied all knowledge of the motor cycles, but finally the accused Le Blanc said that they might as well admit that they had been riding the cycles and had been involved in an accident. Forret however denied all knowledge of this, saying that if it were true he must have been very drunk as he had no recollection of it. Both men smelt strongly of drink.

After some delay, Captain Charles Brent and Lieutenant James Crook were found and informed of the occurrence and that the two men were being conveyed to the Marine Police Office on a charge of being under the influence of drink while riding motor cycles. When they were charged and cautioned Le Blanc replied, "Yes it was us". Forret replied, "I can't remember anything". They were first of all taken to Inglis's Yard where they were identified by the watchman. It was quite obvious by the smell of their breath that they had been drinking although the wash had sobered them up. Le Blanc was quite steady on his feet but Forret was staggering slightly and had to hold on to the wash-hand basin at the drill hall.

I was present when both men were examined by Dr. Black Assistant Medical Officer of the Glasgow Police, both men performed the tests satisfactorily, they were not certified. Prior to the examination both men had been charged and cautioned at the Bar but made no reply.

I am unable to say which vehicle caused the damage to the Clyde Trust property.

The/

ST.

Continued:

The men were taken to the Western Infirmary accompanied by Captain Brent and Lieut. Crook, where they were examined by Dr. Fraser who found La Blanc to be suffering from lacerations to the right frontal region and a cut on the right hand. Forret was suffering from lacerations to scalp, cut above left eye, and a cut on left thumb.

The men were taken charge of by the officers, the motor cycles Nos.C 4586103 and 4598868 were also handed over. The Clyde Trust Harbour Repair Office was informed of the damage by 186 Constable William McGill.

WILLIAM STEWART, No. 232 Constable, Marine Division,
and
DANIEL McGINLAY, No. 367 Constable, P.W.R. Marine Division,
City of Glasgow Police.

STATE:

We were in company with No. 252 Constable Hector Rose, and corroborate his statement in full.

Hector Rose.
B. 252. Constable

x I hereby certify that owing to the exigencies of the service this witness was unable to attend the taking of the Summary. R.P.4(G)
R. B. Groom Lt

P. H. Stebbins
Pres

Sixth Witness for Prosecution

G17276 Pte Sullivan G.C. soldier of Coult & York Regt. having been duly sworn states:-

From 2230 hrs Mar 5 until 0030 hrs 6 Mar I was on Fire Aquit in the building and did my watch from the hall way just inside the entrance door. I never saw or heard anything pertaining to a M/C.

Q. Do you think you could have heard a M/C if it had been started

A. Yes.

Q. Was the topography of the place such that the M/C.s could have been coasted away from the billet.

A. Yes.

G17276 Pte G.C. Sullivan

Accused declines to cross examine witness L.B.G.

P. H. Alphabet Pres

Seventh Witness for Prosecution

Lt Barry A. J. Ex M. E. of 3 Can Inf Bde having been duly sworn states.

I have examined M/C.s bearing W.D. Nos C 4586103 and C 4598868 and found the damage and labour amounted to £13-0-0 and £29-18-6 respectively.

Estimate only

A. J. Barry Lieut

Accused declines to cross examine witness
LBG.

D.H. Stitchin
Pres.

The accused having been duly cautioned in accordance with Rule of Procedure 4 declines to make a statement.

Certified that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 10 day of March 1943.

L. B. Groom Lt.

List of witnesses in the case of G18136 L/Cpl Patrick Joseph Le Blanc and G32211 Pte Thomas Hassborough Fourt. Carlt & York Regt, Cdn. Army (Overseas)

For Prosecution

Name	Unit	Address
G17213 Sgt. Pike S.B.	Carlt & York R.	In the Field
Lieut J. T. Crook	Carlt & York R.	In the Field
G17449 L/Cpl Bernard, A	Carlt & York R	In the Field.
William Hamm	Watchman	Glasgow
Hector Rose (Constable)	Marine Division	Glasgow (Police)
William Stewart (Constable)	Marine Division	Glasgow (Police)
Daniel McGinlay (Constable)	Marine Division	Glasgow (Police)
G17276 Pte Sullivan G.C.	Carlt & York R.	In the Field
Lt Barry A.J.	Cdn Int Bde	In the Field.

For Defence

NIL.

P. H. Stehelin Pres

List of Exhibits in the Case of G18136 L/Cpl Patrick Joseph LeBlanc and Thomas Harsborough Forret, Carlt & York Regt. Cdn. Army (Overseas).

1. Signed statement of William Horn, watchman 39 Byres Road, Glasgow.

2 Signed statement of Hector Rose, Constable Marine Division City of Glasgow Police.

Defending Officer in the case of G18136 L/Cpl Patrick Joseph LeBlanc and Thomas Harsborough Forret, Carlt & York Regt. Cdn Army (Overseas)

I, G18136 L/Cpl Patrick Joseph LeBlanc and I G32211 Pte Thomas Harsborough Forret, Carlt & York Regt. request that R. G. Simms Capt. LBG ~~J. H. Farthing Capt.~~ be appointed to assist us at our trial by Court Martial.

T. H. Forret

P. J. LeBlanc

P. H. Stebbins
Pres

Certificate that G18136 L/Cpl Patrick Joseph Le Blanc and G32211 Pte Thomas Harsborough Forrest Coalt & York Regt have received a copy of Summary of Evidence and Charge Sheet without any cost to us.

This is to certify that we G18136 L/Cpl Patrick Joseph Le Blanc and G32211 Pte Thomas Harsborough Forrest Coalt & York Regt. have received a copy of Summary of Evidence and Charge Sheet without any cost to us.

T. H. Forrest

P.J. Le Blanc

This is to certify that we G18136 L/Cpl Patrick Joseph Le Blanc and G32211 Pte Thomas Harsborough Forrest Coalt & York Regt have received copy of ammended charge sheet and Summary of Evidence

T. H. Forrest

P.J. Le Blanc

P.R.S. [illegible]
[illegible]

No. G 32211 Name Follet, T. H | Sqn., Battery, or Company D Coy | Corps St. John C.A.S.F. Fus. (M.G.) | Date of enlistment 4-9-39 | G.C. Badges S. 4(a) P. 14 | Service or Proficiency Pay P. 1 | Character

M.F.M. 6 (A.F.B. 122) 17551—7-41 (1210-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	16/8/40	Pte		When on Active Service. Contravening C.D.O. 472 dated 22 Feb 40, No 8 — not carrying a respirator.	Cpl H. Bergan & Cpl H. Stokes	4 days C.B.	18/9/40	Capt A.A.D. Hamm	
Catterick	31 Dec 40	Cpl	1	Absenting himself 1st Offence	H/Cpl Graham & L/C Jessome	Guilty, 1st Offence reduced to Pte		Capt Swan	
Catterick	23/4/41	Pte		Conduct to the prejudice, in possession of a W.D. Vehicle in Bus Queue without proper authority. Sec 40	Pte Whitney	3 days C.B.	24/4/41	W.B. Carson Major	
In the Field	4/5/42	Pte		Was driving a W.D. Vehicle at a excessive speed. Note of speed. Sec 11 A.A.	R.S.M. Jessome		15 May 42	W. B. Carson Major	forfeits 1 days pay.

(P.T.O.)

No. G/8136 Name Le Blanc, P.J. | Sqn., Battery, or Company H.Q. Coy | Corps C. of C. | Date of enlistment 20 Sep 39 | G.C. Badges S.4 | Service or Proficiency Pay Pres | Character

M.F.M. 6 (A.F.B. 122) 17551—7-41 (1210-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Prom. to Cpl 1/4/40 — Rev 6/8/41.					
Calvelle Ch.	10/1/40	Pte		AWL 2 hrs 10/1/40 — 1800 hrs Appreh.	Cpl Lenyon		13/1/40	A.A. Clark Capt	forfeits 3 days pay.
Catterick	14/2/40	Cpl		AWL 2359 hrs 14/2/40 — 2015 hrs 15/2/40	Cpl Taylor	Reprimanded	16/2/40	W. B. Carson Maj.	" 1 days pay.
Catterick	21/1/41	Cpl	1	Drunk and causing disturbance at Kings Cross Station	C/Pl Bright C/Pl R	Severely Reprimanded	22/1/41	W.C. Hanson Capt	
Field	16/11/42	"		AWL from 2215 hrs 16-11-42 to 2215 hrs 16-12-42 Sec 15 (1) A.A.	Cpl. Hanson	7 days C.B.	19/11/42	Capt D.H. Cunningham	D.M.C. Gen
				I hereby certify this to be a true & correct copy of the M.F.M. 6 for G/8136 Cpl Le Blanc, P.J. J.D. Longhurst Capt					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				I hereby certify this to be a true & correct copy of the MFM 6 for G32211 Pte Farrell, L.H. J D Dougherton Capt					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				I hereby					

S.S. P.H. Stetson Pres

A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF ACCUSED.

G18136 L/cpl Lc Blanc P.J. Carleton & York

Number Rank Name Regiment

(1) The following is a fair and true summary of the entries in the Regtl conduct sheets of the accused, exclusive of _____ convictions by a Courts Martial or a Civil Court, of summary awards under the Section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months		Since Enlistment	
For AWL Sec 15(1) AA. ,	1	times	3.	times
For Sec 19. Drunkenness:	0	times	1	times
For ,		times		times
For ,		times		times
For ,		times		times
For ,		times		times
For ,		times		times
For ,		times		times
For ,		times		times
For ,		times		times

Number of instances of gallantry or Distinquished conduct:- NIL.

There are no entries in the conduct sheets of the accused. (Instructions:- If the charge is for drunkeness, the entries for drunkeness must be stated separately and dated.)

(2) The accused has not been previously convicted

or

Previous convictions of the accused by a Courts Martial or a Civil Court, summary awards under Section 47 of the Army Act, and dispensations with trial under A.A. 73, are set out in the schedule annexed to this statement.

(3) The accused is not under sentence at the present time

or

The accused at the present time is under sentence for NIL. _____ beginning on the ____ day of _____

(4) The accused has been in confinement, awaiting trial on the present charges for NIL. days in civil custody, and 11 days in Military custody, making a total of 11 days in custody, of which NIL. days were spent in hospital.

(5) The present age of the accused according to his attestation paper is 26 yrs 289 days.

(6) The date of his attestation specified in his attestation paper is 20 Sep 39

(7) The Service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs. 178 days.

(8) The accused is entitled to deferred pay or gratuity in respect of 3 yrs 178 days. service.

(9) The accused is entitled to reckon 3 yrs 178 days service for the purpose of determining his pension, etc.

(10) The accused is in possession of NIL. or entitled to _____ Military decoration or military award.

(11) (If the accused is a warrant officer) The accused before he was made a warrant officer last held the rank of NIL

P.T.O.

(12) (In the case of an officer) The accused holds in the army the rank of NIL. dated _____ and in his Regt' the rank of _____ dated _____.

(13) The accused has served as a non-commissioned officer continuously, without reduction, to the present date:-

Rank	Date of promotion
In the rank of ....Tt.....	20 Sep 39 - 21 Jan 43 ..... years
In the rank of L/Cpl.....	21 Jan 43 ..... years
In the rank of	..... years

(Instruction:- If any matter in any of the above paragraphs cannot be stated from the regimnetal books the paragraph must be struck through.)

SCHEDULE

Of convictions by a Courts Martial of a Civil Court, of summary under Sec 47 of the Army Act and of cases in which trial has been dispensed with of accused G18736 (Number) L/Cpl (Rank) Le Blanc R.G. (Name)

of the Carleton & York Regiment.

(Instruction:- A verbatim extract from the Regt'l books stating these convictions and dispensations with trial must be inserted).

I hereby certify that the foregoing schedule of convictions and dispensations with trials is a true extract from the Regt'l books in my custody.

Signed this ....17..... day of Mar 43.....

W C Johnson Capt.....

N.B. The above statement (with schedule of convictions and of cases in which trial has been dispensed with) is read marked, signed by the President and annexed to the proceedings.

S.3(a) P.H. Stetler

A.F.B. 296 Pus

STATEMENT AS TO CHARACTER AND PARTICULARS OF ACCUSED.

632211 Pte. Forret T. H. Carleton & York

Number Rank Name Regiment

(1) The following is a fair and true summary of the entries in the Regt'l conduct sheets of the accused, exclusive of _____ convictions by a Courts Martial or a Civil Court, of summary awards under the Section 47 of the Army Act, and of cases in which trial has been dispensed with:-

		Within last 12 months		Since Enlistment	
For Sec 40. AA.	,	NIL.	times	2.	times
For Sec 9 AA.	,	NIL.	times	1	times
For Sec 11 AA.	,	1	times	1	times
For	,		times		times
For	,		times		times
For	,		times		times
For	,		times		times
For	,		times		times
for	,		times		times
For	,		times		times

Number of instances of gallantry or Distinquished conduct:- NIL.

There are no entries in the conduct sheets of the accused. (Instructions:- If the charge is for drunkeness, the entries for drunkeness must be stated separately and dated.)

(2) The accused has not been previously convicted

or

Previous convictions of the accused by a Courts Martial or a Civil Court, summary awards under Section 47 of the Army Act, and dispensations with trial under A.A. 73, are set out in the schedule annexed to this statement.

(3) The accused is not under sentence at the present time

or

The accused at the present time is under sentence for NIL. _____ beginning on the _____ day of _____

(4) The accused has been in confinement, awaiting trial on the present charges for NIL. days in civil custody, and 11 days in Military custody, making a total of 11 days in custody, of which NIL. days were spent in hospital.

(5) The present age of the accused according to his attestation paper is 23 yrs 16 days.

(6) The date of his attestation specified in his attestation paper is 4 Sep 39

(7) The Service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs. 194 days.

(8) The accused is entitled to deferred pay or gratuity in respect of 3 yrs. 194 days. service.

(9) The accused is entitled to reckon 3 yrs 194 days service for the purpose of determining his pension, etc.

(10) The accused is in possession of NIL. or entitled to _____ Military decoration or military award.

(11) (If the accused is a warrant officer) The accused before he was made a warrant officer last held the rank of NIL.

P.T.O.

(12) (In the case of an officer) The accused holds in the army the rank of N/A. dated _____ and in his Regt' the rank of _____ dated _____.

(13) The accused has served as a non-commissioned officer continuously, without reduction, to the present date:-

Rank	Date of promotion
In the rank of Cpl.	13 Sep 40 years
In the rank of	..... years
In the rank of	..... years

(Instruction:- If any matter in any of the above paragraphs cannot be stated from the regimnetal books the paragraph must be struck through.)

SCHEDULE

Of convictions by a Courts Martial of a Civil Court, of summary awards under Sec 47 of the Army Act and of cases in which trial has been dispensed with of accused G 32211 (Number) Pte (Rank) Forrest, D.H. (Name)

of the Carleton & York Regiment.

(Instruction:- A verbatim extract from the Regt'l books stating these convictions and dispensations with trial must be inserted).

I hereby certify that the foregoing schedule of convictions and dispensations with trials is a true extract from the Regt'l books in my custody.

Signed this 17 day of Mar 43.

[signature] Capt

N.B. The above statement (with schedule of convictions and of cases in which trial has been dispensed with) is read marked, signed by the President and annexed to the proceedings.

JJJ-63

PTE LEBLANC R.

RECORDED AT CMHQ IN AB 160 JJJ-63

Correspondence to be PINNED here.

Army Form A.3.

CANADIAN SECTION DISCIPLINE & PAY SECTION 10 APR 1944 G.H.Q. 2nd ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

F45

On Active Service, this Twenty-eighth day of March, 19 44

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

[illegible]

133

PROCEEDINGS REVIEWED R. Dean Wills Capt. 2 May 44.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	B A Kennedy	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J M Bursey	Carlt & York R
Lieut	G A Fortin	R 22e R
Waiting Lieut	F de St-Victor	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

F45

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
[illegible] Pte Raymond LeBLANC, R 22e R	First Charge Sec 9(2) AA	Not Guilty	Not Guilty BAL	Noted [illegible] 1 apr 44

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier (Signed) [signature] Major
Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of March, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~*(3. The interpreter)~~ BAL
~~*(4. The officers under instruction)~~ BAL

were duly sworn.

Signed this 29th day of March 1944

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this day of 19 ,

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 29th day of March 19 44 by order of

Brigadier L G Gibson

Commanding 3 Cdn Inf Bde

dated the 28th day of March 19 44

President.

Major B A Kennedy Carlt. & York R.

Members.

Capt J M Bursey Carlt. & York

Lieut G. A. Fortin R 22 e R.

, ~~Judge Advocate~~.

Trial of* to 49562 Pte Raymond Le Blanc R22eR

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that N/A is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut F S J Hogan R 22 e R.

Counsel‡ or defending officer† Capt J B Jolbert R 22 e R

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

20057 WLW4(820)2) 10,000 sets. 12/41. K. & N., Ltd. (A67/11). Forms 69/20.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to N/A charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET

The accused E.49562 private Raymond LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

Charge
AA Sec 9 (2)

WHEN ON ACTIVE SERVICE
DISOBEYING A LAWFUL COMMAND GIVEN
BY HIS SUPERIOR OFFICER

in that he

In the Field, on 16 Feb 1944 at 1500 hrs, refused and did not proceed to the front line when ordered to do so by Captain H. Tellier, R.22e.R. saying " I will not go ", or words to that effect.

(J.G.CHARLEBOIS)Major,
T/Commanding Royal 22e Regiment

In the Field
18 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
28 Mar 44

(T G Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

C

*Instruction. (See R. P. 39 (A))

Proceedings on Plea of Not Guilty.

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.] No

The prosecutor proceeds to call witnesses.

First witness for prosecution. C 42573 Sgt. Lefebre. G. R.22.R.

being duly sworn, is examined by the prosecutor.

Q. What do you know about E 49562 Pte Leblanc R in regards to the present charge?

A- On the 16th Feb. 44 I was present when Capt. H. Tellier 2 i/c of "C" coy asked to the Pte Leblanc if he would return to the front line. The soldier Leblanc answered that he would not return. Capt. H Tellier gave him an order to return to the front line - Pte Leblanc refused saying that "he was sick and that he would not return to the front line."

Q. About what time this order was given?

A- Between 0900 and 1000 hrs.

2nd. Witness for prosecution. E. 57633 Pte. Joly L.J. R.22.R.

being duly sworn, is examined by the prosecutor

Q. Do you recognise the accused?

A. Yes.

Q. What do you know about Pte. Leblanc regarding the present charge?

C2

A. On the 16th Feb 44 Pte. Leblanc came in front of capt. H. Jellies who gave him the order to proceed to the front line. Pte Leblanc refused saying that he was not fit to go forward. Capt H. Jellies told him that he would send him and see a doctor at the rear area. Five minutes later capt. H. Jellies came back and told the accused that it was impossible to see the M.O. mentioned -

Q. at what time the order was given?

A. Around 0900 hrs.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* No

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character), is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence? No.

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instructions.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Bik

Defence

1st. Witness for Defence. E. 57816 Pte. Blais F. R.22 R. being duly sworn is examined by the defence.

Q. Do you know the accused?
A. yes
Q. Where were you on the 16th of Feb 44
A. San. Vito
Q. Since when were you there?
A. On the 15th Feb 44 we slept in San. appollinaro and on the 16th in San. Vito.
Q. When you say we, with whom were you?
A. With Pte Leblanc & Pte. Pilon.
Q. Since when you were away of your Unit?
A. Since the 15th Feb. in the afternoon
Q. On the 16th Feb was Pte Leblanc with you?
A. yes.
Q. Did Pte Leblanc stay with you all day long and specially in the morning?
A. yes.

Cross. exam by prosec.

Q. Why are you so sure of the date, 16 Feb. 44.?
A. We left on the 15th Feb 44 and slept at San. appolinaro and we slept in San. Vito on the 16th. Feb 44.
Q. Why are you so sure you left on the 15th
A. We left on the 15th Feb 44

Bik

2nd. Witness for defence. E. 57633. Pte Joly L R22R.
being duly sworn is examined by the defence.

Q. Are you the clerk of "C" coy?
A. yes.
Q. as clerk do you make report of the absentees of your coy?
A. yes.
Q. Have those two reports been written by you?
A. yes.
Q. would you read the names on this report and read to the court the entry concerning Pte. Leblanc?
A. E. 49562. Pte Leblanc R. A. W. L. at 1600 hr on 15 Feb 44.
Q. What is the date of that report?
A. 20 Feb 44.
Q. Doesn't mean that Pte. Leblanc was absent at 1600 hr on 15th Feb and was still absent on the 20th.
A. yes

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E 49562 Pte Le Blanc

Raymond

K 23 eeR

Not guilty of the charge as laid

FINDING OF NOT GUILTY ANNOUNCED IN OPEN COURT

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

E.49562 private Raymond LEBLANC, Royal 22e Regiment

FOR THE PROSECUTION	C.42573 Sgt Lefebvre	G.
	E.57633 Pte Joly	L.J.
	Capt. J.B. Rousseau	
FOR THE DEFENCE	N I L	

LIST OF EXHIBITS

Exhibit "A" Medical Certificate signed by Capt. R. Birks , MO.

I hereby acknowledge receipt of a true copy of the Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of _____

if he is available.

_____ pte

In the Field
18 Mar 44

SUMMARY OF EVIDENCE

In the case of E.49562 Private Raymond LEBLANC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution — C.42573 Sgt Lefebvre G. Royal 22e Regiment, having been duly sworn states:-

" I am C.42573 Sgt Lefebvre G. of R.22e.R. posted to "C" Coy.
I was present at Rear BnHQ on 16 Feb 1944, when Capt. H. Tellier then 2 i/c of "C" Coy, R.22e.R. ordered E.49562 pte Leblanc R. whom I now recognize to proceed to his company in the line. Pte Leblanc refused giving for reason that he was sick. The unit M.O. at that time was at Main BnHQ and Capt. H. Tellier told Pte Leblanc that the M.O. would see him when he would go to his coy. pte Leblanc refused to go to his company.

The accused declined to cross examine the witness.

G Lefebvre Sgt

2nd Witness For Prosecution — E.57633 pte Joly L.J. Royal 22e Regiment, having been duly sworn states:-

" I am E.57633 pte Joly L.J. of R.22e.R. posted to "C" Coy.
I was present when Capt. H. Tellier then 2 i/c of "C" Coy, R.22e.R. ordered E.49562 pte Leblanc R. whom I now recognize, to proceed to his company in the line. Pte Leblanc refused to do so stating that he would not go to his company until he had seen an M.O. It was not possible at the time for him to be passed to a doctor in the rear area. The available M.O. was the unit MO. who was at the Bn RAP with the troops at the front. Pte Leblanc had been passed by him as fit for battle, four days before.

The accused declined to cross examine the witness.

L. J. Joly pte

3rd Witness For Prosecution — Capt. J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

" I, Capt. J.B. Rousseau of R.22e.R. posted as Adjutent, hereby produce a medical certificate in the case of E.49562 pte Leblanc R. whom I now recognize. This certificate is marked Exhibit "A" and signed by Capt. R. Birks, M.O. of the R.22e.R.

J. B. Rousseau Capt.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of One (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

J M La Fleche Lieut
Officer taking Summary

In the Field

ADDITIONAL SUMMARY OF EVIDENCE

In the case E.49562 Private Raymond LEBLANC, Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

4th Witness For Prosecution

Capt. H. Tellier, Royal 22e Regiment, having been duly sworn states:-

I am Capt. H. Tellier, of R.22e.R. posted to "C" Coy. At 1500 hrs on 16 Feb 1944 E.49562 Pte Raymond Leblanc was paraded before me. I ordered him to proceed to his coy in the front line. He refused saying he was not fit. I then arranged to have him medically examined. He returned from the M.O. with a certificate stating he was fit to proceed to the front lne. I then ordered him to do so and allowed him about fifteen minutes to make up his mind. He again refused saying " I will not go " or words to that effect, and did not proceed to his coy. The police Sgt then returned him to detention.

The accused declined to cross examine the witness.

H. Tellier Capt.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

P. A. Tremblay Lieut
Officer taking Summary

In the Field
18 Mar 44

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. E49562

Rk. Pte Name Leblanc R. of Royal 22e Regt.

and in my opinion he is fit/~~[illegible]~~ to undergo Trial by Court Martial.

Station In The Field

Date 29 Mars 1944

Richard Weld Capt
Medical Officer.

ADDITIONAL SUMMARY OF EVIDENCE

In the case E.49562 Private Raymond LEBLANC, Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

4th Witness For Prosecution

Capt. H. Tellier, Royal 22e Regiment, having been duly sworn states:-

I am Capt. H. Tellier, of R.22e.R. posted to "C" Coy. At 1500 hrs on 16 Feb 1944 E.49562 Pte Raymond Leblanc was paraded before me. I ordered him to proceed to his coy in the front line. He refused saying he was not fit. I then arranged to have him medically examined. He returned from the M.O. with a certificate stating he was fit to proceed to the front lne. I then ordered him to do so and allowed him about fifteen minutes to make up his mind. He again refused saying " I will not go " or words to that effect, and did not proceed to his coy. The police Sgt then returned him to detention.

The accused declined to cross examine the witness.

H. Tellier Capt.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

P. A. Tremblay Lieut
Officer taking Summary

In the Field
18 Mar 44

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E49562

Pte Name Leblanc R. of Royal 22e Regt

in my opinion he is fit/~~[illegible]~~ to undergo Trial by Court Martial.

Station 18 The Field

Date 29 Mars 1944

Richard Hildapt
Medical Officer.

47-101

Pte L. Blanc R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E 49562 Pte Raymond Le Blanc

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15 (1) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ Nil beginning ~~on (date)~~ Nil. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for ninety (90) days. Nil

(Sgd) ..... 12 Feb 45 (Sgd) R.L. Mac Dougall Lt-Col President. (RP 45, 50.)
~~Judge-Advocate, if any.~~ Nil Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date FEB 15 1945 (Sgd) ..... Brig.
Commanding COMMANDER
1 CDN BASE [illegible]

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 49562 Pte LE BLANC, R. R 22 R	16 Feb 45	Adjutant 2 Cdn Reallocation Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-101

FIELD GENERAL COURT-MARTIAL

CFA86 (To item of AFA3) 40/P & S/1698 (4050) 4/38B

RECEIVED 20 FEB 1945 JAG BRANCH CMHQ

PROCEEDINGS REVIEWED 2 Can Rec Bn

Can Sec No 2 Ech AFHQ

Convened by Order of J.G. Gibson Brigadier Comd 1 C.B.R. Gp dated 8 Feb 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 49562	Pte	Raymond	LeBlanc	2 Can Rec Bn.

PROCEEDINGS REVIEWED

R.K. Lambert Capt

REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 12 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ Nil

(1. KR Con 557. 2. AA 49(2), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) To ~~nil~~ object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~ Nil

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	D.C. MacDougall	C.M.C.	3 Cdn Inf Bde Mtr Bn.
Member	Capt	J.M. Wood	C.J.C.	1 Cdn Inf Bde Mtr Bn.
Member	Lieut	J. Carson	C.A.C.	3 Cdn Inf Bde Mtr Bn.
Judge-Advocate				
Prosecutor	Lieut	A.J. Robichaud	C.J.C.	2 Can Reallocation Centre
Defending Offr	Lieut	R. Lachance	C.J.C.	2 Can Reallocation Centre

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea(s) Nil (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~ Nil) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Nil.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on~~ charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A)(E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Nil.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Nil. Defending Offr.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. E 49562 Pte RAYMOND LEKLANC, Royal 22nd Regiment, presently on strength of X 9 List, No. 2 Canadian Re-Allocation Centre, 1 C.B.R.Gp., a soldier of the Canadian Army Overseas, is charged with:-

1ST CHARGE
AA SEC 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from approx 0830 hrs 6 Jan 45, until surrendering himself at approx 0315 hrs, 22 Jan 45.
(Total time absent: 15 days, 18 hrs, 45 mins.)

In the Field,
29 Jan 45

(C.P.Wilkinson) Major,
OC 2 Canadian Re-Allocation Centre.
1 CBRGp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
8 Feb 45

(T. C. GIBSON) Brigadier
Comd, 1 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E49562	Pte		Raymond	LEBLANC	2 Cdn Reallec'n Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 6 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	D C MacDOUGALL (CAC)		3 C G B R Bn

MEMBERS.

Capt or Lieut to be detailed by the OC 1 Cdn Inf Base Rft Bn

Capt or Lieut to be detailed by the OC 3 Cdn Gun Base Rft Bn
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by the OC 1 Cdn Inf Base Rft Bn
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy
(Country.)

Date 6 Feb 45

(Signed personally. RP 105 fn 2.)
(T. G. GIBSON)
Commanding 1 Cdn Base Rft Gp
Convening Officer. Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Case of Pte P. Leblanc 12.2.45 E3.

R22R. (A.W.L.)

Mrs. President
Gen. of the Court

The accused Pte Roy. Leblanc E.49062 is married and has children. He enlisted in March 42 and came overseas in July 43. He has been in action for 3 months with his Unit. He has been evacuated and send to Y9 Re-allocation for a Med. Board because of a wound he has had while in action. He went A.W.L. from Y9. Plan when there is no possibility of being send on a Draft for the line. He has been kept to Y9 for nearly [illegible] weeks waiting for his board ~~and~~ fed up of waiting he went A.W.L. but he gave himself up to the provost. The accused has been send to Y9 because he was not good anymore for the front line.

Hoping the Court will take those facts in consideration and will sentence the accuse so he won't feel persecuted after he has been is duty in the line.

Rochance Lieut
Defending Officer.

[illegible]

Summary of Evidence
in the Case of

Ex. A. Dermot Boyle President

E-49562 Pte Le Blanc R. a soldier of the Canadian Army in Italy, Canadian Army Overseas on strength No 2 Canadian Re-allocation Centre, 1 Cdn Rft. Group.

The C.O. directs that the Evidence be taken on Oath.

1st WITNESS FOR THE PROSECUTION

C-6022 Sgt Vipond M.V. No 2 Re-allocation Centre having been duly sworn, states:-

I am C-6022 Sgt Vipond M.V. platoon Sgt of No 1 platoon of which E-49562 Pte Le Blanc R is a member. At 0830 hrs on the 6th Jan 1945 I called the platoon roll. E-49562 Pte Le Blanc R. failed to answer his name. I then made a check of the Company Barracks and area. I could not find E-49562 Pte Le Blanc R. anywhere I then reported his absence to the Company office, he was placed on the absentee report.

The accused declines to Cross Examin.

M. V. Vipond Sgt.

2nd WITNESS FOR THE PROSECUTION

M-65631 Pte Wilson T. No 2 Re-allocation Centre, having been duly sworn, states:-

I am M-65631 Pte Wilson T. an acting R.P. for No 2 Re-allocation Centre. At approx 0315 hrs on 22nd Jan 1945, while on my tour of duty. E-49562 Pte Le Blanc R. surrendered to me in the Guard Room. I took the details of his absence, which included his No. Name & Rank. and he stated he had been absent fourteen or fifteen days.

The Accused declines to Cross Examin.

Pte. T. Wilson

Summary of Evidence Cont.

The Accused was Cautioned as follows:-
Do you wish to make any statement, or to give any evidence upon Oath. You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused reserves his defence

I hereby certify that R.P. 4(c)(d)(e)(f) [redacted] have been complied with

J. W. Seaton Capt.
Officer detailed to take
Summary of Evidence

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment (or as the case may be)
E 49662	Pte.	LEBLANC, R.	Royal 22nd Regiment att'd to No. 2 Cdn Re-Allocation Centre

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recommended special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Offences under AA Sec 15 (1) ..... 7 ..... times.

For Offences under AA Sec 40 ..... 2 ..... times.

For Offence under AA Sec 11 ..... 1 ..... times.

For .... times.

Date of first entry in Field Conduct Sheet 8 Jan 44

Date of last entry in Field Conduct Sheet 4 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for nil days in military custody, *i.e.*, nil days in open arrest, 23 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 25 years

6. The date of his ~~attestation~~ enlisting up for military service is 2 Mar 42

7. The service which the accused is allowed to reckon is 1 year 10 months

8. The accused is in possession of[†]

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

*Strike out if not applicable.

[†]State the military decorations (if any) held by accused.

E. B. Dem.

D.P.S.S. U.D.F. M.E.—4143-44—4,000—417/U.D.F./5

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~29th~~ 2 Feb. 45 Dhw day of ~~January 1945~~

J. Solcom Capt. Adj
2 Cdn Reallocation Centre

No E 49562 Name LE BLANC, R Sqn, Battery, or Company | Corps C I C | Date of enlistment 2 MAR 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AWL	Admonished	Forf 5 days pay	8 JAN 44		Ex. "A"
"		"		AA 40	14 days FP	14 days pay	8 Apr 44		
"		"		@ AA 11 @ AA 40		10 days pay	28 June 44		
"		"		AA 15(1) AWL 2 days 15 hrs	15 days pay	Total forf 18 days	18 July 44		
"		"		AA 15(1) AWL 4 days 10 hrs	15 days pay	9 days concurrent	24 July 44	Total not forf 6 days pay	
"		"		AA 15(1) AWL 2 days 8 hrs 30 min	15 days FP	8 days concurrent	31 July 44	Total forf 7 days pay	
"		"		AA 15(1) AWL 2 days 18 hrs 30 min	28 days FP	28 days pay	22 Aug 44	Total forf 31 days pay	
"		"		AA 15(1) AWL 22 days 7 hrs	28 days both	28 days pay	30 Oct 44	Total forf 53 days pay	
"		"		AA 15(1) AWL 10 days 11 hrs 30 min	14 days FP	14 days pay	11 Dec 44	11 days concurrent Total not 14 days	

Certified true extract from MFM 4 30 Jan 45

W H Laughlin

(W H LAUGHLIN) CAPT

OFFICER HAVING CUSTODY OF ORIGINAL

C DN SEC 2 ECH AFHQ

(PTO)

LIST OF WITNESSES

FOR THE PROSECUTION

C.6022 Sgt. Vipond, M.V. No. 2 Cdn Re-Allocation Centre, 1 C.B.R.Gp.

M.65631 Pte. Wilson, T. Att'd to No. 2 Cdn Re-Allocation Centre, 1 C.B.R.Gp.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

NIL

NO. 2 CANADIAN RE-ALLOCATION CENTRE - NO. 1 CANADIAN BASE HFT GROUP

12th Feb, 1946.
0915 hrs.

This is to certify that I have this date medically examined

E-H9562, Pte Blanc R.

and that he is fit. to undergo trial by Court Martial.

Medical Officer.

TTT-57

Pte. Leblanc, S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-53013 Pte. Samuel LeBlanc, 13 C.B.R. Bn.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for ninety days.

(Sgd) ..... Judge-Advocate, if any. 23 Jul 44 Date awarded. (Sgd) W B Martin Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ Nil

(1. AA 57A. Delete if not used.)

(Sgd) P Montague (P. MONTAGUE) Major General

Date ..... Commanding ~~Canadian~~ Military Headquarters 1 Confirming Officer.

28 JUL 1944

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 53013 Pte LeBlanc S.	31 Jul 44	J Stewart Capt Adjt 1 CABD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

D.C. 188 A
d/21 July 44

DJAG. Cdn. Sec. GHQ

RECEIVED 7 AUG 1944 C.M.H.Q.

RECORDED AT CMHQ IN AB 160 TTT-57

FIELD GENERAL COURT-MARTIAL

CFA 90 (In lieu of AF A3) 40/P & S/1000 (4/40)

4/38B

Convened by Order of Lt Col W J Stewart Comd 13 C B A Bn dated 22 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
G53013	Pte	Samuel	LeBlanc	13 C B R Bn.

PROCEEDINGS REVIEWED 10 Aug 44 JAG Capt

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED Date 3 Aug 44 Cdn. Sec. GHQ 2 Echelon Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 23 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 9/66

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1730 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the Offr.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W B Martin	4 C A M
Member	Lieut	W. Mills	R C Regt 13 Bn.
Member	Lieut	B. Laplante	R C Regt 13 Bn.
Judge-Advocate	—	—	—
Prosecutor	Lieut	E K Fitz Simmons	R C A S C (13 Bn)
Defending Offr	Lieut	G. D. Graves	R C A S C (13 Bn).

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G 53013 Pte Samuel LeBlanc before arraignment make(s) (no) ~~no~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 18, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 69(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3; *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~their~~ plea(s) of Guilty to Not Guilty on One charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*C*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Address in mitigation attached.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*b*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas RO* 309, 2023, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Con* 504. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE
AA SECT. 15(1).

The accused C.53013 Pte Samuel LEBLANC, CIC, 13 Bn 2 CBRG, a soldier of the Canadian Army Overseas, is charged with, WHEN ON ACTIVE SERVICE,

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field absented himself without leave from approximately 2230 hrs 30 Jun 44 until 1500 hrs 11 Jul 44, when he surrendered to the Civil Police at London.

Total time absent (10 days 16 hrs 30 min).

(W.J. Stewart) Lt.Col.
Commanding 13 Bn 2 CBRG.

To be tried by Field General Court-Martial.

In the field
19 Jul 44

(W.J. Stewart) Lt-Col
Commanding 13 Bn 2 CBRG

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptnt, A/R or A/Apptnt	Full Christian Names.	Surname.	Unit.
D.137827	Pte		Clarence Edward	JONES	12 CBR Bn
G.53013	Pte		Samuel	LEBLANC	13 CBR Bn
D.7196	Pte		Charles Edward	VAILLANCOURT	13 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Jul 44 endorsed by me ~~[as to such of us as appears]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[and that it is not prejudicial to delay the trial for reference to a superior convening offr.]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (or detail) Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(3), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint or detail as deputy advocate (or trial advocate) the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W.B. Martin	No 4 Cdn Town Major Unit

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Lieut	To be detailed by OC	13 CBR Bn
A Lieut	To be detailed by OC	13 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieut	To be detailed by OC	13 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 22 Jul 44

(signed personally. RP 105 fn 2.) (Rank.)

(W.J. Stewart) OC 13 CBR Bn

Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CF Adm (To Dom. of Admin) 30/7 & 8/1947

(See overleaf for oaths and notes for use on trial.)

22 Jul 44

In view of imminent movement overseas of witnesses, I direct that the Court trying the under-mentioned accused by Field General Court-Martial will sit on Sunday, 23 Jul 44.

G 53013 Pte LeBlanc S. 13 C&R Bn

.....
(W.J. Stewart) Lt-Col
Convening Officer

Ref RP 64(D)

(AR(Can) Para 557)
(CRMC CL 173)

I certify that I have this day examined G-53013 (No.)
PTE (Rank) LEBLANC S (Name) and in my opinion he is
fit to undergo trial by Court-Martial.

Station Field
Date 23 July 44

R. Laing Capt (Sgd),
Medical Officer
(Unit) 13th "C" C&R Regt

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
with the
CANADIAN FORCES

194

Plea of Mitigation in the case of
G 53013 Pte Samuel Leblanc

G 53013 Pte. Leblanc S can neither read nor write & although since 1942 he has endeavored to be sent on a course for illiterates, he claims that this has always been denied him & as a result, his service in the army has not been as happy as it might have been.

He states that he has a girl in London, the mother of his 4 months old child, whom he had not seen in nearly three months time & being anxious about their welfare, in order to see them, he went absent without leave.

He claims that he did not realize the gravity of absenting himself without leave at this time as it was his understanding of a remark passed by an officer of 21 Bn 2 CBRG, Ordnance personnel were in no great demand as reinforcements.

In view of the man's illiteracy plus the fact that his mental processes function at a lower level than normal, it

is respectfully recommended that favorable consideration be given to these factors when deciding sentence

E. S. O'Brien Lt
R.C.A.S.C.

sworn

A

SUMMARY OF EVIDENCE IN THE CASE OF

G.53013 Pte Samuel LEBLANC, CIC ~~xxxxxxxxxxxxx~~ 13 Bn 2 CBRG, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, all evidence is given on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt. W.A. Murray, Records Officer, 13 Bn 2 CBRG, having been duly sworn, states:

"I am Lt. W.A. Murray, Records Officer of 13 Bn 2 CBRG and present the following documents pertaining to the accused G.53013 Pte LEBLANC, S."

(1) Certificate of apprehension in accordance with P.C. 2797 showing the accused G.53013 Pte LEBLANC, S., being arrested in London at 1500 hrs 11 Jul 44.

W A Murray

(W.A. Murray) Lt.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS FOR THE PROSECUTION

Lt. S.J. Ashbridge, R.C. Signals, 13 Bn 2 CBRG, having been duly sworn, states:

"I am Lt. S.J. Ashbridge, 13 Bn 2 CBRG, and I submit the following voluntary confession, Exhibit 2, signed before me under oath and giving the time and date of the accused going absent without leave as approximately 2230 hrs 30 Jun 44. S J Ashbridge Lt.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

The accused was cautioned in accordance with rules of procedure 4 (e) of the Army Act.

THE ACCUSED DECLINES TO MAKE A STATEMENT AT THIS TIME.

"I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d) and (e) have been complied with.

J E Miller Lt

(J.E. Miller) Lt.
Officer detailed to take Summary of Evidence
13 Bn 2 CBRG

In the field

19 Jul 44

EXH (2)

"I, G.53013 Pte Samuel LEBLANC, RCOC, 13 Bn 2 CBRG, hereby confess that I went absent from my unit at approx 2230 hrs 30 Jun 44, and remained so absent until apprehended by the Provost at London at 1500 hrs 11 Jul 44. (Total time elapsed 10 days 16 hrs 30 mins).

This is a free and voluntary confession and has not been given as a result of any threats, promises or inducements."

Signed in the Field this 14 Jul 44 under oath.

G 53013 PTE S Le Blanc

(G.53013 Pte Samuel LEBLANC)

VOLUNTARY CONFESSION

The accused made the ~~following~~ above voluntary confession under oath before me on 14 Jul 44. He was duly cautioned that the statement he was about to make would be used as evidence. The statement was read back to him before he attached his signature.

S J Ashbridge Lt

(S.J. Ashbridge) Lt. R.C.Sigs.
13 Bn 2 CBRG

LJBG tells me that he cancelled the President of the Court and was informed him that he the President had taken pains to explain to the accused his right to remain and plea of guilty

EXH (1)

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 APR.42

I certify that No. G-53013 . Rank. Pte. . Name. LeBlanc, S. . . .

Unit. 13 Bn. No 2 C.B.R.G. (C.M.H.Q.) . was arrested at. London . . . (place)

at 1500 . . . (hour) on 11-July-44 (date) and that at the time of his arrest he was wearing (military uniform) or (~~xxxxxxxxxxxxxx~~).

Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
12-July-44

R J Stinson

(R.J. Stinson) Capt.
D.A.P.M. C.M.H.Q.

No. G53013 Name LEBLANC, Samuel | Sqn., Battery, or Company | Corps CIC | Date of enlistment 28 May 41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /3136 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield	29 Dec 41	Pte		AA 15(1) AWL from 0600 hrs 29 Dec 41 to 0350 hrs 1 Jan 42		Forf 3 days pay KRAI 149			
U.K.	31 Mar 42	"		AA 15(1) AWL		7 days CB Forf 1 days pay KRAI 149(1)(a)			
"	6 Jan 43	"				14 days CB Forf 5 days pay			
"	3 Apr 43	"		AA 40		4 days CB Forf 2 days pay			
"	6 Jan 44	"		AA 15(1)		2 days CB 1 days pay			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	15 Feb 44	Pte		AA 15(1)		Forf 2 days pay			
"	20 Apr 44	"		AA 15(1)		27 days Detn. Forf 31 days pay			
"	8 Jun 44	"		AA 15(1) AWL from 2359 hrs 3 Jun 44 to 1620 hrs 7 Jun 44		Forf 4 days pay Total forf 8 days pay			

J E Miller Lt 13 Bde 2 CBRG

CERTIFIED TRUE COPY 20 July 44

1 COPY

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
G.52013	Pte	LEBLANC, E.	13 Bn 2 CBRD

* 1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For AWL. AA SEC. 15(1) 7 times

For AA SEC. 40. 1 times

For _____ times

For _____ times

Date of first entry in Field Conduct Sheet 29 Dec 41

Date of last entry in Field Conduct Sheet 8 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. NA

† 3. The accused at the present time is under sentence for NA beginning on the NA day of NA

4. The accused has been awaiting trial on the present charges for --NIL-- days in civil custody; and for 22 days in military custody, i.e., --NIL-- days in open arrest, 2 in close arrest; of which --NIL-- days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation ~~calling up for military service~~ is 28 May 41

7. The service which the accused is allowed to reckon is 3 yrs 1 mon.

8. The accused is in possession of† NA

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date:

	Date of promotion
In the substantive rank of NA	
In the war substantive rank of NA	
In the acting rank of NA	

INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

NOTE* The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

†Strike out if not applicable.

†State the military decorations (if any) held by accused.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
NA		NA		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of July 44

J E Miller Lt

(J.E. Miller) Lt.
13 Bn 2 CBRG

15 Jul 44

I, G 53013, Pte Samuel LEBLANC, wish to have a competent officer appointed to defend me at my forthcoming trial by Court Martial.

Pte S LeBlanc

G 53013 Pte Samuel LEBLANC.

LIST OF WITNESSES

FOR PROSECUTION: Lt. W.A. Murray, Records Officer, 13 Bn 2 CBRG.

Lt. S.J. Ashbridge, 13 Bn 2 CBRG.

FOR DEFENCE: Nil.

LIST OF EXHIBITS

1. Certificate of apprehension P.C. 2797 showing G.53013 Pte. LeBLANC, S., as apprehended at 1500 hrs 11 Jul 44 in London.

2. Voluntary statement by the accused G.53013, Pte. LeBLANC, S., as to the time of going absent.

HY 141

Pte LeBlanc S.J.

RECORDED AT CMHQ IN AD 160, 44-141

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of CFA3)

Convened by Order of Brigadier G.S.N. Gostling, ED Comd 2 CBBG dated 15 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 24, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 132 and 93, fns, KR Con 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-10546	Pte	Simon Judes	LeBLANC	R de Chaud 10 CBR Bn

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 17 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 23/107-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to LIEUT M. LAMARCHE as interpreter? Ans No

The Interpreter is sworn.(1) ~~The shorthand writer to attend to~~ as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.O. MacKENZIE, MBE	FGH X-9 List 3 Cdn METD
Member	Capt	L.H. TAYLOR	10 CBR Bn *
Member	Lieut	D.N. PEAT	1 Cdn Para Bn 11 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	A.T. MANN	CIC 11 CBR Bn
Defending Offr	LIEUT	RP STEWART	CIC 10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused D-10546 Pte Simon Judes LeBLANC before arraignment make(s) (no) (a) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 69A to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Revised Form No 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBBG Vol 2 p 131

* Capt Taylor not available and his place taken by Lt Hamilton.

6

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-10546 Pte Simon Judes LeBLANC R de Chaud, 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA-Sec 9(2)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 723, and in loss of kit see RP 44 fn 6.)

~~In present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or details, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B294.)

Time in confinement awaiting present trial—a total of 37 days, of which 42 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B294 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 3 days detention

(Sgd) Judge-Advocate, if any. Date unsettled. 17/Feb/45 (Sgd) President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. ~~MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 56(3), RP 120(F), MML p 750.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 19 FEB 45 (Sgd) (G S N Goetling) Brig Commanding 2 CDN BASE RPT GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-10546 Pte Simon Judes LeBLANC R de Chaud 10 CBR Bn	1000 hrs 20 Feb 45	10 CBR Bn

~~and Entitled~~

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to account see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 25(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(6). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea pending as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial therein proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans no (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 94(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the latter, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans yes Do you intend to call witnesses on your behalf ?
Ans yes Are they witnesses as to character only ? Ans no
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the findings, ~~of Guilty, and~~ states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans yes E 3 .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND A[illegible]

CHARGE SHEET

The accused, D.10546 Pte Simon Judes LeBLANC, (R de Chaud), of 43 Coy, on the strength of 10 C.B.R. Bn., a soldier of the Cdn Army Overseas is charged with

FIRST CHARGE
A.A. Sec 9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field on 22 Nov 44 when ordered by Sgt. MAGUIRE, H.A., to fall in on a draft parade, refused to do so saying he would not go on draft as he was going on sick parade, or words to that effect, and when ordered again to fall in on the draft parade again refused to do so, and did not go on the draft parade.

(J. KUNCIE) Lt.-Col
C.O., 10 C.B.R. Bn.

In the Field
1 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G.S.N. Gostling), Brigadier,
Commander
2 Canadian Base Reinforcement Group

In the Field
15 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-10546	Pte		Simon Judes	LeBLANC	R de Chaud 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 15 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) G.G. MacKENZIE, MBE (Must be named. RP 106.) FGH X-9 List att 3 Cdn NETD (Unit.)

MEMBERS.

Capt L.H. TAYLOR 10 CBR Bn

Lieut (Rank.) D.N. PEAT (Named or detailed. RP 106.) 1 Cdn Para Bn 11 CBR Bn (Unit.)

WAITING MEMBER.

Captain (Rank.) C LAGASSE, (Named or detailed, if any. RP 106.) CIC, 10 CBR Bn (Unit.)

~~JUDGE-ADVOCATE~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G.S.N. GOSTLING)

Date 15 Feb 45

Commanding 2 CDN BASE RFT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA96 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate

I certify that I have this day examined E10546 Pt Leblanc S Pte.

10CBRBn and in my opinion he is fit/~~unfit~~ to undergo trial by

Court Martial.

Station Field

Date 17 Feb 45

W D Maxwell Capt
Medical Officer

10CBRBn
Unit

1st Witness for Prosecution in the case of Pte LaBlanc

A3165 Sgt. McGUIRE H.A. having been duly sworn & having identified the accused states

On the morning of 22nd November at 0740 hrs I mustered a draft at 46 coy 13 Bn. leaving for the front The accused was absent from this parade; he failed to answer his name When I finished calling the roll I made a search personally thro' the Barracks & found the accused in his room. I ordered him on parade He said he wanted to go sick I told him he was only going to 46 and his coy. where he could get medical attention. He failed to comply. I once again ordered him, again he failed to comply. I placed him close arrest and took him to the guard room.

The accused was warned at 1330 hrs 21 Nov. 44 that he was to parade for draft at 0740 hrs the 22nd Nov. He was warned in English by me

and warned in French Sgt Godin who was himself on draft.

I recognise this as the draft warning of 28 I read out. The accused heard & understood the warning

I've sumitted a cert. true copy of signatures on which the accused's signature appears. it is a draft acknowledgment signed & acknowledged by accused, Exhibit 'B'

The M.O.'s parade was held immediately after the warning. The procedure carried out on the M.O.'s parade. Every man had a skin & short arm inspection. Any men who did not figure himself medical fit to proceed fwd I had fall out & I paraded them to the M.O. Personally I'm not sure whether or not the accused was on this parade or not. I do not recall any complaint made by the accused during that day in question.

If the accused had been pronounced unfit for draft the M.O. would have struck his name off the draft imed. This man to the best of my knowledge was fit to go.

The next morning he said he was going on sick parade and no further statement as to what his ailment was. Sgt Codin was present on sick parade just like the rest.

Questn by Defence

Q Were you present during the Medical inspection

A I was present all the time

Q The M.O does not inspect every man proceeding on draft

A The mo inspects medical or serious cases

Q How many spares were warned

A In this case no spares but usually we have two spares

Q Are they held available

A Not after the Medical inspection

Q When the warning for the sick parade that after noon given in English

A In English, the majority were French speaking personnel

Q When was 46 Coy located at this time

A I dont know just were it was

Q You never hear where the fwd coys are

A ~~Not as usual~~ No.

Q In other words 4 46 Coy could be anywhere on the continent

A No anywhere in the Fwd area towards ~~over~~ our own troops

Q What is the purpose of sending a draft to a Fwd Rem Coy

A To have fit me available

Q Would you send unfit men up there

A

Q If a man said he was sick & said he was would you pass judgment and not take him to the M.O.

A It was to late & I had to find him & it was so late that I had no time to parade this man to the M.O.

Q Then you took no notice of this mans complaint

A I took no notice of this mans comp. because there was none until the draft was due to leave this

Q Then you've had trouble with men before or the same thing

A. Not this man but others

Q Therefore you took no notice of his complaint

A He just told me he was going sick in an attitude which I did not like

Q Did you give him a chance to explain why he was going sick

A Very chance.

Q How was he dressed.

A Uniform or with boots

Q When the boots laced

A I dont know

Q Now he never showed you anything wrong.

A No.

Q Did you speak to him in Fr. or Eng.

A Eng

Q Do all the French chaps understand English

A The great majority

Q Can you speak French

A No but I can make myself understood a little.

Q Did the accused refuse to carry out your orders

A When I give a man an order he sits defiantly - I give him a second order - that is all he gets.

Q Yet he never said I won't do it or words to that effect.

A He said nothing after he said he was going sick

Q Did you detail an escort for the accused

A Yes

Q Were they detailed from soldiers present in the room

A Yes

Q Do you remember of Pte Beaudoin was one

A Yes & I was the other

Q How was it you had time to take him to the Guard room & not to the MO

A. No formally to putting a man under close arrest.

Questions by the Court

Q Have you had any other regimental duties with the accused

A No

Q Was there any doubt that the accused understood & that you recieved an understandable answer.

A No

RP 83 B. complied with.

Submission by the defence

Pres & Cert of Court the chg against the accused is as you know that the accused refused to obey a command by Sgt McGuire & the body of chg it states that the accused refused to do so ~~said~~ ~~he~~ saying he would not go on draft as he was going on sick parade or words to that effect. And then the last part says that he was warned again & that he refused to do so. In the Pros evidence ~~there~~ this charge is not substanciated. Their witness admitted that the accused never refused to go on the draft parade but rather ask to be paraded to the M.O. They have intimated that not proven that the accused might have had a medical examination

the day before. Anything may
happen in say 15 hrs. The accused
might be dead, for that matter
and the Sgt W Evans Statement that
he had trouble previously with
other reinforcements does not excuse
him for performing his duties
in connection with the accused
in the manner which he did.
I submit that prima facie
case has not been proven
that the charge should be dismissed.

W Webb

① The accused wishes to give evidence by a statement under oath. I have been duly sworn states.

After I was warned for draft on 21 Nov 41 I fell out & went into the billets. Then they read us the laws for those that were running away from draft. Sgt Bali read them in French & I understood them well. After this we went to the M.O. I did not see the doctor but we were inspected by the orderly. After this I went back to my room & then was a P.M. Parade. Night same & we were C.B. I went to see my friends in neighbouring rooms in camp. After this I went down stairs & on falling I hurt my hand. — how badly I did not know at the time & that night my hand did not hurt me too much & I did not think it would be serious enough to keep me off the draft. I told the Sgt about this & he said its O.K. & that there is much to be worried about.

Q I went to bed & the next morning I did not hear reveille, I was awakened I put on my boots & tunic because my hand was swollen I could not tie my boots. Sgt McGuire came in & told me to get dressed. After I was dressed he told me to put on my iqupment, I showed him my hand and told him I would like to go the M.O. before I went on parade. The Sgt told me it is an order to get on parade. I told him that I did not refuse the order but that I would like to see the M.O. Sgt McGuire asked me why I did not want to go on parade I showed him my hand. He second time he asked me if I was refusing the order. I repeated the same thing I was almost naked & was not able to dress myself & could not go on parade. Pte Brandon was detailed by Sgt McGuire to escort me to the guard room. When I arrived there I told them I wanted to see the doctor, did not see

(2) him until the day after. When he looked at my hand - I was evacuated right away I went to the hospital with 2 escorts & spent about 7 weeks there with both escorts. I had an X-ray & my hand in a cast. The doctors sent me back here with a recomendation for a reboard for wounds which I received in Italy about 10 months ago. I'm still under treatment over here. I ask about the reboard and I'm sure my reboard come to the camp. When I was escorted to the guard room - my tunic was unbutton, my boots unlaced. the left side of my braces were not attached & I had my anklets in my hand.

I showed my hand to the Cpl. Sgt Mburn & Pte Beaudoin that morng. The Cpl. I believe is back in Canada now. During that day I could not have lifted my rifle.

Q By Pros. What time did you hurt yourselfe
A Approx 2030 hrs. but I'm not sure
Q Did you go to the MIR. that night
A No because I thought it was not bad enough & that the next

morning it would be o.k

Q About what time did you wake up the next morning

A I do not know exactly it must have been around 0800 hrs.

Q Do you always sleep in until 0800 hrs

A I ~~was awakened about~~ 0745 hrs I was starting to get up when Sgt McGuire came in & ordered me to get on Parade.

Q Did you know what time your parade was that morning

A I could not say yes or no but I believe it to have been about 0830 hrs.

Q Do you remember signing a paper with a draft wording on it

A I do not remember so I could not say no.

Q Did you ask anyone to wake you up in time

A No because there was supposed to be one bottle in the room.

Q Did the rest sleep in that morning

A: The majority did not have their breakfast but they were on parade

Q Why did you not go on the pick parade that morning

A Because when I woke up the first N.C.O. I saw was Sgt McGuire & I asked him to go on parade

Q How did you ask Sgt McGuire to go on pick parade

(5) A: There was someone there who went on draft that translated this request for me.

Re: by the Court

Q Did anyone go around the room to wake you up.

A. No but after what I was told by those in the room the Cpl told Sgt Codie not to wake me because my hand was broke.

Q. What time was Reveille

A. No definite time just for parade

Q What time was breakfast

A at 0700 hrs

Q What time was sick parade

A I dont know

Re X by Defence

Q Was your kit packed

A It was all packed ready since the previous night I was so in the morning

RP 83 B complied with

1st Witness for Defence

E6062 Pte. Beaudoin, G.H. 13 Coy 10 CRR 6. having been duly sworn & having understood the accused states.

On the Morning in question I was told by Sgt. McGuire that I would act as escort for Pte LaBlanc. ~~The night before I was in the same room as Pte LaBlanc~~ I did not see what happened to Pte LaBlanc the night previous to his going on draft

In the morning Sgt McGuire came to get Pte LaBlanc - he showed the Sgt his hand. I do not understand English but what I know of army terms. I caught it that the Sgt told him to get on parade. The accused answered in French that he did not refuse to go on parade but that he would like to see the M.O. I'm not a doctor but his hand was swollen so that he could not lace his boots

The Sgt then told me to escort the prisoner. I did not understand the conversation which took place between the sgt & accused after he ordered the accused to get on parade.

Q Did the accused ever refuse to go on draft.

The accused never refused to go on draft.

Cpl. DeBlois who is now in hospital & 10 others who I do not know were in the room at the time

Q Did they all see his hand

A Maybe not all but certainly a lot of them.

Cross By Pros.

Q What time was Reveille that morning

A I don't remember

Q what time was breakfast

A Ordinarily at 0700 hrs

Q About what time did the accused awake up.

A I could not tell because when I saw the accused sitting on his bed at Approx After Breakfast 0715 - 0730 I don't know

How long was it between seeing the accused sitting on the bed & when the Sgt came in

A Maybe ½ hour Don't know

Q How was the accused dressed when the Sgt came in

A Dressed in battledress, but his tunic unbuttoned & his boots not laced.

Q What was the accused doing when the Sgt came in

A He was sitting on his bed I & he did not know what he was doing

Question by Court

Q Do you mean that you did not understand the conversation that took place between

Q Do you mean that you did not understand the conversation that went on between the Sgt & accused

A I heard the accused speak - I heard him speak to another soldier to tell the Sgt that he was not refusing

Q How far away were you at the time

A Five ~~yards~~ feet

RP 63B complied with

1

Capt. E. Therrien Surgical staff 12 ed. general Hosp. Having been duly sworn & identifying the accused states

Pte LaBlanc was admitted to 12 C.C.H. 24 Nov 44 suffering from an inquiry to his right hand - he was admitted directly to my ward & subsequently sent to have his hand ~~x~~ Rayed He was found to have a fracture of his 5th rt. metarphal bone. He was sent to operating room where the fracture was set and his hand put in a Plaster of Paris Cast.

He remained in Hospital until the fracture had completely healed and discharged to 2 C.B.R.C. on Jan 7th 45 with a recommendation for a reboard, and re-alocation

2

The recom. for reboard was on an old injury & not on his Hand. I was an old shrapnel wound of the right thigh

Q Was the old injury enough to keep him off draft.

A. I don't know if he would have a low enough cat to be let off draft

Q How was his behavior

A His conduct was excellent causing no trouble whatsoever.

Q With the injury to his hand would it be possible to use in to pick up rifle

A It would cause considerable pain to him

Q by Court How long before you saw the accused do you think the accident happened

A There was swelling & discoloration & there is no way of acutually telling

RP 83 B Confined With

3rd Defence

K46079 Cpl. Bagley J.M. in charge R.A.P. 10 Bn 2 C.B.R.G. having been duly sworn states.

I have an entry in my register that on 23 Nov 44 Pte LaBlanc was sen 2 C.C.S. and the diag. by our M.O. was possible fracture of Right Metacarpal.

He came to us from the guardroom and I have no sick report of this.

Q When does the sick parade on this the day from the guardroom

A 0830 hrs.

Q If he went into the guard room about 0820 hrs would he wait until the next morning to see the M.O.

A There is one parade per day + it is up to the discretion of guard comander to bring in casual sick.

I also have a hosp. discharge cert. showing the date of discharge on 7 Jan 45

RP83B complied with.

117 [illegible]

President and members of. The prosecution in presenting their case against P.C. Leblanc, did nothing what-so-ever to substantiate their charge. This charge was laid under Sec 9. (2) A.A. it is required that the exact wave allegation be used by accused must be shown in the charge. The charge is that "he refused to obey by saying he would not go on draft." This was ever refuted by Sgt Maguire in his evidence, the onus was on the prosecution to establish a prima facie case on this charge which they have utterly failed to do. The evidence which has been heard for the defence proves the following points. First that the accused was physically unable to obey the alleged command. Secondly he did not refuse to obey it. Thirdly that if he had of wanted to avoid going on draft, and that was his intention he simply had to complain of his old wound which he did not do. Sgt. Maguire did nothing what-so-ever to investigate the request of the accused, and from general practice in the army the first question a ~~[illegible]~~ soldier is asked, when he requests to be paraded sick is "What is wrong with you" The evidence produced supports the statement of the accused that Sgt Maguire knew that he had an injured hand, yet instead of taking this soldier to the M.O. which he stated was too much of a bother he escorts him to the Guard house which is an ~~equidistant~~ equidistance from the R.A.P. The fact that the Sgt

had previous trouble with other soldiers on draft should of not been held against the accused, and by the Sgts actions the innocent man has been held under close arrest since the 22nd of Nov. 1944. There is only one verdict that can be returned by the Court, and that is "not guilty"

R. P. Stewart Lt.
C. H of. O.

Closing Address for Prosecution

in the case of D 10576 Pte LeBlanc S.J.

Sirs

In summing up the evidence I wish to ask the court first to consider the actual charge against the accused.

The accused is charged with "disobeying a lawful command given by his superior officer". Keeping this in mind I feel that the evidence is quite conclusive. The fact that the accused did not actually say - "No I won't go because I want to go sick" does not disprove the charge. The words in the charge are not in quotation marks, simply words to that effect. In this case not only was there verbal defiance but more important is the actual non compliance of the order. When he was given the order he just remained on his bed & stated bluntly that he was going sick.

There is no denial of the fact that the order was given

and that it was not complied with but there is an attempt made to justify the action. ~~At~~ I should like to point out that that there is no dispute as to whether or not the accused should have gone on draft. The accused is charged with disobeying a command & nothing else.

Pte Beaudoin who was in the hut with the accused brings out the fact that there was about half an hour's time between the time that the Sgt came in & the time that he saw the accused sitting on the bed. Now the accused was dressed as far as he could be when the Sgt came in - yet the accused made no effort to get on with parade but simply waited for the draft parade to go. When Sgt Maguire ordered him to get on parade

he ~~for~~ still remained sitting on his bed. I feel certain that the Sgt would not send a man with a broken hand on draft if he was aware of the fact. Had the accused gone on sick parade there would have been no necessity for him to be in that parade. Had he made any effort at all that morning ~~probably~~ this would all have been avoided but instead he waited until the last minute & then bluntly refused to go on parade. I feel that there can be no doubt but that the accused is guilty of the charge as laid although the circumstances should be taken into consideration in determining the sentence

respectfully submitted. A T Shannon

Plea in mitigation of sentence

The court has seen fit to find the accused guilty of the offence. This is the finding of the Court but gentlemen the accused has already spent no less than 87 days in arrest for the offence, He was discharged from hospital on the 7th of Jan, the charge sheet signed the 23rd day of Jan, and here it is the 17th of Feb. Is that not to be taken into account, His previous record as a soldier dates back to his entistment in June 1940 the following month he came to England with the Regiment de Chaudieres, from them he went to R. 22nd Regt and landed in Sicily with them on the 11th of July 1943. He was wounded after 11 months continous service and sent back to England, from there as medical evidence leads us to believe, he was rushed over here as an reinforcement before he was fully recovered. He is the type of a soldier who has earned for Canadian troops the praise they have been so generously given throughout the world. Are we going to see him punished further than the three months he has already lost in close arrest. ~~It is my intention on the [illegible] of the accused to [illegible]~~ The offence was simply a mistake on his part which might be entirely due to the fact he did not understand English, and I would like the Court to carefully reconsider all aspects of the case before they pass sentence on Pte S. J. Leblanc.

R. P. Stewart Lt
C.H. of O.

10 CANADIAN BASE REINFORCEMENT BATTALION

EXHIBIT "A"

10 Bn/C-[illegible]
23 Nov 44

CANADIAN BASE CAMP

Warning for Draft

You have been selected to proceed on draft for the performance of a special duty, and you are now warned that you must be present and ready to go when the draft is sent off.

Any unauthorized failure on your part to go with the draft when it leaves will result in your being charged with desertion on Active Service.

Similarly any unauthorized absence on your part while the draft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on Active Service.

If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servitude for life.

If any of the members of the draft do not completely understand English, say so now.

The last parade for this draft before proceeding forward will be at 0740 hrs, 22 Nov 44. You must be present on that parade or face a charge of desertion.

The draft will proceed to 46 Coy 15 CBR Bn at 0830 hrs 22 Nov 44. Consider yourself duly warned.

(Signed) (C.M.G. ARTHURS) CAPT.,
Adjt., 10 CBR Bn.

CERTIFIED TRUE COPY COPY 43 Coy, 10 CBR Bn EXHIBIT "B"

21 Nov 44

1. This will certify that I have heard the draft warning and understand that if I am not with the draft when it moves off at 0830 hrs 22 Nov 44 I will be charged with dessertion on Active Service.

J.A.S.	Alexander
G.	Brynzan
T.E.	Cargill
G.D.	Zurnfield
F.	Gregotaki
T.S.	Harbe
C.C.	Kennedy
I.	Houghton
J.M.	Kehoe
J.	Klacza
J.K.	Lynk
A.S.	Mc Cracken
E.J.	Dupius
O.	Thompson
B.G.	Ogilvie
G.R.	Clark
D	Dean
J.H.	Gallant
W.G.	Daynes
J.P.	HAlas
G.L.	Mc Ginnis
J.E.	Le Blanc
H.L.	Potter
C.	Pare
P.E.	Parades
S	Dowgowski
V.R.	Snow
C.I.	Hearn
R.	Gagnon
W.R.	Mc Eachern
A.B.	Khindress
E.	Gagnon
O.B.	Brownrigg
L.E.	Zastre
S.	Robichaud
M.	Girard
O.	Picard
G.	Chabot
P.E.	Dube
X.	Thibodeau
R	Omond
A.	Regimbald
G.	Lemaire
J.C.	Tessier
L.	Lyonnas
R.	Bourgault
R.	Cormier
S.J.	Le Blanc
J.A.	Gingras
J.R.	Camit
L.H.	Banks

Certified True List of Original List of Signatures now held in my possession.

Geo G Mac Intosh

(G.G. MAC INTOSH) C.S.M.
43 Coy - 10 CBR Bn

certified true copy acknowledged & signed by accused to court.

President

Ex D.

ARMY FORM ~~E 376~~

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D10546	Pte	LeBlanc, S J	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months. *Since Enlistment.

For Temporary sheet. times times.

~~For times times.~~

~~For times times.~~

~~For times times.~~

~~For times times.~~

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 87 days in military custody, making a total of 87 days, of which 42 days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 23 yrs, 11 months, 5 days.

6. The date of his ~~[illegible]~~ attestation specified in his record of service ~~attestation paper~~ is 9 Jun 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs, 7mos, 14 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs, 7 mos, 14 days service.

9. The accused is entitled to reckon 3 yrs 7 mos 14 days service for the purpose of determining his pension, etc.

~~10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or [illegible]).~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated~~

(*[illegible]) Wt.[illegible] [illegible] 10/40 A. & E. W. Ltd. Gp. [illegible]
(20000) Wt.[illegible] [illegible] 2/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 7-10546 Rank Pte Name LeBlanc S.J. of Rdeland 10 CBRB Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of Feby 1945

Dmac Arthur Lieut
Adjt

12. The accused has not yet as a non-commissioned officer relinquished, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years, _____

In the rank of _____ years _____

In the rank of _____ years, _____

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. D10546 Name LeBlanc, S J | Sqn. Battery or Company | Corps R de Chaud | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAB/136 (94...)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sumy Sheet only					
				CERTIFIED TRUE COPY					
				Major Arthur Wood					
				Officer i/c Regimental Books					

(PTO)

4

SUMMARY OF EVIDENCE

In the case of D10546 Pte Simon Judes LeBLANC, (R de Chaud), of 43 Coy, on the strength of 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

FIRST WITNESS
Prosecution

E9400 Sgt GODIN, M, (R de Chaud), on strength of 10 C.B.R. Bn., having been duly sworn states:

I am E9400 Sgt Godin, M, (R de Chaud), on strength of 10 C.B.R. Bn. On 21 Nov 44, I was attached to 43 Coy, 10 C.B.R. Bn. as a platoon sgt and was the sgt in charge of the reinforcements to the Chaudiere Regiment.

At 1330 hrs, on 21 Nov 44, I was present on a muster parade held of personnel proceeding on draft from 43 Coy, 10 C.B.R. Bn. D10546 Pte LeBlanc, S J, was present on this parade.

Acting on instructions given to me by Sgt Maguire the draft sgt. I read the draft warning to the assembled personnel in French. I assured that all the personnel heard and understood the warning.

M Godin
(M GODIN) Sgt E9400

The accused declines to cross-examine the witness.

R P 83(b) complied with.

SECOND WITNESS
Prosecution

G21138 Sgt REED, A.S.C., of 42 Coy, on the strength of 10 C.B.R. Bn., having been duly sworn states:

I am G21138 Sgt Reed, A S C, of 42 Coy, on the strength of 10 C.B.R. Bn. On 21 Nov 44, I was attached to 43 Coy, 10 C.B.R. Bn, as assistant draft sgt. I was present at 1330 hrs 21 Nov 44, at a muster parade of personnel called for draft. D10546 Pte LeBlanc, S J, was present on this parade.

The draft warning was read to the personnel in English by Sgt Maguire and Sgt Godwin read out the warning in French. I was present and witnessed the signatures of the personnel who were warned for the draft. Pte LeBlanc signed the draft warning in my presence.

A S C Reed
(A S C REED) M.M. Sgt
G21138

The Accused declines to cross-examine the witness.

R P 83(b) have been complied with.

THIRD WITNESS
Prosecution

A3165 Sgt MAGUIRE, H A, on the strength of 43 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am A3165 Sgt Maguire, H A, on the strength of 43 Coy, 10 C.B.R. Bn. On 21 Nov 44, at 1330 hrs, I mustered a warning for draft parade. I called the roll, the accused, Pte LeBlanc, whom I now recognize, answered his name and was present. I read the draft warning to the parade in English. Sgt Godwin, M, read the draft warning to the parade in French. The accused signed his name to the effect that he both heard and understood the warning and that if he absented himself from the draft at 0830 hrs, 22 Nov 44, he would be charged with desertion.

At 0740 hrs, 22 Nov 44, I mustered the draft. I called the roll and the accused failed to answer his name and was absent. I searched for the accused and found him in his room. I ordered him to go on parade, stating that he was only going to a fwd coy where he could get medical treatment if needed, as the accused said he would not go on draft as he was going on sick parade. I again ordered the accused to get on parade. He again refused to do so and I then placed him under close arrest. I returned to my draft and moved it off at 0830 hrs. The accused did not proceed with it.

I submit herewith draft warning read to accused, and roll of of signatures of the draft signed by the accused.

The accused had been paraded to the M.O. the 21 Nov 44 and was found medically fit to proceed on draft.

H A Maguire

(H A MAGUIRE) Sgt A3165

The accused declines to cross- examine the witness.

R P 83(b) complied with.

Draft warning accepted as evidence and marked Exhibit "A". Role of signatures of draft accepted as evidence and marked Exhibit "B".

J W Varty

(J W VARTY) Lt
Officer detailed to take
Summary of Evidence.

The accused having been cautioned as follows: "Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence," declines to give evidence and reserves his defence.

I certify that the foregoing summary of evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused.

I certify that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

J W Varty

(J W VARTY) Lt
Officer detailed to take
Summary of Evidence.

LIST OF WITNESSES

FOR THE PROSECUTION

E9400	Sgt	Godin, M	10 C.B.R. Bn.
G21138	Sgt	Reed, A S C	42 Coy, 10 C.B.R. Bn.
A3165	Sgt	Maguire, M A	43 Coy, 10 C.B.R. Bn.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - Draft warning.
Exhibit "B" - Roll of signatures of draft.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

LeBlanc S.J.

D.10546 Pte LeBLANC, S.J.

Date: 23 Jan 45

D10546 Pte LeBlanc, S J
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 27 Jan 45.
(Date)

2. (a) ~~I request that _____ if available, be appointed.~~ OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) S. J. LeBlanc
(S J LeBlanc) Pte D10546

I hereby certify that Capt LEGACY HQ was appointed to defend D-10546 Pte LeBlanc SJ at his forthcoming trial by Court Martial and that the said officer was notified that he was Defending Officer on 27 Jan 45
(Date)

(Adjutant)
10 Cdn. Base Amt. Coy.,

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H.70179 Cpl Alexander LEBANSKY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be reduced to the ranks and to undergo detention for a period of ninety (90) days.

(Sgd) ..... 3 SEP 46 (Sgd) [signature] A/Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention (barracks until further order(s).~~

(1. AA 57A. Delete if not used.)

Date 4 Sep 46 (Sgd) H B K Gordon Col

Commanding 1 Cdn Repat Depot

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H70179 Cpl. Alexander LeBansky	5 Sept 46	[signature] Major.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 CAO-2-52

SEP 10 1946 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/F & S/1696 (6/44) 4/38B

Convened by Order of Col, MBE. GORDON DSO ED Comd 1 Cdn Rep Dep dated 30 Aug 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.70179	Cpl		Alexander	LEBANSKY	4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED

[signature] Maj

VJAS

REVIEWING OFFICER, JAG BRANCH C.M.H.Q. ENGLAND

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ..... on (*date(s)*) 3 Sep 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans ~~The Interpreter is sworn.(1)~~ Do you object to M.69158 Sgt Rimstad, R.A. as shorthand writer ? Ans NIL ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NIL (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	C.E. WOODROW OBE ED	4 Inch "A" ~~1 Cdn Rep Dep~~
Member	Capt	D.G. CANNON	1 Cdn Rep Dep
Member	Lieut	R. WOOLMAN	1 Cdn Rep Dep
~~Judge-Advocate~~			
Prosecutor	Capt	F.N. FERGUSSON	1 Cdn Rep Dep
Defending Offr	Lieut	A.C. McKENZIE	1 Cdn Rep Dep

Questions by President : Is the Prosecutor a lawyer ? Ans NIL Is the Defending Offr a lawyer ? Ans NIL (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p **3**.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NIL - S/R .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides~~ (not) to advise accused to change ~~his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he ~~(they) change(s) his (their) plea(s)~~ on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by compliance with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. (Else).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO S/R
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, as to it. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Offering officer's plea on mitigation attached.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2222, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused H70179 Cpl. Alexander LEBANSKY, CIC on strength No 4 (Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn. Army Overseas is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, absented himself without leave from 2359 hrs 14 April 1946 until apprehended at 1600 hrs 1 August 1946.
(Absent: 108 days, 16 hours, 1 min.)

Officer Commanding
No 4 (Gen Rft) Wing
No 1 Cdn Repat Depot
(Lorne Scots)
Canadian Army Overseas

In the Field
30 AUG 46.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
31 Aug 46

(M B K GORDON) Col.,
Commanding Officer
#1 Cdn Repat Depot

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.70179	Cpl.		Alexander	LEBANSKY	4(Gen Rft)Wing 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 31 Aug 46 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col (Rank.)	C.E. Woodrow, OBE ED (Must be named. RP 106.)	4 Incr "A" 1 Cdn Repat Depot

MEMBERS.

Capt	TO BE DETAILED BY COMMANDING OFFICER	1 Cdn Repat Depot
Lieut (Rank.)	TO BE DETAILED BY COMMANDING OFFICER (Named or detailed. RP 106.)	1 Cdn Repat Depot

~~WAITING MEMBER~~

~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~

~~JUDGE ADVOCATE~~

~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~

On Active Service in the Fd

in England (Country.) — M B K Gordon (Signed personally. RP 105 fn 2.) — Colonel (Rank.)

Date 31 Aug. 46 — Commanding (M.B.K.Gordon)-Col No.1 Cdn Repat Depot Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6243) — *(See overleaf for oaths and notes for use on trial.)*

MEDICAL OFFICER'S REPORT
(KR (Can) 557)

THIS IS TO CERTIFY THAT I HAVE THIS MORNING MEDICALLY EXAMINED

H-70179 CPL. Le Banaky A
(Regt'l No. Rank Name Initials)

AND THAT IN MY OPINION HE IS Fit TO UNDERGO
(~~FIT, UNFIT:-see NOTE~~)

TRIAL BY COURT-MARTIAL.

STATION 4 Wing (ICRD)
(Camp & Place)

DATE 3 Sept 46

[signature] RCAMC
MEDICAL OFFICER
Unit 4 Wing (ICRD)

NOTE: (ALL DELETIONS and/or ALTERATIONS WILL BE INITIALLED BY THE MEDICAL OFFICER)

Evidence of CO

SUMMARY OF EVIDENCE

in the case of,

H70179 Cpl. LeBansky A., on strength No 4 (Gen Hft) Wing, No 1 Cdn Repat Depot, a soldier of the Cdn Army Overseas.

"I present the following documents pursuant to Overseas Routine Order No 5352 which have been read over and shown to the Accused, and are attached hereto as Exhibits:"

(1) Certified True Extract from No 4 Repatriation Depot Part II Orders No 129 dated 10 Jun 46, which declares that H60179 Cpl. LeBansky A., absented himself without leave from 2359 hrs 14 April 1946
(Marked Exhibit "A")

(2) Certified True Extract from Canadian Army (Overseas) Supplementary Part II Orders Consolidated No 8 dated 19 Aug 46 amending 4 Repatriation Depot Part II Orders No 129 dated 10 Jun 46 to read H70179 instead of H60179.
(Marked Exhibit "B")

(3) Certified True Extract from No 4 (Gen Hft) Wing, No 1 Cdn Repatriation Depot Part II Orders No 148 dated 8 Aug 46 which declares that H70179 Cpl LeBansky A., was apprehended from absence without leave at 1600 hrs 1 Aug 1946.
(Marked Exhibit "C")

.....
(D B JONES) Major, CIC
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence consisting of One (1) page was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

.....
(D B JONES) Major, CIC
Officer detailed to take the Summary of Evidence

Signed in the Field

This 30 day of Aug 1946

THE CASE OF H-70179 Cpl Alexander LEBANSKY

(i) LIST OF WITNESSES FOR THE PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR THE DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR THE PROSECUTION

(a) Cert True Extract from #4 Repat Depot Part II Orders #129 d/10 Jun 46 concerning the absence without leave of H60179 Cpl Lebansky A
(Marked Exhibit "A")

(b) Cert True Extract from CAO Supplementary Pt II Orders #8 d/19 Aug 46 amending 4 Repat Pt II Order No 129 d/10 Jun 46 to read H70179 instead of H60179.
(Marked Exhibit "B")

(c) Cert True Extract from #4 (Gen Rft) Wing #1 Repat Depot Part II Orders #148 d/6 Aug 46 concerning the apprehension of H70179 Cpl Lebansky A
(Marked Exhibit "C")

(iv) LIST OF EXHIBITS FOR THE DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

A. Lebansky.....
H70179 Cpl Lebansky A

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an officer to represent me at my Trial.

I desire the services of Lt. MacKenzie... if he is available.

A. Lebansky.....
H70179 Cpl Lebansky A

Signed in the Field

This 30 day of Aug 46.

True Copy of Extract from #4 Cdn Repat Depot D.O.#129 d/10 Jun 46.

Para 15 ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 14 Apr. 46. Still AWL 2359 hrs 6 May 46 (22nd day).
H 60179 CPL LEBANSKY A Transit

True Copy of Extract from #4 Cdn Repat Depot D.O.#130 d/11 Jun 46.

Para 19 STRENGTH DECREASE

(v) SOS as a deserter having been declared illegally absent from 2359 hrs 14 Apr 46 by Ct of Inq held on 31 May 46. Deficiencies in kit: $60.32.
H 60179 CPL LEBANSKY A

(A EDMODSON) MAJOR
RECORDS OFFICER
NO 4 CDN REPAT DEPOT

CERTIFIED TRUE COPY.

9 Aug 46

.....(C.G. BERRY) Lieut.,
Officer having
custody of original documents.

CANADIAN ARMY (OVERSEAS) SUPPLEMENTARY
PART II ORDERS (CONSOLIDATED)
issued by
LT/COL H.M. JACKSON, MBE ED
OFFICER I/C RECORDS, CMHQ

LAST ORDER
No 7
d/12 Aug 46

THIS ORDER
NO 8
d/19 Aug 46

"B" OTHER RANKS

9. ABSENT WITHOUT LEAVE

(a) 4 Cdn. Repat Depot — AMENDMENT Part II Order No 129 d/10 Jun 46, para 15 (a) insofar as it refers to the u/m is hereby amended by deleting H60179 and inserting H/0179 (CMHQ Ops R 1175 d/10 Aug 46)

H60179 Cpl. LEBANSKY A.

(J.J. DUFFY) Capt.
for LT-COL., OIC RECORDS
Canadian Military Headquarters

CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION

(D.E. Jones) Major CIC.,
Officer having custody
of Original Document.

21 Aug 46.

NO 4 (GEN RFT) WING
NO 1 CANADIAN REPATRIATION DEPOT
PART II ORDERS
ISSUED BY
COL M B K GORDON, DSO ED
COMMANDING OFFICER

Last order
No 147
2 Aug 46

This Order
No 148
6 Aug 46

SECTION "B"
OTHER RANKS

3. STRENGTH INCREASE

(i) TOS on Appr from Desertion Approx 1600 hrs 1 Aug 46.

H70179 Cpl. LEBANSKY A. CIC

R.V. Titus Capt.
(M.B.K. GORDON) COL, DSO ED
COMMANDING OFFICER
NO 1 CDN REPAT DEPOT

CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION

(D.E. Jones) Major
Officer having custody
of Original Document.

9 August 1946.

Plea in mitigation

PLEA IN MITIGATION

IN THE CASE OF

H.70179 Cpl LEBANSKY, A. --- 4 (Gen Rft) Wing, 1 Cdn Repat Depot

Gentlemen:

As regards the service of Cpl Lebansky there is only one charge of absence without leave in a period of over six years service and this last offence after some time after hostilities have ceased. Now the reasons behind this absence go back some number of years before his enlistment. He was married approximately ten years ago when was was very young, approximately 22 at the time. After a couple of years the marriage started to go wrong. He enlisted and served in Canada and the Aleutians and came overseas in Jun 44. His married life during his service was not satisfactory. On his embarkation leave before coming overseas his wife said "hello" and "good-by" to him on his arrival and departure, no other conversation passing during this time. Now that is the strain that was on this man's mind all the time during his service. On coming over to England he received information from home that his wife's conduct had deteriorated further. He attempted to stop her allowances and had an investigation made by the social services and where they told him she was going out to dances and parties with various people nothing definite could be proved which would permit the allowances to be stopped. No doubt had Cpl Lebansky been a rich man he could have employed counsel and detectives and could easily obtain the evidence but on a Cpl's pay naturally it was impossible. He wrote to his wife asking for a divorce, her reply was "as long as I can draw army allowances and money from you I will not divorce you." She is willing to receive everything and give nothing. Sometime after he was over here he met another person and after some period he disclosed his true standing and after proving it to this girls satisfaction she accepted his attentions but only after proof. This girl gave Cpl Lebansky contentment and happiness he has never known before. He explained the situation to his family who have accepted to be responsible for this girl from the time of her arrival in Canada until he is in apposition to set up a home for her himself. With the allotment b ing compulsory and not being able to stop it he was in no position to save money enough to pay her passage to Canada himself. He went on leave and the only thing in his mind was how to obtain this money while on leave. He accepted employment which would enable him to do this and his idea was to acquire this amount of money, set it aside, then go home and get his life straightened out by leaving the girl in England with enough money to go to Canada as soon as possible. I ask the Court in considering the sentence to take into consideration his length of service without crime, the mental strain that he has been serving under this past six years and the fact that if he is allowed to go back to Canada in the near future he can straighten out his life and settle down as a useful citizen and finally the fact that for 33 days he has been under close arrest awaiting trial. Thank you.

Exhibit "B"
C.E.S.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
H70179	Cpl.	LEBANSKY A.	No 4 (Gen Rft) Wing, No 1 Cdn. Repat Depot.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of **entries** in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For	A.A. Sec 15 (1)	times	1	times
For	A.A. Sec 24 (2)	times	1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for beginning of the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 33 days in military custody, making a total of 33 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service / ~~attestation paper~~ is 32 years 8 months

6. The date of his ~~conversion~~ attestation specified in his record of service / ~~attestation paper~~ is 3 Sept. 40

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The ~~accused is entitled to deferred pay or gratuity in respect of~~ ~~service~~

9. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to ~~any military decoration or military award~~ (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M. & Clasp Def medal.

11. ~~(If the accused is a warrant officer.) The accused by whom was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~and in his regiment (or corps or department) the rank of~~

Wt.57637/1519 20M. 5/44. P. Ltd. T.11-2

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of Corporal 4 years 8 Jul 42

~~In the rank of~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H70179 *Rank* Cpl. Name Lebansky A. of 4 (Gen Rft) Wing 1 Cdn. Repat Depot Regiment (or as the case may be)

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Ref		
		Ref		
		Ref		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3 day of SEP 46

[signature] Major
4 (GR) Wing, 1 Cdn. Repat Depot.

No. H70179 Name Alexander LEBANSKY | Sqn, Battery, or Company | Corps CIC. | Date of enlistment 6 Jun 41 | GC Badges | Service or Proficiency Pay | Exhibit "C" CE 17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Cpl		A.A.15		Severe Reprimand	9/7/45		
Field		Cpl		A.A. 24 (2)		Reprimand Stoppages of Pay £0-14-5	6Sep 45		

CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4
HELD IN MY POSSESSION

.....
(D.E. Jones) Major
Officer having custody
of Original Document

24 AUG 46

(PTO)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Twenty-seventh .....day of January ....., 19 41

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military He dquarters ...., on active service, that the person~~s~~ named in the annexed Schedule, being subject to Military Law, ha~~ve~~s committed the offence~~s~~ in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1.—Three Officers to form the Court)~~

~~*(2.—A Field Officer as President)~~

~~*(3.—Three Officers having more than one year's service)~~

~~for the following reasons, namely:—~~

PROCEEDINGS CHECKED AND FOUND TO BE IN ORDER.

(A. W. EMBURY) MAJOR, J.A.G.3., C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major	R.A.Lindsay	P.P.C.L.I

Members.

Rank.	Name.	Regiment.
Captain	A. A. Gilchrist	Edmonton Regiment
Captain	A. Stephenson	Canadian Junior War Staff Course.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed

Commanding

P. J. Montague

(P. J. Montague, P. E. General Senior Officer Headquarters.

Convening Officer.

27 JAN 1941

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G.18414 Pte. Leblanc W. Canadian Junior War Staff Course	A.A. Sec.15 (1). When on active service absenting himself without leave.	Not Guilty	Guilty 28 days detention	Finding and Sentence Confirmed P.J. Montague (P. J. Montague, Esq., Barrister, Senior Officer, Canadian Military Headquarters)

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

Signed: P. Montague (Signed) L.A. Lindsay
Commanding Convening Officer (*e*) President.

P. J. Montague (Senior Officer, Canadian Military Headquarters) 2 JAN 1941

(*a*) Appointment, acting, rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of January 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~*(a)—The undersigned~~
~~*(b)—The officers under mentioned~~

were duly sworn.

Signed this 31st day of January 1941.

L.A. Lindsay
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of this [illegible] have been complied with~~

~~Signed this day of~~

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of G 18414 Pte. Leblanc W.

(*a*) (Dated) FEB 17 1941 (Signed) Norman Edwards F/Lt Adjutant Canadian Junior War Staff Course

Promulgated and extracts taken in the case of G 18414 Pte. Leblanc W.

(Dated) 20 Feb 41 (Signed) for P.E. Leblanc Major Lieut.-Col. Officer Commanding No. 2 Can. Int. Training Unit Case.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.L. 40133—4/41 100M [illegible] P.S. G.50

The accused elects trial by Court-Martial

E. 4

CHARGE SHEET

The accused, No. G18414, Private LeBlanc, W., Canadian Junior War Staff Course, a soldier of the Canadian Army, is charged with:-

Sec 15 (1) A.A.

When on Active Service absenting himself without leave -

in that he

at Ford Manor did absent himself without leave from 1345 hrs., 13 Jan 41 until 0130 hrs., 14 Jan 41. (Absent 11 hrs. 45 mins.)

G.G. Simonds

(G.G.Simonds) Lieut.-Colonel
Commandant
Canadian Junior War Staff Course

Ford Manor
15 Jan 41.

To be tried by Field General Court Martial
[illegible] major
for Major General P.J. Montague
Senior Officer at CMHQ.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. G 18414 Rank Private

Name LEBLANC W Regiment Carleton & York

is

to undergo trial by Court-Martial.

W R Boutter / Maj

Date 31 Jan 1941

M.O. Signature.

Proceedings of a Field General E(1) 1
Court Martial -

Held at Ford Manor. Lingfield - Surrey on the Thirty first day of January 1941.

The Court assembled at 1400 hours
President - Major R. A. Lindsay. PP. Chl.
Members - Capt: A. A. Gilchrist - Edmonton Reg.
Cap' Capt: A. Stephenson. Canadian Junior War Staff Course

The order convening the court, the charge sheet and the summary of evidence were laid before the Court. The members of the Court satisfied themselves that the court was legally constituted as provided by R. P 22 and 23.

The accused, 918414 Private le Blanc W. was brought before the court. The Order convening the Court was read to him. He said he had no objection

to being tried by any members of the Court. The members of the court were duly sworn.

The accused was arraigned upon the charge (E.H. attached.) On the charge being read, the prisoner pleaded "Not Guilty" and his plea was duly entered (page 2 of A.F.A.3.) The accused was asked the questions set out on page 2 of A.F.A.3 and his answer "No" was recorded thereon -

The prosecutor made his opening address (H.H attached) and proceeded to call witnesses. The witnesses in turn were duly sworn and evidence taken down ~~verbatim~~ - (F.S. 6-7 attached). The case for the prosecution was closed -

The accused was informed of his rights in accordance with R.P. 40a and M.M.L - p 644 - 52. The accused

elected to give evidence in his own defence and signified his intention to call witnesses to the fact - witnesses for the defence were called and being duly sworn their evidence was taken down verbatim - (F. 8.9.10.11. attached)

The procedure set out in R.P 40, 41 was followed - The Court deliberated its findings in closed court, R.P. 43a.

R.A. Lindsay Major
President of Court.
31 Jan 41.

F. G. C. M

H. 14

G 18414 PTe LeBLANC W
Cdn Jun War Staff Course.

Prosecutors opening address

1. Mr President and members of the Court. May it please the Court evidence will be brought to show that the accused was ordered to report to Sgt McEwen for duty at 1345 hrs on 13 JAN 41, and that he did not do so, and that he was absent from his place of work, absent from Ford Manor without leave and did not return untill 0130 hrs on the 14 JAN 41 and when paraded the following morning being charged with being A.W.L. He elected trial by Court Martial

Norman H Mather Lieut
Adjutant
Canadian Junior War Staff Course

Ford Manor 31 JAN 41

Preliminary F. 5

First Witness for the Prosecution

Q. 1 - Will you give your Number, Rank and Name.

A. 1 - M20501, R.S.M. (WOI) Girling, J.A.

Q. 2 - What do you know about this case?

A. 2 - On the afternoon of 13 Jan 41 Sjt. McEwen reported that the accused had absented himself without leave. I investigated his quarters and found him absent. Bdr. Hinds reported next morning that the accused had reported in at 0130 the following morning.

Q. 3 - Did you or did you not see the accused on the morning of 13 Jan 41.?

A. 3 - Yes-sir, I was making my rounds and found him in bed, asked him if he was on sick parade or sick. I asked him to report to Sjt. McEwen.

Q. 4 - What time did you ask him to report to Sjt. McEwen?

A. 4 - To report immediately.

Q. 5 - When you asked him to report to Sjt. McEwen did you know that Sjt. McEwen was out?

A. 5 - No-sir.

Q. 6 - You intended him to report to the kitchen of the Officers' Mess?

A. 6 - Yes Sir.

Q. 7 - Did you know this was the accused's afternoon off?

A. 7 - No Sir.

Q. 8 - You did not cancel the order of half day off?

A. 8 - No Sir.

Q. 9 - Can you establish any definite time that you told him to report to Sjt. McEwen?

A. 9 - At approximately 1145 hrs I saw him in the wash room and asked him if he had reported, he replied it was too close before dinner. I told him to have his dinner and report after dinner.

Q.10 - Any special time?

A.10 - Immediately after dinner.

Q.11 - What time after dinner do they usually report?

A.11 - 1345 hours.

Cross-examined by Defence

Q. 1 - On dish-washers' day off is it customary for them to leave as soon as the noon-day dishes are washed?

A. 1 - I do not know. Those arrangements are made between Sjt. McEwen and his men.

Q. 2 - On this particular day were the majority of the Officers on a scheme?

A. 2 - I do not know.

Second Witness for the Prosecution

Q. 1 - Will you give your Number, Rank and Name.

A. 1 - C25731, Sjt. McEwen, D.J.

Q. 2 - What do you know about this case. First of all do you know if Private LeBlanc is in this room?

A. 2 - Yes Sir. Pointed Pte. LeBlanc out.

Q. 3 - What do you know of this case?

A. 3 - On the morning of 13 Jan 41 he was absent from his work, I asked R.S.M. Girling if Pte. LeBlanc was sick. He answered he would see. On the way down to Redhill I called in at Ford Cottage and found Pte. LeBlanc asleep. I asked if he was sick, he replied, no. I told him to report to Ford Manor immediately. I continued on my duty to Redhill and returned at 1400 hrs.

Q. 4 - Did the accused report on the afternoon of 13 Jan 41?

A. 4 - No Sir.

Q. 5 - Was he on his job as dishwasher on 13 Jan 41?

A. 5 - No Sir.

Q. 6 - Did you give him permission to leave?

A. 6 - No Sir.

Cross-examined by Defence

Q. 1 - Is it not the custom for the dishwashers to have every 3rd afternoon off?

A. 1 - Some get time off from their work which is arranged amongst themselves.

Q. 2 - On 11 Jan 41 did you tell the dishwashers that Pte. Harvey would be off that day, Pte. White would be off the following day and that Pte. LeBlanc would be off the day following that?

A. 2 - I don't recall.

Q. 3 - You do not deny that?

A. 3 - I cannot say.

Q. 4 - Supposing you had made that statement did you at any time recall that authority?

A. 4 - No Sir.

Q. 5 - You told Pte. LeBlanc to report to the kitchen immediately?

A. 5 - Yes Sir.

Q. 6 - Do you know if he did report to the kitchen?

A. 6 - No Sir.

Cross-examined by prosecutor

Q. 1 - There is no roster, or is there a roster for the dishwashers to have afternoons off?

A. 1 - No Sir.

Q. 2 - Has the allotting of afternoons off anything to do with the way a person has been carrying on his duties?

A. 2 - No Sir.

Q. 3 - Have the dishwashers had afternoons off?

A. 3 - Some days.

Q. 4 - Can you or can you not tell in any one day whether, two or three days hence any particular person could have the afternoon off?

A. 4 - No Sir.

Q. 5 - You say that you cannot tell two or three days in advance the afternoons a man has time off, will you or will you not deny whether you gave the men the afternoons off?

A. 5 - I cannot recall.

Q. 6 - When you told the accused to report to the kitchen, is there any specific person to whom he should report?

A. 6 - No Sir. He knew his duty.

Third Witness for the Prosecution

Q. 1 - Will you give your Number, Rank and Name.

A. 1.- U1560, Bdr. Hinds, S.

Q. 2 - What do you know about this case?

A. 2 - On the afternoon of 13 Jan 41 I was duty N.C.O. at Ford Cottage. The R.S.M. reported to me that Pte. LeBlanc was absent without leave. At 0130 hrs on the 14th Jan 41 the accused reported in to Ford Cottage. I saw him next morning and he was placed under open arrest.

Q. 3 - Do you know at what time the accused returned?

A. 3 - 0130 hrs.

Q. 4 - How do you know, did he report to you?

A. 4 - Yes Sir.

Cross-examined by Defence

Q. 1 - When you say you warned him the next morning, what day was it?

A. 1 - Morning of 14 Jan 41.

Q. 2 - You do not know of or have any knowledge whether the accused was in camp or not?

A. 2 - No Sir, he was in camp at roll call 13 Jan 41.

First Witness for the Defence

Q. 1 - What is your Number, Rank and Name?

A. 1 - G18414, Pte. LeBlanc, W.

Q. 2 - On 13 Jan 41 where were you employed, what duty were you on?

A. 2 - I was on dishwashing in the Manor.

Q. 3 - Where?

A. 3 - Ford Manor.

Q. 4 - Had you been washing dishes for some days?

A. 4 - Yes Sir.

Q. 5 - Did any one tell you on the 11th Jan 41 that you would have the afternoon off on 13 Jan 41?

A. 5 - Yes Sir.

Q. 6 - Who, Sjt. McEwen?

A. 6 - Yes Sir.

Q. 7 - Who is Sjt. McEwen?

A. 7 - Serjeant of the kitchen.

Q. 8 - What kitchen?

A. 8 - Officers' Mess kitchen.

Q. 9 - On the morning of 13 Jan 41 were you told to report to Sjt. McEwen?

A. 9 - Yes sir.

Q.10 - Did you report to him?

A.10 - I came up and he wasn't there.

Q.11 - Where?

A.11 - At the kitchen.

Q.12 - What did you do after reporting?

A.12 - I washed some dishes and then went to the wash-room and cleaned up.

Q.13 - After dinner what did you do?

A.13 - I came up to the wash-room and got some clothes and went to Ford Cottage.

Q.14 - Did you know whether the officers were in the mess for lunch that day?

A.14 - No, there were only four officers in.

Q.15 - When the dishwasher has his afternoon off, when does he usually go off?

A.15 - As soon as the dishes are completed.

Q.16 - On this day there were four officers?

A.16 - Yes sir.

Q.17 - Did Sjt. McEwen ever take back his permission to have that afternoon off?

A.17 - No Sir.

Cross-examined by Prosecutor

Q. 1 - Did the R.S.M. tell you to report to Sjt. McEwen on 13 Jan 41 after lunch, did you not see the R.S.M. before you had your lunch and did he not tell you to report to Sjt. McEwen after you had your lunch?

A. 1 - No Sir he told me to report right away.

Q. 2 - He did not say to have your dinner and then report to Sjt. McEwen?

A. 2 - No sir.

Q. 3 - You are positive of that?

A. 3 - Yes sir.

Q. 4 - You say that you were employed as dishwasher on Monday, 13 Jan 41. What time of day were you employed as dishwasher? What time did you report?

A. 4 - 1145 hrs.

Q. 5 - To whom did you report?

A. 5 - No one.

Q. 6 - You did not report to any particular person, did you intend to report to Sjt. McEwen had he been there?

A. 6 - Yes Sir.

Second Witness for the Defence

Q. 1 - What is your Number, Rank and Name?

A. 1 - G17898, Pte. Harvey, G.B.

Q. 2 - What work are you doing at present?

A. 2 - Washing dishes.

Q. 3 - Where?

A. 3 - In the Officers' Mess, Ford Manor.

Q. 4 - How long have you being doing that?

A. 4 - Ever since I have been up here.

Q. 5 - Would it be over several weeks?

A. 5 - Yes sir.

Q. 6 - Were you washing dishes in the mess at the same time as Pte. LeBlanc?

A. 6 - Yes sir.

Q. 7 - Do you remember the day that the accused took the afternoon off?

A. 7 - No.

Q. 8 - Do you remember if at any time Sjt. McEwen said that you would be off on one day, that Pte. White would be off the next day and that Pte. LeBlanc would be off the day after?

A. 8 - Yes sir.

Q. 9 - Is it customary for dishwashers in the Officers' Mess to have afternoons off?

A. 9 - By the dishwashers own arrangements.

Q.10 - This did work out so that you generally have had every third day off?

A.10 - Yes sir.

Third Witness for the Defence

Q. 1 - What is your number, rank and name?

A. 1 - A3541, Pte. White, F.

Q. 2 - What is your duty?

A. 2 - Waiter in Officers' Mess.

Q. 3 - Before you became a waiter in the Officers' Mess what was your duty?

A. 3 - Diswasher in Officers' Mess.

Q. 4 - Where?

A. 4 - Ford Manor.

Q. 5 - When you were a dishwasher was the accused Pte. LeBlanc also a dishwasher?

A. 5 - Yes sir.

Q. 6 - Do you remember if on any particular day Sjt. McEwen made a statement that Pte. Harvey would have that afternoon off, you the following afternoon and Pte. LeBlanc the next afternoon?

A. 6 - Yes sir.

Q. 7 - When you were in the kitchen as dishwasher was it customary for them to have afternoons off?

A. 7 - Yes sir.

Q. 8 - Were they cancelled very often?

A. 8 - On occasions, nights of mess dinner.

Cross-examined by Prosecution

Q. 1 - You recollect Sjt. McEwen saying that you would be given half days off?

A. 1 - Yes Sir.

Q. 2 - Do you remember what day that happened?

A. 2 - Cannot remember.

Court recalls first witness for prosecution, M20501, R.S.M. Girling, J. A.

Q. 1 - Did you see Pte. LeBlanc at Ford Manor on 13 Jan 41.

A. 1 - Not at the Manor, at the Cottage.

Q. 2 - Did you see the accused in Ford Manor at any time during the day of 13 Jan 41?

A. 2 - I saw him in the wash room at approximately 1145.

Q. 3 - Were just you and the accused there at the time?

A. 3 - Yes sir.

Q. 4 - What did you say to him?

A. 4 - I ordered him to report to Sjt. McEwen after dinner. It is too late to report now, report after dinner.

Cross-examined by defence

Q. 1 - When you said to report to Sjt. McEwen, did you mean to report to the kitchen?

A. 1 - Yes sir.

G18414, Pte. LeBlanc, W. questioned:

Q. You have heard the statement just made, you recall the R.S.M. seeing you in the washroom at 15 minutes before noon, did he say you were to report after dinner?

A. He told me to report right away to the kitchen.

Q. Was any name mentioned as to whom you were to report to?

A. Sjt. McEwen.

Closing statement of Defence:

Gentlemen,

This case the prosecution and witnesses for the prosecution have placed a great deal of stress on the morning of 13 Jan 41, but the charge has no direct bearing on the morning. The charge is that he was A.W.L. from 1345 hours in the afternoon. The accused, supported by two other witnesses has stated that two days previous to the day mentioned in the charge he had been told by Sjt. McEwen that he would be off on the day mentioned in the charge. The Sjt. himself does not deny making that statement. There is the accused's evidence. The Serjeant states he did not recall or at least rescind the permission to have that afternoon off. The R.S.M. did not know if it was the afternoon off. The R.S.M. said that he told the accused to report to Sjt. McEwen. When he said Sjt. McEwen he meant the kitchen of the Officers' Mess as he did not know that Sjt. McEwen was not in the kitchen at the time. The accused did report to the kitchen and did what work was to be done and then took the afternoon off as he had been told to do.

Now one very important point in this case is the attitude of the accused as if he had taken the punishment of the C.O. he would probably have received only 7 days' C.B. but he elected trial by Court Martial and faced a more severe penalty, was placed under close arrest and has been in custody for 17 days because he felt that he was not guilty of this charge and he did not want C.B. or Field Punishment and for that he cannot be blamed. He did his work and then went away. He was given that afternoon off and no one rescinded that order. He has brought in evidence that he was given that afternoon off. Pte. White pointed out the fact that the only time a man lost his afternoon off was on mess dinner nights. I think the accused has acted in good faith.

Closing remarks of prosecution:

I think that the prosecution has shown that the R.S.M. ordered the accused to report for duty in the afternoon of 13 Jan 41. I think that the prosecution has shown the evidence of Sjt. McEwen; that the accused did not report in the afternoon and from the evidence of Bdr. Hinds it was shown at what time the accused reported back. Those facts have been shown and I have nothing further to say.

R.A. Lindsay

ARMY FORM B 116.

Canadian Junior War Staff Course .....REGIMENT

STATION..... Ford Manor, Lingfield ..... Date 18 Jan 19 41

Application for a Field General .....Court-Martial.

SIR,

I have the honour to submit One charge .....against No. G18414, Private LeBlanc, W.

.....

of the Unit ..... under my command, and request you will obtain the sanction of G.O.C. Cdn Corps ..... that a Field General ..... Court-Martial may be assembled for his trial at Ford Manor, Lingfield .....

The case was investigated by (x) Lieut.-Col. G.G. Simonds .....

and Lieut. N.L.C. Mather .....

~~A Court of Inquiry was held on (x) .....(date)~~

~~at .....(Station)~~

~~President .....~~

~~Members (.....~~

~~(.....~~

HEADQUARTERS 23 JAN 1941 CDN TA

I enclose the following documents:- (x)

1. ...One...Charge Sheet.....(in duplicate)
2. ~~Summary~~ of Evidence, original and One copy (copies)
3. Original Exhibits. Copy of Part I Order No.1 - 2 Jan 41.
4. List of witnesses for the prosecution and defence (with their present stations or addresses).
5. List of Exhibits.
6. ~~Correspondence.~~
7. Conduct Sheets of Accused.
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial. (R.P. 14 b).
9. ~~Prosecuting Officer.~~

(x) (Strike out if not applicable.)

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer) .....
(G.G.Simonds) Lieut.-Col.
Canadian Junior War Staff Course

To...H.Q. .....
Cdn Corps. "A" Branch
.....

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that No. G18414, Pte. LeBlanc, W.
is fit/~~unfit~~ to undergo trial by Court-Martial.
(Signature of Medical Officer .....

CANADIAN JUNIOR WAR STAFF COURSE

PART I ORDERS

By Lieut.-Colonel G.G. Simonds, R.C.A.
Commandant

Part I Order No. 4 — 2 January 41.

1. DISCIPLINE

The number of cases of A.W.L. shows a disregard of discipline and the attention of all ranks is directed to the fact that this offense will not be dealt with leniently in the future.

2. CAMOUFLAGE

Tracks made by M.T. Vehicles are becoming very extensive through the soft ground being badly cut up. These tracks are most noticeable from the air and reveal the military occupation of a locality.

Planning, so that the existing system of peace time roads and lanes is used as much as possible, and if necessary, extended by cinder tracks able to carry heavy lorries, and laid out to the same pattern would help to reduce them.

When siting new buildings and positions, the Corps Camouflage Officer will be consulted for advice.

3. DAMAGE TO REQUISITIONED BUILDINGS AND CHATTELS

Attention is directed to the provisions of 45(b) of Eastern Command Quartering Instructions 1940 (as amended by Amendment No. 3 dated 28 Jul 40.)

This sub-para states that Barrack Damages caused by neglect or wilfulness will be recovered from individuals concerned, and that O's.C. units will ensure that regular inspections of property are carried out in accordance with para 1309 K.R's 1935 (1339 K.R's 1940 - 892 K.R's (Can)), and that any damages brought to light are assessed by Barracks Officers and/or Engineers at the earliest opportunity.

Failure to carry out these monthly inspections frequently results in the public being called upon to meet extensive damage claims and constitutes a serious dereliction of duty on the part of Officers Commanding.

All units should be in possession of Eastern Command Quartering Instructions 1940 as amended from time to time in Eastern Command Orders.

Consolidated demands will be forwarded through the usual channels for sufficient copies of these instructions to meet any deficiencies.

4. MEN'S MESS HOURS

Breakfast	-	0730 hrs - 0800 hrs.
Dinner	-	1215 hrs - 1245 hrs.
Supper	-	1700 hrs - 1730 hrs.

Norman P. O'Martin Lt

for (G.G.Simmonds) Lieut.-Colonel
Commandant
Canadian Junior War Staff Course

Summary of evidence in the case of No.C18414, Private LeBlanc, W. of Canadian Junior War Staff Course.

1st Witness — No.M20501, R.S.M. Girling, J.A., Canadian Junior War Staff Course (sworn):-

On the morning of 13 Jan 41 while making my rounds and inspecting billets I found Pte.LeBlanc in his quarters in bed at 1030 hours. I asked him if he had been on sick parade, he said, no. I told him to report to Sjt. McEwen. Later, on coming back to the Manor at approximately 10 minutes before noon Pte.LeBlanc was in the wash room. I asked him if he had reported to Sjt. McEwen, he answered, no, it was too close to dinner or words to that effect, so I told him to have his dinner and report to Sjt. McEwen afterwards. I did not see Pte.LeBlanc in the afternoon and on checking his quarters about 1400 hrs found he was not there and I did not see him until the following morning.

(Sgd) J.A. Girling, R.S.M.
M20501, R.S.M. Girling, J.A.

Cross-examined by accused:

Q. Sir, you said in your evidence that you told me to go for dinner and report afterwards, is that correct?

A. Yes.

2nd Witness — No.C.25731, Sjt. McEwen, D.J., Canadian Junior War Staff Course (sworn):-

On the morning of 13 Jan 41 after the breakfast was served I went to R.S.M.Girling and asked him where Pte. LeBlanc was, whether he was on sick report. R.S.M. Girling said he would check the sick report. It was then about 0930 or 1000 hrs in the morning. I had to leave for Redhill on duty and R.S.M. Girling asked me to call at Ford Cottage on the way down to see if Pte. LeBlanc was there. I found him in bed asleep. I woke him up and asked him if he was sick, he said no. I told him to report to Ford Manor immediately and continued on my way to Redhill. When I returned at 1340 hours Pte. LeBlanc did not report to me and I did not see him during the course of the afternoon.

(Sgd) Sgt. McEwen D.J.
(C25731, Sjt. McEwen, D.J.)

3rd Witness — No.U1560, Bdr. Hinds, S. Canadian Junior War Staff Course (sworn):-

On the afternoon of the 13th Jan 41, being duty N.C.O. at Ford Cottage, the fact that the accused, Pte. LeBlanc was absent was reported to me by R.S.M.Girling. At 0130 hrs. on the 14th Jan 41 the accused reported in to Ford Cottage. I saw him the next morning and he was placed under open arrest.

(Sgd) S. Hinds, Bdr.
U1560, Bdr. Hinds,S.

The accused, C18414, Pte.LeBlanc, W. after being cautioned in accordance with R.P.4 (6) states:

This was my afternoon off, the other boys got theirs so I did not wait for Sjt. McEwen to come back. When I reported in the morning I washed the breakfast dishes.

(Sgd) LeBlanc, W.
C18414, Pte.LeBlanc,W.

Taken down by me at Ford Manor this 15th day of Jan 41 in the presence of the accused. Rule of Procedure 4 complied with.

(Sgd) Norman L.C. Mather - Lt.
(N.L.C.Mather) Lieutenant
Adjutant
Canadian Junior War Staff Course

The accused elects trial by Court-Martial

CHARGE SHEET

The accused, No.C18414, Private LeBlanc, W., Canadian Junior War Staff Course, a soldier of the Canadian Army, is charged with:-

When on Active Service absenting himself without leave -

Sec 15(1) A.A.

in that he

at Ford Manor did absent himself without leave from 1345 hrs, 13 Jan 41 until 0130 hrs., 14 Jan 41. (Absent 11 hrs, 45 mins.)

(Sgd) G.G. Simonds

(G.G.Simonds) Lieut.-Colonel
Commandant
Canadian Junior War Staff Course.

Ford Manor
15 Jan 41.

LIST OF EXHIBITS

Part I Order No. 1 dated 2 Jan 41.

LIST OF WITNESSES FOR PROSECUTION

M20501, R.S.M. Girling, J.A.

C25731, Sjt. McEwen, D.J.

U1560, Bdr. Hinds, S.

Address - Canadian Junior War Staff Course

LIST OF WITNESSES FOR DEFENCE

G17898, Pte. Harvey, G.B.

Address - Canadian Junior War Staff Course

17 Jan 41.

May the following officer be asked if he would act as my Defending Officer:

Capt Price
#2 Coy
#3 Infantry Holdg Unit
C. A. S. F

Sgnd W Le Blanc Att

G. 13. Rafindsay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Eng	7.12.40	Pte.		Neglecting to obey daily order #364 d/28.9.40 AA 11	Lieut Simms " McKenna	7 days C.B	11.12.40.	Major H J MacCallum	
Witley Eng	15.12.40	"		AWL from Lowsberry Barracks Bordon from 2200/15.12.40 to 0630/16.12.40 AA 15 (1)	Sgt Mitchell	14 days C.B	19.12.40	Lt Col F S Matheson	

CERTIFIED TRUE COPY

G. G. Simonds

(G. G. Simonds) Lieut.-Colonel
Commandant
Canadian Junior War Staff Course

30

No. G18414 Name LE BLANC WILFRED Sqn., Battery, or Company CAN'Y REGT DEPOT Corps

Date of enlistment APRIL 1.40. G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1702) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1.

Signature O.C. Company, etc. G. G. K. HOIDER MAJOR

Character ~~Good~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Eng.	6.8.40	Pte		When in arrest escaping	Cpl. Orr J.A. L/Cpl. Firotte J.D.	3 days C.B.	10.8.40	Major H.J. MacCallum	Forfeits 2 days pay
Bordon Eng.	15.8.40	"	1	Drunkenness	Sgt. Thenker L/Cpl. Steer	7 days C.B.		Major H.J. MacCallum	
Bordon Eng.	19.8.40	"		Neglect to the prejudice of good order & military discipline	Major P.E. Selanger	Admonished	20.8.40	Major H.J. MacCallum	
~~[illegible]~~									
Southampton Eng.		"		Absenting himself without leave from 1830 hrs. 19.9.40 to 2300 hrs. 19.9.40.	Sgt. Firlotte	3 days C.B.	20.9.40	Lieut. Ott	
Bordon Eng.	4.10.40	"		Neglected to have the bolt of his rifle whilst on parade	C.S.M. Selyea Lieut. Blakney	3 days C.B.	5.10.40	Capt. F.L. Price	
Bordon Eng.	25.11.40	"		Neglect to the prejudice of good order and Military Discipline. Neglected to obey a command given by an N.C.O.	Cpl. Orr.	14 days C.B.	26.11.40	Lt. Col. F.L. Mathewson	

(P.T.O.)

000-86 (case #2)

SGN LEBLANC W

See A-30 for let case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 18414 Sgmn. Wilfred LeBlanc 7 Bn 2 CBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	not guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~Escape~~ beginning ~~on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which ~~nil~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for twenty eight days and to forfeit all ordinary pay for a period of twenty eight days.

(Sgd) ..... 22 may 1944 (Sgd) E W Daly

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 23 May 44 (Sgd) E W Harding Brig

Commanding COMMANDER 1 CDN BASE [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 18414 Sgmn LeBlanc W	25 May 44	J M Tierney Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 000-86

FIELD GENERAL COURT-MARTIAL

CPA86 (in lieu of AFA3) 40/P & S/1606 (2804)

Convened by Order of Brig E.W. Hutchenberg Comd 1 C B R G/p dated 20 May 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G 18414	Sgmn		Wilfred	LeBlanc	RCCS 7 Bn 2 CBRD

RECEIVED 1 JUN 1944 JAG BRANCH CMHQ

PROCEEDINGS REVIEWED

J C Campbell Lt Col 22 Jun 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

DHQ 29 MAY 1944 2nd ECHELON

H 29

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 22 May 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed:

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) EWD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E W Daly	CIC	HQ 1 CBRG/p.
Member	Capt.	R. Caron	CIC	3E CBRGby 1 CBRG/p.
Member	Capt	A Russell		8 Bn 2 CBRD
Judge-Advocate				
Prosecutor	Capt.	J.M. Tierney		7 Bn 2 CBRD
Defending Offr	Lieut	W.C. Nancarrow		7 Bn 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

Court adjourns at 0945 hrs Court reassembles at 1430 hrs 22 May.

A8. The accused before arraignment make(s) (no) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. EWD

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 1

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(E) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement?(5) Ans. _____
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 15(B) ff. Sheet. 4. MML p 54 para 47. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. no. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The ~~Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ _____ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found ~~Not Guilty~~ on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. yes as a witness. Do you intend to call witnesses on your behalf? Ans. yes. Are they witnesses as to character only? Ans. no.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. Ends Ends
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~ and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes. –
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy/(copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex H respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. no. (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to person on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 363-366, Overseas RO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

EWP

"The accused elects to be tried by FIELD GENERAL COURT MARTIAL".

EWH

CHARGE SHEET

G18414.

The accused, Signalman Wilfred LEBLANC, R C C S, 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Section 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

in the field at Cliffside Barracks Avellino, Italy, at approximately 1730 hours on the 16th day of May, 1944, did say to his superior officer, Sergeant Barton, W W, "I have seen shits like you before", or other words to that effect.

J D Macbeth

(J D Macbeth) Lt-Col,
Officer Commanding,
7 CBRBn, 2 CBRD, CMF.

In the field
this 17th day of May, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

E W Haldenby

20 May 44

(E. W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group
Cdn Army - C M F

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
40/FA3/1097 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-18414	Sgmn		Wilfred	LEBLANC	RCCS 7 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 20 May 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	E. W. DAY		(CIC)	HQ 1 CBRGp

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Capt	R. CARON		(CIC)	38 Cdn Base Rft Coy 1 CBRGp
Capt	A. RUSSELL			9 Bn 2 CBRD

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Capt or Lieut to be detailed by OC 38 Cdn Base Rft Coy 1 CBRGp				

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in	(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
	Italy	(E. W. Haldenby)	Brigadier

Date 20 May 44 Commanding 1 Cdn Base Rft Group

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

(K R (Can) Para 557)

I CERTIFY that I have this morning examined No G 18414

Signalman Wilfred LeBlanc of 7 Cdn Base Rft Bn,

2 C B R D, CMP,

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field, 7 Cdn Base Rft Bn, 2 C B R D, C M P. (Cliffside Barracks)

Date 22 May 44.

W. B. Stoffer Capt

(Medical Officer)

Time of sig 0930 hrs 23 May 44.

D3

CWP ①

1st witness for prosecution.

K 37181 Sjt Barton, W. W., having been duly sworn states:

I am K 37181 Sjt Barton, W. W., 7 Bn 2 C B R D, R. C. O. in charge of Regimental Police.

(Belt was produced as exhibit "F")

I recognize this belt (exhibit "F"). I saw it before on Pte Leblanc on 16 May at approximately 1730 hours. I recognize Pte Leblanc in the courtroom. I told him to take the belt off as he was improperly dressed. He hesitated and I repeated the order four or five times. He then took it off and wanted to put it on under his dress shirt. I did not allow him to do that but told him to take it to the barracks if he wanted to keep it as a souvenir but not to wear it. He started walking away and said "I've seen shits like you before" or words to that effect. I then put him under open arrest.

No cross examination
No re examination
Rule R. P. 536 complied with.

2nd witness for Prosecution

B85202 C.Q.M.S. Steadman, L., R.C.A.S.C. 7 Cdn Base Reinforcement Bn, 2 C.B.R.D., having been duly sworn states:

I recognize this belt (exhibit "F") I saw a belt similar to that worn by the accused about 1730 or 1745 hours, I believe it was on the 16th. I was standing on the balcony talking to Sjt. Barton and noticed the belt on the accused but I didn't recognize what it was. Sjt Barton accosted the man and asked him to remove the belt. after several requests the order was complied with and the accused went to put the same belt under his bush shirt. Sjt Barton informed him that he couldn't wear it and that it would have to be left with his kit. The accused said "I have seen shits like you before" and walked away around the corner of the building. Sjt Barton said "I am speaking to you" I cannot tell what transpired then as they were around the corner of the building. As the accused and Sjt Barton came back around the corner I heard Sjt Barton place the accused under arrest and demand the belt. This request was repeated several times and was not complied with until after Sjt.

Barton handed me the accused's Pay Cert Book and said "Now are you going to give me the belt." The belt was handed to Sjt Barton.

I think I have seen the accused around the barracks before; I don't know him personally. The distance from where I was standing to the corner around which Sjt Barton and the accused had moved would be about 30 feet.

On Cross examination

Accused asked if he could, but at the same time began, to put the belt on below his bush shirt. Leblanc complied with the order to remove the belt.

Leblanc turned away and said "I have seen shits like you" at the same time.

No reexamination

R.P. 836 complied with.

Accused elects to give evidence

The accused, having been duly sworn states:

As I was walking out of Cliffside Barracks, I passed Sjt. Barton and C.Q.M.S. Steadman

talking on the verandah to one another.
I went on down the steps and out about 30 feet from them when Sjt Barton hollered at me and asked what kind of a belt I was wearing. I hollered back and told him that it was a German belt and he told me to take it off as he was walking towards me. By the time the Sjt got to me I had taken off the belt and was holding it in my hand. I asked him if I could wear it under my bush shirt. He said "No. Take it up to your quarters". I turned around and started walking away. As I did so, I said "Shit". I walked approximately 10 paces when I was grabbed by the shoulder and swung around roughly. Sjt Barton asked me for my Pay Book which I gave to him. When Sjt Barton asked for the belt I said I would take it to the Orderly Room. As we went up the steps he asked for it and grabbed it. I did not give it to him. Then we went into the Orderly Room and he placed me under open arrest.

No cross examination

On court questioning:

I said more than the word "shit" but I don't think they were heard.

I was approximately 30 ft from C.Q.M.S. Steadman when I said it.

RP 83(B) complies with [illegible]

2nd witness for the Defense

B 32301 Sigmn Garrison S. G. having been duly sworn states:

I am B 32301 Sigmn Garrison S.G. I know the accused whom I now recognize. When I and Leblanc were going out the front door the M.P. Sgt. and the C.Q.M.S. were sitting on the railing. As we were going down the steps the M.P. Sgt. said to Leblanc "What Kind of a belt do you wear?" Leblanc turned around and said "a German belt". The Sgt said to Leblanc "Take it off. Has it got a Swastika on it?" Leblanc said "yes" and unhooked it and dropped it. Leblanc said "I'll wear it underneath" and lifted up his coat. The Sgt said "No". As Leblanc swung around about half way he said "Aw shit". About half way between me and the washstand the M.P. Sgt, who was right behind Leblanc, grabbed Leblanc by the shoulder and swung him around and took his Pay Book. The Sgt asked for the belt, handed the Pay Book to the C.Q.M.S. and grabbed the belt from Leblanc's hand.

I was right beside the Sgt and Leblanc when Leblanc said "Aw shit". We were all together. That is all I heard Leblanc say. C.Q.M.S. Steadman was about 7 feet away.

R.P. 83(6) complied with

Closing address of Defence Officer

I wish to draw attention to Sec 8 para 5 which stresses that ~~in~~ to border the words must be used with insubordinate intent. This is further enlarged upon in Chapter 5 Para 71.

I wish to draw attention to the following points:

The accused was on his way out. He was halted by the Sgt told to remove his belt, requested permission to wear it beneath his shirt, ordered to remove it to Barracks. All this annoyed the accused though he complied with the demands for he turned away and walked toward the Barackroom. As he turned he used an expression, but I submit to the court that it had not a deliberate intent of insubordination, but were an expression of annoyance and irritability as he turned away to comply with the orders.

The accused is French and has picked up his English in the Barackroom where the word "shit" is commonly used and not as insubordinate language.

Character Witness.

B34599 L/Sgt Brook J.A. having been duly sworn states:

Signmn LeBlanc was in my section in England for between 6 and 8 months during this time he lived in a room of which I was room Corporal. During this time I never had to put on orders for any breaches of discipline. That period of time was during the fall of 1942 and the spring of 1943.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

GWP

Closing address for the Prosecution in the case of G 18414 Seguin Leblanc W. RCCS (7 Bn 2 CIR)

~~No Number~~

The prosecution has proved that the accused used insubordinate language to Sgt Benton. Sgt Benton is an Officer. Admittedly we make allowances for the temperament of some

CFA (70)(4113) PLEASE WRITE ON BOTH SIDES

Cdn Soldiers. certainly
for the purposes. LeBlanc
is not a Moron. He
intended to be insubordinate.
It has almost come to
the point where the
Cdn Soldier feels he
is being mistreated when
given an order. We
cannot inflict a man
like that on a front
line fighting unit. He
is not being charged with
saying "shit" — he is
charged with insubordinate
language.

LeBlanc said he

CANADIAN LEGION WAR SERVICES Inc.

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ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

E W P

was 30 ft from Meadows
& Barton. The witness
for the defence said 7 ft
from Meadows & that
Barton was right beside
them.

CFA 170(4113) PLEASE WRITE ON BOTH SIDES

LIST OF WITNESSES FOR THE PROSECUTION

FIRST WITNESS:- K 37181 Sergeant Barton W W, (CIC) 7 Cdn Base Rft Bn, 2 C B R D, C M F.

SECOND WITNESS:/ B 85202 CQMS Steadman L (RCASC) 7 Cdn Base Rft Bn, 2 CBRD, CMF.

LIST OF WITNESSES FOR THE DEFENCE

FIRST WITNESS : - B 32301 Signalman Garrison S G, (RCCS) 7 Cdn Base Rft Bn, 2 CBRD, CMF.

SECOND WITNESS: - K 67882 Signalman Cowin W D, (RCCS) 7 Cdn Base Rft Bn, 2 CBRD, CMF.

THIRD WITNESS: - K 71286 Signalman Dexter M M, (RCCS, 7 Cdn Base Rft Bn, 2 CBRD, CMF.

LIST OF EXHIBITS

EWP

Exhibit A - German web belt with buckles and clasp.

7 CANADIAN BASE REINFORCEMENT BATTALION

Received this 17 day of May, 1944,

(a) One copy of Summary of Evidence

(b) One copy of Charge Sheet.

I have no preference for any particular officer to act as my defence and will accept whoever is delegated.

Signed by the accused W L Blanc

Witnessed by A A Gilpin Lt

THE ACCUSED HAS ELECTED TRIAL BY FIELD GENERAL COURT MARTIAL

Ewd

Summary of Evidence in the case of G 18414 Signalman Wilfred LEBLANC, R C C S, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the Summary of Evidence be taken upon oath.

FIRST WITNESS for the prosecution

K 37181, Sergeant William Wasyl BARTON, CIC, 7 Canadian base Reinforcement Battalion, 2 CBRD, a soldier of the Canadian Army Overseas, having been duly sworn states:-

"I am Sergeant William Wasyl Barton, NCO in charge of the Provosts 7 Battalion. At approximately 1730 hours on the 16th day of May, 1944, whilst on duty at the door of Cliffside Barracks I was standing with CQMS Steadman and had occasion to check the accused, Signalman LeBlanc, whom I now recognize, for being improperly dressed. He was wearing a German web belt which I now produce as evidence. I ordered him to take the belt off and he hesitated to do so for some minutes. When he did take the belt off he wanted to wear it under his bush shirt. I told him to put it away, that he couldn't wear it. He started to walk away from me to put the belt in his quarters and said to me, "I have seen shits like you before", or other words to that effect. I ordered him into open arrest".

The foregoing statement is read back to this witness in the presence and hearing of the accused.

The accused declines to cross-examine this witness:

(W W Barton) Sergeant

The web belt referred to by this witness, produced, displayed to the accused, tagged as exhibit A and tag signed by me for purpose of identification, and attached hereto.

(J M Tierney) Captain & Adjt
Offr taking Summary of Evidence.

SECOND WITNESS for the prosecution

B 85202, CQMS Steadman, Leslie, RCASC, 7 Canadian Base Reinforcement Battalion, 2 CBRD, a soldier of the Canadian Army Overseas, having been duly sworn states:-

"I am CQMS Steadman L. At approximately 1730 hours on the 16th day of May 1944, I was standing at the entrance of Cliffside Barracks and the accused, Signalman LeBlanc, whom I now recognize, came out of the door and was checked for wearing a German web belt by Sergeant Barton. Sgt Barton told him to take it off and LeBlanc did so hesitantly. When he took the belt off he asked if he could put it under his bush shirt and the Provost Sgt said he could not. LeBlanc walked away and said to the Provost Sergeant, "I have seen shits like you before", or other words to that effect. Sergeant Barton placed him under open arrest".

The foregoing statement is read back to this witness in the presence and hearing of the accused.

(Continued on Page Two)

E W D

The accused declines to cross-examine this witness:

L Steadman
.....

(L Steadman) CQMS

WARNING TO THE ACCUSED - You may make a statement or give evidence on oath but you do not have to make a statement or give evidence on oath unless you wish, but if you do, it may be taken down in writing and given in evidence.

The accused declines to make a statement or give evidence on oath and reserves his defence.

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I CERTIFY that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused.

In the field ;
this 17th day of May, 1944.

J M Tierney
.....

(J M Tierney) Capt & Adjutant
Officer Detailed
to take the Summary of Evidence.

SHEET 2/3.

No. G 18414 Name LE BLANC, W. Sqn, Battery, or Company Corps R.C.C.S. Date of enlistment 1 APR 4. GC Badges Service or Proficiency Pay MFM 6 (AFB 172) 40/P&S/136 (3426)

Date of last entry in Company Conduct Sheet No and date of last drunk 1 15 AUG 43 Period not reckoning towards freedom from extra fine Sheet No 3. Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	24-12-43	Sign		(5) AA. 15 (1) WOAS. AWL from 1100 hrs. to 2115 hrs. 25-12-43. (Absent 10 hrs, 15 mins) (4) AA. 9 (1) WOAS. Disobeying a lawful command given by his superior officer, on 28-12-43, in the execution of his duty. (On close arrest from 1330 hrs. 28-12-43 to 1400 hrs. 29-12-43).	concurrent award				
FIELD	21-1-44			(AA 15-1) WOAS. AWL from 1530 hrs. 21-1-44. until 1030 hrs. 23-1-44. (absent 1 Day, 19 hrs.	Cpl. Bevan L.O.	10 Days C.B.	28-1-44	Capt. K.G. Ruse	Forf. 2 days pay F.R.R. (1)(A)

[signature] Lieut

CERTIFIED TRUE COPY ~~XX~~ ~~XXXXX~~ ~~XXXXX~~ from Regimental books in my custody LIEUT. Records [illegible]

SHEET 2/8

MFM 6 (AFB 122) 40/P&S/136 (3438)

No. G. 18414 Name LeBLANC, W. Sqn, Battery, or Company Corps RCCS Date of enlistment 1 Apr 40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk 1 15 AUG 40 Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	10-1-42	Sig mn.		W.O.A.S., 3 offences A.A.40.	L/cpl. Forse, B.R. L/cpl. Mansley, H.C.B.	7 Days C.B.	14-1-42	Maj. R.H. Widdifield	
FIELD	18-1-42	"		W.O.A.S. did absent himself from duty from 1300 hrs. 18-1-42 to 1600 hrs. 18-1-42 whilst a defaulter. Absent 2 hrs. 30 mins. AA 15-(1).	Cpl. Willis, S.	7 Days F.P. Forfeits 7 days Pay F.R.I. 149(1)(b)	20-1-42	Lieut. Col. W.J. Laurie	
FIELD	4-2-42.	"		W.O.A.S., Conduct to the prejudice etc., Failing to carry out an order. A.A.40.	L/cpl. Whalen	7 Days C.B.	5-2-42	Maj. R.H. Widdifield	
"	3-4-42	"		W.O.A.S. conduct to the prejudice etc., improperly dressed (AA-40).	Sgt. Motzfeldt, J., Cpl. McNeil, G.	7 Days C.B.	9-4-42	Lieut. F.J. McCaulay.	
"	11-4-42	"		(AA 40) W.O.A.S. conduct to the prejudice etc. in that he while on duty at the Officers Mess was insolent to his superior Officer.	Capt. Steele (Documentary)	7 days C.B.	14-4-42	Maj. D.H. Macleod	

(PTO)

SHEET 1/3

MFM 6 (AFB 122) 40/P&S/136 (3438)

No. G 18414 Name Le Blanc W. Sqn, Battery, or Company C & Y Regt Depot. Corps Date of enlistment 1 April/40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk 1 15 Aug 40 Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Signed C A Pich Major Character

Exhibit H

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
This soldier having completed six months service in accordance with R.O. 71, C.A.S.F. (overseas) the entries below were transferred from previous sheet which was then destroyed.									
Borden Eng.	15-8-40	Pte.	1	Drunkenness A.A.19	Sgt. Thompson L/cpl Steel	7 days C.B.	20-8-40	Major W.J. MacCallum	J.L. McK
Borden, Eng.	4-10-40	"		AA40 Neglect to prejudice. Did not have bolt of rifle while on parade.	C.S.M. Belyea	3 days C.B.	5-10-40	Capt. F.L. Price	
Borden Eng.	25-11-40	"		AA40 Neglect to prejudice. Neglecting to obey command given by an N.C.O.	Lieut. Blakeney Cpl. Orr.	14 days C.B.	26-11-40	Lieut. Col. F.S. Matheson	
Borden Eng.	7-12-40	"		AA 11 Neglected to obey daily order # 364	Lieut. Simms McKenna	7 days C.B.	11-12-40	Major W.J. McCallum	
Witley Eng.	15-12-40	"		AA 15 (1) A.W.L. from 2200/15-12-40 to 0630/16-12-40	Sgt. Mitchell	14 days C.B.	19-12-40	Lieut. Col. F.S. Matheson	
Ford Manor Eng.	9-1-41	"		AA 15(1) A.W.L. from 1300 hrs. 9-1-41 to 0045 hrs. 10-1-41		28 days detn.	29-1-41	F.G.C.M.	forfeits one days pay J.L. McKenna Lt.
Witley Eng.	13-3-41	"		AA 40 Neglected to have collar fastened, buttons shined, boots clean and equipment adjusted.	Documentary	3 days C.B.	15-3-41	Lieut. D.W. Hay	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	12-9-43	Sigma.		AA15 (1) AWL from 2300 hrs. 12-9-43. to 0630 hrs. 14-9-43 (absent 1 day, 7 hrs. 30 mins.)	A/cpl. Ireland T.H. L/cpl. Taylor R.	Admonished	15-9-43	Capt. W.A. Ruse	Forf. 2 days FR&I 149 (1) (A)
FIELD	16-10-43	"		AA 15 (1) WOAS. AWL. from 1330 hrs. 16-10-43 to 1500 hrs. 17-10-43. (absent 1 day, 1 hr. & 30 mins.)	Cpl. Halliday A/cpl. Richards	7 days C.B.	18-10-43	Capt. W.A. Ruse	Forf. 2 days pay FR&I 149 (1) (A)
"	1-12-43	"		AA15 (1) WOAS AWL from 2100 hrs. 1-12-43 to 2200 hrs. 1-12-43 (absent 1 hr.)	Cpl. Simard	7 days C.B. 1 day forf. of pay FR&I 149 (2)	3-12-43	Capt. W.A. Ruse	
"	24-12-43.	"		(1) AA-15 (1) WOAS. AWL from 2100 hrs to 2350 hrs. 24-12-43. (absent 2 hrs. 50 mins.) (2) AA.10 (4) Breaking out of Billets, in that he, after being warned he was under close arrest, did leave his billets, on 25-12-43.	Cpl. Russell Cpl. Ireland Sgt. Crawford, R.O.M.S. McGowan.	28 days F.P. 28 days forf. of pay FR&I 149 (2)	29-12-43.	Lieut. Col. E.R. Gill.	Forf. 1 days pay FR&I 149 (1) (A).

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Willey Eng.	6-6-41	Pte.		AA15 (2) AWL from place of parade by failing to answer defaulters call.	Cpl. Fox	14 days C.B.	9-6-41	Major W.J. MacCallum	
Willey Eng.	28-6-41	"		AA15 (1) A.W.L. from 1700 hrs. 28-6-41 to 1700 hrs. 30-6-41 after being warned for guard	Cpl. Thomas Cpl. Sabean	10 days detn.	2-7-41	Lieut. Col. F.S. Mathewson	Forfeits two days pay
Laurentide Camp	11-7-41	"		A.W.L. from 2230 hrs. 11-7-41 until 1200 hrs. 13-7-41. AA.15 (1)	Cpl. Tapley	14 days C.B.	14-7-41	Lieut. Col. F.S. Mathewson	
" "	1-8-41	"		Late for parade AA. 40.	Cpl. Merrit	3 days C.B.	2-8-41	Maj. A.D. WATERSON	Forfeits two days pay.
" "	2-8-41	"		A.W.L. from 1400 hrs. 2-8-41 to 2350 hrs. 3-8-41. (1) while a defaulter (2) after being warned for guard duty. AA. 15 (1)	Cpl. Orr. " Tapley L/cpl. Smith	168 hrs. detention			
" "	7-9-41.	"		Failed to appear on church parade AA15 (2)	C.S.M. Fournier	4 days C.B.	8-9-41	D.S.O. Maj. A.D. Waterson	
Cove Hants	5-10-41	"		AA Sec. 15 (2) Absent from church parade	A/Sgt. Barrowman S.	7 days C.B.	6-10-41	F.H. Portsmouth	
COVE HANTS	1-12-41	Sigma.		A.A. Sec. 15 (1) A.W.L. from 0800 hrs. 1-12-41 to 1600 hrs. 1-12-41. (Absent 7 hrs. 30 min)	Cpl. Main, W.	3 days Pay Forfeit	3-12-41	Maj. G.W. Smart	Forfeits 1 days pay.
FIELD	15-12-41	"		AA. 15 (1) A.W.L. from 2300 hrs. 15-12-41 until 0100 hrs. 16-12-41	(Absent Cpl. Willis. 2 hrs.)	14 Days C.B.	16-12-41	Maj. R.H. Widdifield.	
FIELD	19-12-41	"		W.O.A.S. A.W.L. from 2300 hrs. 19-12-41. to 0630 hrs. 20-12-41. Absent 7 hrs. 30 mins. (AA 15 (1)	L/cpl. Whalen, V.	Forfeits 7 days Pay F.R.&I. 149 (1) (A)	22-12-41	W.L. Lauris Lieut. Col.	1 Days pay FRI. 149 (1) (A)

Exhibit G
EWD

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G 18414	Signalman	Wilfred LEBLANC	7 Cdn Base Rft Bn, 2 CBRD, (RCCS)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 15 (1)	six times	14	times.
For	AA Sec 9 (1)	one times	1	times.
For	AA Sec 10 (4)	one times	1	times.
For	NIL	times	AA Sec 40 10	times.
For	NIL	times	AA Sec 19 1	times.
			AA Sec 11 1	time.
			AA Sec 15 (2) 3	time

There are no entries in the conduct sheets of the accused.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 7 days in military custody, making a total of 7 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years.

6. The date of his attestation specified in his record of service is 1 Apr 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated N/A and in his regiment (*or corps or department*) the rank of N/A dated N/A

(*22647) Wt.31700/1977 [illegible] A.&E.W.Ltd Gp.698
(22927) Wt.[illegible] [illegible] [illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 3 13414 Rank Signalman Name Le Blanc W of 7 CBRBn, 2CBRD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F G C M	Field (U K) 29 Jan 1941	AA Sec 15 (1) AWL from 1300 hours on 9 Jan 41 until 0045 hrs on 10 Jan 41.	28 days detention	UNKNOWN

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of May, 1944

J Denney Capt

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of N/A years, N/A

In the rank of N/A years, N/A

In the rank of N/A years, N/A

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph corrected accordingly.)

GGG-111 (Case #2)

PTE LEBLANC C. W. C.

See Q-119 for 1st case
" V-9 " 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 77889 Private William CHARLES LEBLANC (RCASC) 7 CBR Bn, 2 CBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	the court find the accused NOT guilty of desertion but find the said accused guilty of being AWL from 0330 hrs 29 Feb 44 until 0800 hrs 29 Feb 44. ~~Time absent 10 hrs and 30 mins.~~ RJJ.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ RJJ (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: 120 days detention

(Sgd) ..... 8 MAR 44 (Sgd) A.R. Jones Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed Edwd

I direct that the accused be not committed to prison or detention barracks until further orders.(1) Edwd

(1. AA 57A. Delete if not used.)

(Sgd) Edward Harding Brig

Date 8 Mar 44 COMMANDER

Commanding 1 CDN BASE RFT GROUP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 77889 Pte LeBlanc, W.C.	11 Mar 44	J.W. Corbett Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF CMHQ GGG-111

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1606 (2864)

Convened by Order of E.W. Haldenby Brig Comd 1 CBRO dated 6 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 77889	Private		William Charles	Leblanc	7 Bn 2 CBRD

PROCEEDINGS REVIEWED
Lt Col
12 Apr 44
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

E13

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 8 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(not)~~ amenable to military law, and each charge discloses an offence.(3) 5AJ 5AJ

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0915 hours trial commences. 5AJ

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ RJJ.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1) RJJ.

(1. RP 32. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	S.R. Jones	CAC	5 Bn 2 CBRD
Member	Capt.	C.C. Tarbuck	C.I.C.	2 Bn 1 CBRD
Member	Lieut.	S.B. Henderson	CAC	5 Bn 2 CBRD
Judge-Advocate				
Prosecutor	Capt	J.M. Tierney	C.I.C.	7 Bn 2 CBRD
Defending Offr	Capt	T.W. Kerr	RCASC	7 Bn 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F 77889 Private William Charles Leblanc before arraignment makes(s) (no) ~~plea~~ plea(s) (1) RJJ.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. RJJ RJJ

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~in chambers~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ate, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *securing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans .....[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete words or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No [1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments in submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans give evidence on oath : Do you intend to call witnesses on your behalf ? Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 8(d)(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding[1] The finding of the Court is (as) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding[1] of any, of Not Guilty, and states to the accused that the finding of the Court on the First Charge charge is being subject to confirmation, will be promulgated later.[2] ~~The President announces that the accused is found Not Guilty on all charges and is to be released from arrest, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.[3]
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service[1], and certified true copy of Conduct Sheet[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement of Service and Conduct Sheet and in mitigation of punishment ?[1] Ans Yes[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

S.A.J.
9 MAR 44

CHARGE SHEET

The accused, F 77889, Private William Charles LEBLANC, Royal Canadian Army Service Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Section 12 (1)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

in the field at Cliffside Barracks, Avellino, Italy, did absent himself from his quarters from approximately 2130 hours on the 28th day of February, 1944, until approximately 0800 hours on the 29th day of February, 1944, with intent to evade draft, after having been duly warned for draft (Total time absent approximately 10 hours and 30 minutes).

.....D Macbeth.....

(J D Macbeth) Lt-Col,
Officer Commanding,
7 CBRBn, 2 CBRD, CMF.

In the field
this 3 day of March, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

E W Sansom Brig.

6 Mar 44

Comd. 1 Cdn Base Rft Group.

A.A.J.
8 Mar 44.

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA8)
40/P&R/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.77889	Private		William Charles	LEBLANC	7 Bn.2 CBRD.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and (date) 6 Mar 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial". EWH

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) EWH

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ EWH

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~ EWH

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	I. R. Jones	CAC	5 Bn.2 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Captain	C.C.Tarbuck	Seaforths of C	2 Bn.1 CBRD
Lieutenant	J.P.Henderson	CAC	5 Bn.2 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Captain	J.R.Moore	NSSR	1 Bn.1 CBRD

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.) — E W Hardesty (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 6 Mar 44 — Commanding I Cdn Base R/t Group. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

7 CANADIAN BASE REINFORCEMENT DEPOT

N29.
8 MAR 44

Certified that I have examined the accused F.77889 Private Le Blanc, W.J.C. and have found him fit to undergo trial by Field General Court Martial.

In the Field
8 March 1944

.....
(J.C. Fortnuff) Captain
Medical Officer
7 Cdn Base Rft Bn,

8 Mar 44 [illegible]

Opening address by the prosecution in the case of F77 889 Pte. Leblanc W.C. 7 Bn 2 CBRD (in accordance with RP 39(B):)

Gentlemen, the case before you today is a very serious one. One that up to only a few months ago was punishable by death "or such less punishment as in the act mentioned. The eyes of many will be on this trial, because, from the finding of the court they will determine their future action when ordered to go forward. The facts ~~the~~ prosecution will prove are as follows ① Leblanc was warned for draft ② He acknowledged the warning for draft & was, in accordance with procedure as laid down by CMHQ warned that ~~[illegible]~~ absence from the draft would constitute desertion and ③ He was absent from the draft when it departed. That, gentlemen, would constitute a

A.R.J.

prima facie case.— the intention being in the fact that he knew that absence from the draft would classify him as a deserter in the eyes of Military Law.

D. Carney Capt.

Opening address by prosecutor (see attached.)

Ford Mitchell Prosecutor

C92028
S/ Sgt. Blatch. F.H. having been sworn states
I am C92028 S/Sgt. Blatch F.H.
I am in 9 Bn 2CB.A.D. C Coy.
I am in charge of outgoing drafts
On the 26 Feb 44 I held the parade of outgoing personnel for them to sign the ~~draft~~ warning sheet. At about 1500 hrs. Cap Scott. the Coy Condr witnessed the signing. Privat Lebance identified.
Pte Lebance was warned that he was C.B and warned at 1900 hrs that ~~the~~ ~~draft would~~ reveille would be at 0500, 29 Feb. 44. He was definitely told that the draft would proceed at 0730 hr to the front.
Q Who woke the men up.
A. I did sir.
Q Was anyone absent
A Pte Lebance did not answer his name
Q. Was he in the building
A. No.
Q. Was the roll call again
A. Yes sir at 0715 hrs
Q Was there anyone absent from that parade
A. Pte Lebance was again absent
Q What time did the draft leave
A. At approx 0730 hrs.
Q Did Lebance leave with the draft
A. No he was still absent.

Cross-exam
Q. Did you warn the draft and you say that Pte Lebanc was present.
A. Yes. Sir
Q. Did you see Lebanc after that
A. No Sir.

Re-examination - No

R.P. 83(B) COMPLIED WITH. S.R.J.

Second Witness Prosecution

Capt. Scott. having been sworn states:

I am Capt B.W. Scott 7 Bn 2 CBRC Coy. Cmdr.
Q. In your capacity as Coy Coy is it your job to warn people for draft and witness warning
A. Yes.
Q. Did you have such a parade on 26 Feb 44
A. Yes.
Q. Who call roll on that parade.
A. S/Sgt Blatch.
Q. You heard the roll being called
A. Yes.
Q. The accused was identified as being true.
Q. I read out the warning order. warning them that they were C.B.

~~Q. Do~~

The warning order signed by Pte Lebanc and witnessed by Capt Scott is presented as exhibit "A"

Cross-exam:

Court-exam

Q. Capt ~~Hewitt~~ is the the usual warning order

A. Yes.

Q. Did you make any statement as to punishment that ~~might~~ be awarded if anyone did miss the draft.

A. I impressed upon them the seriousness of the offence if anyone missed the draft.

R.P. 83(B) COMPLIED WITH. R.J.

Third Witness Prosecution

A.R.J.

M 55-633 Sgt. Snyder. E. C Coy 7 Bn
RCBRD. having been sworn:
Q What duty were you performing on 28 Feb
A. I was Coy Ord. Sgt.
Q. What duties are performed by Coy Ord Sgt
A. Call Tattoo & Reveille Rolls.
Q. Did you call Tattoo at on 8 Feb 44
A. Yes Sir at approx 2130 hrs.
Q Were there any absentees.
A. The accused who is in the court room was absent.
Q. You reported him absent
A. Yes. Sir.

Cross-examine
Q. Were you in the barrack all night after calling the roll at 2130 hrs.
A. Yes Sir.
Q. Did you see Pte Lebanco at all during the night
A. No. Sir:

RE-Examination No.

R.P. 83(B) COMPLIED WITH. A.R.J.

Fourth Witness Prosecution

55

S.R.J.

B50768A/S.S.M. John William Wetherall. Having been sworn states.

I am B50768 A/S.S.M. Wetherall J.W., Sergeant Major of C Coy. 7 Bn 2 C.B.R.D.

Wetherall identified the accused

On the morning of the 29 Feb 44 at 0800 hrs. Pte Lebanc reported into me at 7 Bn barracks. Stating that he was absent from his draft and that he was handing himself over to me. ~~I asked him what the case was~~ SBH

Cross-examination

Q. When Pte Lebanc handed himself over to you what state was he in

A. When Pte Lebanc came in he was not under the influence of liquor but his tunic was open and his nose had been bleeding.

Q. Would you say that he had been drinking during the night

A. I would Sir.

Q. You say there was blood on his face.

A. Yes Sir.

~~Q. Could he have had during the course of the.~~ SBH

Re-examination

Q. What leads you to believe that the accused to had been drinking

A. You could smell liquor on his breath.

Q. What kind of liquor

A. ~~Vino~~ Wine.

R.P. 83(B) COMPLIED WITH. SRJ

First Witness Defence

6

S.R.J.

F87H29 Pte. Hodges. A. having been sworn state I am night cook of 7 Bn 2 CBRD.

Q. In your capacity as night cook you are around the kitchen all night

A. Yes Sir.

Q. ~~Do you~~ SBH

Pte Hodges identifies the accused and states that he was in his kitchen the night before the draft left.

He came in the first time about 0100 hrs he stayed about half an hour had a drink of tea and then left. He came back again about 0215 hrs and stayed until 0330 hrs. This time he wanted cigarettes and tea. He wanted to buy cigarettes. He made the remark that he was going out on draft in the morning. He was well under the influence of liquor.

Q When he was in the kitchen did he indicate that he wanted to miss the draft

A. No. He asked for black tea as he wanted to straighten out before going out on draft that morning

Q. Did he make any remarks that he was trying to evade the draft

A. No Sir.

Q.

Cross-exam

Q How drunk was the accused

A. Very drunk.

Q no re-examination.

R.P. 83(8) COMPLIED WITH. SRJ

Accused

S.R.J.

Second Witness Defence. S.R.J.

F 77889 Pte Lebanc W.C. having he swan stats

~~I am F 77889~~

Q. Pte Lebanc how long were you with 7 Coy before your call for draft

A. Just about a week.

Q Where had you been previously to coming to 7 Coy

A. In 14 Cdn Gen Hosp.

Q How long had you been in Hosp.

A ~~Almost little over a month~~ 2 month in 14 Cdn Gen. Hosp.

Q. The day you were warned for draft you were paid were you not.

A. Yes Sir.

Q. Is that the first pay parade you had had in 7 Bn

A Yes Sir.

Q. Did you drink while in hospital

A. No Sir.

Q. Was it your habit after a pay parade to buy yourself a drink

A. Yes Sir.

Q. Was it your habit to get drunk on pay day.

A. Yes sir.

Q. Did you go out and get drunk after having been warned for draft.

A. Yes sir & bo

Q. What time did you return to the barracks the night before you were to go on draft

A. I could not say.

Q. Do you remember anything.

A. Yes a few things.

Q. Did you have any idea of home.
A. No sir.
Q. Did you get drunk with intention of evading the draft.
A. No sir.
Q. Did you know you were going back to your old coy.
A. Capt Scott told me I was going back to my old coy.
Q Did you want to go back to your own coy.
A. Yes. I did.

Cross-examn.
Q. Do you drink very often.
A. Yes sir.
Q. Would you do things when you are drunk that you.

No re-examination.
R.P. 83(B) COMPLIED WITH.

Summing up ~~Closing address~~ for defence in the case of Pte Leblanc N.C.

From the evidence given before this court, while it is apparent that the accused missed his draft after being warned, it has not been proven that he did it intentionally. He is a man who is in the habit of getting drunk always after pay day. He hadn't had a drink for several months, having been in hospital.

As was his habit as soon as he got paid he proceeded to buy liquor and get drunk.

He was within the bounds of his barracks the greater part of the time he was marked A.W.L.

He gave himself up within a few minutes after the departure of the draft, showing again that he had no desire to miss it, but having passed out under the influence of liquor just did not come to in time.

His remarks to the cook in the kitchen showed no signs of his intention to desert he was as a matter of fact anxious to sober up so that he would not miss it.

His action did not show that he had any intention of missing the draft.

The charge should be for drunkenness and A.W.L. but there has been no proof of desertion.

P.R.8.

Court - examination.

Q. ~~I understand~~

Q. From the time you were in the cook house until you gave ~~yourself~~ up do you recall what you were doing.

A. I was in the billets and in the guard house.

Q. You have no recollection of what happened from 0330 hrs until 0800 hrs.

A. Just ~~that~~ that I was in the kitchen and in the guard house. I woke up in the billet opposite the guard house.

~~Summary~~ ~~Closing address~~ for the prosecution in the case of Pte Leblanc, W.C.:

Gentlemen the case for the prosecution has been put forward. The defence has tried to bring forward the fact that the accused was in the bldg & that under the influence of liquor he was forced to miss the draft. How easy! It surely must ~~[illegible]~~ make the court wonder who threw the accused to the ground & forced the wine down his throat. It couldn't be thought - or could it - that the accused worked up enough courage to evade the draft after partaking of sufficient liquor. How easy to hide himself away until the last tailboard disappeared & then come forward to give himself up. How did the accused know he had

missed the draft otherwise. He said he did not remember the time he gave himself up & go when he did he said fired missed the draft. How easy. Gentlemen how easy. That could go on indefinitely. The accused has been up the line with an RCASC unit. It would appear that he has had enough. Gentlemen I would like to read two paragraphs from MML, with your permission. (Para 20 & 23 of CH. III p. 19 & 20 are read to the court)

So the case certainly not clear. I submit that the prosecution has proved desertion. How could a crime be committed more deliberately. He waded draft gentlemen. There lies the intention. The defences evidence

has only brought forth points which should be taken into consideration of the sentence on the conviction of desertion. All evidence points to desertion. A desertion of the clearest type, If this man were allowed to go free on this charge. Surely a warning issued in accordance with law should be upheld.

Gentlemen the decision of maintaining discipline lies with you - the prosecution rests.

L Davis

E.3 I

PLEA IN MITIGATION

V.R.J.

I the Accused, F 77889. Private -
William Charles LeBlanc, Royal
Canadian Army Service Corps,
A Soldier of the Canadian Army
Overseas

March, 1944.

Sir,-

I would not for the world; have my Mother, my kid Brother, nor my Sweetheart who are back home in "Canada," have each one of them know that I whom they long, and pray, for have disappoint, and shame them in knowing that I have fail them in doing my duty; and also my Country, and my God,"

I believe in the things which our Boys have died, and fought for. because, all that is

beautiful, and grand, in the best Country in the world, is worth fighting for.

I have not been a perfect Soldier, Still I am not a bad one, I have made mistakes in my four years of Army life and only one person to blame myself.

I have been like any other Soldier, in the Army. I've been fed up, cuss the Army, from top to Bottom, took three or four Trench leave, had my drink and woman too, I have been in the clink or Guard House, yes, I have walk. and pace the floor, and swore and cuss the Army down

yet, how strange when in my heart, I knew I was only kidding myself. for no matter, how tough and hard, Army life may be, no matter the Hell, one has to go through, deep down in his heart, he still knows he is still a Canadian, and he knows too that he has a job to do, for his Country, his God, and the Mother who Bore him;

I am proud and glad to belong to the Canadian Army and though, I have not yet had my Baptism of fire at the front I am ready and waiting when any time my service will be required. Four ~~Six~~ Months ago. I had the misfortune to be sent to a

Canadian General Hospital, I care
not to say, in writing why I was
there I was discharged from
Hospital on the 23rd Feb. 1944.
after being away from my Unit
I was anxious to get back to it
But I did not get
back; Instead, here I am awaiting
Court Marshal for deserting my
draft, I know Sir, its hard
for you to believe my story, Still
all I asked, is let your mind
decide, if you really think, the
best place for me is in the
(clink,) or back with my Unit
I have made a state-
-ment on oath, and what I
have said is true, I dont
like trying to lie my way

out when I get my self in a jam, I like to speak out, and be frank, when I'm writing or speaking to any one, Only I am not so good speaking in English, this is to make a speech

On The 29th Feb. 1944.

which was pay day, for the draft I had a few drinks, you may ask to your self why.? Sir,- Cause since. I've been in the Army I never can't remember, when I ever let a pay day, go by with out Buying a few drinks But, I sure wish I had never took a drink in my life, for it has got me in plenty of trouble, before I join the Army and up to now, yes, pay day

I got tight, went down to the road, and got my self two bottle of Vino, why! To get drunk and miss my draft, I'll shall tell you Sir, why I got some Wine last Day day, because, It was four Month since leaving the Hospital, I had not had a drunk and, a man who is used to drunking for a long time, and then not having a drink for a while, if he can stop drunking for good then, I'd say. he sure had a great will power, But does a man need a will power to kill anther man at the front

Sir, the Wine in this Country is not fit to drink. that is to say, cheap

Wine, this rotten Cheap Vino when you have drank a few drinks of this Wine, you are not a man for a few hours. But just a Big Stupid fool, and your crazy as hell, it is worse than dope, And I never took any dope in my life But this Wine is surely is dope,

And yes day, just because I came out of Hospital, and I felt like having a few drinks, I drank, and drank most of the night, why, to miss my draft in the Morning No. 58, to satisfied the craving, and thirst which my Body desired, if I had wanted to miss my draft

Why did I come back to my Billiet, when I left town after nine oclock, I talked to the guards. and men in the rooms, till three or four oclock in the Moring, Then the wine I had got from town, just knock, me out of my mind

What happen to me later on. I just can't remember only in the moring, Some Wop kid was hitting me on the legs. with a stick, and this same Wop kid, took me back to camp., So now, my fate lies in your hands Sir, all I want you to know is that I did not come to Italy to look money and spend my time in the [clink] nor did I come

here in Italy, to shame my Mom. kid Brother, my girl, and my Unit, all I ask is to get back with the Boys. for I am a Canadian,

Thanking you Kindley

Pte, W. C. LeBlanc.
2. Med. Regt. 2 Lt. R.C.A.S.C.

"C" Coy 7 Bn 2 CBRD Exhibit A.

X4 RCASC Draft 25 Feb 44

I, the undersigned, acknowledge having been warned for draft to proceed forward. I realize that if I am absent without leave when the the draft departs, I am liable to trial by Field General Court Martial for desertion.

A9582	Pte	Gushard, R.E.E	(1 Med Regt Pl)	REE Gushard.
(X AWL) F77889	Pte	LeBlanc, W.C	(2 Med Pl)	W.J.C. LeBlanc.
~~H87389~~	~~Pte~~	~~Christenson, L.D~~	~~(7 A/Tk)~~	HOSP
H37368	Cpl	Ward, E.R	(2 C.I.B.)	E R Ward
H77553	Pte	Symanyk, J	(3 C.I.B.)	J. Symanyk.
D126758	L/Cpl	Burton, J	(1 Div Tps Coy)	J Burton.
D127109	Pte	Couture, C.E	(1 Div Tps Coy)	[illegible]
D106032	Pte	Goyette, H	(1,Div Tps Coy)	H Goyette
M20743	A/Cpl	Ingram, C.G	(1 Div Tps Coy)	C G Ingram.
E29328	Pte	Beaulieu, L.A	(32 Corps Tps Coy)	L. A. Beaulieu
B92378	Pte	Harry, W	(41 Gen Tpt Coy)	Wm Harry.
~~M50511~~	~~Pte~~	~~Noble, W.F~~	~~(41 Gen Tpt Coy)~~	DO
H87365	Pte	Thompson, C.T	(41 Gen Tpt Coy)	C.T. Thompson
A116870	Pte	Myers, L.H	(44 Gen Tpt Coy)	L. H. Myers
L7745	Cpl	Quilty, F	(44 Gen Tpt Coy)	F Quilty
L22963	Pte	Wilkinson, J	(83 Coy)	J Wilkinson
H50531	Pte	Nordman, I.O	(1 M.A.C.)	I.O. Nordman
L8762	Pte	Pruden, J.D.H	(1 M.A.C.)	J D H Pruden
M24230	Pte	Lindal, J.T	(8 F.D.S.)	J C Lindal
~~H65535~~	~~Pte~~	~~Grafslund, M.C~~	~~(24 Fd Amb)~~	HOSP.
K75479	Pte	Bruin, T.A	(11 C.I.B.)	T A Bruin
B112991	Pte	Donovan, M.J	(Reinf)	M.J Donovan
~~D106617~~	~~Pte~~	~~Goyer, A~~	~~(Reinf)~~	~~A Goyer~~ HOSP
K79104	Pte	Harrison, G	(Reinf)	G Harrison
C37423	Pte	Maneux, A.J.G (1 Ed)	(Reinf)	A J G Maneux
B83513	Pte	Niles, E.L	(Reinf)	E L Niles

Certified that the above statement was read and signed by each of the a/m in my presence this 26th day of Feb 1944

[signature] Capt
Signature of Witness.

Note: Witness must be an Officer. (P T O)

This is Exhibit "A" referred to in the Summary of Evidence in the case of F77689 Private William Charles LEBLANC, RCASC, taken before me this 3rd day of March, 1944.

J M Tierney Capt & Adjt,

(J M Tierney) Officer detailed to take the Summary of Evidence.

LIST OF EXHIBITS

Exhibit "A":- Warning for Draft Sheet, "C" Company, 7 Battalion. (Duly signed by the accused and witnessed by an Officer).

Summary of Evidence in the case of F77889, Private William Charles LEBLANC, Royal Canadian Army Service Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

FIRST WITNESS for the prosecution

C 92028, Staff Sergeant Frederick Henry BLATCH, Royal Canadian Army Service Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn states:-

"I am the NCO in charge of outgoing drafts, "C" Company. On 26 February, 1944, at approximately 1500 hours I paraded the draft for 4 Battalion in front of the Company Commander, Captain Scott, to warn them for draft. Private Leblanc, whom I now recognize, was on the parade and acknowledged the warning by signing the Warning for Draft Sheet. On the 28 February, 1944, at approximately 1900 hours, Private Leblanc along with other members of the draft were warned that reveille would be at 0500 hours next day and that they would be on parade at 0700 hours. I called the roll at 0500 hours and again at 0715 hours and Private Leblanc did not answer his name, nor was he in the building. The draft departed at approximately 0730 hours and Private Leblanc was absent when the draft departed."

The foregoing statement is read back to the witness in the presence and hearing of the accused.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS:

F H Blatch

(F H Blatch) Staff Sergeant

SECOND WITNESS for the prosecution

Captain Bryce Woodley SCOTT, Royal Canadian Artillery, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, an Officer of the Canadian Army Overseas, having been duly sworn states:-

"I am Company Commander of "C" Company, 7 Canadian Base Reinforcement Battalion, 2 CBRD, and on 26 February, 1944 at approximately 1500 hours I warned personnel of my Company for draft proceeding to 4 Battalion. I warned these men that they would be confined to barracks and that they would not leave the area, and also that absence from the draft would be considered a very serious offence. Private Leblanc, whom I now recognize, was on this parade and acknowledged the warning by signing the Warning for Draft Sheet. I produce Warning for Draft Sheet signed by myself as witness and initialed by me for purpose of identification."

The foregoing statement is read back to this witness in the presence and hearing of the accused.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS:

B W Scott

(B W Scott) Captain

The Warning for Draft Sheet referred to by the witness, produced, read over to the accused, marked Exhibit "A", signed by me and attached hereto.

J W Merney

(J W Merney) Captain & Adjutant,
Officer detailed
to take the Summary of Evidence

THIRD WITNESS for the prosecution

M 55633 Sergeant Edward SNYDER, Royal Canadian Army Service Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn states:-

"On 28 February, 1944 I was Orderly Sergeant of "C" Company, 7 Canadian Base Reinforcement Battalion, 2 CBRD. At approximately 2130 hours on that day I called the roll and the accused, Private Leblanc, whom I now recognize, was absent".

The foregoing statement is read back to the witness in the presence and hearing of the accused.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS:

E. Snyder

(E Snyder) Sergeant

FOURTH WITNESS for the prosecution

B 50768, Squadron Sergeant Major, John William Wetherall, Canadian Armoured Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a Warrant Officer of the Canadian Army Overseas, having been duly sworn states:-

"I am Sergeant Major of "C" Company, 7 Cdn Base Reinforcement Battalion, 2 CBRD. At approximately 0800 hours on the 27th day of February, 1944, the accused, whom I now recognize, reported in to me and said, "I am turning myself over to you because I have missed the draft. I have been in town, got drunk, and woke up to find myself in the bush", or other words to that effect. I immediately ordered Private Leblanc into close arrest."

The foregoing statement is read back to the witness in the presence and hearing of the accused.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS:

J. W. Wetherall

(J W Wetherall) CSM

WARNING TO THE ACCUSED - You may make a statement or give evidence on oath but you do not have to make a statement or give evidence on oath unless you wish, but if you do, it may be taken down and given in evidence.

STATEMENT BY the accused on oath

The accused voluntarily makes the following statement:
The accused, F 77889, Private William Charles LEBLANC, Royal Canadian Army Service Corps, on the strength of 7 Canadian Base Reinforcement Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

"After Pay Parade at 1100 to 1145 hours on 29 Feb 44, I went down the road to the main gate and purchased two bottles of Vino from a party down there and I came back here to the billets. I went to town

at approximately seven o'clock and I got some more Vino. I was up at the Guard Room in the billets talking to the Sergeant of the Guard, the Corporal of the Guard and different sentries. I was also down at the kitchen and had something to eat. I had wine with me, and the next thing I knew I was being hit on the leg by a piece of stick by an Italian who lives below here in the first house and he brought me back to camp as far as the gate. Then I reported to the Sergeant Major. I have been in the hospital for seven months at least and my desire was to return to my unit."

The foregoing statement is read back to the accused.

W. C. LeBlanc

(W C Leblanc) Private

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in writing in the presence and hearing of the accused this 3rd day of March, 1944.

J. M. Tierney

(J M Tierney) Captain & Adjt,
Officer detailed
to take the Summary of Evidence

In the field
this 3rd day of March, 1944.

No. F77889 Name LEBLANC W C | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 8 Aug 1941 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. Capt RCS BRADEN AW | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original Sheet Destroyed on completion of six months service on 8-10-41 in accordance with ORO 319 Last Entry - Nil. Cases of Drunkenness - Nil.									
Field	10 Nov 43	Pte		AA 40 - Failed to comply with an order given by his CO.	Capt Taylor Cpl Stewart	14 days F P & forf 28 days pay	14 Nov 43	Major JG Mallon	forf 28 days pay FRSI 149 2
Field	20 Nov 43	Pte		ABSENT WITHOUT LEAVE A A Sec 15 (1)1415 hrs 20 Nov 43 to 1945 hrs 20 Nov 43 (5 hrs 30 mins)	L/Cpl Dalton MSM Hills J CSM MacFarlane A)	14 days FP & forf 28 days (concurrent)	24 Dec 1943	Major J G Mallon	
Field	20 Nov 43			BREAKING OUT OF BARRACKS AA Sec 10 (4)		Both Charges			

Certified to be a true copy from the Regimental Books in my custody .....

(J M Tierney) Capt & Adjt. 7 CBRBn, 2 CHRD

tw B 1.RJ.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 77889	Private	William Charles LEBL/MC (RCASC)	7 CHRBn, 2 CHRD.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA Sec 40	one time X	one time X
For AA Sec 15 (1)	one time X	one time X
For AA Sec 10 (4)	one time X	one time X
For NIL	times.	NIL times.
For NIL	times	NIL times.

~~Number of instances of gallantry or distinguished conduct~~

X

~~Here state entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is under sentence at the present time,~~ N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 9 days in military custody, making a total of 9 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 28 years

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 8 August, 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(71823) W1.13852/144 125,000 6/41 A.&E.W.Ltd. Gp.688

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March 1944

J. Deering Capt. & Adjt.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

119 Q

Ste. Leblanc, W.C.

O. H. M. S.

M. F. B. 270
1000M-12-60 (9068-60-70)
H.Q. 1772-30-67

HQ, First Cdn Army
28 Oct 42

1190

REVIEW SHEET

F.G.C.M. PROCEEDINGS - Dated 27 Oct 42
F77889, Pte Leblanc W.C.
RCE Detachment, 85 Cdn Bridge Coy RCASC.

1. There are no informalities of irregularities in the m/n Proceedings which would warrant withholding confirmation.

2. The following irregularities have been noted and will be brought to the attention of the President and Members of the Court and those concerned with the Proceedings:

(a) Medical Certificate not in accordance with CMHQ Circular Letter 173.

(b) M.F.M.6 not certified by Officer in whose custody the Regimental Books were, certifying as such (A.A. 163(h)).

~~(c) Apparently the waiting member, Lieut Grigg, sat as a member of the Court although all the other members were present.~~

K.G. Lumsden Lieut

for (T.G. Norris) Major,
D.J.A.,
First Cdn Army

TGN/WJC

Distribution:

Confirming Authority: Brigadier R.J. Leach, MC.

President: Major J.B. McCaulay, 82 Cdn A.A. Bde Coy RCASC

and to be communicated to the other members of the court.

O.C. Unit: Officer Commanding 85 Cdn Bridge Coy, RCASC

Proceedings ✓

File: 120/LEBLANC W.C/1/J

Correspondence to be PINNED here

119 Q X

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 20 day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Corps Medium Artillery, First Canadian Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

PROCEEDINGS REVIEWED

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.B. McCaulay	62 Cdn AA Bde Coy, RCASC

Members.

Rank.	Name.	Regiment.
Capt	J.R. Steeds	61 Cdn Arty Coy, RCASC
Lieut	G.L.C. Clark	62 Cdn Gen Tpt Coy, RCASC
Lieut	M.G. Grigsby	61 Cdn Gen Tpt Coy, RCASC

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H.J. Leech) Brigadier,

Commanding Corps Medium Artillery.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
[illegible], Pte LEBLANC, [illegible] B.C.E. Detachment, [illegible] Corps Bn Coy, RCASC	First Charge: Army Act Sec.11. When on Active Service, neglecting to obey Unit Standing Orders.	Guilty	Guilty	Confirm finding and sentence
	Second Charge: Army Act Sec.40. When on Active Service, Conduct to the prejudice of good order and military discipline	Guilty	Guilty	
	See Charge Sheet Attached.		30 Days Detention 27/10/42	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) H.F. Leech Brigadier (Signed) J Bourke Lieut Guard 82 Cdn Det Bde Coy RCASC.

Commanding Corps Medium Artillery
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27 day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses the shorthand writer [illegible]

* Omit if not applicable.

*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

Signed this 27 day of October 1942.

J Bourke Lieut Guard
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 28th day of October 1942.

Brigadier
B.C.M.A. Cdn. Corps.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 30-10-42 (Signed) [illegible] Lieut Adjt 82 Cdn Det Bde Coy R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B-

CHARGE SHEET

The accused, F- 77889, Pte. LEBLANC, W.C. of the RCE Detachment No. 85 Cdn. Bridge Coy. R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec.11

WHEN ON ACTIVE SERVICE NEGLECTING TO OBEY UNIT STANDING ORDERS

in that he

at Marden Park, Surrey, on the 27th day of August, 1942, did have his rifle loaded, contrary to Unit Standing Orders.

SECOND CHARGE
Army Act
Sec.40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Marden Park, Surrey, on the 27 th day of August, 1942, did discharge his rifle endangering the lives of others.

In the Field
8 Oct 42

Alex. Gagnon
(Alex. Gagnon) Major,
Commanding
No. 85 Cdn. Bridge Coy RCASC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

R J Leach
(R.J. Leach) Brigadier,
Commanding,
Corps Medium Artillery
First Cdn. Army

In the Field
20 Oct 42

J Bruce Lulay Major
82 Cdn Ar Bde Coy RCASC
Pres. F.G.C.M. 27/10/42

MEDICAL OFFICER'S CERTIFICATE

"A"

I certify No. F-77889 Pte. Leblanc, W.C. of No. 85 Cdn. Bridge Coy. R.C.A.S.C., is fit to undergo trial by Court-Martial.

R.D. Barron

R.D. Barron Capt.
Medical Officer for
No.85 Cdn.Bridge CoyRCASC.

In Field
27 October 1942

"A"

J.B. MacAulay Major
82 Cdn AA Bde Coy RCASC.

Pres. ~~a~~ F.S.C.M. 27/10/42

October 27th, 1942

Trial of F 77889, Private Leblanc, W.C. held at Marden Park, Surry, on October 27th, 1942.

President Major McCauley,
Capt. Steed
Lieut. Clark
Lieut. Biggsby (under instruction)

1-The order convening the court, the charge sheet and the Summery of evidence are laid before the court.

2-The Court satisfy themselves as provided by Rs.P.22 and 23

Prosecutor: Lieut. K. Greber, 85th, Cdn. Bridge Coy. R.C.A.S.C.

Defending Officer: Lieut. W. McGrail, 85th, Cdn. Bridge Coy. R.C.A.S.C.

3-The accused is brought before the Court.

4-The medical certificate is laid before the Court, signed by the President, marked 'A' and attached to the proceedings.

At 0950 hours the trial commenced

5-The order convening the Court was read by the President.

6-The names of the President and members of the Court were read over in the hearing of the accused and they severally answered their names

President to accused:

Q. Do you object to be tried by me as President or by any of the officers whose names you have heard read over

A. No Sir

7-The President and members are duly sworn

Q. Do you object to L/Cpl. Roach acting as clerk of this Court

A. No Sir (L/Cpl Roach is duly sworn as shorthand writer)

8-The charge sheet is signed by the President, marked exhibit "B" and annexed to the proceedings.

9-The accused was arraigned upon the charges in the charge sheet

10-R... 86(2) was complied with.

11- President to accused:.

Q. Do you wish to make any statement in reference to the charges

A. No Sir
President read summary of evidence to the first and second charges

12-President to accused:

Q. Do you wish to make any statement in mitigation of punishment?

A. No Sir

13-President to accused:

Q. Do you wish to give evidence yourself as to character or do you wish to call any witnesses.

A. Yes Sir

Adjourn Court for 20 minutes until witness for Private Leblanc is located.

Sapper Morgan was located, and was sworn by the President.

Q. By Lieut McGrail:
Sapper Morgan will you testify the character of the accused.

A. He is a pleasent fellow, always smiling, we always had a lot of fun when he was around playing his mouth organ, cracking jokes, and I can say nothing against him.

Q. By President:

Have you anything to say Prosecutor?

A. No Sir.

Lieut. Creber has been duly sworn by the Court.

Q. By President:

Have you any evidence as to character of the accused?

A. Yes Sir crime sheets

Q. Is the accused name in the statment

A. Yes

Q. Have you compared the contents of the statment with Regtl. books

A. Yes

Q. Are they true extracts of the questions

A. Yes

Q. By President:

Does the defence wish to examine

A. No Sir

AFB 296

18-The Statement of Character sheet marked exhibit "C" and annexed to the proceedings. The Conduct sheet is marked exhibit 'D' and annexed to the proceedings.

19-President to accused:

Q. Do you wish to address the Court?

A. Do you mean about the rifle? Is that whatyou mean Sir? what we were in Cobham we were told to always keep our rifle loaded while on guard. That is all I have to say.

19- The Court is closed to consider the sentence.

[signature] Major
Pres.

SUMMARY OF EVIDENCE IN THE CASE OF : F-77889
Pte. Leblanc, W.C. R.C.E. Detachment No. 85
Cdn. Bridge Coy, R.C.A.S.C.

The Acting Officer Commanding Capt. A.C. Allan,
No. 85 Cdn. Bridge Coy, R.C.A.S.C. Canadian Army Overseas
directs that evidence be taken on oath.

First Charge

First Witness : B-28882 Sgt. Sterling C.W. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am B-28882 Sgt. Sterling C.W. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C.
The accused was instructed by the Section N.C.O. that no loaded rifles would be carried on tour of Guard Duty".
The accused declines to cross examine this witness.

C.W. Sterling
B-28882 Sgt. Sterling C.W.
R.C.E. detachment No. 85 Cdn.
Bridge Coy, R.C.A.S.C.

Second Witness : B-28706 Spr. Herbert G. R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am B-28706 Spr. Herbert G. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C.
I know according to standing orders rifles are not to be loaded, the above orders have been given out on parade and also published in Unit Orders. I saw Pte. Leblanc on 27 Aug. 42 at approx. 2230 hrs. sitting on his bed at the time in question. He had a rifle in his hands and was fumbling with the bolt. I did not see the actual loading of the rifle but after the rifle was discharged I disarmed Pte. Leblanc, opened the bolt of the rifle and ejected four live rounds".
The accused declines to cross-examine this witness.

G. Herbert
B-28706 Spr. Herbert G.
R.C.E. detachment No. 85 Cdn.
Bridge Coy, R.C.A.S.C.

Third Witness : Lieut. R.G. Davidson, Adjutant No. 85 Cdn Bridge Coy, R.C.A.S.C., having been duly sworn states :-

" I am Lieut. R.G. Davidson, Adjutant No. 85 Cdn. Bridge Coy, R.C.A.S.C., I produce (1) extract from Unit Standing Orders and copy of duties of Main Guard.
The accused declines to cross-examine this witness.

R.G. Davidson
Lieut. R.G. Davidson Adjt.
No. 85 Cdn. Bridge Coy,
R.C.A.S.C.

Second Charge

First Witness : B-28882 Sgt. Sterling C.W. R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am B-28882 Sgt. Sterling C.W. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. After hearing the shot fired on 27 Aug. 42 at approx. 2220 hrs. from a very close distance and going out of my quarters I saw the door open on # 5 Hut. I immediately went over there and entering the hut could distinctly smell gun powder and smoke. I questioned the personnel in the hut as to who had fired the rifle Pte. Leblanc later told me that he had fired the rifle. I took the rifle away from Pte. Leblanc and examined it and found it to be empty. I then picked up Spr. Flewelling's rifle that had been hit by the bullet and returned to my own quarters. Later in the evening Spr. Flewelling came to my quarters showing me the Army boot and a fatigue shoe which also had been hit. I reported this to my Officer the following morning. I identify exhibit 'A' the rifle, exhibit 'B' as the Army Boot and exhibit 'C' as the fatigue shoe.

The accused declines to cross-examine this witness.

C W Sterling

B-28882 Sgt.Sterling C.W.
R.C.E. detachment No 85
Cdn. Bridge Coy, R.C.A.S.C.

Second Witness : F-91697 Cpl. Mac Aulay, C.E.P. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am F-91697 Cpl. Mac Aulay C.E.P. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C.

On the night of 27 Aug. 42 I was Commander of the guard. I heard a rifle shot at approx. 2230 hrs. I was in my own hut # 6. I went in the direction of the sound to hut # 5. As I opened the door I saw Pte. Leblanc and Spr. Herbert standing beside the stove in the centre of the hut. Spr. Herbert had a rifle in his hands working the bolt forwards and back. I immediately left the hut in search of Sgt. Sterling. I met Sgt. Sterling coming from Hut # 5 with a rifle with a hole through the butt said to belong to Spr. Flewelling. I identify the rifle as exhibit 'A'

The accused declines to cross-examine this witness.

F91697 Cpl Mac Aulay C.E.P.

F-91697 Cpl. Mac Aulay C.E.P.
R.C.E. detachment No. 85 Cdn.
Bridge Coy, R.C.A.S.C.

Second Charge

Third Witness : B-28706 Spr. Herbert G. of R.C.E detachment No. 85 C dn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am B-28706 Spr. Herbert G. of the R.C.E. detachment No. 85 C dn. Bridge Coy, R.C.A.S.C.

I was standing in hut # 5 R.C.E. lines on the night of 27 Aug. 1942 at approx. 2230 hrs. Pte. Leblanc entered the hut carrying a rifle. He sat there on his bed and I saw him fumbling with the bolt. At that moment my attention was drawn away by someone asking me a question. I heard a shot fired and on turning my head saw Pte. Leblanc still with the rifle in his hands and his hand on the bolt. I took the rifle away opened the bolt and ejected four live rounds. There was an empty charger also one empty round on the bed. At that moment Cpl. Mac Aulay came in and I laid the rifle on the bed and left Cpl. Mac Aulay to deal with the situation being N.C.O. of the guard. I ascertained that no one was hurt and investigated to see what damage was done. I found that the bullet had penetrated Spr. Flewellings rifle which was standing on the left hand side of the bed, the bullet then hit the floor ricocheted and penetrated Spr. Flewelling's boot and fatigue shoe and finished up in a tin of tobacco. Cpl. Mac Aulay went to find Sgt. Sterling who came in and took charge of the affair. I identify the rifle as exhibit 'A' the boot as exhibit 'B' and the fatigue shoe as exhibit 'C'

The accused declines to cross-examine this witness.

G Herbert

B-28706 Spr. Herbert G.
R.C.E. detachment No. 85
Cdn. Bridge Coy, R.C.A.S.C.

Fourth Witness : L-19329 Spr. Brownlee T.H. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am L-19329 Spr. Brownlee T.H. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C.

On the night of 27 Aug. 1942 I was standing guard at the R.C.E. lines. At 2200 hrs. I was relsived by Pte. Leblanc. About 2230 hrs. I heard a shot fired but did not leave the hut to investigate.

The accused declines to cross-examine this witness.

Spr. Brownlee T.H.

L-19329 Spr. Brownlee T.H.
R.C.E. detachment No. 85
C dn. Bridge Coy, R.C.A.S.C.

Second Charge

Fifth Witness : D-18060 Spr. Duggan F.J. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am D-18060 Spr. Duggan F.J. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C.

At approx. 2230 hrs. the 27 Aug. 1942 I was lying in my bunk when a rifle was discharged in hut # 5. I saw Spr. Herbert take the rifle from Pt. Leblanc and Spr. Herbert ejected four live rounds from the same rifle. Cpl. Mac Aulay then came in to see who had fired the rifle and when he found it was Pte. Leblanc went out to find Sgt. Sterling to see what procedure should be taken. Sgt. Sterling then came into the hut and he questioned Pte. Leblanc about the rifle. When the Sgt. had finished asking Pte. Leblanc about discharging the rifle he allowed Pte. Leblanc to go back on guard."

The accused declines to cross-examine this witness.

F. Duggan

D-18060 Spr. Duggan F.J.
R.C.E. detachment No. 85
Cdn. Bridge Coy, R.C.A.S.C.

Sixth Witness : G-49218 Spr. Flewelling E.J.S. of R.C.E. detachment No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states :-

" I am G-49218 Spr. Flewelling E.J.S. of R.C.E. detachment No. 85 Cdn. Bridge Coy. R.C.A.S.C.

I was sitting on the bed talking to Spr. Johnson when the rifle was fired. I looked over and saw it was Pte. Leblanc; and Spr. Herbert he takes the rifle away from Pte. Leblanc, I seen him eject some rounds from it, and Cpl. Mac Aulay came in at the same time he was ejecting the rounds He turned and went back out again and Sgt. Sterling came in and wanted to know who fired the shot he looked the rifles all over and Pte. Leblanc said he would take the blame of firing the shot, and then we started to look to see where the bullet had went to. It had went through my rifle and through the shoes. I identify the rifle as exhibit 'A' the boot as exhibit 'B' and the fatigue shoes as exhibit 'C'.

The accused declines to cross-examine this witness.

G 49218 Spr. Flewelling E.J.S.
R.C.E. detachment No. 85 Cdn.
Bridge Coy, R.C.A.S.C.

SHEET V

The accused soldier was thereupon warned in accordance with R.P. (e).

Do you wish to make any statement or give any evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, what ever you say or evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement.

I certify that the foregoing summary of evidence was taken down by me in writing this 17 day of September 1942 at Marden Park Camp, Caterham, Surrey in the presence of the accused and that R.P. (c) (d) (e) (f) have been complied with.

R W Webb.

Lieut. R.W. Webb,
Investigating Officer,
No. 85 Cdn. Bridge Coy,
R.C.A.S.C.

J B McNulay Major
'82 Cdn Bde Coy R CASC

"C"

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-77889	Pte	Leblanc, W.C.	No.85 Cdn.Bridge Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	A.A. Sec. 40	1 times ..... times
For	A.A. Sec. 15 (1)	1 times ..... times
For		times ..... times
For		times ..... times

Number of instances of gallantry or distinguished conduct N/L

~~or,~~

RSN ~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

RSN Previous ~~convictions of the accused by a court-martial or a civil court, of summary awards under~~ RSN ~~Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

RSN ~~The accused at the present time is under sentence for ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, ~~for ..... days in~~ RSN ~~civil custody,~~ and 45 days in military custody, making a total of 45 days in custody, ~~of which ..... days were spent in hospital.~~

RSN 5. The present age of the accused according to his ~~record of service is~~ attestation paper is 23 years 10 months

RSN 6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 8 April 1941

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

RSN 9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force~~ military reward (or is RSN in possession of or entitled to). State any ~~air force~~ military decoration or reward. NIL

RSN ~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

[signature] Major
12 Cdn Act Bde Coy RCASC

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
dated, and in his regiment (or corps), the rank of

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank
Regiment
Name of

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

D22

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of October 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

P-77889 | LEBLANC William Charles | No. 85 Cdn Bridge Coy RCASC | "B"

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment 8-6-41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service in accordance with A.O.R.O. 319 No Entries									
Field	5-1-42	Pte		Conduct to the prejudice &c	Documentary	Cancelled until 16-1-42 he has completed two weeks MT Training in driving		O.C.	
Field	29-8-42	LCpl		AWL (9½ hrs.)	L/Cpl Gosselin	Reduced to rank of Pte. 1 days pay.	3-8-42	O.C.	1 dys pay

Certified true copy

(R.G. Davidson) Lieut & Adjt
for Alex Gagnon, Major
O.C. No. 85 Cdn. Bridge Coy. RCASC.

Major
82 A A Coy RCASC

(P.T.O.)

9-V (2nd case)

Pte LEBLANC, W.C.

See 119 Q for 1st case.

Correspondence to be PINNED here

9-V

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 21st day of NOVEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 1 CANADIAN ARTILLERY GROUP, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~I am unable to appoint:~~

~~(1) Three Officers to form the Court.~~

~~(2) A Field Officer as President.~~

~~for the following reasons, namely:~~

Proceedings Reviewed

J. H. Haughton

for Reviewing Officer (I.A.G.) C.M.H.Q.

16 Jan 43

There are no illegalities or irregularities to warrant with holding confirmation

K.G. Runden Lt Col

A.D.J.A.

14 Dec 42

First Cdn Army.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	K. S. RITCHIE	6 Cdn C.C.S., RCAMC.

Members.

Rank.	Name.	Regiment.
A Captain	(To Be Detailed By)	O.C., 45 Cdn Gen Tpt Coy, RCASC.
A Lieutenant	(To Be Detailed By)	O.C., 62 Cdn Gen Tpt Coy, RCASC.
A Lieutenant	(To Be Detailed By)	O.C., 41 Cdn Gen Tpt Coy, RCASC.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.A. Townsley

(W.A.TOWNSLEY) Lt.-Col.

a/Commanding 1 Cdn Arty Group.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-77889 Pte. LEBLANC, William Charles	FIRST CHARGE A.A. Sec. 22 See Charge Sheet attached.	NOT GUILTY	GUILTY	
	SECOND CHARGE A.A. Sec. 18(4) See Charge Sheet attached.	NOT GUILTY	NOT GUILTY	I confirm finding and sentence but remit two months detention. KSL
	THIRD CHARGE A.A. Sec. 15(1) See Charge Sheet attached.	NOT GUILTY	GUILTY SENTENCE: ① SIX MONTHS DETENTION ② AUTOMATIC FORFEITURE OF SIX (6) DAYS PAY ART. 149 (CAN) F.R.+I (CAN) KSL 2 PLACED UNDER STOPPAGE OF PAY TO EXTENT OF 5s. (FIVE SHILLINGS) TO COVER COST OF [redacted] KSL RETURN TO HIS UNIT ART. 192 (a) F.R.+I (CAN) 12 DEC '42	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) W.A. Townsley Lt.-Col. (W.A. TOWNSLEY) Lt.-Col. a/ Commanding 1 Cdn Arty Group Convening Officer (e)

(Signed) K.S. Ritchie Maj. (K. S. Ritchie) Major No. 6 Cdn C.C.S., RCAMC. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the TWELTH day of DECEMBER, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~) N.A. KSL

were duly sworn.

* Omit if not applicable.

Signed this ~~THIRTEENTH~~ TWELTH KSL day of DECEMBER 1942.

K.S. Ritchie Maj.
(K.S.Ritchie) President of the Court Martial. Major No. 6 Cdn C.C.S., RCAMC.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

KSL
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ KSL

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 15 day of December 1942.

R. J. Leach
(R.J. Leach) Confirming Officer. Brigadier, Comd, 1 Cdn Arty Group.

Promulgated and extracts taken in the case of

(a) (Dated) 22nd Dec/1942 (Signed) Alex Gagnon Major O.C. No. 85 Cdn. Bridge Coy. R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-77889 Pte. LEBLANC, William Charles	FIRST CHARGE A.A. Sec. 22 See Charge Sheet attached.	NOT GUILTY	GUILTY	
	SECOND CHARGE A.A. Sec. 18(4) See Charge Sheet attached.	NOT GUILTY	NOT GUILTY	I confirm finding and sentence but remit two months detention K.S.R.
	THIRD CHARGE A.A. Sec. 15(1) See Charge Sheet attached.	NOT GUILTY	GUILTY SENTENCE: ① SIX MONTHS DETENTION ② AUTOMATIC FORFEITURE OF SIX (6) DAYS PAY ART. 149 (1)(a) F.R.+I (CAN) K.S.R. 2 PLACED UNDER STOPPAGE OF PAY TO EXTENT OF 5'S. (FIVE SHILLINGS) TO COVER COST OF [redacted] K.S.R. RETURN TO HIS UNIT ART. 192 (b) F.R.+I (CAN) 12 DEC '42	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) W.A. Townsley Lt.-Col. (W.A. TOWNSLEY) Lt.-Col. a/ Commanding 1 Cdn Arty Group
Convening Officer (e)

(Signed) K.S. Ritchie Maj. (K. S. Ritchie) Major No. 6 Cdn C.C.S., RCAMC.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the TWELTH day of DECEMBER, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~) N.A. K.S.R.

were duly sworn.

* Omit if not applicable.

Signed this ~~FIFTEENTH~~ TWELTH K.S.R. day of DECEMBER 1942.

K.S. Ritchie Maj.
(K.S.Ritchie) President of the Court Martial. Major No. 6 Cdn C.C.S., RCAMC.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

K.S.R.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ M.L.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 15 day of December 1942

R. J. Leach
(R.J. Leach) Confirming Officer. Brigadier, Comd, 1 Cdn Arty Group.

Promulgated and extracts taken in the case of

(a) (Dated) 22nd Dec/1942 (Signed) Alex Gagnon Major O.C. No. 85 Cdn. Bridge Coy. R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

A Ritchie Mai

The Accused, F-77889, Pte. Leblanc, W. C. of No. 85 Cdn. Bridge Coy. R.C.A.S.C., a soldier of the Canadian Army, Overseas, is charged with

FIRST CHARGE
Army Act
Sec. 22

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT ESCAPING

in that he

in the Field, on 1 November, when in confinement (in the Guard Room) escaped.

SECOND CHARGE
Army Act
Sec. 18 (4)

WHEN ON ACTIVE SERVICE, STEALING GOODS, THE PROPERTY OF THE PUBLIC

in that he

at approximately 1900 hours 1 November, 1942 did take a N.D. Vehicle (CZ 232594) without permission, to enable him to escape.

THIRD CHARGE
Army Act
Sec. 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from 1900 hours, 1 November, 1942, until having surrendered himself to Civilian Police at Croydon at 2300 hours, 6 November, 1942.

(Total time absent: 5 days, 4 hours)

(Cost of Apprehension: 5/-

Alex Pagnoni

In the Field
19 November, 1942

(Alex ~~Pagnoni~~) Major
Commanding
No. 85 Cdn Bridge Coy RCASC

To be tried by Field General Court Martial.

W A Townsley

(W.A.TOWNSLEY) Lt.-Col.
a/ Comd
1 Cdn Arty Group

In the Field
21 Nov 42

A. D. Ritchie Maj.

NO. 85 CDN. BRIDGE COY. R.C.A.S.C.
CANADIAN ARMY OVERSEAS

This is to certify that I have this date examined F-77889 Pte. Leblanc, W. C. of 85 Cdn. Bridge Coy. R.C.A.S.C. and find him to be free from communicable disease and fit to undergo trial by Field General Court Martial.

J. Watkins Capt.
Medical Officer
Unit No. 1 C.F.U.

In the Field
12 Dec 42

PROCEEDINGS OF TRIAL

Accused F77889 Pte William Charles Leblanc No 85 Bridge Coy RCASC
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ENGLAND (Country) on 18th Dec 1942

	Rank	Name	Unit
President	MAJOR	R.S.RITCHIE	6 Can C.C.S. RCAMC
Members	CAPTAIN	A.J. LABRIE	45 Can. Gen. Tpt Coy RCASC
	LIEUTENANT	J.G. HARRINGTON	62 Can. Gen. Tpt Coy. RCASC

Judge-Advocate (if any) ———

Prosecuting Officer LIEUTENANT M.E. CARMICHAEL Lawyer? Ans. No

Defending Officer ——— Lawyer? Ans. N.A.

(The following procedure must be actually carried out.)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P. 17(E); 22(A))

The President, in closed court (R.P. 22 fn 1), reads the Convening Order and the Charge Sheet(s) to the members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.108)

The accused is (are) brought before the Court, and at 1345 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 that the accused is (are) fit to undergo trial by court-martial. The certificate is initialled by the President, and attached to the proceedings.

President to accused
Do you object to ——— as interpreter? Ans. ———
Do you object to D123524 Pte Plamondon, as shorthand writer? Ans. NO.

The names of the President and Members of the Court are read to the accused (R.P. 110)

President to accused
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans. NO

The President, Members, Judge-Advocate, officers under instruction, interpreter and shorthand writer are duly sworn. (R.P. 26-27) (Forms of Oath, p.E)

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by court-martial. (A.A. 46(8))

President to accused
Do you wish to make any special pleas before arraignment, that is to say, before you plead guilty or not guilty? Ans. NO
(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P. 62(E), 108); or as to the jurisdiction of the Court (R.P. 34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.30, R.P.57), record such plea and evidence (if any) on separate sheet(s) to be initialled by the President and attached to the proceedings.)

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:-

First Charge	Second Charge	Third Charge	Fourth Charge
Not Guilty	Not Guilty	Not Guilty	———

A.M.R.

(For procedure on alternative charges, see RP.37 fn 2.)
Further proceedings are recorded on Pages hereto attached.

PAGE "B"

(For Use when Accused Pleads Not Guilty to All Charges.)

(All printed matter not applicable to be struck out, and all alterations erasures and additions to be initialled by the President.)

1. President to accused:-
   Q. Do you wish to apply for an adjournement on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A)) Ans. Yes
   The court ruled (in closed court) that the accused had no grounds for adjournment. K.A.R.

2. The Prosecutor's opening address (if any) (R.P. 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 1.)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P. 40 fn 2).

5. President to accused:-
   Q. Do you apply to give evidence yourself as a witness? Ans. No
   Q. Do you intend to call any other witness in your defence? Ans. No
   Q. Is he a witness as to character only? (R.P.40(B)) Ans. N.A.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see Rs.P. 40, 41 and 42.)

8. The Court is now closed to consider the finding. (Rs.P. 43 and 117) (Record finding on p.3.)

9. The Court being re-opened, the accused is again brought before it and the findings of Not Guilty (if any) are pronounced and (if findings of Not Guilty on all charges) the accused is released. (R.P. 117(B))

10. LIEUTENANT M. E. CHARBONNEAU 85 Cdn. Bridge Co. RCASC sworn
    (Rank) (Christian Names) (Surname) (Unit)
    produces Statement of Character and Service, and Field Conduct Sheet, duly certified by the Officer having custody of the Regimental Books. The said documents are read, marked "F", "G", initialled by the President and attached to the proceedings (R.P.46).

11. President to accused:-
    Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P. 46(D)) Ans. Yes
    No cross-examination.
    (Record address, if any, on separate sheet, initialled by the President and attached hereto.)

12. The Court is now closed to consider the sentence. (Record on p.3.)

    (Punishments, A.A. 44, K.R. Can) 563-566; one sentence only awarded, R.P.48; jurisdiction of F.G.C.M., R.P.116.)

    The sentence is not announced to the accused by the Court.

K.S. Ritchie Maj.
(Signature of President)

The accused applied after arraignment for an adjournment to enable the attendance of Lieut Hegan to defend him. When the summary was taken the accused asked for a defending officer to be assigned to him. The accused's O.C. assigned Lieut Croker. On 11th Dec the accused decided that he did not wish Lieut. Croker's services and preferred to conduct his defence himself (as statement attached). At the trial he changed his mind again and asked for Lieut Hegan who ~~had~~ at this time was no longer attached to the unit and was not available. He was again offered Lieut Croker's services but refused to accept them. The court considered the application for adjournment and in the exercise of its discretion, in view of the above facts, refused the application and proceeded with the trial.

A. S. Ritchie Maj.

I, F.77889 Pte. Leblanc, William Charles, do not desire to have any officer represent me at my trial by F.G.C.M., but do desire to conduct my defence myself.

W. C. LeBlanc

F.77889 Pte. Leblanc, W.C.
No 85 Cdn. Bridge Coy. RCASC
Canadian Army Overseas

11th. December, 1942.

N. S. Ritchie Maj

A.M.K.

opening Address by Prosecution.

given by A.M.K.

Lieut. M.E. Charbonneau 35th Can Bridge Coy. R.C.A.S.C.
A.M.K.

Under the first charge while in confinement escaping to prove that he was under proper guard at 1830 hours 1/11/42.

That the guard room was properly locked bolted and inspected

Thirdly that he forced his way out around 1900 hours 1/11/42

Fourthly that he was seen in the guard room before 1830 hours and seen and recognized outside the guard room after 1900 hours.

That will prove the case of escaping while in confinement.

The second charge of stealing public property W. D. Vehicle (CZ 232594)

First prove that he was driving this W.D. vehicle without authority.

Secondly he was recognized by three witnesses as driver of said vehicle.

Thirdly that he was stopped while driving the vehicle.

Fourthly that he re-escaped again with the vehicle.

The third charge - absent without leave.

He was absent from 1900 hours 1/11/42 until ~~Absented himself~~ to civil police 6/11/42

~~Absented himself~~ to the

Secondly the cost incurred while transporting the accused back to Morden Park.

With that I will proceed with the case.

A/J. Ritchie Maj.

First Witness for the Prosecution. KAR

No. D 121938 Cpl. Huard W. being sworn states:

I am acting Regt. Police Corporal of 85 Chn. Bridge Coy. R.C.A.S.C. On that night 1/11/42 about 1800 hours Pte. La Blanc and Pte. Hayes came into the Mess Hall with Pte. Grolean as escort. Pte. La Blanc was kind of noisy in the mess playing drums on the table with his hands. Pte. Hayes was looking for one the privates he had a fight with. I immediately took Pte. La Blanc to the guard room with Ptes Grolean and Malvern as escorts. Then I left Pte. Malvern there on guard and I had both doors locked outside and inside. Then I returned with Pte. Grolean back to the orderly room, I then sent Pte. Grolean back to the guard room again with Pte. Hait - when Pte. Grolean got there he found that the locks had been taken off of the doors. But he only reported to me after they had escaped about 2100 hours. I went down to the village about 1830 hours and about 2000 hours I was notified by one of the Don Rs that Pte. La Blanc had escaped from the guard room.

~~Re-examined by Prosecutor~~

Question: Was Pte. La Blanc in habit of being noisy in the Mess Hall?

Answer: - No.

KSR

Question: What time did Pte. Graham report to the guard room?

Answer: I couldn't say exactly - but it was approximately ~~2015~~ 1815 hours.

Question: When you placed Pte. La Blanc in the guard room did you inspect the doors yourself?

Answer: I did Sir - I put the bolts on the door myself.

Question: Did you inspect the broken door when you heard of it - yourself?

Answer: When I came back to guard room I did not inspect the door as it was already open?

Question: Was there any reason for the door being opened?

Answer: Yes Sir - Pte Sgt. Terry had just bought Pte Hayes in.

"Cross-Examined by the Defence"

Question: Did you bolt the doors of guard room yourself?

Answer: Yes, I did.

~~Question~~: ~~There was~~

K. S. Ritchie Maj.

A.M.

Second Witness for the Prosecution.

No. D123160 Pte. Melanin G. No. 85 Coy.

Bridge Coy R.C.A.S.C. being sworn, states:

On 1/11/42 Corporal Hand put me in charge of the two prisoners Ptes La Blanc and Pte. Hayes. It was 1800 hours. At 1830 hours I went down to the guard room with Corporal Hand and the two prisoners. Cpl. Hand placed me in the guard room with both prisoners. He closed and locked the doors on the inside and out. He then went around to lock the door of the partition. I was left in the guard room. He gave me instructions to remain in the guard room and not to unlock the doors of the prisoners at 1830 hours the prisoners began to make noise. I asked them who was there and nobody answered. I then opened the door and the rear door was wide open and the prisoners Ptes Hayes and La Blanc were gone. I went around the guard house and I closed the rear door by the outside because I had another prisoner in there. I went back into the guard house and closed the other door. I then took the guard truck to report to Sgt. Terry. I told Sgt. Terry that two prisoners had escaped. Sgt. Terry came back to guard room with me. Sgt. Terry told me to remain in the guard house with the guards and that he would attend to

(Second Witness Prosecution)
(cont.)

KMC

everything.

Question: Was there any means of escaping without ~~by~~ unlocking the doors or removing the bolts?

Answer: Unless he broke the door in, he could not get out.

"Cross-Examined by the Defence"

No questions.

K. S. Ritchie Maj.

A.D.C.

Third Witness for the Prosecution.

No. D-123463 Pte. Graham C.J. No. 85 Cdn. Bridge Coy. R.C.A.S.C., being sworn, states.

I was acting as R.P. on night that Pte. LaBlanc escaped. I was checking up on blackouts 1/11/42 between 1800 hours and 1900 hours. I went in to see how Pte. Malcuria was getting along. He told me that the prisoners had escaped just a few minutes before. I didn't think there was much I could do as he said he had notified Sgt. Tenny. I kept on with my duty towards the canteen. On my way to the Canteen I met Sgt. Weston and he asked me if I knew that the prisoners had escaped and I said "Yes" I said that Pte. Malcuria told me. He told me to go into "B" section orderly Room. He took his ammunition and loaded his pistol - then he told me to go with him.

The next time I saw Pte LaBlanc was when I went to get him from the station at 1000 hours on 10/11/42 and to escort him back to our H.Q.

Question: Before you went to Guard room to check blackouts had you visited the Guard room previously?

Answer: Yes. I took Pte. LaBlanc and Pte Hayes back to the guard room at about 1800 hours. I was the only escort.

(Third witness for Prosecution) 4th

Question: You stated you went into guard room on your inspection of blackouts - what time was this.

Answer: Between 1830 hours and 1900 hours.

"Cross-Examined by the Defence"

no questions.

Question: On the afternoon of 1/11/42 you escorted Pte. LaBlanc to the canteen at approximately 1400 hrs. Will you tell the Court what happened & how long you remained there.

Answer: When I took the prisoners to dinner I got orders from Lt. Terry to take them out for a walk in the afternoon so I took them back to the guard room & it started to rain - it was raining heavy I didn't think they would want to go anywhere but they decided they would go for the walk. ~~They~~ We started walking towards the canteen when they got there, they went in. Shortly after we got in Pte LaBlanc went & got four glasses of beer. ~~They~~ drank three four glasses of beer. Pte LaBlanc drank two of them. Then I told the canteen man not to give him anymore. I asked them to come back to the guard room but they didn't. They were there quarter of an hour ~~then~~ altogether. We came out about 15 to 5 hours. We went back to the guard room. ~~then~~

Question: Would you say that Pte LaBlanc was drunk?

Answer: No Sir.

Question: When you returned ~~with~~ him to guard room was he sober.

Answer: Yes Sir.

(Third Witness for Prosecution)
(Cont.)

"Cross-examined by Defence"

Question: Are you sure that all I had was two glasses of beer?

Answer: Yes I am sure.

H.S. Ritchie Maj.

Fourth Witness for the Prosecution.

No. D 123369 Sgt. Weston G. W. No. 85 Com. Bridge Coy. R.C.A.S.C., being sworn states:

On night of Nov 1/1942 I was acting Company orderly Sergeant. The orderly Corporal reported to me at about 1900 hours that two of the prisoners had escaped from the guard room. In company with the orderly Corporal I proceeded on foot towards the guard room, we met Sgt. Terry the present Sgt. just before we got there and we decided to go to the canteen to see if the prisoners had made for there. While walking along the road towards the canteen we noticed the duty station wagon parked on the side of the road. The orderly Corporal asked permission of the driver to use the vehicle to drive to the canteen. Just as we reached the canteen we noticed at a 15 cwt. lorry driving along in front of us with no lights showing. We decided to warn the driver of 15 cwt. to put his lights on & we pulled along side in the station wagon. Sgt. Terry yelled "Stop" having recognized the prisoner as being in the truck & we both got out of the station wagon & ran around in front of the 15 cwt. The 15 cwt. stopped when Sgt. Terry ordered it to do so and Pte. Hayes was standing about 10 ft away from 15 cwt. by side of road. The door of the 15 cwt was opened. Pte. La Blanc was in the drivers seat. Sgt. Terry ran over to Hayes tried to apprehend him - Hayes broke away and Sgt. Terry asked for my pistol - Sgt.

(4th Witness) (cont.)

Terry did not have one. So I took it out of the Sgt. Shelter and took a couple of paces to give it to him & when I stepped away from the 15 cwt. it drove off in the direction of the South Gate. Boys had gotten away from Sgt. Terry in the darkness & both Sgt Terry & myself got back into the station wagon & started after the 15 cwt and tried to overtake it. We come upon the 15 cwt parked on the side of the road about 100 ft. North of the South gate. All the lights were on but there was no one around the truck. We looked and hunted nearby with our flashlights. So I got into the 15 cwt & drove it down to "B" Pl. lines.

Question: Can you definitely state that you could recognize Pte. La Blanc as the driver?

Answer: Yes, Sir.

Question: How can you be so sure it was Pte. La Blanc.

Answer: When we stopped the station wagon its lights were on and it was stopped a little but behind the 15 cwt. I had my flashlight it was on & I used it. There was enough light so that I could recognize the accused.

Question: Did you speak to La Blanc?

Answer: I told him to get down & he started to but when Sgt. Terry asked for my pistol he drove off.

"Cross-examined by Defence"

No questions.

A. A. Ritchie Maj

Fifth witness for Prosecution.

No. D 117615 Sgt. Tenny J. H. 85 Can. Bridge Coy R.C.A.S.C. being sworn states:

On the night of Nov. 1/42 at about 1900 hours I was in charge of H.Q. Section when Pte. Malonin reported to me that the accused Pte. LaBlanc had escaped custody at about 1845 hours. I accompanied Pte. Malonin back to the guard house where I found the ~~door~~ outside door of the detention cell unbolted & partly opened. There bolts were on outside not the inside of the door. Leaving Pte Malonin in the guard house I started back to H.Q. and on the way met Sgt. Weston — Orderly Sgt. and Corporal Evans - Duty Corporal. After explaining the situation to them we again returned to the guard house at which point we decided to institute an immediate search of the camp. We obtained the use of a station wagon and started towards the southern exit, on the way we overtook a 15 cwt lorry going in the same direction and not having any rear light. We stopped the truck by pulling up alongside & I saw the accused Pte. LaBlanc at the wheel through the rays of my flashlight. There was also another person whom I supposed to be the second escaped prisoner sitting in the cab beside the accused. I asked Sgt. Weston to look after Pte LaBlanc while I went around to the far side of the truck to see who the other person was. It proved to be the second escaped prisoner whom I ordered out of the truck. After disembarking the truck

(5th Witness) S.S.R.

suddenly drove away. The second prisoner broke & ran after it. Corporal Evans - Sgt. Weston & myself got into the station wagon & started after it. We again came upon the truck parked a few yards from the exit but there was no sign of either prisoner. We searched the surrounding area but due to the darkness of the night was unable to see anything. A decision was reached to return to H.Q. for further instructions. I returned with the station wagon, Sgt. Weston brought back the truck.

"Cross-examined by the Defence"
no questions.

S.S.R. Ritchie Maj.

KSR.

Sixth Witness for the Prosecution:

No. D 123534 L/Cpl. Duncan G. J. 85 Cdn. Bridge Coy R.C.A.S.C. being sworn states:

I am D123534 L/Cpl. Duncan G. J.. I was Guard Commander in charge of the Guard Room on 1 Nov. 1942. When I returned after inspecting the guard at 1830 hours I found the prisoners noisy, but as the R.P.s were in charge of them I did not pay much attention. I sat down at desk and made out my guard report. About 15 minutes - 1845 hours - after I had sat down, when Pte Malcolm the R.P. came over to the desk and reported to me that the prisoners had escaped. I went outside to see if I could see them but there was no sign of them. After that I drove the R.P. down to report to Orderly Sgt. - Sgt. Weston. I continued my duties as Guard Commander.

"Cross-examined by Defence"

No questions.

K.S. Ritchie Maj.

K.O.R.

Seventh Witness for the Prosecution.

Lieut. R. G. Davidson - adjutant of 85 Cdn. Bridge Coy. R.C.A.S.C. being Swam states:

On 1 Nov. 1942 I was informed by the Orderly Sgt. that Pte. La Blanc and Pte Hayes had escaped from the guard room and enabling them to escape they had used a W/D vehicle of one of the sections. Sgt. Terry was notified and that is all I heard when some hours later they told me Pte. Hayes had been picked up in the camp but that Pte. La Blanc had managed to escape leaving the vehicle behind him.

Some days later I received a call from the Provost Corps informing me that they had Pte. La Blanc & were returning him to the unit under escort. They advised that La Blanc had surrendered himself to the civilian police at Croydon. When La Blanc was returned he was immediately placed in custody.

Question: You received statements from Police.

Answer: I have submitted all documentary evidence to the court.

Documentary evidence submitted and marked exhibits "A", "B", "C", "D", "E".
HAR

"Cross-examined by Defence"

No Questions.

H. A. Ritchie Maj.

A.G.R.

Statement by the Accused 7-77889 Pte. Le Blanc.
85 Con. Bridge Coy R.C.A.S.C.

On 1 Nov. 1942 about 1400 hours I went up to the canteen with my two escorts. We lined up at the Canteen and started drinking beer. We drank here until 1645 hours and I remember coming back to the guard room with my escorts and what followed in the guard room afterwards I know nothing about, until next morning when I found myself in Croydon. in the Y.M.C.A. in Croydon asleep in one of the chairs. I had some money on me and I drank for four days on the fifth day I gave myself up to the Civilian police. They then turned me over to the Provost Corps. That is all I have to say.

"Cross examined by the Prosecutor"

Question: You stated that you did not know anything from 1645 hours until you woke up in Croydon. the next morning?

Answer: That is right Sir.

Question: How many escorts did you have with you up to the canteen.

Answer: There was one escort with me.

Question. You state you woke up in Croydon the next morning? At what time?

Answer: About 0900 hrs.

A. G. Ritchie Maj

HDR

Closing Address by Prosecutor:

Summarizing the facts we have proved against Pte Le Blanc - on the first charge escaping while in confinement which was proved by witnesses against Pte Le Blanc. That he was placed in the guard room under escort - the door was properly locked at 1800 hours - Conclusively proved that he was not in the guard room at 1900 hours by two witnesses. Later seen & recognized by two other witnesses at the same time by these witnesses seen driving a W.D. vehicle without authority & in the opposite direction to the guard room. After having been stopped & warned - deliberately escaping a second time. Time of absence has been proven by a witness plus documentary evidence also documentary certificate as to cost of ~~$~~ transporting accused from place in which he surrendered himself back to his own unit.

H.A. Ritchie Maj.

DSR.

Closing address for the Defence.
By the accused DSR

If I had not been up to the canteen that afternoon this would not likely have happened.

I believe that my record in the army has been pretty good.

I have had one leave since I have been over here. I was also sentenced to a Court Martial for an accident that never called for a Court Martial. I have been locked up in the Glink since August. I want to go back to my duties as I want to soldier & not go into the Glink. I have never been in detention since arriving over here. I can say that no man in this unit can say a wrong word or anything bad about me. According to the evidence produced by Witnesses for the prosecution there is no actual proof that I had any intention of stealing a W/D vehicle.

D. S. Ritchie Maj.

KSR

Statement as to Character.
Presented by the accused KSR

I have here a certificate from the Camp Engineer from the Debert Military Project thanking me for the cooperation & the interest I had shown in my work while on that project, and also that should further work develop he would take pleasure in requesting my services again.

I also have a re-enforcement training record M.F.M. 105 showing that for a period of sixteen weeks my conduct was good. I wish to present these to be included in the proceedings.
Presented and marked exhibit H KSR and I KSR respectively KSR.

My only desire is to get back to soldiering again.

K. S. Ritchie Maj.

No. 992

METROPOLITAN POLICE

EXHIBIT A

A. S. Ritchie
Maj

STATEMENT OF WITNESS

Croydon Station "Z" Division

6th. November, 1942

Name Walter Rhodes

Address Police Station, Fell Road, Croydon.

Age 34 Occupation Police Constable.

STATEMENT: At 11PM. on 6th. November, 1942, at Tamworth, Road, Croydon, Private F-77889, William Charles LeBlanc of R.C.A.S.C. stationed at Marden Park, Surrey, informed me that he was absent without leave from his Unit since 1/11/42. I took him into custody and conveyed him to Croydon Police Station, to await an escort.

Certified True Copy

[signature] Lieut.
Adjt., No. 85 Cdn. Bridge Co. R.C.A.S.C.

Signature W. Rhodes PC 162 "Z"

Signature witnessed by W. Hillhouse PC 60 "Z"

M.P.-19165/200,000 Oct./1939 G6 (8)

Exh. L-5 B

I certify that the man whose personal description is given below surrendered himself to P.C. 162 "D" [redacted] at Tamworth Road, Croydon at (hour) 11 P.M. on the 6th. day of November, 1942 as being No. F-77869 (Rank and Name) Pte. William Charles LeBLANC a deserter (or absentee without leave) from 1/11/1942 and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 20 Height 5 feet 7 inches

Complexion Fresh Hair Dark Brown

Eyes Grey

Marks: .....

In Uniform or plain clothes: Uniform

Probable Date and Place of Attestation: 8-7-41, Halifax, N.S.

Probable Date of Desertion or beginning of absence, and from what place: 1-11-41, Warden Park, in Caterham

---

W.Millhouse P.C. 60 "D"

Signature of Officer of Police in charge of Croydon Station

6th. November, 1942 Date of Signature

CERTIFIED TRUE COPY:

..... Lieut.

Adjt. No. 85 Can. Bridge Co. R.C.A.S.C.

Exhibit C

A.D. Ritchie
Maj

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (I) (J)

I, Lieut. Twadle ..... certify that

REGIMENTAL NO. F.77889 Rank Pte. Name Leblanc, W.C.

~~XXXXXXX~~ Unit: No. 85 Cdn. Bridge Coy. R.C.A.S.C.

STATIONED AT In the Field

Surrendered himself to No. ..... Rank ..... Name P.C. Rhodes

of the Croydon Civilian Police

on the 6th day of November 1942, at 2300 hours hours

AS AN ABSENTEE WITHOUT LEAVE

at the time of his handing over to the Cdn Prov Corps, he was wearing Military Uniform.

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender.
(Strike out part inapplicable)

Certified True Copy
R. Thomas Lieut.
Adjt. No. 85 Cdn. Bridge Co. R.C.A.S.C.
7 Nov 42

(Sgd) J. Twadle Lieut
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Exhibit D

File No. 15/55

Certified True Copy

[illegible] Lieut.

Adjt., No. 85 Cdn. Bridge Co. R.C.A.S.C.

Officer Commanding
No. 85 Cdn Bridge Coy RCASC

F-77869 Pte. LeBlanc, W. C.

1. Forwarded for your information and necessary action, please, and disposal under C.A. Routine Orders (O) No 388 dated 29th. Oct. 1940.

London
7 Nov. 42

Sgd: J. Twadle Lieut.,
for (M.E. Byers) O.C. No. 6 Company,
Canadian Provost Corps

EXHIBIT E

Expense Voucher Re - : Ref: E.R.& O. (Can) 539

Reg. No. F-77889 Rank Pte. Name Leblanc, W.C. Unit 85 Cdn. Bridge Coy. RCASC

The following expenses were incurred in apprehending and returning the m/n soldier to his Unit From LONDON

Date	Particulars	Amount
7 Nov 42	Escorts return fare from LONDON to REDHILL	3 4
	Prisoners single fare to LONDON From	
	Prisoners fare from LONDON to REDHILL	1 8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	
	TOTAL	5 0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Certified True Copy

[signature] Lieut. H.F. Gerwen Lieut.

Adjt. No. 85 Cdn. Bridge Co. R.C.A.S.C.

To Mr Le Blanc

Exhibit H

I wish to thank you personally for your co-operation and the interest you have shown in your work while employed at the Debert Military Project.

Should further work develope we will take pleasure in requesting your services.

Sincerely,

Capt. R. C. E.
Camp Engineer

Debert, N. S.
March 14

Exhibit I

M.F.M. 105
10000-2-41 (9382)
H.Q. 1772-39-1797

REINFORCEMENT
TRAINING RECORD

Regt'l No. F-77889 Name LeBlanc W.C.

Unit D.D.#6 Rank Pte

No. of weeks' training completed. 8

General standard attained.

(a) Military efficiency Fair (b) Conduct Good —

(c) Leadership None.

(d) Other remarks —

NO. 41 CANADIAN ARMY (R) TRAINING CENTRE

O. J. Lawrence Major

Rank for Lieut. Colonel

Rank Training Centre No. 41.

No. of weeks' Training completed. 8

General standard attained.

(a) Military efficiency Fair (b) Conduct Good —

(c) Leadership Fair

(d) Other remarks

Rank J. M. Abbott Lieut

Advanced Training Centre No. A-19

QUALIFICATION

Subject	Standard reached and date	Initials O.C. T.C. Canada	Standard reached and date	Initials O.C. Holding Unit Overseas	Subject	Standard reached and date	Initials O.C. T.C. Canada	Standard reached and date	Initials O.C. Holding Unit Overseas
Rifle, T.O.E.T.	Q 17.6.41	[illegible]			Driver M/C				
Classification	F	[illegible]			Driver I/C	26-7-41	[illegible]		
L.M.G. Bren T.O.E.T.	5-7-41 Q	HL			Driver Tractor				
Classification					Driver Tank				
L.M.G. Lewis T.O.E.T.	Q 16.6.41	[illegible]			Driver Bren Carrier				
Classification									
A.A., T.O.E.T.	Q 16.6.41	[illegible]			Signals V.T.				
Classification					Signals W.T.				
Pistol T.O.E.T.	Q 16.6.41	[illegible]			Signals R.T.				
Classification					Cooking				
A.T. Rifle T.O.E.T.	5-7-41 Q	HL			Clerk-Typing				
Classification					Clerk-Shorthand				
M.M.G., T.O.E.G.D.									
Classification					Trades				
Mortars 3" T.O.E.D.									
Practices					Courses Taken				
Sniping									
Range Finding	5-7-41 Q	HL							
Mortars 2" T.O.E.D.									
Practices					Other Qualification				
Bayonet Fighting	Q	[illegible]							
Grenade	5-7-41 Q	HL							
Fieldcraft	C	[illegible]							
P.A.G., T.O.E.T.	Q 13.6.41	[illegible]							
P.A.G. Gas Chbr. Test	Q 13.6.41	[illegible]							
Drill According to Arm									
First Aid	C	[illegible]							
Map Reading	Q	[illegible]							
Physical Training	Q	[illegible]							
Field Engineering									

T.O.E.T. Date completed to be shown.

Signal Classification and date to be shown.

Standard Reached Where no qualification Standard is given in manuals, the following will be used:—
"A"—Above average—Q—Qualified.
C—Requires further training to bring up to Q.

Classification To show Standard and date—if not classified Last Practice fired to be shown.

D.S. Patches Maj.

SUMMARY OF EVIDENCE IN THE CASE : F-77889
Pte. Leblanc, W.C. No. 85 Cdn. Bridge Coy.
R.C.A.S.C. a soldier of the Canadian Army
Overseas

CHARGES

1. When in Confinement, Escaping.

2. Stealing Goods, the Property of the Public.

3. Absent Without Leave.

The Commanding Officer directs that the evidence be taken on oath.

FIRST CHARGE : FIRST WITNESS

D-121938 Cpl. Huard, W., No. 85 Cdn. Bridge Coy. RCASC. having been duly sworn, states :

"I am D-121938 Cpl. Huard, W., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

As Cpl. of the Regimental Police on Nov. 1 1942, I with the assistance of Pte. Groleau and Malouin, I took the prisoners Ptes Leblanc and Hayes back to the Guard Room immediately after supperas I thought they had been drinking and were inclined to be boisterous. I placed them in the prisoners' room and bolted the door inside and outside. I then gave R.P. Pte. Malouin instructions to stand at the door between th e Guard Room and the prisoners' room on the Guard Room side and under no circumstances to open the door. I then returned to the N.C. men's Mess and sent R.P. Pte. Groleau to take prisoner Pte. Hoyt to the Guard Room. I did not hear of the escape until 2030 hours when I was in Caterham supervising the Recreational lorries.

The Accused cross-examine the Witness

Q. In your opinion there was any possible chance for us to escape after you had bolted the door?
A. No.
Q. You would not say that we were sober?
A. No, I would not say they were sober.

D-121938 Cpl. Huard, W.
No. 85 Cdn. Bridge Coy. RCASC

FIRST CHARGE : SECOND WITNESS

D-123160 Pte. Malouin, G., No. 85 Cdn. Bridge Coy. R.C.A.S.C. having been duly sworn, states :

"I am D-123160 Pte. Malouin, G., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

On Nov. 1, 1942, I was on duty as an R.P. Cpl. Huard in charge of Regimental Police instructed me as to my duties when I was placed on guard at the Guard Room at about 1800 hours. I checked the prisoners in the Guard Room and found Ptes Leblanc and Hayes there. I then took up my post at the door separating the guards' room from the prisoners' room, on the Guard Room side. About ½ hour later Pte. Groleau, R.P., brought in another prisoner, Pte. Hoyt by the back door and placed him in the Guard Room. There was considerable noise coming from the prisoners' room for a while after that time. When at about 1845 hours everything became quiet, so I opened the door to look and found Pte. Leblanc and Hayes gone, the back door open. Pte. Hoyt was still in the prisoners' room.

FIRST CHARGE : I then closed and bolted the back door and in company
SECOND WITNESS with the Guard Commander, L/Cpl. Duncan went to H.Q.
(Cont'd) Orderly Room to notify Sgt. Terry. I returned to the Guard Room with Sgt. Terry who ordered me to stay on guard there.

The Accused cross-examine the Witness

Q. When you came on guard and took up your post, how was the back door locked?
A. The door was bolted inside and outside.
Q. If the door was bolted on the outside, how was it possible for us to escape by that door?
A. You could not get out when the door was bolted on the outside, unless someone drew the bolts.
Q. In what condition did you find the prisoners when you took up your duties of R.P. at the Guard Room?
A. I thought they had been drinking.

D-123160 Pte. Malouin, G.
No. 86 Cdn. Bridge Coy, RCASC

FIRST CHARGE : D-123463 Pte. Greleau, C. J., No. 86 Cdn. Bridge Coy. RCASC.
THIRD WITNESS having been duly sworn, states :

"I am D-123463 Pte. Greleau, C. J., No. 86 Cdn. Bridge Coy. R.C.A.S.C.
I was employed as an R.P. on the 1 Nov 42, and approximately between 1800 and 1830 hours I took prisoner Pte. Hoyt, who had been doing fatigues around the H.Q. men's mess back to the Guard Room using the back door. At that time Pte. Leblanc and Hayes were already there. I placed Pte. Hoyt in the prisoners' room and bolted the door on the outside. I then started to check the blackouts in the camp area.

The Accused cross-examine the Witness

Q. Did you enter the prisoners' room when you brought in Hoyt?
A. No.
Q. Did you hear any disturbance coming from the prisoners' room when you brought in Pte. Hoyt?
A. No.

D-123463 Pte. Greleau, C.J.
No. 86 Cdn. Bridge Coy. RCASC

FIRST CHARGE : B-84795 Cpl. Evans, R. W., No. 86 Cdn. Bridge Coy. R.C.A.S.C.
FOURTH WITNESS having been duly sworn, states :

"I am B-84795 Cpl. Evans, R.W., No. 86 Cdn. Bridge Coy. R.C.A.S.C.
I was Orderly Corporal for the Unit and was ordered by the Orderly Sergeant who was Sgt. Weston to check the Guard Room at approximately 1845 hours. Upon arriving at the Guard Room I asked if everything was allright and L/Cpl. Duncan in charge of the guard replied that two prisoners, Ptes Hayes and Leblanc had escaped. I then asked him the time by his watch and he replied 1900 hours. I immediately

FIRST CHARGE : FOURTH WITNESS (Cont'd)

came back to H.Q. Orderly Room to report to Sgt. Weston. Sgt. Weston and I set out to search the camp area, when on the way we met Sgt. Terry who came along with us. While walking in the direction of the south gate and on passing 'G' section lines, we noticed a station wagon and asked the driver for permission to use it. We drove along the road in the direction of the south gate when we saw a 15 cwt lorry on the bend of the road near the Canteen without tail lights. Sgt. Terry ordered me to pull the station wagon alongside the lorry to warn them about the lack of lights and upon doing so Sgt. Terry threw the beam of his flashligh on the driver of the 15 cwt who I recognized as Pte. Leblanc. Sgt. Terry and Weston got out of station wagon and Sgt. Terry ordered the prisoners to dismount. I saw Pte. Hayes get out and in the matter of a few seconds the 15 cwt lorry pulled away with Pte. Leblanc still at the wheel. Sgt. Terry and Weston returned to the station wagon and with Sgt. Terry driving started in pursuit. We came across the 15 cwt lorry about 100 yards North of the South Gate and the vehicle was empty. After searching the area without success, I returned to the H.Q. Orderly Room.

The Accused cross-examine the Witness

Q. How did you seem to see so much that night when you were the driver of the station wagon?
A. I was the driver and was sitting on the right hand side of the station wagon and our vehicle was stopped a little in front of the 15 cwt lorry and in the light of Sgt. Terry's flashlight was able to see Pte. Leblanc and Pte. Hayes.

Evans R.W. Cpl.

R-[illegible] Cpl. Evans, R.W.
No. 85 Cdn. Bridge Coy. RCASC.

FIRST CHARGE : FIFTH WITNESS

D-123309 Sgt. Weston, G.W., No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn, states :

"I am D-123309 Sgt. Weston, G.W., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

While carrying out my duties of Orderly Sergeant on 1 Nov 42, I was notified by Cpl. Evans, Orderly Corporal at about 1900 hours that two prisoners had escaped from the Guard Room. I went to the Guard Room on foot with Cpl. Evans and met Sgt. Terry on his way back from the Guard Room. The three of us decided to go to the Canteen to find out if the prisoners had been there. While passing 'G' section lines we saw a duty station wagon parked outside one of the huts. Cpl. Evans obtained permission of the driver for us to use the station wagon in our search for the escaped prisoners. We drove along the road in the direction of the Canteen and saw a 15 cwt lorry without any tail lights proceeding along road towards the south gate. We decided to warn the driver about the lack of tail lights. Cpl. Evans pulled the station wagon alongside the 15 cwt lorry and Sgt. Terry ordered it to stop. The lorry stopped on the side of the road and we pulled alongside. Sgt. Terry recognized the person in the cab of the 15 cwt lorry as one of the prisoners. Sgt. Terry and I jumped out of station wagon and ran around to the front of the 15 cwt. lorry. I recognized Pte. Leblanc who was behind the wheel of the 15 cwt lorry. Sgt. Terry in the meantime was attempting to apprehend Pte. Hayes who had dismounted from the lorry. The 15 cwt suddenly drove off in the direction of the south gate with Pte. Leblanc still behind the wheel. Sgt. Terry and I got back into the station wagon and started in pursuit. We came upon the 15 cwt parked

FIRST CHARGE : alongside the road, 100 feet north of the south gate. The
FIFTH WITNESS lights of the 15 cwt lorry were on and both doors open, and
(Cont'd) motor off. There was no sign of the prisoners in or around the vehicle. I then drove the 15 cwt back to 'B' section lines. Later I apprehended Hayes and returned him to the Guard Room but saw no further sign of Pte. Leblanc.

The Accused cross-examine the Witness

Q. Do you swear that you recognized me when you came around in front of the 15 cwt lorry when it was stopped by the station wagon?
A. Yes.

Geo Weston
D-123369 Sgt. Weston, G.W.
No. 85 Cdn. Bridge Coy. RCASC

FIRST CHARGE : D-123534 L/Cpl. Duncan, G. J., No. 85 Cdn. Bridge Coy. RCASC.,
SEVENTH WITNESS having been duly sworn, states :

"I am D-123534 L/Cpl. Duncan, G. J., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

I was Guard Commander in charge of the Guard Room on 1 November, 1942. While sitting in the Guard Room at 1830 hours, I heard the prisoners making considerable noise. As the R.P. on duty was in charge of the prisoners I did not pay much attention. Approximately at 1845 hours the R.P. Pte. Malouin came over to me and said that prisoners had escaped by the back door of the Guard Room. I immediately searched outside the building but found no trace of them. I then drove the R.P. to the H.Q. Orderly Room so he could report to the Orderly Sergeant, Sgt. Weston. I then returned to the Guard Room and continued with my duties."

The Accused cross-examined the Witness

Q. Did you look in the Guard Room when you heard the noise?
A. No.
Q. Did you have any idea if we, the prisoners were intoxicated?
A. No.

Geo. Duncan L/Cpl
D-123534 L/Cpl. Duncan, G. J.
No. 85 Cdn. Bridge Coy. RCASC

SECOND CHARGE : B-84796 Cpl. Evans, R.W., No. 85 Cdn. Bridge Coy. R.C.A.S.C.
FIRST WITNESS having been duly sworn, states :

"I am B-84796 Cpl. Evans, R. W., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

On 1 Nov. 42, I was Orderly Corporal and was ordered by the Orderly Sergeant to check the Guard Room. I was told by L/Cpl. Duncan, Guard Commander that Pte. Hayes and Leblanc had escaped. The time was 1900 hours by L/Cpl. Duncan's watch, as I asked him the time. I reported back to the Orderly Sergeant and after telling him about it, we started out to search the camp area. While on the way we met Sgt. Perry who accompanied us. When passing 'B' Section lines we saw a station wagon parked there and asked permission of the driver for use of the vehicle. On proceeding along the road in the direction of the south gate we saw a 15 cwt lorry on the

SIXTH WITNESS : D-117615 Sgt. Terry, J. H., No. 86 Cdn. Bridge Coy. R.C.A.S.C.
FIRST CHARGE

"I am D-117615 Sgt. Terry, J. H., No. 86 Cdn. Bridge Coy. R.C.A.S.C.

At about 1900 hours on 1 Nov 42, Pte. Malouin R.P. reported to me that Pte. Leblanc was missing from the Guard Room. I immediately went there and found Pte. Leblanc had made his exit via the back door. Investigations disclosed that the bolts on the outside of the prisoners' room door had been pulled and the door was still partly open when I arrived. He could not have escaped by the other end of the building as there was the R.P. and guards in that part of the building. I started to return to the H.Q. Orderly Room to notify the Orderly Officer when on the way I met the Orderly Sergeant - Sgt. Weston. Then in company with him and the Orderly Corporal - Cpl. Evans - decided that due to the shortness of time since the break had been discovered to get a vehicle and make a search in the camp area. We located a station wagon, got permission to use it from the driver and while driving through the lines in the direction of the south gate overtook a 15 cwt lorry going in same direction without tail lights. We stopped the lorry and I threw my flashlight on the driver whom I recognized as Pte. Leblanc. We got out of the station wagon and I went around to the opposite side of the 15 cwt lorry as there was someone else sitting beside Pte. Leblanc whom I thought would likely be the other prisoner Pte. Hayes who had escaped along with Pte. Leblanc. While I was busy apprehending Hayes, the lorry suddenly started away. We got back into the station wagon and started after the lorry which we found a few minutes later abandoned near the south gate. There was no trace of the prisoners in the vicinity. I then drove the station wagon back to 'G' section lines and reported to Orderly Officer at H.Q. Orderly Room.

The Prisoner cross-examined the Witness

Q. In what condition did you find the 15 cwt lorry when abandoned near the south gate?
A. It was dark and I was not able to see the condition of the lorry. The doors of the cab were closed, motor stopped and I think the head lights were on, but no tail lights.

John H Terry
D-117615 Sgt. Terry, J. H.
No. 86 Cdn. Bridge Coy. RCASC.

SECOND CHARGE: FIRST WITNESS (Cont'd)

bend of the road near the Canteen without any tail lights. On pulling up alongside the 15 cwt lorry, Sgt. Terry threw the beam from his flashlight upon the lorry and ordered it to stop. I saw Pte. Leblanc behind the wheel and Pte. Hayes sitting beside him in the spare drivers' seat. Pte. Hayes obeyed the order to dismount, and in a matter of few moments the 15 cwt lorry pulled away with Pte. Leblanc still driving. We got back into the station wagon and started off in pursuit. We found the 15 cwt lorry near the south gate without the prisoners in it. After conducting a search in the vicinity I returned with Sgt. Terry to H.Q. Orderly Room."

The Accused cross-examined the Witness

Q. Where were you when the 15 cwt lorry drove away after it had been ordered to stop?
A. I was still in the driver's seat of the station wagon.

Evans R.W. Cpl.
H-84795 Cpl. Evans, R. W.
No. 85 Cdn. Bridge Coy. RCASC

SECOND CHARGE: SECOND WITNESS

D-123369 Sgt. Weston, G. W., No. 85 Cdn. Bridge Coy. RCASC., having been duly sworn, states :

"I am D-123369 Sgt. Weston, G.W., No. 85 Cdn. Bridge Coy. R.C.A.S.C.

While carrying out my duties of Orderly Sergeant on 1 Nov 42, I was searching for Pte. Leblanc and Hayes in company with Sgt. Terry and Cpl. Evans. Were driving along the road which runs through the camp in the direction of the Canteen. We saw a 15 cwt lorry driving in the same direction ahead of us without any tail lights. We pulled alongside of the 15 cwt and Sgt. Terry ordered it to stop, which it did. Sgt. Terry recognized one of the persons in the lorry as one of the escaped prisoners. Sgt. Terry and I both jumped out of the station wagon, ran around in front of the lorry and I saw Pte. Leblanc behind the wheel with Pte. Hayes standing about 15 feet away from the lorry. Sgt. Terry went over to Hayes to apprehend him and Hayes said "Don't lay a hand on me". I then heard Sgt. Terry ask for my pistol. While taking the pistol from holster and giving it to Sgt. Terry the 15 cwt lorry drove off. As Pte. Hayes had made off in the darkness, Sgt. Terry and I got back into the station wagon and gave chase after the 15 cwt lorry. We came upon it parked about 100 feet north of south gate. The lights were on and both doors open. There was no one in the truck or the vicinity. As the vehicle was one from 'B' Section, I drove it back to the 'B' section Orderly Room, got a work ticket and used it in the search for the escaped prisoners.

The Accused cross-examined the Witness

Q. On that very dark night, from where you were standing on the left-hand side of the vehicle you swear you recognized me?
A. Yes.
Q. How were you able to recognize me?
A. From the glow of the headlights of the station wagon, 15 cwt lorry and the flashlight I was carrying at the time. I passed within 2 feet of you Pte. Leblanc sitting behind the driving wheel of the 15 cwt lorry.
Q. Did you shine your flashlight directly into my face?
A. I don't remember whether I shone it directly in your face or not.

Geo Weston
D-123369 Sgt. Weston, G.W.
No. 85 Cdn. Bridge Coy. RCASC

SECOND CHARGE : D-117615 Sgt. Terry, J. H., No. 88 Cdn. Bridge Coy. RCASC.
THIRD WITNESS having been duly sworn, states :

"I am D-117615 Sgt. Terry, J. H., No. 88 Cdn. Bridge Coy. R.C.A.S.C.

While searching for Pte. Leblanc who had escaped from custody at some time between 1900 hours and 1930 hours on 1 Nov 42, in company with Sgt. Weston and Cpl. Evans we overtook a 15 cwt lorry while driving along the road in the camp in a station wagon. We stopped the 15 cwt lorry as it had no tail lights and I discovered upon throwing the beam of my flashlight in the cab, Pte. Leblanc sitting behind the drivers' wheel. I got out of the station wagon, went around to the far side of the lorry where there was another person sitting beside Pte. Leblanc who I thought might be the other prisoner, Pte. Hayes. While I was apprehending Pte. Hayes who had dismounted, the 15 cwt lorry suddenly drove off in the direction of the south gate. Pte. Hayes bolted away in the darkness running after the 15 cwt lorry. We got back into the station wagon and gave chase. We found the lorry a few minutes later abandoned near the south gate with no sign of the prisoners in or around the 15 cwt. Sgt. Weston drove the 15 cwt lorry back to 'B' section lines.

The Accused cross-examine the Witness

Q. When you discovered it was me, Pte. Leblanc, sitting behind the wheel, why did you not come to get me instead of going to the opposite side of the lorry?

A. To cover the other side of the lorry as Sgt. Weston and Cpl. Evans were behind me. I said to Sgt. Weston you take this side and I will go to the opposite side.

John H Terry
D-117615 Sgt. Terry, J. H.
No. 88 Cdn. Bridge Coy. RCASC.

Question to the Accused -

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused -

I wish to make a statement.

Statement by the Accused, F-77889 Pte. Leblanc, W.C.

F-77889 Pte. Leblanc, W.C., No. 88 Cdn. Bridge Coy. R.C. A.S.C., having been duly sworn, states :

"I am F-77889 Pte. Leblanc, W.C., No. 88 Cdn. Bridge Coy. R.C.A.S.C.

On Sunday afternoon at approximately 1400 hours on 1 Nov. 42, we the prisoners left the Guard Room for the NAAFI under escort of Pte. Grolsen. We sat down in the Canteen and drank some beer, up until approximately 1630 hours. I remember coming back to the Guard Room under escort, but I do not remember what took place after that time until the next morning when I found myself in the Y.M.C.A. in Croydon. I stayed in Y.M.C.A. Croydon for four days and then gave myself up to the Civil police at Croydon. If I had of wanted to run away before at any time in the daytime, I could have done so, but the idea had never entered my head. It would have

Statement by the Accused - (Cont'd)

been very foolish on my part as I had only 30 days sentence to serve.

W. C. Leblanc

F-77889 Pte. Leblanc, W. C.
No. 85 Cdn. Bridge Coy. RCASC.

THIRD CHARGE FIRST WITNESS : Lieut. R. G. Davidson, Adjutant, No. 85 Cdn. Bridge Coy. R.C.A.S.C. having been duly sworn, states :

"I am Lieut. R. G. Davidson, Adjutant, No. 85 Cdn. Bridge Coy. R.C.A.S.C.

On 1 Nov 42 it was reported to me that Pte. Leblanc and Hayes had escaped from the Guard Room at approximately 1900 hours. A search was immediately made and Pte. Hayes was apprehended, but Pte. Leblanc was not found. At 2300 hours on 6 Nov 42 he gave himself up to the Civil Police at Croydon and was returned to the No. 85 Cdn. Bridge Coy. R.C.A.S.C. on 7 Nov 42 by No. 6 Company Cdn. Provost Corps."

I submit the following documentary evidence:

APPENDIX "A" : Statement of Witness by Metropolitan Police, Croydon.
APPENDIX "B" : Certificate of Surrender to Civil Police of a deserter or absentee without leave.
APPENDIX "C" : Certificate under the Army Act, Section 163 (I) (J).
APPENDIX "D" : Letter of # 6 Coy. Cdn. Provost Corps. File No. 15/55.

The accused declined to cross-examine the witness.

R. G. Davidson

(R.G. Davidson) Lieut & Adjt
No. 85 Cdn. Bridge Coy. RCASC

I certify that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Taken down by me in the presence of the accused at Marden Park, Woldingham, Surrey, this 16th. day of November, 1942.

H C Hawes Lieut

(H.C. Hawes) Lieut.,
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

LIST OF WITNESSES

PROSECUTION

D-121938 Cpl. Huard, W.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

D-123160 Pte. Malquin, G.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

D-123463 Pte. Groleau, C. J.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

B-84795 Cpl. Evans, R. W.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

D-123369 Sgt. Weston, C. W.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

D-123534 L/Cpl. Duncan, G. J.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

D-117615 Sgt. Terry, J. R.
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

Lieut. R. G. Davidson - Adjutant
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

N. Rhodes, Police Constable - "D" Div., Croydon.

No. 85 CDN. BRIDGE COY. R.C.A.S.C.
CANADIAN ARMY OVERSEAS

19 Nov 42

I, F-77889, Private LEBLANC, William Charles, desire to have an officer assigned to represent me at my trial by Field General Court Martial.

W C LeBlanc.
F-77889 Pte. LeBlanc, W.C.
No. 85 Cdn. Bridge Coy. RCASC.

Exhibit G

No. F-77889 Name LEBLANC, W.C. Sqn., Battery, or Company 85 Cdn. Bridge Coy. R.C.A.S.C. Corps R.C.A.S.C. Date of enlistment 8-4-41 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 17534—7-41 (1219-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service in accordance with C.A.O.R.O. 319								NO ENTRIES	
Field	5-1-42	Pte		Conduct to the prej. &c	Documentary	Drivers card cancelled until he has compltd 2 wks M.T. Trng in driving.	16-1-42	O.C.	
Field	29-8-42	L/Cpl		A.W.L. (9½ hours)	L/Cpl Gosselin	Reduced to perm rk of Pte. 1 days pay	3-8-42	O.C.	1 days pay
Field	27-10-42	Pte		(1) A.A. Section 11 (2) A.A. Section 40		30 days det.	28-10-42	F.G.C.M.	Forf 30 dys under FRAI149(1)(b) Forf 48 dys under FRAI149(1)(e)(i)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy 19-11-43 (R.S. Davidson) Lieut & Adjt No. 56 Cdn. Bridge Coy. R.C.E.C.A.S.F.	A.M.				

EXHIBIT F

M.F.R. 355
12M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-77889	Pte.	Lehlume, W.C.	No. 85 Cdn. Bridge Coy. R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment
For	times	Conduct to the prej &c	1 times
For	times	Absent Without Leave	1 times
For	times		times
For	times		times

~~number of instances of gallantry or distinguished conduct~~

or,

~~there are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

~~The accused is not under sentence at the present time~~

or,

The accused at the present time is under sentence for 30 days beginning on the 28th day of October, 1942

4. ~~The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and days in military custody, making a total of days in custody, of which days were spent in hospital.~~

5. The present age of the accused according to ~~his return of service~~ attestation paper is 22 years, 6 months

6. The date of ~~his~~ attestation specified in ~~his return of service~~ attestation paper is 8 April, 1941

~~The service which the accused is allowed to reckon towards discharge is~~

~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State which~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number F-77699 Rank Pte.

Name Leblanc, W. C. of No. 85 Cdn. Bridge Coy. R.C.A.S.C. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	27 Oct. 1942	A.A. Section 11 A.A. Section 40	30 days	NIL

Certified Copy

R. G. Davidson Lieut.
Adjt. No. 85 Cdn. Bridge Co. R.C.A.S.C.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th. day day of November, 1942 (R.G. Davidson) Lieut & Adjt
No. 85 Cdn. Bridge Coy. R.C.A.S.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

50-10

Pte. Leblanc, W.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-145368 - Pte LeBlanc, W.E.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. Sec 40(2)	Guilty	Guilty	
2nd	A.A. Sec. 40	Guilty	Guilty.	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~N.A.D.~~ present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 42 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for six months.

(Sgd) K. Y. Dick, Capt (Judge-Advocate, if any.) 4 Jun '45 (Date awarded.) (Sgd) [illegible] (President.) (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-76[illegible], KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Remission of detention as awarded

I confirm.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 7 June 45 (Sgd) Lawrence Macdonald. Commanding 5 Can Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-145368 Pte LeBlanc W.E	8 JUN 45	J.H. Worden. Lieut A/Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 50-10

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA86) 40/P & S/1698 (40/P) 4/38B

Convened by Order of Brig. W. J. Megill Comd 5 C.I.B. dated 3 June 45.

RECEIVED 26 JUN 1945 D.J. Can. Sec. 1

PROCEEDINGS REVIEWED 29 June 45 Wm Shaw Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 21 Army Gp. Can. Sec. 1

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 145368	Pte		Wilbur Edmond	LeBlanc	R.H.C.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 4 June '45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

33/102

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the Court is closed. K.Y.D.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1135 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) K.Y.D.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans K.Y.D. ~~The Interpreter is sworn.~~(1) Do you object to H 103 61 Pte C.D. Dent as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: K.Y.D.

President	Major	J.N. Mathieu	R. de Mais
Member	Capt.	W.B. Donnelly	H.Q. 5 C.I.B.
Member	Capt.	H.W. Mole	17 L.A.D. RCEME
Judge-Advocate	Capt.	K.Y. Dick.	Cdn Sec HQ 21 Army Gp.
Prosecutor	Lieut	D.H. Cownie	R.H.C.
Defending Offr	Capt.	C. Nadeau	R.H.C.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused D145368 Pte LeBlanc before arraignment make(s) (no) ~~X~~ plea. K.Y.D. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, ~~Court~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B on B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115*).

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Sent Mc Kellar, as a character witness.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously omitted which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1st BN THE BLACK WATCH (RHR) OF CANADA

MEDICAL OFFICER'S CERTIFICATE

I have this day examined D-145368 Pte LEBLANC W.E.
1st Bn The Black Watch (RHR) of Canad

and find him fit to undergo trial by Field General Court Martial.

4 Jun 1945

Capt M.O.

LT COL

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(5).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-145368	Pte		Wilson Edmond	LEBLANC	R H C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Jun 45 endorsed by me, (a copy of which is hereunto annexed) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not practicable that the trial of the accused by a General Court-Martial should be held without delay.]

(Delete part in brackets when not required for compliance with RP 103(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I do hereby appoint the above-named Officer [or Officers] to be Deputy Judge-Advocate [or Deputy Judge-Advocates] for the purpose of the said trial.]

(AA 49, RP 104(E), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 104(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.N. Mathieu (Must be named. RP 104.)	R de Mais (Unit.)

MEMBERS.

Captain	W.G. Donnelly	Hq 5 Cdn Inf Bde
Captain (Rank.)	H.W. Mole (Named or detailed. RP 104.)	17 L.A.D., RCEME (Unit.)

WAITING MEMBER.

Captain (Rank.)	F.D. Bourcier (Named or detailed, if any. RP 104.)	Hq 5 Cdn Inf Bde (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	K.Y. Dick (Must be named, if any. RP 104.)	Cdn Sec 1 Sch 21 Army Gp (Unit.)

On Active Service in the Fd

in GERMANY (Country.)

(Signed pursuant to RP 103(C) & 21) Brigadier (Rank.)

(W.J. Megill)

Date 2 Jun 45 Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CP(AS) (2s 2ms of AFA2) 40-9-45-(HP 1400)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

THE ACCUSED, D.145368 PTE WILSON EDMOND LEBLANC, 1st BATTALION, THE BLACK WATCH (RHR) OF CANADA, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:-

FIRST CHARGE
SECTION 9(2)
ARMY ACT

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, in GERMANY, at 1700 hrs on 22 Apr 45 when ordered to go and get his weapon by Lieut S S McKellar, his superior officer, refused to do so and did not do so.

SECOND CHARGE
SECTION 40
ARMY ACT

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in GERMANY, at 1500 hrs on 22 Apr 45, when withdrawing as ordered, abandoned his firearms in a ditch.

R J [signature] A/May

In the Field
May 45

A/Officer Commanding
1st Bn The Black Watch
(RHR) of Canada

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
May 45

(S.W. Thomson) Lt-Col
A/Comd 5 Cdn Inf Bde

To be tried by F.G.C.M.
[signature]
Comd 5 Cdn Inf Bde

2 June 45 -

Field General Court-Martial

case of

D.145368 Pte Leblanc, W.E., RHC

E-1 Lt S.S. McKellar, Support Company RHC, having been duly sworn states:

"I am Lt S.S. McKellar, of Support Company, 1 RHR."

Q. At the time that the accused committed the offence for which he pleads guilty were you in Support Company?

A. No; I was in ten Platoon, "B" Company.

Q. How long had the accused been under your command in Ten Platoon when he committed the offence for which he is charged today?

A. I don't exactly remember. He came to me at Holten.

Q. Can you give us the approximate time?

A. Approximately three weeks.

Q. Had he been in action before he committed the offence on 28 Apr 45?

A. Yes, but not against serious opposition.

Q. Did the accused, while under your command until the day of the offence, give signs of insubordination or did you have to deal with him on this charge of insubordination during the period he was under your command?

A. No. His behaviour as a soldier was exemplary as to his superior officers.

Q. Did you notice the condition of the accused at the moment of the offence?

A. He looked normal. I questioned him as to whether or not he was feeling well to find out why he made the statement refusing the order. His face and conduct showed no change from his normal behaviour or manners.

Q. In that particular action when the platoon had been out and the men were ordered to pull back, did they come under heavy fire?

A. Yes.

Field General Court-Martial

case of

D.145368 Pte Leblanc, W.E., RHC

E-3 STATEMENT OF ACCUSED

"As I have said before to Captain Powers, my physical condition at that time did not allow me to carry the PIAT any further. That is all, Sir."

Field General Court-Martial

case of

D.145368 Pte Leblanc, M.E., RHC

E-3 PLEA IN MITIGATION

"On behalf of the accused as Defending Officer, I should like to back the statement of the accused to the effect that there must have been something wrong with his physical condition to cause him to commit the offence for which he is charged. The service of the accused has been one year in the Army and his records are absolutely clean. There is no entry on the accused's MFM 6 and Mr McKellar's statement shows that the soldier's behaviour has always been exemplary. Another thing I should like to bring up is the fact that the accused worked for fifteen years in civilian life. Long before joining up his employment was continuous. He worked for three different firms. One was T. Eatons where he worked for seven years. I think that this, together with the testimony of Mr McKellar and the accused's MFM 6 go to show that his character is very good. There must have been something wrong for the accused to balk and commit the offence for which he is charged. At the time the offence was committed the accused was placed under arrest and sent into detention. There was no physical examination, no mental test done at the time and I feel quite sure that, had the accused been normal, physically and mentally, he would not have committed the offence for which he is charged today."

"The accused is single and supporting his mother. He has a pay assignment of twenty dollars a month. I checked it myself and his pay book shows this assignment."

BY THE COURT

Q. Is his mother a widow?

A. Yes.

Q. What was his employment at Eatons?

A. He was employed as a clerk, Sir.

Q. What other two firms had he worked for in Canada?

A. Furness Withie Company and the RAF Transport Company which operated in Canada.

Q. Had the accused been granted any deferments?

A. Yes; four or five times, Sir.

Re D-145368 Pte Leblanc - F.G.C.M.

Court adjourns at 1200 hrs.
Court reassembles at 1435 hrs. the same members being present.

Ex. 4

SUMMARY OF EVIDENCE

In the case of D 145368 Pte Leblanc, W.E., 1st Bn The Black Watch (RHR) of Canada, a soldier in the Canadian Army Active Force is charged with:

1. A.A.Sec 9 (1): W.O.A.S. REFUSING IN SUCH A MANNER AS TO SHOW WILFUL DEFIANCE OF AUTHORITY A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER in that he at 1700 hrs 22 Apr 45 refused to go and get his weapon when ordered to do so by Lieut S.S. McKellar.

2. A.A. Sec 40: W.O.A.S. NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE in that he at 1500 hrs 22 Apr 45 when ordered to withdraw did so without his fire arm.

The Commanding Officer directs that the evidence be taken on Oath.

FIRST WITNESS:- Lieut S.S. McKellar, "B" Coy, 1st Bn The Black Watch (RHR) of Canada, having been duly sworn states:-

I was platoon commander of number 10 platoon on the 22 Apr 45. D 145368 Pte Leblanc, W.E. was my number one man on the Piat at that time. At approx 1500 hrs 22 Apr 45 we were ordered to withdraw from a building we were holding to the other side of the canal. D 145368 Pte Leblanc, W.E. started out with his piat but left it in the ditch on the way to the canal. At 1700 hrs I formed a party to retrieve the piat and I detailed D 145368 Pte Leblanc, W.E. as a member of that party. He said "I am not going". I cautioned him as to the action that would be taken and gave him another opportunity of accompanying the party. He refused again so I placed him under close arrest.

Q.1 Did Pte Leblanc add anything to his refusal either by an act or gesture?

A.1 No, to the best of my knowledge he said "I am not going, you can do what you like about it, but I am not going out there again."

The accused declines to cross examine the witness.

S.S. McKellar
Lieut S.S. McKellar

SECOND WITNESS: B 163555 Cpl Hines, S.A., 1st Bn The Black Watch (RHR) of Canada, having been duly sworn states:-

On the 22 Apr 45, I was number 2 section leader of number 10 platoon. At approx 1630 hrs, I was in charge of the party formed to retrieve weapons which had been left behind on our withdrawl. A Piat had been left behind by D 145368 Pte Leblanc. When ordered to accompany the party by Lieut S.S. McKellar, D 145368 Pte Leblanc refused to do so. I took the party out and brought back the weapon which had been left behind by Pte Leblanc.

Q.1 How do you know that D 145368 Pte Leblanc was ordered to be on the retreiving Party?

A.1 I know that Pte Leblanc was supposed to be on the retreiving party because I heard Lieut S.S. McKellar name off the list of men for the party and D 145368 Pte Leblanc, W.E. name was called. After the list was made up Pte Leblanc refused to accompany the party and Lieut S.S. McKellar then placed him under close arrest.

The accused declines to cross examine the witness.

S.A. Hines
B163555 Cpl

The accused is cautioned:

"Do you wish to make a statement or to give evidence on oath? You are not obliged to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A.1 I wish to make a statement.

Q.2 On oath or not on oath?

A.2 On oath.

The accused having been duly sworn states:-

Under the circumstances it was impossible to return with the Flat without endangering the lives of my comrades and myself and I might also state that my physical condition at that time would in itself be sufficient reason for leaving it back.

The accused does not call any witnesses at this point.

I certify that the foregoing summary of evidence, consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (c)(d)(e)(f) have been complied with.

In the field

this 30th day of APr 45.

(A.J. Powers) Capt
Officer detailed to take the Summary

I do/~~do not~~ wish to have an officer appointed by my Commanding Officer to defend me at my trial by Field General Court Martial.

unspecified
Name of Officer if available.

J. E. L. Blanc D-145368
Pte

Witness

[signature] Capt.
1st Bn The Black Watch
(RHR) of Canada.

Offr to be detailed when Court convened.

[signature] Capt. & Adjt.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-145368	Pte	Leblanc W.E.	1st Bn The Black Watch (RHR) of Canada.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For n/a ____ times.

For (Supplementary MFM 6) ____ times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet n/a

Date of last entry in Field Conduct Sheet n/a

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. n/a

*Strike out if not applicable.

*3. The accused at the present time is under sentence for n/a beginning on the n/a day of n/a

4. The accused has been awaiting trial on the present charges for 8 days days in civil custody; and for 8 days days in military custody, *i.e.*, n/a days in open arrest, 8 days days in close arrest; of which n/a days were spent in hospital.

5. The present age of the accused is 30

6. The date of his attestation is 25 May 44

7. The service which the accused is allowed to reckon is 11/12 yrs

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ n/a

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of n/a	
In the war substantive rank of n/a	
In the acting rank of n/a	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(*28972) Wt.30721/3701 35,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		n/a		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 1st day of June 45

Capt. AA
OIC Records 1 R.H.C.

No D145265 Name Leblanc WE | Sqn, Battery or Company | Corps C I C | Date of enlistment 25/5 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Supp Sheet.					
				Certified true copy of Record held in my possession					
				[signature] Capt Adjt. OIC Records 1 RHC					

(PTO)

HD.30

SPR- LEBANO J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-100386 SPR JOSEPH LEBANO, 8CDN FD SQN RCE.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st SEC 19.	GUILTY	GUILTY	
2nd SEC 6(3)(d)	GUILTY	GUILTY	
3rd SEC 6(3)(d)	GUILTY	GUILTY	
4th SEC 40	GUILTY	GUILTY	
5th SEC 40	GUILTY	GUILTY	
6th SEC 40.	GUILTY	GUILTY	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To present unless sentenced for~~ ~~One~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for One year.

(Sgd) ..... 13 Oct 44 (Sgd) R. F. Willson Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 46.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding ..... Div.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For Duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be sent committed to prison or detention barracks for the term of~~ (1)

(1. AA 57A. Delete if not used.)

Date 14 Oct/44 (Sgd) A.R.B. Lt Col
Commanding CRE 4 Cdn Armd Div
Confirming Officer.

Date 13 Nov 44

Court Reviewed

File illegibility or irregularities such as would warrant withholding confirmation.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-100386, Gnr. Lebano, J.	16 Oct 44.	W. W. Allen Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT GHQ IN AD 100 40-30

FIELD GENERAL COURT-MARTIAL

Convened by Order of LT COL J R B JONES Comd RCE 4 CDN ARMD DIV dated 10 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100356	SPR	JOSEPH LEBANO	8 CDN FD SQN RCE	

PROCEEDINGS REVIEWED 16 NOV 44
H. C. Lamb Capt.
REVIEWING OFFICER, JAG BRANCH, CANADA

PROCEEDINGS REVIEWED Date 2 Nov 44 J.A.G. G.H.Q. 21 Army Gp

JCHC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 13 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/38

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	R.F. WILLSON	LINCOLNSHELL'D R.
Member	A/CAPT	E.V.S BIGNELL	22 CDN ARMD REGT
Member	LIEUT	F.N FERGUSON	19 CDN ARMD FD REGT
Judge-Advocate			
Prosecutor	CAPT	M. TURNER.	8 CDN FD SQN. R.C.E.
Defending Offr	LIEUT	A.B. McADAM	8 CDN FD SQN. RCE

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment makes(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

V 3 No 21

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(3) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(3) fn 2 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea unit, if changed to Not Guilty, try such charge(s) by use of paras D1 to D6 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.))

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement of and Conduct Sheet of, and in mitigation of punishment?(1) Ans. Yes through my defending Offr. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RJh

CHARGE SHEET

The accused No. C-100386, Spr. Joseph Lebano, 8 Canadian Field Squadron, Royal Canadian Engineers, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE: WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

In the Field, on 30 Sep.'44 was drunk.

SECOND CHARGE: COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING.

in that he

when in BELGIUM, between 2200 hours and 2330 hours, on 30 Sep.'44, assaulted Mrs. Marie Brandt of MALDEGEM, an inhabitant of BELGIUM.

THIRD CHARGE: COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING.

in that he

when serving in BELGIUM, between 2200 hours and 2330 hours on 30 Sep.'44, assaulted Mr. Maurice R. Van Hulle of MALDEGEM, an inhabitant of BELGIUM.

FOURTH CHARGE: DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

In the Field, on the night of 30 Sep.'44 forced his way into the home of Mrs. Marie Brandt and then searched the house without lawful excuse.

FIFTH CHARGE: DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

In the Field on the night of 30 Sep.'44 forced his way into the home of Mrs. Margriet Vandenbriele.

SIXTH CHARGE: DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

In the Field on the night of 30 Sep.'44, pointed a revolver at B-68754, L/Bdr. Thompson, H., 3 Bty. 5 A/Tk. Reg't., R.C.A. and at the same time uttered the words "Keep away from me".

W.H. Allan Maj

(W.H.C.W. Allan) Major, R.C.E.
Officer Commanding
8 Cdn. Fd. Sqn., R.C.E.

In the Field
5 Oct '44.

To be Tried by F.G.C.M.

7 Oct/44

Lt Col
A/Comd Div

RHR

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFA3)
40/Pam/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100386	Spr		Joseph	LEBANC	8 Cdn Fd Sqn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 10 Oct 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	R. F. WILLSON		Linc & Welld Regt

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
A/Capt	E. V. S. BIGNALL		22 Cdn Armd Regt
Lieut	F. N. FERGUSSON		19 Cdn Army Fld Regt RCEME

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D. CAMPBELL		10 Cdn Inf Bde Wksp

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date: 10 Oct 44

Commanding CRE 4 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

RJM

MEDICAL OFFICER'S REPORT

I certify that I have this day examined

No. C-100386 Spr. Lebano, J. of 8 Cdn Fd Sqn RCE

and he is in my opinion Fit to undergo

Trial by Court Martial.

H. A. Lee Capt.
Medical Officer

Station Field

Date 13 Oct. '44.

Plea of Mitigation in the case of RJM
C 100386 Spc. Joseph Lebano.

My client has made a plea of guilty to the charges as read. In his defense I would like to put forth their explanation of the case.

On 30 Sep 44 the accused had just returned from duty and having a free night went to the town of Maldegem for entertainment. After going on a sight seeing tour and visiting several cafes where they had five or six drinks of cognac and a similar number of beer and at one cafe bought a bottle of liqueur they found that the cafes were closed and were still desirous of having some beer to drink. They were informed that at the cafe Derna they could still buy beer but that the owners were pro Naxi. They proceeded there and when they had rapped at the door the lady appeared to be very excited and there was a scurrying in the back ground. Remembering the warning they had had they decided to search the house for possible enemy agents. Due to being unable to converse with the inhabitants of the cafe their intentions were obviously not understood and the result was that the people thought they were after them. The actions of the owners in making no outcry or summoning any outside assistance leads one to believe that the accused had sound cause for his suspicions. The accused is unable to speak French and any French that he had picked up in the passage through France would be insufficient to make himself understood in any way.

After leaving the cafe Derna the accused

and his companion became separated and the accused enquired at the cafe at 79 Churchill St as to his way home. The lady of the house not being able to converse with him for the same reason as before mistook his actions for desiring more beer and cognac. It was at this point that Sgt Anderson and the Provost Corps picked him up.

In judging this case I would like the court to take into consideration the fact that the accused has been working quite hard throughout the drive from Seine and a large part of the work has taken place at night and it is understandable that when a night out is had there is a tendency to overdo things a bit. Also the fact that Maldegen is reputed to be a hotbed of Pro Nazis and even soldiers passing through the town do so with caution.

13 Oct 44

V S McAdam Lt R.C.E.
8 Cdn Fd Sqn R.C.E.

Exhibit "A" R.T.H.

Summary of Evidence in the case of No.C-100386 Spr. Lebano, J., 8 Canadian Field Squadron, Royal Canadian Engineers, Canadian Army Overseas, charged with (1) Committing an offence against the person of a resident in the Country in which he was serving (A.A. Sec.6(3)(d).

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS Mrs. Marie Brandt, Cafe Derna, 93 Churchill Street, Maldegem, Belgium(housewife and cafe proprieteress) sworn, states:-

I am Mrs. Marie Brandt and I live at Cafe Derna, 93 Churchill Street, Maldegem, Belgium. At about 1930 hrs., 30 Sep. 44, two Canadian Soldiers, whom I now recognize as Sprs. Solari and Lebano entered my Cafe. They had a bottle of liquor with them, stayed only a few minutes, and then left. At about 2200 hrs. that same evening, two soldiers came to my Cafe and knocked on the door demanding entrance, saying they were members ofthe Military Police. I opened the door and recognized the two as Solari and Lebano. They pushed their way indoors and both pointed revolvers at me. From what he said, I gathered that Solari wanted to go upstairs to find my two daughters. Solari started to go upstairs, and my Son, Maurice Van Hulle asked him what he wanted. Solari then went into my Son's room, which is upstairs, and while he was there, my two daughters came downstairs and went out the front coor. My son then came downstairs with Solari. The two soldiers were angry when they did not find my daughters. Solari, pointing his revolver at me, then forced me to go upstairs. Apparently, he was still looking for my daughters for he took me into their room. Then he pushed me against the bed and grabbed me by the arms. I broke loose and came downstairs. Both the soldiers went into the kitchen, and after a few minutes they forced my son and me to go out with them and search the sheds for my daughters, and also for my husband. When we came back in the house they again wanted to search upstairs for my daughters. Lebano appeared to be giving orders to Solari and called him "Captain". Solari then took me to search a room behind the bar. He again tried to push me onto the bed and grabbed me around the shoulders. I managed to get away. He followed me into the kitchen and the two soldiers then started to drink from their bottle of liquor. They sat there drinking for about half an hour; then left by the front door at about 2330 hrs. Both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano, and Solari was so sick he vomited just before he left. I shook hands with both soldiers before they left just to get rid of them.

Cross-examined by accused:-

Q. Do you understand English?

A. Only a few words.

Q. What made you think I said I was a member of the Military Police?

A. Either you or Solari, I don't know which, called out the words "police, police".

Marie Brandt

Marie Brandt.

Certified true interpretation.

Albert Van den Busche

Albert Van den Busche.

SECOND WITNESS Mr. Maurice R. Van Hulle, Cafe Derna, 93 Churchill Street, Maldegem, Belgium(bachelor; unemployed) sworn, states:-
I am Maurice R. Van Hulle, living at Cafe Derna, 93 Churchill Street, Maldegem, Belgium, and Marie Brandt is my mother. At about 1915 hrs., 30 Sep. 44, two Canadian soldiers whom I now recognize as Spr. Solari and Spr. Lebano entered the Cafe Derna, which is run by my mother. They had a bottle of liquor in their possession. At about 1930 hrs., they left the Cafe. At about 2215 hrs. that same evening, Lebano and Solari returned to the Cafe and entered the building. I saw Solari coming upstairs, and asked him, in French, what he wanted. He pointed a revolver and replied something in English which I did not understand. He kept on talking and I gathered that he was looking for my two sisters, who I knew were in their room. I pointed out to Solari my sisters' room, told them to unlock the door and come out. Solari and I stood one on each side while my sisters passed through and went downstairs. Solari and I then entered my sisters' room where Solari looked around and turned over the mattress. Then we went into my room and as I was not fully attired, I finished getting dressed. We then went downstairs to the kitchen. There was no sign of my sisters nor of my father. My Mother, Solari and Lebano then went outdoors with me to the yard, where Lebano told me, in French, that if I did not find my father in five minutes, he, Lebano, would shoot me. We searched the woodshed and called for my father, but we could notfind him. All this time, Lebano was threatening my mother and me with his revolver. Solari then went back into the house and by the time he came back a few minutes later, Lebano had calmed down. We all returned to the kitchen, and both the soldiers and I sat down. Lebano started to drink some liquor from a bottle he was carrying. At this time, Solari would not drink. From his speech, I gathered Solari wanted to go upstairs to search for the girls, so my mother went upstairs with him. Solari, at this time, as far as I could see, was not threatening my mother with a revolver or by any other means. I did not see nor hear Solari nor my mother until they returned to the kitchen a short time later. My mother then whispered to me that Solari had tried to push her against a bed but that she had struggled free. Solari was then sick and vomited. Shortly afterwards, my mother and Solari again went out of the kitchen. They returned a couple of minutes later, and my mother told me that they had been in her room and that Solari had attempted to push her on her bed. A few minutes later Solari and Lebano left the house and I did not see either of them again until I identified Lebano and Solari at identification parade on 1 Oct. 44 at 1330 hrs., and 1645 hrs., respectively. While in my house, the Cafe Derna, on 30 Sep. 44, both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano. I do not understand English.

The accused declines to cross-examine this witness.

Maurice R. Van Hulle.

Maurice R. Van Hulle.

Certified true interpretation. Albert Van den Busche

Albert Van den Busche.

THIRD WITNESS Mrs. Margaret Van Denbriele, 79 Churchill Street, Maldegem, Belgium(cafe proprietress) sworn, states:-
I am Mrs. Margaret Van Denbrierle and I live at 79 Churchill Street, Maldegem, Belgium, where I operate a cafe. At approximately 2330 hrs., 30 Sep. 44, a Canadian soldier, whom I now recognize as Spr. Lebano, knocked on the front door of my cafe. As I was in bed at the time I got up and looked out the upstairs window, and asked in French, what he wanted. He was waving a revolver in his hand, and, in broken French he demanded entry into the cafe, saying that if he did not get in, he would shoot his way in. After some minutes I went to the door, let him inside, and asked him what he wanted. From his speech I gathered he wanted beer and cognac. A few minutes after I let him in, the Canadian Military Police arrived and took Lebano away. Lebano did not take any offensive action against me other than to threaten me with his revolver just before I let him into the Cafe. All he did was ask for beer or cognac. I do not know whether or not he was under the influence of alcohol.

The accused declines to cross-examine this witness.

Margriet Vandenbriele

Mrs. Margaret Van Denbriele.

Certified true intrepretation.

Albert Van den Busche

Albert Van den Busche.

FOURTH WITNESS B-40555 Sgt. Anderson, N., Lincoln and Welland Reg't. sworn states:-
I am Provost Sergeant of the Lincoln and Welland Regiment. On 30 Sep. 44 at about 2330 hrs., I received a telephone call from Support Coy., Lincoln and Welland Reg't. stating there were two drunken soldiers outside the gate of their headquarters in Maldegem. I proceeded to Support Coy. H.Q. and the sentry on the gate states that one soldier had run away, and that the other one was down the street breaking windows. I found the latter, whom I now recognize as Spr. Lebano, 8 Cdn. Fd. Sqn. R.C.E. He had obviously been drinking, and was in possession of a revolver which he had in his hand pointing it towards me. I asked him his name which he refused to give. I told him to put the revolver away which he did after I told him I was going to lock him up. I noticed a window of one of the doors of a house was broken and glass lying on the sidewalk. I left Lebano where he was and proceeded to the Canadian Provost Corps detachment in Maldegem, and reported the circumstances to the patrol on duty, who apprehended him.

The accused declines to cross-examine this witness.

B-40555 Sgt. Anderson

B-40555 Sgt. Anderson, N.

FIFTH WITNESS B-68754 L/Bdr. Thompson, H., 3 Bty., 5 A/Tk. Reg't., Royal Canadian Artillery, sworn states:-
I am a L/Bdr. in 3 Bty., 5 A/Tk. Reg't., R.C.A. On 30 Sep. 44, I was billetted in a house in Maldegem. At approximately 2345 hrs. that date I heard a window being broken in the near vicinity of my billet, and a few minutes later, the lady of the house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier was standing in the yard directly below the front door, with a revolver in his hand. I approached this soldier, whom I now recognize as Spr. Lebano, 8 Cdn. Fd. Sqn. R.C.E., to find out who he was and to what unit he belonged, when he pointed the revolver at me saying "Keep away from me". As I kept approaching him he backed away keeping me covered with the revolver at the same time I kept approaching him until he reached the road where, with the help of a Sergeant from the Lincoln and Welland Regiment, he was stopped, and questioned. Spr. Lebano was slightly under the influence of alcohol.

The accused declines to cross-examine this witness.

B-68754 L/Bdr. Thompson, H.

SIXTH WITNESS L-107865 Gnr. Bourassa, L.L., 3 Bty., 5 A/Tk. Reg't., Royal Canadian Artillery, sworn states:-
I am a gunner in 3 Bty., 5 A/Tk. Reg't., R.C.A. On 30 Sep. 44, I was billetted in a house in Maldegem. At approximately 2345 hrs. that date the lady of the house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier, whom I now recognize as Spr. Lebano, 8 Cdn. Fd. Sqn. R.C.E., was standing in the yard directly below the front door, with a revolver in his hand. I went to the door, accompanied by L/Bdr. Thompson, who went outside to question the soldier, who appeared to be under the influence of alcohol.

The accused declines to cross-examine this witness.

L-107865 Gnr. Bourassa, L.L.

SEVENTH WITNESS G-48723 L/Cpl. Allingham, F.S., 8 Cdn. Pro. Coy., sworn states:-
I am a military policeman in 8 Cdn. Pro. Coy. On 30 Sep. 44, at approximately 2350 hrs. I was on roving Jeep patrol, accompanied by L/Cpl. Johnson, in the Town of Maldegem when B-40555 Sgt. Anderson, N., provost Sergeant of the Lincoln and Welland Reg't. reported to me that a Canadaian soldier was creating a disturbance in a Cafe on Churchill Street, Maldegem. Accompanied by L/Cpl. Johnson, I proceeded to this Cafe and upon arrival, I saw a Canadian soldier, whom I now recognize as Spr. Lebano, 8 Cdn. Fd. Sqn. R.C.E., outside the Cafe, talking to a woman, Mrs. Nan Denbriele, who was crying. Sgt. Anderson informed me that Spr. Lebano was the soldier who had been creating a disturbance in that vicinity. I placed Spr. Lebano under close arrest, removed a bottle of liquor and a revolver from his person and escorted him to the town hall, from where he was escorted to his own unit.

SEVENTH WITNESS Cross-examined by accused:-

Q. Was the revolver you took from me loaded?

A. No.

F Allingham

C-48723 L/Cpl. Allingham, F.S.

The accused was cautioned as follows:-
Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down by me in the presence and hearing of the accused this 4th day of October, 1944, and that RP 4(c), (d), (e), (f) and (g) have been complied with.

M. Turner

M. Turner, Capt., R.C.E.
8 Cdn. Fd. Sqn. R.C.E.

Exhibit "B" [illegible]

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-100386	Spr.	Lebano, J.	8 Cdn. Fd. Sqn., R.C.E.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15 (1) 2 times.

For A.A. Sec. 40 1 times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet 4 Mar.'43.

Date of last entry in Field Conduct Sheet 15 Sep.'44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~[illegible]~~

~~[illegible]~~ ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 13 days in military custody, *i.e.*, Nil days in open arrest, 13 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 Years

6. The date of his attestation is 27 May '42.

~~[illegible]~~

7. The service which the accused is allowed to reckon is 2 Years, 4 months, 17 days.

8. The accused is in possession of‡ C.V.S.M. & Clasp.

‡State the military decorations (if any) held by accused.

~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A. & E. W. Ltd. Gp.698
(22459) Wt.29256/1873 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 13th day of October, 1944.

Lieut. Capt. OC

Exhibit "C" RM

MFM 6
(AFB 122)
40/P&S/136 (3438)

C-100386
No

Name Lebano, J.

Sqn, Battery, or Company

Corps R.C.E.

Date of enlistment 27 May 42.

GC Badges

Service or Proficiency Pay

Character

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No 2

Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No.1 destroyed on completion of six months service. 27 Nov.'42. (No entries)									
Hamilton Ont.	4 Mar.'43	Spr.		A.A. 15 (1) AWL 1 hr., 40 mins. A.A. 40 Giving a false name.	L/C Brown M L/C Cairns	14 days C.B.	5 Mar. 43.	J.S. Gzowski, Maj.	
Field	15 Sep. 44.	Spr.		A.A. 15 (1) AWL from 1500 hrs. 15 Sep.'44. till 1730 hrs. 16 Sep.'44. (Absent 1 day, 2 hrs. 30 mins.).	Sgt. MacPhail, P. Cpl. Buchanan A. Cpl. Bruce, P.J.	7 days summary forf of pay.	24 Sep. '44.	MajorMHCW Allan	Auto Forf. 2 days pay FRI 149 (1) (a)

Certified a true copy from the regimental books in my custody

M.H. Allan Maj.
(M.H.C.W. Allan) Major, R.C.E.
O.C. 8 Cdn Fd Sqn R.C.E.

(PTO)

4D 30

FIELD GENERAL COURT-MARTIAL

CFAA6 (In lieu of AFA3)
Brig. G.S. 1608 (2004)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

C-100386 Spr Joseph LEBANO 8Cdn Fd Sqn RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 19	Guilty	Guilty	
2nd Sec 6(3)(d)	Guilty	Guilty	
3rd Sec 6(3)(d)	Guilty	Guilty	
4th Sec 40	Guilty	Guilty	
5th Sec 40	Guilty	Guilth	
6th Sec 40	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn c.)

At present under sentence ~~awaiting confirmation~~ beginning on ~~(date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year.

(Sgd) ..... 13 Oct 44. (Sgd) R F Willson Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-760, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57(1). Delete if unused.)

(Sgd) J R B Jones Lt-Col.

Date 14 Oct 44

Commanding CRE 4 Cdn Armd Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
C-100386 Spr Lebano J	16 Oct 44	W N Allan Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Convened by Order of Lt-Col J R B Jones Comd RCE 4 CADiv dated 10 Oct 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100386	Spr		JOSEPH LEBANO		8 Cdn Fd Sqn RCE

CERTIFIED TRUE COPY

A/JAG

PROCEEDINGS REVIEWED
Date 2 Nov 44
W.A. Willis Lt
R.M.J.A.
Cdn. Sec. G.H.Q. 2 Echn.
21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 13 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

RFW

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

RFW

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1030 hours trial commences.

RFW

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

RFW

A5. ~~President to accused: Do you object to xx as interpreter?~~ Ans

~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R F Willson	Linc & Welld R.
Member	A/Capt	E V S Bignell	22 Cdn Armd Regt
Member	Lieut	F N Ferguson	19 Cdn Army Fd Regt.
Judge-Advocate			
Prosecutor	Capt	M Turner	8 Cdn Fd Sqn RCE
Defending Offr	Lieut	A B McAdam	8 Cdn Fd Sqn RCE

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~xx~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate reword per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B A E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes (change) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the pleas of Guilty (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defg Offr (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded in Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(B), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

RAW

The accused No. C-100386 Spr Joseph Lebanc,
8 Canadian Field Squadron, Royal Canadian
Engineers a soldier of the Canadian Army Overseas
is charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE, DRUNKENNESS
Sec 19
Army Act

in that he

In the Field, on 30 Sep, 44 was drunk.

SECOND OFFENCE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN
Sec 6(3)(d) INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING
Army Act

in that he

When in BELGIUM, between 2200 hours and 2330 hrsc
on 30 Sep 44 assaulted Mrs. Marie Brandt of
MALDEGEM, an inhabitant of BELGIUM.

THIRD CHARGE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN
Sec 6(3)(d) INHABITANT OF THE COUTRY IN WHICH HE WAS SERVING.

in that he

In the field when serving in BELGIUM, between 2200 hrs
and 2330 hrs on 30 Sep 44 assaulted Mr. Maurice
R. Van Hulle MALDEGEM, an inhabitant of BELGIUM.

FOURTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field, on the night of 30 Sep 44 ~~xxx~~ forced his
way into the home of Mrs Marie Brandt and then
searched the house without lawful excuse.

FIFTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field on the night of 30 Sep 44 forced his way into the
home of Mrs Margriet Vandenbriele.

SIXTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field on the night of 30 Sep 44 pointed a
revolver at S-62754 L/Bdr Thompson R., 3 Bty
5 A Tk Regt. R.C.A. and at the same time uttered
the words "Keep away from me".

In the Field
5 Oct 44

(M H C Y Allan) Major R.C.E.
OfficerCo mmanding,
8 Cdn Fd Sqn R.C.E.

to be tried by F.G.C.M.

7 Oct 44

J R B Jones Lt-Col
CRE 4 Cdn Armd Div.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100385	Spr		Joseph LEBANO	8 Cdn Fd Sqn R.C.E.	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name	Unit.
Major	R F Willson	Linc & Welld Regt

(Must be named. RP 106.)

MEMBERS.

Rank.	Name	Unit.
A/Capt	E V S Bignall	22 Cdn Armd Regt
Lieut	F N FERGUSON	19 Cdn Armd Fd Regt RCEME

(Named or detailed. RP 106.)

WAITING MEMBER.

Rank.	Name	Unit.
Capt	D Campbell	10 Cdn Inf Bde Wksp

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Rank.	Name	Unit.

(Must be named, if any. RP 106.)

On Active Service in the Fd

in BELGIUM *(Country.)* J R B Jones Lt-Col *(Rank.)*

(Signed personally. RP 105 fn 2.)

Date 10 Oct 44. Commanding CRE 4 Cdn Armd Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of APA3) 40/P & S/1697 (4931)

MEDICAL OFFICERS REPORT

P.32

I certify that I have this day examined C-100386 Spr Lebano J. of 8 Cdn Fd Sqn RCE and he is in my opinion fit to undergo Trial by Court Martial.

W A Shea Capt.
Medical Officer

Station Field.

Date 13 Oct 44.

Summary of Evidence in the case of No. C-100386 Spr Lebano, J., 8 Cdn Field Squadron Royal Canadian Engineers, Canadian Army Overseas, charged with (1) Committing an offence against the person of a resident in the country in which he was serving (AA. Sec 6(3)(d)).

Exhibit A.
RAW

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS. Mrs Marie Brandt, Cafe Derna, 93 Churchill Street, Maldegim, Belgium (housewife and cafe proprieteress) sworn states:-

Iam Mrs Marie Brandt, and I live at Cafe Derna, 93 Churchill Street, Maldegem, Belgium. At about 1930 hrs., 30 Sep 33 two Canadian Soldiers, whom I now recognize as Sprs. Solari and Lebano entered my Cafe. They had a bottle of lipquor with them, stayed only a few minutes, and then left. At about 2200 hrs. that same evening, two soldiers came to my Cafe and knocked on the door demanding entrance, saying they were members of the Military Police. I opened the door and recognized the two as Solari and Lebano. They pushed their way infoors and both pointed revolvers at me. From what he said, I gathered that Solari wanted to go upstairs to find my two daughters. Solari started to go upstairs and my son, Maurice Van Hulle asked him what he wanted. Solari then went into my Son's room, which is upstairs, and while he was there, my two daughters came dowstairs and went out the front door. My son then came downstairs with Solari. The two soldiers were angry when they did not find my daughters. Solari, pointing his revolver at me, then forced mt to go upstairs. Appparently, he was still looking for mydaughters for he took me into their room. Then he pushed me against the bed and grabbed me by the arms, I broke loose and came downstairs. Bothe the soldiers went into the kitchen, and after a few minutes they forced my son and me to go out with them and search the sheds for my daughters, and also my husband. When we came back in the house they again wanted to search upstairs for my daughters. Lebano appeared to be giving orders to Solari and called him "Captain". Solari then took me to search a room behind the bar. He again tried to push me onto the bed and grabbed me around the shoulders. I managed to get away. He followed me into the kitched and the two soldiers thenstarted to drink from their bottle of liquor. They sat there drinking for about half an hour, then left by the front door at about 2330 hrs. Both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano., and Solari was so sick he vomited just before he left. I shook hands with both soldiers before they left just to get rid of them.

Cross-examined by accused:-

Q. Do you understand English?

A. Only a few words.

Q. What made you think I said I was a member of the Military Police?

A. Either you or Solari, I don't know which, allled the words "police, police".

"Marie Brandt"
Marie Brandt.

Certified true interpretation.

Van den Busche Albert.
Albert Van deen Busche

SECOND WITNESS Mr. Maurice, R. Van Hulle, Cafe Derna, 93 Churchill Street, Maldegem, Belgium(bachelor, unemployed) Sworn, states:-

I am Maurice R Van Hulle, living at Cafe Derna, 93 Churchill Street, Maldegem, Belgium, and Marie Brandt is my mother. At about 1915 hrs 30 Sep two Canadian soldiers whom I now recogize as Spr Solari and Spr Lebano entered the Cafe Derna, which is run by my mother. They had a bottle of liquor in their possession. At about 1930 hrs. they left the Cafe. At about 2215 hrs that same evening, Lebano and Solari returned to the Cafe and entered the building. I saw Solari coming upstairs, and asked him, in French, what he wanted. He pointed a revolver and replied something in English which I did not understand. He kept on talking and I gathered that he was looking for my two sisters, who I knew were in their room. I pointed out to Solari my sisters room told them to unlock the door and come out. Solari and I stood one on each side wile my sisters passed through and went downstairs. Solari and I then entered my sisters room where Solari looked around and turned over the mattress. Then we went into my room and as I was not fully attired, I finished getting dressed. We then went downstairs to the kitchen. There was no sign of my sisters nor of my father. My mother, Solari and Lebano then went outdoors with me to the yard, where Lebano told me, in French, that if I did not find my father in five minutes, he, Lebano, would shoot me. We searched the woodshed and called for my father, but we could not find him. All this time, Lebano was threatening my mother and me with his revolver. Solari then went back into the house and by the time he came back a fewminutes later Lebano had calmed down. We all returned to the kitchen, and both the soldiers and I sat down.. Lebano started to drink some liquor from a bottle he was carrying. At this time, Solari would not drink. From his speech, I gathered Solari wanted to go upstairs to search for the girls, so my mother went upstirs with him. Solari, at this time, as far as I could see, was not threatening my mother with a revolver or by any other means. I did not see nor hear Solari nor my mother until they returned to the kitchen a short time later. My mother then whispered to me that Solari had tried to push her against a bed but that she had struggled free. Solari was then sick and vomited. Shortly afterwards, my mother and Solari again went out of the kitchen. They returned a couple of minutes later and my mother told me that they had been in her room and that Solari had attempted to push her on her bed. A few minutes later Solari and Lebano left the house and I did not see either of them again until I identified Lebano and Solari at identification parade on 1 Oct. 44 at 1030 hrs. , and 1645 hrs respectively, while in my house, the Cafe Derna, on 30 Sep 44 both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano I do not understand English.

The accused declines to crooss-examine this witness.

Maurice Van Hulle.

Certified true interpretation. Van Den Busche Albert.
Albert Van den Busche.

THIRD WITNESS.

Mrs Margaret Van Denbriele, 79 Churchill Street, Maldegem, Belgium(cafe proprietress) sworn, states:-

I am Mrs, Margaret Van Decbrierle and I leve at 79 Churchill street, Maldegem, Belgium, where I operate a cafe. At approximately 2330 hrs 30 Sep 44 a Canadian Soldier, whom I now recognize as Spr Lebano knocked on the front door of my cafe. As I was in bed at the time I got up and looked out the upstairs window, and asked in French, what he wanted. He was waving a revolver in his hand, and, in broken French he demanded intry into the cafe, saying that if he did not get in, he would shoot his way in . After some intues I went ot the door, let him inside, and asked jo, wjat je wanted from his speech I gathered he wanted beer and cognac. A few minutes after I let him in, the Canadian Military Police arrived and took Lebano away. Lebano did not take any offensive action against me other than to threaten me with his revolver just before I let him into the Cafe. All he did was ask for beer or cognac I do not know whether or not he was under the influence of alcohol.

The accused declines to cross-examine this witness.

Margaret Vanded briele
Mrs Margaret Van Denbriele.

Certified true intrepretation.
Van Den Busche Albert.
Albert Van Den Busche.

FOURTH WITNESS

B-4055 Sgt Anderson, N., Lincoln and Welland Rgt.

Sworn states:-

I am Provost Sergeant of the Lincoln and Welland Regiment. On 30 Sep 44 at about 2330 hrs., I received a telephone call from Support Coy., Lincloln ~~xxxx~~ Welland Rgt stating there were two drunken soldiers outisde the gate of their headquarters in Maldegem. I proceeded to Support Coy H.Q; and the sentry on the gate states that one soldier had run away, and that the other one was down the street breading windows. I found the latter, whom I now recognize as Spr Lebano, 80Cdn Pd Sqn R.C.E. He had obviously been drinking, and was in possession of a revolver which he had in his hand pointing it towards me. I asked him his name which he refused to give. Itolk him to put the revolver which he had in his hand and he did after I told him I was going to lock him up. I noticed a window of one of the doors of a house was broken and glass lying on the sidewalk. I left Lebano where he was and proceeded to the Canadian Provost Corps detachment in Maldegem, and reported the circumstances to the patrol on duty, who apprehended him.

The accused declines to cross-examine this witness.

"Sgt N Anderson
B-40555 Sgt Anderson, N.

FIFTH WITNESS B-68754 L/Bdr Thompson, H., 3 Bty 5 A Tk R^gt Royal Canadian Artillery, sworn states:-

I am L/Bdr. in 3 Bty 5 A Tk R^gt R.C.A. on 30 Sep. 44 I was billetted in a house in Waldegem. At approximately 2345 hrs. that date I heard a window being broken in the near vicinity of my billet. and a few minutes later, the lady of a house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier was stadning in the yard directly below the front door, with a revolver in his hand. I approached this soldier, whom I now recognize as Spr Lebano, 8 Cdn Fd Sqn R.C.E., to find out who he was and to what unit he belonged, when he pointed the revolver at me sayint "Keep away from me". As I kept approaching him he backed away keeping me covered with the revolver at the same time I kept approaching him untilhe reached the road where with the help of a Sergeant from the Lincoln and Welland R^giment, he was stopped, and questioned. Spr Lebano was slightly under the influence of alcohol.

The accused declines to cross-examine this witness.

Harold Thompson.
B-68754 L/Bdr Thompson, H

SIXTH WITNESS L-107865 Gnr Bourassa, L.L. 3 Bty 5 A Tk Regt, Royal Canadina Artillery sworn states:-

I am a gunner in 3 Bty 5 A Tk R^gt. R.C.A. on 30 Sep. 44 I was billetted in a house in Waldegem. At approximately 2345 hrs. that date the lade of the house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier, whom I now recognize as Spr Lebano, 8 Cdn Fd Sqn R.C.E. was standing in the yard directly below the front door, with a revolver in his hand. I went to the door, accompanied by L/Bdr Thompson, who went outside to question the soldier, who appeared to be under the influence ofalcohol.

The accused declines to cross-examine this witness.

L L Bourassa.
L-107865 Gnr Bourassa L.L.

Seventh Witness G-48723 L/Cpl Allingham [illegible], 8 Cdn Pro Coy sworn states:

I am a military policeman in 8 Cdn Pro Coy. On 30 Sep., 44 at approximately 2350 hrs. I was on riding Jeep petrol, accompained by L/Cpl Johnson, in the Town of Waldegem when B-40555 Sgt Anderson H., provost Sergeant of the Lincoln and Welland Regt. reported to me that a Canadian soldier was creating a disturbance in a Cafe on Churchill Street Waldegem. Accompanied by L/Cpl Johnson, I proceeded to this Cafe and upon arrival, I saw a Canadian soldier, outside the Cafe talking to a woman, Mrs Nan Denbriele, who was crying. Sgt Anderson informed me that Spr Lebano was the soldier who been creating a disturbance in that vicinity. I placed Spr Lebano under close arrest, removed a bottle of liquor and a revolver from his person and escorted him to the town hall, from where he was escorted to his own unit.

SEVENTH WITNESS Cross-examined by accused:-

Q. Was the revolver you took from me loaded?

A. No.

F S Allingham,
C/49723 L/Cpl Allingham F.S.

The accused was cautined as follows:-

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down by me in the presence and hearing of the accused this 4th day of October 1944, and that RP4(c)(d)(e)(f) and (g) have been complied with.

W Turner Capt.

W Turner Capt R.C.E.
8 Cdn Fd Sqn R.C.E.

Exhibit "B"

BJW

M.F.B. 155
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-100386	Spr	LEBANO J.	8 Cdn Fd Sqn RCE.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA 3 c 15(1)	times	2	times
For	AA Sec 40	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in Air Force military custody, making a total of 13 days in custody, of which Nil. days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years. attestation paper is

6. The date of his commission specified in his record of service is 27 May 42. attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 4 months 17 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military military

CVSM & Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

Exhibit "B"

BBW

M.F.B. 355
22M.—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-100386	Spr	LEBANO J.	8 Cdn Rd Sqn RCE.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA R c 15(1)	times	2	times
For	AA Sec 40	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or.

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in Air Force military custody, making a total of 13 days in custody, of which Nil. days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 25 years.

6. The date of his commission specified in his record of service is attestation attestation paper 27 May 42.

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 4 months 17 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

CVSM & Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of .....

Exhibit "B" RJW

MFM 6
(AFB 122)
40/P&S/136 (3438)

No C100386 Name LEBANO J. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 27 May 42 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | * Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No. 1 destroyed on completion of six months service 27Nov 42 (No entries)									
Hamilton Ont	4 Mar 43	Spr		AA 15(1) AWL 1 hr 40 mins AA 40 Giving a false name	L/C Brown M L/C Cairns	14 days C.B.	5 Mar43	J.S. Szewska Maj	
Field	15 Sep 44	Spr		AA 15(1) AWL from 1300 hrs. 15 Sep 44 till 1730 hrs 16 Sep 44 (Absent 1 day 2 hrs 30 mins)	Sgt Macphaile P. Cpl Buchanan A Cpl Bruce P.J.	7days Summary forf of pay.	24 Sep 44	Major MGCW Allan	Auto forf 2 days pay FR&I 149(1)(a)
Certified a true copy from the regimental bookd in my custody						M G C W Allan Major R.C.E. OC 8 Cdn Fd Sqn R.C.E.			

(PTO)

1492

Plea of Mitigation in the case of C-100386 Spr Joseph LEBAMO.

My client has made a plea of guilty to the charges as read. In his defense I could like to put forth their explanation of the case.

On 30 Sep 44 the accused had just returned from duty and having a free night went to the town of Maldegem for entertainment after going on a sight seeing tour and visiting several cafes where they had five or six drinks of cognac and a similar number of beer and at one cafe bought a bottle of liquor. They found that the cafes were closed and were still desirous of having some beer to drink. They were informed that at the cafe Derna they could still but beer but that the owners were pro Nazi. The proceeded there and when they had rapped at the door the lady appeared to be very excited and there was a scurrying in the back ground. Remebering the warning they had had they decided to search the house for possible enemy agents. Due to being unable to converse with the inhabitants of the cafe their intentions were obviously not understood and the result was that the people thought they were after them. The actions of the owners in making no outcry or summoning any outside assistance leads one to believe that the accused had sound cause for his suspicions. The accused is unable to speak French and any French that he had picked up in the passage through France would be insufficient to make himself understood in any way.

After leaving the Cafe Dena the accused and his companion became separated and the accused inquired at the cafe at 79 Churchill St as to his way home. The lady of the house not being able to converse with him for the same reason xas before mistook xixxfxx his actions for desiring more beer and cognac. It was at this point that Sgt Anderson and the Provost Corps picked him up.

In judging this case, I would like the court to take into consideration the fact that the accused has been working quite hard throughout the drive from Seine and a large part of the work has been taken place at night and it is understandable that when a night out is had there is a tendancy to overdo things a bit. Also the fact that Maldegem is reputed to be a hot bed of Pro Nazis and even soldiers passing through the town do so with caution.

15 Oct 44.

A B McAdam Lt R.C.E.
8 Cdn Fd Sqn R.C.E.

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AF A3) 40/P & S 1808 (2664)

Convened by Order of Lt-Col J R B Bones Comd RCE 4 CAD1v dated 10 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100386	Spr		JOSEPH LEBANO		8 Cdn Fd Sqn RCE.

CERTIFIED TRUE COPY

A.J.A.G.

PROCEEDINGS RECEIVED Date 2 NOV 44 Cdn. Sec. G.H.Q. 21 Army Gp. R.C.A.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 13 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~xxxx~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~xx~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~xx~~ fit to undergo trial by court-martial.(1) ~~xxx xxxxxx xxxxxxxxxx xxxxxxxxx

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.))

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF Art. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I do. Nothing any after Offr. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. C-100586 Spr Joseph Lebano, 8 Canadian Field Squadron, Royal Canadian Engineers a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE, DRUNKENNESS
Sec 19
Army Act

in that he

In the Field, on 30 Sep, 44 was drunk.

SECOND OFFENCE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN
Sec 6(3)(d) INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING
Army Act

in that he

When in BELGIUM, between 2200 hours and 2330 hrso on 30 Sep 44 assaulted Mrs. Marie Brandt of MALDEGEM, an inhabitant of BELGIUM.

THIRD CHARGE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN
Sec 6(3)(d) INHABITANT OF THE COUNTRY IN WHICH H WAS SERVING.

in that he

In the field when serving in BELGIUM, between 2200 hrs and 2330 hrs on 30 Sep 44 assaulted Mr. Maurice R. Van Hulle MALDEGEM, an inhabitant of BELGIUM.

FOURTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field, on the night of 30 Sep 44 xxx forced his way into the some of Mrs Marie Brandt and then searched the house without lawful excuse.

FIFTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field on the night of 30 Sep 44 forced his way into the home of Mrs Margriet Vandenbriele.

SIXTH CHARGE DISORDER TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec 40 DISCIPLINE.
Army Act

in that he

In the Field on the night of 30 Sep 44 pointed a revolver at 3-62754 L/Bdr Thompson H., 3 Sty 5 A Tk Regt. R.C.A. and at the same time uttered the words "Keep away from me".

In the Field
5 Oct 44

(M H C W Allan) Major R.C.E.
OfficerCo manding,
8 Cdn Fd Sqn R.C.E.

to be tried by F.G.C.M.

7 Oct 44

J R B Jones Lt-Col
CRE 4 Cdn Armd Div.

RJW.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-100386	Spr		Joseph	LEBANC	8 Cdn Fd Sqn R.C.E.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Oct 44 endorsed by me, (or by an offr of my staff for me). "~~XXXX

MEDICAL OFFICERS REPORT

I certify that Ihave this day examined C-100386 Spr Lebano J. of 8 Cdn Fd Sqn RCE and he is in my opinion fit to undergo Trial by Court Martial.

W A Shea Capt.
Medical Officer

Station Field.

Date 13 Oct 44.

Summary of Evidence in the case of No. C-100386 Spr Lebano, J., 8 Cdn Field Squadron Royal Canadian Engineers, Canadian Army Overseas, charged with (1) Committing an offence against the person of a resident in the country in which he was serving (AA. 96 Sec 6(3)(d)).

Exhibit "B" R.S.M.

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS. Mrs Marie Brandt, Cafe Derna, 93 Churchill Street, Maldegim, Belgium (housewife and cafe proprieteress) sworn states:-

I am Mrs Marie Brandt, and I live at Cafe Derna, 93 Churchill Street, Maldegem, Belgium. At about 1930 hrs., 30 Sep 33 two Canadian Soldiers, whom I now recognize as Spprs. Solari and Lebano entered my Cafe. They had a bottle of liquor with them, stayed only a few minutes, and then left. At about 2200 hrs, that same evening, two soldiers came to my Cafe and knocked on the door demanding entrance, saying they were members of the Military Police. I opened the door and recognized the two as Solari and Lebano. They pushed their way infoors and both pointed revolvers at me. From what he said, I gathered that Solari wanted to go upstairs to find my two daughters. Solari started to go upstairs and my son, Maurice Van Bulle asked him what he wanted. Solari then went into my Son's room, which is upstairs, and while he was there, my two daughters came downstairs and went out the front door. My son then came downstairs with Solari. The two soldiers were angry when they did not find my daughters. Solari, pointing his revolver at me, then forced me to go upstairs. Apparently, he was still looking for mydaughters for he took me into their room. Then he pushed me against the bed and grabbed me by the arms,. I broke loose and came downstairs. Bothe the soldiers went into the kitchen, and after a few minutes they forced my son and me to go out with them and search the sheds for my daughters, and also my husband. When we came back in the house they again wanted to search upstairs for my daughters. Lebano appeared to be giving orders to Solari and called him "Captain". Solari then took me to search a room behind the bar. He again tried to push me onto the bed and grabbed me around the shoulders. I managed to get away. He followed me into the kitchen and the two soldiers thenstarted to drink from their bottle of liquor. They sat there drinking for about half an hour, then left by the front door at about 2330 hrs. Both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano., and Solari was so sick he vomited just before he left. I shook hands with both soldiers before they left just to get rid of them.

Cross-examined by accused:-

Q. Do you understand English?

A. Only a few words.

Q. What made you think I said I was a member of the Military Police?

A. Either you or Solari, I don't know which, allled the words "police, police".

"Marie Brandt"
Marie Brandt.

Certified true interpretation.

Van den Busche Albert.
Albert Van den Busche

SECOND WITNESS Mr. Maurice, R. Van Hulle, Cafe Derna, 93 Churchill Street, Maldegem, Belgium(bachelor, unemployed) Sworn, states:-

I am Maurice R Van Hulle, living at Cafe Derna, 93 Churchill Street, Maldegem, Belgium, and Marie Brandt is my mother. At about 1915 hrs 30 Sep two Canadian soldiers whom I now recogize as Spr Solari and Spr Lebano entered the Cafe Derna, which is run by my mother. They had a bottle of liquor in their possession. At about 1930 hrs. they left the Cafe. At about 2215 hrs that same evening, Lebano and Solari returned to the Cafe and entered the building. I saw Solari coming upstairs, and asked him, in French, what he wanted. He pointed a revolver and replied something in English which I did not understand. He kept on talking and I gathered that he was looking for my two sisters, who I knew were in their room. I pointed out to Solari my sisters room told them to unlock the door and come out. Solari and I stood one on each side wile my sisters passed through and went downstairs. Solari and I then entered my sisters roo m where Solari looked around and turned over the mattress. Then we wnet into my room and as I was not fully attired, I finished getting dressed. We then went downstairs to the kitchen. There was no sign of my sisters nor of my father. My mother, Solari and Lebano then went outdoors with me to the yard, where Lebano told me, in French, that if I did not find my father in five minutes, he, Lebano, would shoot me. We searched the woodshed and called for my father, b t we could not find him. All this time, Lebano was threatening my mother and me with his revolver. Solari then went back into the house and by the time he came back a fewminutes later Lebano had calmed down. We all returned to the kitchen, and both the soldiers and I sat down.. Lebano started to drink some liquor from a bottle he was carrying. At this time, Solari would not drink. From his speech, I gathered Solari wanted to go upstairs to search for the girls, so my mother went upstirs with him. Solari, at this time, as far as I could see, was not threatening my mother with a revolver or by any other means. I did not see nor hear Solari nor my mother until they returned to the kitchen a short time later. My mother then whispered to me that Solari had tried to push her against a bed but that she had struggled free. Solari was then sick and vomited. Shortly afterwards, my mother and Solari again went out of the kitchen. They returned a couple of minutes later and my mother told me that they had been in her room and that Solari had attempted to push her on her bed. A few minutes later Solari and Lebano left the house and I did not see either of them again until I identified Lebano and Solari at identification parade on 1 Oct. 44 at 1330 hrs. , and 1645 hrs respectively. While in my house, the Cafe Derna, on 30 Sep 44 both soldiers appeared to be under the influence of alcohol the whole time, especially Lebano I do not understand English.

The accused declines to crooss-examine this witness.

Maurice Van Hulle.

Certified true interpretation. Van Den Busche Albert.
Albert Van den Busche.

THIRD WITNESS.

Mrs Margaret Van Denbriele, 79 Churchill Street, Maldegem, Belgium(cafe proprietress) sworn, states:-

I am Mrs, Margaret Van Deebrierle and I leve at 79 Churchill street, Maldegem, Belgium, where I o perate a cafe. At approximately 2330 hrs 30 Sep 44 a Canadian Soldier, whom I now recognize as Spr Lebano knocked on the front door of my cafe. As I was in bed at the time I got up and looked out theupstairs window, and asked in French, what he wanted. He was waving a revolver in his hand, and, in broken French he demanded intry into the cafe, saying that if he did not get in, he would shoot his way in . After some intues I went ot the door, let him inside, and asked Jo, what he wanted from his speech I gathered he wanted beer and cognac. A few minutes after I let him in, the Canadian Military Police arrived and took Lebano away. Lebano did not take any offensive action against me other than to threaten me with his revolver just before I let him into the Cafe. All he did was ask for beer or cognac I do not know whether or not he was under the influence of alcohol.

The accused declines to cro ss-exa ine this witness.

Margaret Vanded briele
Mrs Mar garet Van Denbriele.

Certified true intrepretation.
Van Den Busche Albert,
Albert Van Den Busche.

FO URTH WITNESS

B-40585 Sgt Anderson, N., Lincoln and Welland Regt.

Sworn states:-

I am Provost Sergeant of the Lincoln and Welland Regiment. On 30 Sep 44 at abo t 2330 hrs., I received a telephone call from Support Coy., Lincoln xxxxx Welland Regt stating there were two drunken soldiers outside the gate Of their headquarters in Maldegem. I proceeded to Support Coy H.Q. and the sentry on the gate states that one soldier had run away, and that the ot er one was down the street breading windows. I found the latter, whom I now recognize as Spr Lebano, 80th FD Sqn R.C.E. He had obviously been drinking, and was in possession of a revolver which he had in his hand pointing it towards me. I asked him his name which he refused to give. Itolk him to put the revolver which he had in his hand and he did after I told him I was going to lock him up. I noticed a window of one of the doors of a house was broken and glass lying on the sidewalk. I left Lebano where he was and proceeded to the Canadian Provost Corps detachment in Maldegem, and reported the circumstances to the patrol on duty, who apprehended "im.

The accused deplines to cross-examine this witness.

"Sgt N Anderson
B-40585 Sgt Anderson, N.

FIFTH WITNESS B-68754 L/Bdr Thompson, H., 3 Bty 5 A Tk R'gt Royal Canadian Artillery, sworn states:-

I am L/Bdr. in 3 Bty 5 A Tk R gt R.C.A. on 30 Sep. 44 I was billetted in a house in Maldegem. At approximately 2345 hrs. that date I heard a window being broken in the near vicinity of my billet. and a few minutes later, the lady of a house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier was stadning in the yard directly below the front door, with a revolver in his hand. I approached this soldier, whom I now recognize as Spr Lebano, 8 Cdn Fd Sqn R.C.E., to find out who he was and to what unit he belonged, when he pointed the revolver at me sayint "Keep away from me". As I kept approaching him he backed away keeping me covered with the revolver at the same time I kept approaching him untilhe reached the road where with the help of a Sergeant from the Lincoln and Welland R g-iment, he was stopped, and questioned. Spr Lebano was slightly under the influence of alcohol.

The accused declines to cro ss-examine this witness.

Harold Thompson.
B-6 8754 L/Bdr Thompson, H.

SIXTH WITNESS L-107865 Gnr Bouassa, L.L., 3 Bty 5 A Tk Regt, Royal Canadina Artillery sworn states:-

I am a gunner in 3 Bty 5 A Tk R'gt. R.C.A. on 30 Sep. 44 I was billetted in a house in Maldegem. At approximately 2345 hrs. that date the lade of the house informed me that there was a Canadian soldier asking for a place to sleep for the night. The soldier, whom I now recognize as Spr Lebano, 8 Cdn Fd Sqn R.C.E. was standing in the yard directly below the front door, with a revolver in his hand. I went to the door, accompanied by L/Bdr Thompson, who went outside to question the soldier, who appeared to be under the influence ofalcohol.

The accused declines to cross-examine this witness.

L L Bourassa.
L-107865 Gnr Bourassa L.L.

Seventh Witness B-48723 L/Cpl Allingham F.S., 8 Cdn Pro Coy sworn states:

I am a military policeman in 8 Cdn Pro Coy. On 30 Sep., 44 at approximately 2350 hrs. I was on riding Jeep patrol, accompained by L/Cpl Johnson, in the Town of Maldegem when B-40555 Sgt Anderson M., provost Sergeant of the Lincoln and Welland Regt. reported to me that a Canadian soldier was creating a disturbance in a Cafe on Churchill Street Maldegem. Accompanied by L/Cpl Johnson, I proceeded to this Cafe and upon arrival, I saw a Canadian soldier, outside the Cafe talking to a woman, Mrs Van Denbriele, who was crying. Sgt Anderson informed me that Spr Lebano was the soldier who been creating a disturbance in that vicinity. I placed Spr Lebano under close arrest, removed a bottle of liquor and a revolver from his person and escorted him to the town hall. from where he was escorted to his own unit.

SEVENTH WITNESS Cross-examined by accused:-

Q. Was the revolved you took from me loaded?

A. No.

F S Allingham,
G/48723 L/Cpl Allingham R.S.

The accused was cautined as follows:-

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: I have nothing to say at this time.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down by me in the presence and hearing of the accused this 4th day of October 1944, and that RP4(c)(d)(e)(f) and (g) have been complied with.

M Turner Capt.

M Turner Capt R.C.E.
8 Cdn Fd Sqn R.C.E.

Exhibit B
PFW

M.F.B. 155
[illegible]
E.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-100386	Spr	LEBANO J.	8 Cdn Fd Sqn RCE.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA S c 15(1)	times	2	times
For	AA Sec 40	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in Air Force military custody, making a total of 13 days in custody, of which Nil. days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years. attestation paper is

6. The date of his commission specified in his record of service is 27 May 42. attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 4 months 17 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military military

CVSM & Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of October 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked W Turner Capt R.C.E. signed by the president, and annexed to the proceedings.

No C100386 Name LEBANC J. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 27 May 42 | GC Badges | Exhibit "3" | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/196 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of intoxication	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No. 1 destroyed on completion of six months service 27Nov 42 (No entries)									
Hamilton Ont	4 Mar 43	Spr		AA 15(1) AWL 1 hr 40 mins AA 40 Giving a false name	L/C Brown L/C Cairns	14 days C.B.	5 Mar43	J.S. Gzowski Maj	
Field	15 Sep 44	Spr		AA 15(1) AWL from 1500 hrs. 15 Sep 44 till 1730 hrs 16 Sep 44 (Absent 1 day 2 hrs 30 mins)	Sgt Macphaile P. Cpl Buchanan A Cpl Bruce P.J.	7days Summary forf of pay.	24 Sep 44	Major M.G.C.W. Allan	Auto forf 2 days pay PRAI 149(1)(a)
Certified a true copy from the regimental booke in my custody						M G C W Allan Major R.C.E. OC 8 Cdn Fd Sqn R.C.E.			

(PTO)

A921

Plea of Mitigation in the case of C-100386 Spr Joseph LEBANC.

My client has made a plea of guilty to the charges as read. In his defens E could like to put forth their explanation of the case.
On 30 Sep 44 the accused had just returned from duty and having a free night went to the town of Waldegem for entertainment after going on a sight seeing tour and visiting several cafes where they had five or six drinks of cognac and a similar number of beer and at one cafe bought a bottle of liquor. They found that the cafes were closed and were still desirous of having some beer to drink. They were informed that at the cafe Dena they could still out beer but that the owners were pro Nazi. The proceeded there and when they had rapped at the door the lady appeared to be very excited and there was a scurrying in the back ground. Remebering the warning they had had they decided to search the house for possible enemy agents. Due to being unable to converse with the inhabitants of the cafe their intentions were obviously not understood and the result was that the people thought they were after them. The actions of the owners in making no outcry or summoning any outside assistance leads one to believe that the accused had sound cause for his suspicions. The accused is unable to speak French and any French that he had picked up in the passage through France would be insufficient to make himself understood in any way.

After leaving the Cafe Dena the accused and his companion became separated and the accused inquired at the cafe at 79 Churchill St as to his way home. The lady of the house not being able to converse with him for the same reason was before mistook ~~xixxfax~~ his actions for desiring more beer and cognac. It was at this point that Sgt Anderson and the Provost Corps picked him up.
In judging this case, I would like the court to take into consideration the fact that the accused has been working quite hard throughout the drive from Seine and a large part of the work has been taken place at night and it is understandable that when a night out is had there is a tendancy to overdo things a bit. Also the fact that Waldegem is reputed to be a hot bed of Pro Nazis and even soldiers passing through the town do so with caution.

13 Oct 44.

A B McAdam Lt R.C.E.
8 Cdn Fd Sqn R.C.E.

50-29.

Pte. Lebourlillier, E.

RECORDED AT CMHQ in AD 160, 30-29.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P & S/1608 (3864)

RECEIVED 28 JUN 1945

Convened by Order of Lt. Col J. P. Brisard Comd 3 C. I. B. dated 3 June 45

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, or (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 49751	Pte		Edmond	~~Labonthillier~~ Labonthillier	R 22eR

PROCEEDINGS REVIEWED
3 July 45
REVIEWING OFFICER, JAG BRANCH S.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 6 June 45

33/145

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ cw assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ cw amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ cw brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ cw fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ cw

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Sgt 43442 Pte Mallay R (Fr Can)~~ C. Volgers (Dutch) as interpreter? Ans No

The Interpreter ~~is~~ cw sworn.(1) ~~Do you object to the shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~ cw

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C. F. Weynacht	West Nova Scotia Regt
Member	Capt	R. P. S. Beadon	48th Highlanders
Member	Lieut	E. J. Mc Connell	West Nova Scotia Regt.
Judge-Advocate	N/A		
Prosecutor	Lieut	M. P. Minard	Royal 22nd Regt.
Defending Offr	Lieut	L. H. Pellman	Royal 22nd Regt.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused C 49751 Pte Labonthillier, E. before arraignment make(s) (no) ~~(one)~~ cw plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ cw arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ cw not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge~~s~~(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge~~s~~ and call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge~~s~~.(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge~~s~~ to which the plea~~s~~ of Guilty is ~~are~~ not changed the President records finding~~s~~ of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~them~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

G 49751

Pte Lebouthillier E R. 22 R.

Field
5/6/45

R. B. Sutherland Capt
CW

FIELD GENERAL COURT-MARTIAL

CFA95 (
40/F.

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Over. of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 49751	Pte		Edmond	LEBOUTHILLIER	R22eR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 3 June 45 endorsed by me, [redacted], " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C F Whynacht	West NSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R P S Beadon	48 Highrs
Lieut	E J McConnell	West NSR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J R Frechette	R22eR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	n/a	

On Active Service in the Fd

in HOLLAND (Country.) — (Signed personally. RP 105 fn 2.) — Lt-Col (Rank.)

Date 3 June 45 — A/ Commander 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, No G-49751, Private Edmond LEBOUTHILLIER, on strength of the Royal 22nd Regiment, a soldier of the Canadia Army Overseas, is charged with:

FIRST CHARGE
SECTION 41
ARMY ACT

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ASSAULT, CONTRARY TO SECTION 47 OF THE OFFENCES AGAINST THE PERSON ACT, 1861,

in that he,

in the Field, HOLLAND, at approximately 2000 hours on the 19th day of May, 1945, assaulted P. KESTER, thereby occasioning to P. KESTER actual bodily harm.

SECOND CHARGE
SECTION 19
ARMY ACT

WHEN ON ACTIVE SERVICE, DRUNKENNESS,

in that he,

in the Field, HOLLAND, at approximately 2030 hours on the 19th day of May, 1945, was drunk.

(G.A. Turcot), Lt/Col
Commander
Royal 22nd Regiment.

In the Field
31st May 45.

To be tried by Field General Court-Martial

In the Field
3 June 45

(J P Ensor) Lt-Col
A/Commander 3 Cdn Inf Bde

1st. witness for Prosecution

Page 1

Captain J. h. Charlebois having been duly sworn states. I am Captain J. h Charlebois of Headquarters Coy R. 22 e Regt. The witness recognizes the accused at 2030 hours 19 May 1945. I was informed by Mr. Debrook that 2 of our soldiers had beaten up a civilian at the village square. So I proceeded to the village square in a jeep with a driver. Before I arrived at the square a car stopped and a passenger got out and stopped the jeep. In the car were the accused and another soldier. I brought them back to their quarters with one in the jeep and ordered them to remain in their quarters. I then returned to the village square to make sure that no other soldiers caused any disturbance. On my way back to the Company from the village square I met the accused and the other soldier on the highway. After a bit of persuasion I got them in the jeep and took them to the Regimental Guardroom and informed them that charges would be laid. They were under the influence of liquor. I say they were drunk. I did not see the civilian Mr Kuster 1 who had been beaten up that night. I saw him on the 21st May (Monday) when he appeared for Coy Orderly Room as witness before the O. Company Company Commander. I was at that time 2 i/c Coy Company. I was present on the afternoon of 21st when the civilian identified the accused as being one of the men who had assaulted him.

Cross Examination by Defence

Mr. Kuster identified the accused immediately as one of the men.

I had to get an escort to put them in the jeep and his clothing was not torn in any way and he did not appear excited.

CW

1st witness for Prosecution

Examination by the Court

When the accused was identified on parade there were 2 rows of say 6 seven men. He was among the first 4 or 5 in the front rank.

I first saw the accused about 20 minutes after I was advised of the fight.

R.P. 86(b) complied with.

CWD

2nd Witness for Prosecution

Page 3

Mr P. Kester, Maadijk 99 Naalwijk having been duly sworn states that: I am P. Kester of Maadijk 99, Naalwijk. I recognize the accused. I was driving on the Massdijk road with horse and wagon when I saw 2 soldiers evidently drunk who tried to hinder me. Then they seized the bridle of the horse, stopped the horse and wagon and struck the horse. After that the accused tried to pull me out of the cart. When I refused to leave the cart I was beaten by the accused. Then I became unconscious. The horse became excited and the horse and wagon slid down the dyke off the road. Then some civilians helped me home and washed me.

Cross Examination by Prosecution

I jumped out off the wagon before the accused pulled me off.

The civilian who helped me home was Mr. Doris Van Den Akker

The soldiers went away.

I received treatment from my own doctor.

I was present on an identification parade on which there were approximately 20 men. The accused was the seventh or eighth man in the front rank.

I did not talk to the accused before I was beaten up.

The other soldier sat down on the wagon

CW

Cross Examination by defense

The soldiers talked to me but I did not understand them

They did not ask me anything before they stopped me.

Question by the Court

The accused is the soldier who tried to pull me from the wagon. The other soldier sat on the wagon

On that day I saw an Army doctor.

I have marks and scars resulting from the assault

RP 83(6) complied with

CW

Mr Doris Van den Abbeel having been duly sworn states I am Mr Doris Van den Abbeel of Maandagh 55, Naaldwijk. When I came outside of my house I saw Mr. Kester being struck by a Cdn. soldier. Then Mr. Kester fell down, stood up again and seized the bridle of his horse. The soldier seized the bridle of the horse too, after that horse and wagon slid down in the field. Mr. Kester walked down with horse and wagon down to the field. I went up to the horse and wagon, feed up the horse and wagon and brought Mr Kester to his own home.

Cross Examination by Prosecution

It was about eight o'clock when I saw Mr. Kester being struck.

There were 2 soldiers there.

There was only one soldier beating Mr. Kester.

I was 40 or 45 metres from them.

When the horse and wagon slid down the dyke the soldiers went away.

I saw blood on Mr Kesters face and hands.

Cross Examination by defence

When one soldier was beating Mr. Kester the other soldier was doing nothing.

When Mr Kester was struck down he stood up immediately and grabbed the bridle.

I cannot identify the soldier whom I saw strike Mr Kester.

I did not see the horse and wagon being stopped by the soldiers.

RP 83 (6) complied with.

CW

Fourth Witness for Prosecution

Page 6

Captain P Goldstein having been duly sworn states I am Captain P Goldstein Medical officer of the N 22e Regt. On 2nd May around 4 o'clock of the afternoon a civilian was brought into the N.A.P. for examination He had several bruises of the face, a small cut of the left eyebrow and a small cut on the right hand. He gave his name as Kreiter.

Cross Examination by Prosecution

All these injuries were very minor in extent and hardly likely to produce any lasting effects or disfigurement They were not inflated although they appeared to have been of 2 or 3 days duration

RP 83(4) complied with

CW

Statement by Accused (Sworn)

I do not remember of having anything to do with Mr. Keates. I was drunk and do not remember anything at that time.

CW

Page 5

CLOSING ADDRESS IN THE CASE OF Pte LeBouthillier, R22eR.

5 Jun 45

Gentlemen of the Court,

The charge to which the accused pleaded not guilty reads as follows: (here the charge is read over to the court). From the evidence received by the different witnesses for the prosecution, it was stated that the accused did assault P. Kester at time and date mentioned in the charge sheet; thereby occasioning the latter actualbodily arm. There is no doubt as to who did the assault and P. Kester actuall identified the accused positively at an identification parade in presence of Capt J.L. Charlebois. The court had occasion to see for itself the actual bodily arm on Mr P. Kester himself. The accused claims that he does not remember what did happen that day as he was drunk. He did not even denied the charge against him. He was in company with another soldier at the time he meet P. Kester and yet he didn't even ask this other soldier to testify as to what took place that day.

The finding of the court is now in your hands gentlemen and the prosecution is now close. If the court is satisfied that the charge has been clearly prooven then they must find the accused guilty of the charge. But on the other hand, if the court is in doubt as to the guilt of the accused, then he should be given the benefit of this doubt and found not guilty. If this is the case I may point out to the court that if the court think that the accused is not guilty of assault, contrery to section 47 of the offence against the person act 1861, then they may automaticly change the charge to "Common assault" within the military law (AA.56(5)&(6).)

I thank you gentlemen,

[signature]

cw

The accused Pte. Lebouthillier has been in the army for the last four years. He is 23 and has his parents depending on him for living.

He always did a good job, first in England with the artillery and then with the 22e R. where he served for last year. He has been in the field, facing all the dangers of the war and sharing the hardships of a soldier's life with his fellow men, who have great esteem for his courage.

As for the first charge I think that the Court did not establish clearly enough that the accused is really the man who assaulted Mr. Kester.

Mr. Kester is the only one who did identify Pte Lebouthillier as the one who assaulted him - nobody else has seen who really did it

But since Mr. Kester made a mistake as to what the other soldier was doing during that time (he said on the wagon while Mr. Doris Van Der Abeen said "standing on the road" and since he made another mistake when he said he fell unconscious while the other witness said that 5 or 10 seconds later he was running for his head. Why could not we suppose that he was nervous or excited and that his identification of Pte. Lebouthillier is just one more mistake that Pte Lebouthillier is just the first man recorded by his excited imagination.

So I really think that it is a case of mistaken identity or at least I think that the fact is not established clearly enough to motive such a charge.

CW

Closing address by the defence

So I think that the Court should consider his past service in England as well as in the field and be clement for this man who was celebrating the victory he has been working so hard to achieve.

CW

Ex "A"

SUMMARY OF EVIDENCE

In the case of No G-49751, Private Edmond LEBOUTHILLIER, on the strength of the Royal 22nd Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken under Oath.

First Witness for the Prosecution

Mr P. KESTER, Maasdijk 99, Naalwijk, having been duly sworn, states as follows: (This statement was duly translated by Mr Cornelis Anthony VOLGERS who himself had been previously sworn by the officer detailed to take the summary of Evidence. The accused has no objection to Mr C.A. Volgers as interpretor).

At approx 2000 hrs 19 May 45, I was travelling on the road leading from Naalwijk to Maasdijk with my wagon pulled by a horse of mine when I saw two (2) Cdn soldiers on the road blocking the way. They appeared to be drunk. One of the soldiers whom I now know as being No G-49751 Pte LeBouthillier E, of the R22eR., seized the horse and stopped it. I was then pulled out of the wagon by the same soldier and beaten by him with his fists. I felt unconcious. While this was taking place, the horse was slightly wounded at his forelegs, the horse-streppings were broken and the wagon itself was driven into the field with its mud-guards broken. One civilian Mr Doris Van Den Akker picked me up and helped me back home. Once home I called for a doctor for treatments. On 21 May 45, I called at the Regt'doctor at the R22eR., also for treatments The cost of damages for the horse and the wagon will amount to 25 guilders and it cost me 15 guilders for medical treatments. My wagon is not yet repaired. I also had a trench coat ruined and it will need cleaning and repairing. The approx cost will be 40 guilders. My glasses were also broken in the struggle. On 21 May 45, I recognised the accused on an identification parade held in "D" Coy lines. I could not recognised the other soldier.

The accused declines to cross-examine this Witness P. Kester

Second Witness for the Prosecution

Mr Doris Van Den AKKER, Maasdijk 55, Naalwijk, having been duly sworn, states as follows: (This statement was duly translated by Mr Cornelis Anthony VOLGERS who himself had been previously sworn by the officer detailed to take the Summary of Evidence. The accused has no objection to Mr C.A. Volgers as interpretor.)

On 19 May 45, sometimes around 2000 hrs, I was coming out of my house when I saw two (2) Cdn soldiers on the road some 40 meters away. I saw Mr P. Kester being struck by one of the soldiers on his right eye while the soldier was holding him with his other hand. Mr Kester felt down on the blow but stood up again to seize his horse. The same soldier also tried to seize the horse, there were a slight struggle and the horse and wagon slipped in the field, on the right hand side of the road. The soldiers then disappeared. I then proceeded toward the scen of the assault and helped Mr Kester in giving him first aid and helping him back home. The latter was wounded at his right hand, right eye and on his head. His glasses were broken and his coat ruined.

The accused declines to cross-examine this Witness D. Van den Akker

cw

Ex "A".

SUMMARY OF EVIDENCE

In the case of No G-49751, Private Edmond LEBOUTHILLIER, on the strength of the Royal 22nd Regiment, a soldier of the Canadian Army Overseas.

Third Witness for the Prosecution — Capt J.L. CHARLEBOIS, of the R22eR., having been duly sworn, states as follows:

At about 2030 hrs 19 May 45, I was informed that two (2) Cdn soldiers were beating up a civilian. I immediately proceeded to the village square in a jeep and on the way a car stopped and in it were No G-49751 Pte LeBouthillier E and one Pte Tascheresu both of "D" Coy R22eR. I ordered them to get in the jeep and after a bit of persuation brought them to their quarters and ordered them to remain there. I then returned to the village square to try and find the civilian who had been beaten up and at the same time make sure that no other soldiers cause any disturbances. On my way back to the Coy office I again met the a/m soldiers on the highway. I then escorted them to the Regt' guard room and informed them that charges would be laid in consequence. Both were under the influence of liquor. I considered them drunk. On 21 May 45, at approx 1430 hrs, I was present at the identification parade where Mr P. Kester identified Pte LeBouthillier as being one of the soldiers who had assaulted him.

The accused declines to cross-examine this Witness

Charlebois ..... Capt.

Fourth Witness for the Prosecution — Capt P. GOLDSTEIN, RCAMC., att to R22eR., having been duly sworn, states as follows:

At 1615 hrs 21 May 45, Mr P. Kester was brought into the RAP of the R22eR., for examination and treatments of injuries sustained. The patient had a ¾ laceration of left upper eyelid and ecchymosis of both left eyelids. A small contusion was pre sent on left side of chin. There was a one inch long laceration at base of right ring finger. These injuries appeared of several day's duration. All are quite minimal and very unlikely to result in any complication, interference with function, or disfigurement.

The accused declines to cross-examine this Witness

P. Goldstein ..... Capt.

The accused was then cautioned in French as follows; "Do you wish to make a statement or to give evidence on oath? You are not obliged to make a statement or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down in writing by me in presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E) and (F) have been duly complied with.

W. [illegible] ..... Capt.
Officer detailed to take the Summary of Evidence.

In the Field
31st May 45.

cw

Ex "B"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
G-49751	Private	Edmond LeBouthillier	Royal 22nd Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA.15(1) AWL	2	times.
For AA.19 (18 Sep 43)(8 Dec 44)	2	times.
For AA.9(2)	1	times.
For AA.24(2) AA.40	1 1	times.

Date of first entry in Field Conduct Sheet 20 sep 43

Date of last entry in Field Conduct Sheet 8 mar 45

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been awaiting trial on the present charges for n/a days in civil custody; and for 16 days in military custody, *i.e.*, n/a days in open arrest, 16 days in close arrest; of which n/a days were spent in hospital.

5. The present age of the accused is 23 years of age.

6. The date of his attestation ~~calling up for military service~~ is 16 July 41

7. The service which the accused is allowed to reckon is 3 yrs 249 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

~~9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously,~~ without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
~~In the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(22459) Wt.29258/1873 60,000 9/42 " " Forms/B.296(War)/2

CW

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of Juny 1945

P A Greenway Capt
offr having custody of original documents.

Ex "C"

No 6.49751 Name Le Bouthillier E. Sqn, Battery or Company | Corps Cdn Inf Corps | Date of enlistment 16 July 41 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet no records previous entry | No and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc R. Hunt Capt | Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Last sheet destroyed 16 Jan 41					
Field	18 sep 43	Gnr	(1)	AA 19 Drunkenness AA 9(2) Disobeying a lawful command given by his superior officer	Sgt Pelletier Bdr Bernier Gnr Michaud	Warning 7 day C.B.	20 sep 43	Maj Slater.	
Field	8 dec 44	L/Cpl.	(2)	AA 19 Drunkenness AA 40 Conduct to the prejudice of Good order and military discipline	Lt Pope Sgt Turenne	$10.00 fine Revert to Pte	9 dec 44	Lt/Col Allard	
Field	14 dec 44	Pte		AA 15(1) AWL 22 hrs 30 minutes	Lt Pope Sgt Turenne	14 day's pay	26 dec 44	Lt/Col Allard	for 1 day's pay for AWL

Certified true copy dated: 5th Jan 45

[illegible] Maj [illegible]

offr having custody of original documents

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31 dec 44	Pte		AA15(1) Hwk. fr 1800 hrs 31 dec 44 till 1600 hrs 6 feb 45 (36 days, 22 hrs)	Documentary	28 days' pay	14 feb 45	Lt Col Allard	forf 27 days' pay for Hwk. forf 8 days' pay for time in arrest.
Field	6 mar 45	Pte		AA24(2) Losing by neglect his clothing (was found deficient of one blanket value Rs 13/9)	Lt Jobin Sgt Dumas	7 days CB Cost: 13/9	8 mar 45	Maj: Paulin	

Certified true copy of the original consisting of one page dated: 5th June 45

Tom Monaghan
Offr having custody of original documents

CW

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~one~~ CW (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s). The Court is closed, and considers the submission.(2) The Court is reopened, and the President announces that the submission is disallowed on the charge(s) and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is now found Not Guilty on the latter charge(s).(3)~~ CW

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. sworn statement Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N. A.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP2. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~are~~ CW recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s) ~~are~~ CW if any, of Not Guilty, and states to the accused that the finding(s) ~~are~~ CW of the Court on the 1st charge ~~are~~ CW charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and as no further accused remain, and that the proceedings are accordingly terminated.~~ CW Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are conducted by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement ~~of~~ CW as to Character and Particulars of Service(1), and certified true copy ~~extract~~ CW of Conduct Sheet(s) (2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement ~~of~~ CW and Conduct Sheet(s) ~~extract~~ CW and in mitigation of punishment?(1) Ans. No

(1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence was comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 543-564, Overseas AO 309, 2203, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(15), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 49751 Pte. Lebouthillier, E. Royal 22nd Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41 A.A	Not Guilty	Guilty	
2nd Sec 19 A.A.	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ cw (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which No days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned without hard labour for a period of six months

(Sgd) n/a Judge-Advocate, if any. 5 Jun 45 Date Awarded. (Sgd) C.F. Whynacht, Maj. President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Trial

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 11 June 45 T/Commanding 3 C.I.B.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

C. 49751 Pte. Lebouthillier E. Duly promulgated 13 Jun 45 [signature] Menard Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

197 A. Supper. Lebrano, Mf. 10/L/377/
No. 1 Can. Eng. H. Unit,

Original.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 14th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint —

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely —]

President.

Rank.	Name.	Regiment.
Major	C.F. Price	No.1 Cdn Inf Bde, Units

Members.

Rank.	Name.	Regiment.
Captain	F.L. Price	No.2 Cdn Inf Bde Units
Lieutenant	A.J. Redick	No.1 Cdn Inf Bde, Units
Lieutenant	C.F. Chicoine	No.2 Cdn Inf Bde Units

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signature Brigadier

Commanding Canadian Base Units Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-2394 SPR. LEBANO, M.J. No.1 Cdn Eng Hldg Unit	First Charge A.A. Sec.15 (1) as per charge sheet	GUILTY	GUILTY	
	Second Charge A.A. Sec.8 (1) as per charge sheet	NOT GUILTY	GUILTY	
	Third Charge A.A. Sec.8 (2) as per charge sheet	NOT GUILTY	GUILTY	Confirmed P To be promulgated by being read out on parade P
	Fourth Charge A.A. Sec.40 as per charge sheet	NOT GUILTY	GUILTY	
	Fifth Charge A.A. Sec.11 as per charge sheet	NOT GUILTY	NOT GUILTY	
	Sixth Charge A.A. Sec.24 (2) as per charge sheet	NOT GUILTY	GUILTY OF LOSING BY NEGLECT ARTICLES OF KIT TO THE VALUE OF £10-0-4½	
	Seventh Charge A.A. Sec.15 (1) as per charge sheet	GUILTY	GUILTY	

SENTENCE:- To undergo detention for a period of 15 months and to be placed under stoppages of pay until he has made good the sum of £6-10-2 in respect of costs of apprehension; and to be placed under stoppages of pay until he has made good the sum of £10-0-4½ in respect of loss of kit

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" NO.
Answer (to be recorded on separate sheet if necessary):—

(Signed) L. F. Pope Brigadier (Signed) G. Graham Maj

Commanding Canadian Base Units, Cdn Army.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of March, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 19th day of March 1941.

G. Graham Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ P

Signed this 22nd day of March 1941.

L. F. Pope Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of Spr. Lebano M.J. C2394

(a) (Dated) 25 March 41 (Signed) W. H. McDill Capt
ADJUTANT
No. 1 Cdn. Engineers' Holding Unit C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. C-2394, Spr. Lebano, M.J., No.1(cdn) Engineer Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:-

First charge
Sec 15 (1)
Army Act

When on active service, absenting himself without leave,

in that he, at BORDON, Hants., at 1015 hours on the 13th day of October 1940, absented himself without leave from No. 1 General Holding Unit, C.A.(O.S.) until apprehended by the Military Police at EDINBURGH at 1230 hours on the 3rd day of January 1941, thereby incurring expenses of apprehension amounting to £6-10-2.

Second charge
Sec 4 (1)
Army Act

When on active service, using violence to his Superior Officer, being in the execution of his office,

in that he, at EDINBURGH, on the 3rd day of January 1941 when arrested by Sgt. R.W.Ward, C.M.Police, resisted arrest and drew his knife from his pocket.

Third charge
Sec 4 (2)
Army Act

When on active service, using threatening language to his Superior Officer,

in that he, at EDINBURGH, on the 3rd day of January 1941 when arrested by Sgt. R.W.Ward, C.M.Police, said to the said Sgt. Ward: "I will get you, you fucking bastard. I will slit your fucking throat."

Fourth charge
Sec 40
Army Act

Conduct to the prejudice of good order and military discipline,

in that he, at EDINBURGH, on the 3rd day of January, 1941, was improperly in possession of a service dress jacket as issued to soldiers of the Imperial Australian Forces, and was wearing the rank chevrons of a Corporal to which asa a Sapper, he was not entitled.

Fifth charge
Sec
Army Act

Neglecting to obey a routine order,

in that he, at EDINBURGH, on the 3rd day of January 1941, was improperly dressed contrary to the Canadian Army (Overseas) Routine Order No. 234 dated 8th August, 1940, was not carrying a respirator.

Sixth Charge
Sec 24 (a)
Army Act

Losing by neglect his Arms, Clothing, Equipments and Regimental Necessaries,

in that he, at Louisburg Barracks, BORDON, Hants., on the 27th day of January, 1941, was deficient of the following:-

Article	£	s	d
Brasses, button.....1.....			2
Brushes, boot blacking.....1.....			8½
Brushes, boot polishing.....1.....		2	1
Caps, comforter.....1.....		1	3
Caps, field service.....1.....		2	2
Greatcoat.....1.....	2	8	6
Dressings, first field.....1.....		1	3
Forks.....1.....			4
Holdall.....1.....			11½
Housewives.....1.....			6
Jackets, sweater.....1.....		8	6
Knives, table.....1.....			8½
Shoes, canvas, prs.....1.....			3
Bags, ration.....1.....			2½
Bottles, water.....1.....		3	
Carriers, waterbottle.....1.....		2	10
Covers, mess tin.....1.....			3
Helmets, steel.....1.....		7	
Slings, rifle.....1.....		1	3
Straps, shoulder.....2.....		8	1½
Straps, web supporting.....2.....		2	8½
Tins, mess.....1.....		2	3
Bayonet and scabbard.....1.....	1	1	8
Oil Bottle.....1.....			7
Rifle.No. K-2311.....1.....	7	8	
Respirator, complete.....1.....		17	11½
TOTAL	14	5	2½

Seventh Charge
Sec 15 (1)
Army Act

When on active service, absenting himself without leave,

in that he, at Louisburg Barracks, BORDON, Hants., at 0715 hours on the 21st day of January 1941, when in close arrest absented himself until apprehended in the vicinity of BRAMSHOTT at 0930 hours on the 21st day of January, 1941.

President of Court

BORDON, Hants.,
27th January, 1941.

(L.F. [illegible]) Lieut.-Col.
Commanding,
No.1(Cdn) Engineer Holding Unit,
C.A.(O.S.).

To be tried by Field General Court-Martial

Bordon, Hants.,
This 12th day of March, 1941.

L. F. [illegible] Brigadier.
Cmdg. Cdn. Base Units.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. C.2.3.9.4 Sp. Labour M.I.

No. 1 (Cdn) Engineer Holding Unit, is fit

to undergo trial by Court-Martial.

(S. ROBRINSKY) Capt. R.C.A.M.C.

MEDICAL OFFICER

No. 1 Cdn. Engineers' Holding Unit. C.A.

C-2394, Sgr. Lebano, M.J., No. 1 Cdn. Engineer Holding Unit, tried by Field General Court-Martial at Bordon, Hants., on the 19th day of March, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Capt. A.D. Mann
Defending Officer - P/Lieut. H.M. Brock.

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.W.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Not guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Not guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Not guilty, sir.
Q7 - Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7 - Not guilty, sir.
Q8 - Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A8 - Not guilty, sir.
Q9 - Are you guilty or not guilty of the seventh charge against you, which you have heard read?
A9 - Guilty, sir.

R.P. 35(2) is complied with in connection with the first and seventh charges.

Prosecutor - I have formal evidence to offer under Rule of Procedure 39(5).

Capt. A.D. Mann (Prosecutor) I recognize the accused and I submit a copy of the declaration of a Court of Inquiry which listed the articles of which he was deficient on the 14th day of October, 1940. I recognize the signature of Lieut. Keith who signed the copy.

I produce a second document signed by Major Cameron in charge of the military police at London. This applies to the accused and is a statement of the costs of apprehension.

In connection with the fifth charge I have a certified true copy of a paragraph from General Holding Unit Part I Orders dated 12th October, 1940.

The Defending officer declines to cross-examine.

The Prosecutor proceeds to call witnesses.

First witness for the prosecution, No. 2654660, C.S.M. Ward, R.W., Corps of Military Police, Edinburgh, Scotland, being duly sworn, is examined by the prosecutor.

Q10 - Would you give your number, name and rank, please?
A10 - No. 2654660, C.S.M. R.W. Ward.
Q11 - What is your employment?
A11 - I am employed with by the Corps of Military Police.
Q12 - Where?
A12 - Edinburgh.
Q13 - For how long?
A13 - Since the beginning of the war.
Q14 - What was your civilian occupation?
A14 - Police constable.
Q15 - For how many years?
A15 - Seven years.
Q16 - Do you recognize the accused?
A16 - I do, sir.
Q17 - What is his name?
A17 - Lebano, sir.
Q18 - When did you first see him?
A18 - The third day of January, 1941.
Q19 - Why did you notice him then?
A19 - He drew my attention because he was looking very dirty and unsoldierlike and he was improperly dressed.
Q20 - Had you known who he was before that time?
A20 - No, sir, not until that time, sir.
Q21 - What did you do?
A21 - I formed the opinion that he was an absentee and went towards him. Immediately he ran into a close and up some tenement steps.
Q22 - A close is a passage?
A22 - That is right, sir.
Q23 - What did you do?
A23 - I gave chase and followed him up the tenement steps and caught up with him and asked for his pass which he failed to produce.
Q24 - What did you do next?
A24 - I told him he was absent from the army and I would arrest him on that charge and I took him from the steps to where the police van was waiting.
Q25 - How did you take hold of him?
A25 - By the arm.
Q26 - Did he come freely?
A26 - Quite freely.
Q27 - You just guided him?
A27 - Yes, sir, no force at all.
Q28 - When he got to the street what happened?
A28 - When he saw he had to go into the van he tried to struggle and eventually, with some force, he was put into the van.
Q29 - Did he make any attempt to break free?
A29 - He couldn't very well because he was held. I think he would have run away had he not been held.
Q30 - Was anyone with you at the time?
A30 - The other persons present were L/Cpl. Dunn and two bombadiers from the Royal Artillery who were also in the van.
Q31 - Would it be possible to find their names if necessary?
A31 - It could be done, sir.
Q32 - Did you personally push him into the van?
A32 - Yes, sir.
Q33 - Did you let go of his arm at any time?
A33 - Not until he was in the van, sir.
Q34 - Was he sober?
A34 - Quite sober.
Q35 - Had he been drinking at all?
A35 - I didn't suspect anything, sir.
Q36 - Did you smell anything?
A36 - No, sir.
Q37 - Was he able to speak sensibly?
A37 - Quite sensibly.
Q38 - Did you get to see his pay-book at this time?
A38 - Not until I reached military police headquarters.

Q39 - After you put him in the van what did you do?
A39 - The door was locked and I went to the front of the van.
Q40 - Who was driving?
A40 - L/Cpl. Gunn.
Q41 - Where did you sit?
A41 - At the front.
Q42 - Where were the two bombadiers?
A42 - In the body of the van.
Q43 - Did the accused sit quietly?
A43 - No, he was using obscene language and threats.
Q44 - Did he use any threats before the van started forward.
A44 - No, sir.
Q45 - There was no definite threat until it started moving?
A45 - No, sir.
Q46 - Was any threat made?
A46 - Just as the van was about to start he said "I will get you, you fucking bastard, I will slit your fucking throat."
Q47 - He said that to you?
A47 - Yes, sir.
Q48 - Did he make any effort to carry out his threat?
A48 - He produced from his pocket an army jack-knife.
Q49 - What did he do with it?
A49 - He didn't have time to do anything, it was taken away from him.
Q50 - Did you see him produce the knife?
A50 - Yes, sir.
Q51 - You were looking in the rear at the time?
A51 - Yes, sir.
Q52 - How did he get it open?
A52 - I don't know that it was open, it was partly open. He held it in the left hand and started to open it with the right. He made the threat and drew out the knife and commenced opening the blade and it was taken away from him.
Q53 - Did you actually see this?
A53 - Yes, sir.
Q54 - You were looking at the time?
A54 - Yes, sir.
Q55 - How was he restrained?
A55 - After he made the threat he ceased to quieten down because I explained he was making things worse for himself and that other charges could be laid against him.
Q56 - Did he put the knife away, himself?
A56 - No, sir, it was retained until he was placed in custody and then it became in possession of the guard.
Q57 - What guard?
A57 - The Royal Scots at Edinburgh Castle, sir.
Q58 - When you took him to the guard-room did you speak to him further at that time?
A58 - I asked for his pay-book and then he admitted he was a sapper and not a corporal.
Q59 - How was he dressed?
A59 - He was improperly dressed, wearing beneath his greatcoat he issued to the Australians an Australian tunic and he had no web anklets and no respirator.
Q60 - Did he give any excuse for not carrying a respirator?
A60 - No, sir.
Q61 - Did he account for wearing the Australian uniform?
A61 - Not in the military police barracks. He later said that the man he was with had taken his and he had taken the Australian's jacket.
Q62 - Was the knife taken from him?
A62 - Yes, sir, in the police van.
Q63 - Did he give it up willingly?
A63 - Well, I don't know, it was sort of grabbed from his hand.

Cross-examination by the defending officer.

Q64 - I would like to again ask the witness if the accused gave any sign whatsoever of having been drunk?
A64 - None whatsoever.
Q65 - While he was sitting behind you in the van did you notice any signs on his breath?
A65 - I didn't notice any signs or symptoms.

Questions by the Court.

Q66 - When you picked him up on the steps did you put him under arrest formally?
A66 - Yes, sir, on a charge of absence.
Q67 - Then he was, from that time, under arrest?
A67 - Yes, sir.
Q68 - What were the words he used again?
A68 - "I will get you, you fucking bastard; I will slit your fucking throat."
Q69 - Was that the time he produced the knife?
A69 - Yes, sir, by the time he had finished the sentence the knife was in his hand.
Q70 - Did Lebano attempt to use his fists on you?
A70 - Not at all.
Q71 - He wasn't fighting back?
A71 - Just trying to get away.

Second witness for the prosecution, L-22039, Sgt. Milton, D.A., No. 1 Can. Engineer Holding Unit, being duly sworn, is examined by the prosecutor.

Q72 - Will you give your number, name, rank and unit, please?
A72 - L-22039, T/Sgt. Milton, D.A., No. 1 Can. Engineer Holding Unit.
Q73 - What is your employment?
A73 - In charge of clothing; C.M. Stores.
Q74 - Do you recognize the accused?
A74 - Yes, sir; Sgt. Lebano.
Q75 - Have you made any inventory of his kit recently?
A75 - On the 27th January I made an inventory of his kit.
Q76 - Was he present when you made the inventory?
A76 - Yes, sir.
Q77 - Did you make any comparison between the articles in his possession and the articles he had been issued?
A77 - I compared them with the original K.F.C.200.
Q78 - You made notes as to any deficiencies you found?
A78 - Pressee, button, one, 2s; Brushes, boot blacking, one, 6d; Brushes, boot polishing, one, 2s 1d; Cape, comforter, one, 1s 3d; Caps, field service, one, 2s 6d; Forks, table, one; 4d; Greatcoat, one, £3-6-6; Dressings, first field, one, 1s 3d; Holdall, one, 11s4; Housewives, one, 6d; Jackets, sweater, one, 2s 6d; Knives, table, 6d; Shoes, canvas, one, 2s 3d; Bags, ration, one, 6d; Bottles, water, one, 3/-; Carriers, waterbottle, one, 2s 10d; Covers, mess-tin, one, 3d; Helmets, steel, one, 4/-; Slings, rifle, one, 1s 3d; Straps, shoulder, two, 2s 1d; Straps, web supporting, two, 2s 6d; Tins, mess, one, 2s 3d; Bayonet and scabbard, one, £1-12-3; Oil bottle, one, 7d; Rifle No. H-2911, one, £7-6-0; Respirator complete, one, 17s 11½d; stated value of £21-5-8d.
Q79 - Are those prices full replacement value?
A79 - Full value.
Q80 - Of those certain articles are unnecessaries?
A80 - Yes, sir.
Q81 - Canadian Routine Order (Overseas) 176, Table B, has them listed. Do you remember which ones are necessaries?
A81 - Button stick: Brushes, boot blacking and polishing; Fork: Holdall: Housewife: Knife, table.
Q82 - What about the first field dressing and cap comforter?
A82 - I couldn't state about the cap comforter.
Q83 - His first field dressing?
A83 - Yes, sir, to be retained at the soldier's expense.
Q84 - Is that to say it is considered to be his personal property?
A84 - Yes, sir, there is just the one issue.
Q85 - On the matter of equipment below, the other items; those are on loan from the public?
A85 - Yes, sir, they are on the unit charge and they can be taken away from the man at any time.
Q86 - He does not buy the articles but has them given to him?
A86 - Yes, sir.

Cross-examination by the defending officer.

Q87 - Was the accused purchased any of these articles since the 27th January?
A87 - Yes, sir.

Q98 - What articles has he purchased?
A98 - He has purchased on M.F.M. 517 one Cap, field service; one greatcoat; one first field dressing; one fork; one holdall; Carrier, waterbottle; Strops, shoulder; Strops, web supporting; respirator complete.
Q99 - Were the prices charged here in force at the time the kit inspection was taken or were they the prices ruling at the time the accused went absent in October?
A99 - They were the prices at the time I took the inventory.

Q100 - Do you apply to give evidence yourself as a witness?
A100 - Yes, sir.
Q101 - Do you intend to call any other witness in your defence?
A101 - No, sir.

Defending officer - It is proposed to prove that the alleged offence, that is to say those in the second, third, fourth and fifth charges by the accused were committed while intoxicated and he was not fully responsible for his actions.

First witness for the defence, C-2304, Spr. Lebano, W.J., No. 1 Can. Engineer Holding Unit, being duly sworn, is examined by the defending officer.

Q102 - On the night previous to the day you were arrested where were you staying?
A102 - At the Soldiers' Rest, Prince Rupert Street, Edinburgh.
Q103 - Did you have a friend with you?
A103 - Spr. Ceretti.
Q104 - On the evening mentioned did you and Ceretti purchase any liquor?
A104 - We had two bottles of whisky and we drank one that night before going to bed and saved one for the morning.
Q105 - Where were you on the morning of your arrest, or what did you do on the morning of your arrest from breakfast to the time of arrest?
A105 - I was in the Soldiers' Rest and Ceretti and I drank a bottle and I had quite an argument with Ceretti and so I went across the road and to a public house and drank a few beers and went up town and got arrested.
Q106 - When you left the Soldiers' Rest were you in the regulation uniform of the Canadian Army?
A106 - I was properly dressed when I left with a respirator and steel helmet.
Q107 - Were you drinking alone or in company with another soldier in the bar referred to?
A107 - With an Australian soldier.
Q108 - How did you come to be in possession of the Australian soldier's tunic and greatcoat?
A108 - I don't recall now, sir.
Q109 - How do you explain the fact that you are not able to recall?
A109 - We were feeling pretty good and when I was drinking we must have took them off and he must have put mine on by mistake and so I put his on.
Q110 - Can you tell us your own version of being arrested and anything you said to C.S.M. Ward who arrested you?
A110 - To tell the honest truth I don't remember anything of what happened until I was locked up in a cell.
Q111 - When did you first notice that you did not have on your own battle dress blouse and that you had on the Australian tunic?
A111 - When I was locked up in the cell I noticed it then.
Q112 - On the day you were arrested?
A112 - Yes, sir.
Q113 - How long after?
A113 - I should say about 2½ hours afterwards.
Q114 - At that time would you say you had regained sobriety?
A114 - Yes, sir.
Q115 - Relative to the sixth charge, did you purchase some of the articles of clothing with which you were found deficient at a later date?
A115 - Yes, sir, I got some from the N.A.A.F.I.
Q116 - Did you, subsequent to the time of your kit inspection on the 17th October, purchase any articles?
A116 - Yes, sir.

Sgd.

Q107 - Did you purchase a mess tin cover?
A107 - Yes, sir.
Q108 - A steel helmet?
A108 - I didn't, sir.
Q109 - One mess tin?
A109 - Yes, sir.

Cross-examination by the prosecutor.

Q110 - When you purchased these articles who was the storeman who issued them to you?
A110 - Sgt. Milton.

Questions by the Court

Q111 - You purchased a mess tin?
A111 - Yes, sir.
Q112 - And a mess tin cover?
A112 - I am not sure, sir.

L-28039, L/Sgt. Milton, D.A., No. 1 Cin. Engineer Holding Unit, second witness for the prosecution, being recalled, is examined by the prosecutor.

Q113 - Did the accused at any time purchase from stores through your service a Cover, mess tin?
A113 - No, sir.
Q114 - A mess tin?
A114 - I have no record of a mess tin.

Questions by the Court.

Q115 - Are you swearing he didn't purchase a mess tin?
A115 - I couldn't be absolutely definite on account of some of the records being in Aldershot to be approved.

Defending Officer - Before weighing the evidence I would ask the Court to refer to M.M.L. Chapter 7, Para. 9. Also Chapter 3 Para. 48. (Defending Officer reads these sections referred to) I have no further remarks to make, sir.

Prosecutor - In relation to the second charge, attention is drawn to the evidence of C.S.M. Ward that violence was offered but a special finding may be made under Sec. 56(4B). I would also call your attention to Chapter 6(4A) as to the amount of evidence which is sufficient. Attention is also drawn to the experience of Sgt.-Major Ward as a police officer. The testimony he offered as to the sobriety of the man was not questioned at the time. That is all, sir.

The Court is closed for the consideration of the finding.

President - We have found the accused not guilty of the fifth charge.

Capt. A.D. Mann, No. 1 Engineer Holding Unit, being duly sworn.

Q116 - Have you any evidence to produce as to the character and particulars of service of the accused?
A116 - A.F.B. 296 and M.F.M. 6, sir.
Q117 - Is the accused the person named in the statement which you have heard read?
A117 - He is, sir.
Q118 - Have you compared the contents of the above statement with the regimental books?
A118 - Yes, sir.
Q119 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A119 - Yes, sir.

The accused declines to cross-examine.

G-6794, Spr. Lebrun, W.J., No. 1 Gen. Engineer Holding Unit, is examined by the defending Officer.

Q120 - Spr. Lebrun, previous to enlisting in the Canadian Army what were you employed at?
A120 - Working for the R.C.O.C. as a civilian at my trade.
Q121 - What trade?
A121 - Shoemaker.
Q122 - Were you trade tested?
A122 - Yes, sir.
Q123 - What class did you get?
A123 - I passed "A" trade test.
Q124 - While at the General Holding Unit what occupations were you given and what training did you receive?
A124 - I was given fatigues and guard duty.
Q125 - Were you ever given an opportunity of working at the trade at which you were expert?
A125 - No, sir.
Q126 - In your own words, why did you go absent without leave?
A126 - I tried to get settled down at one job but I was taken off and put on another. I was working in the garage driving a lorry and was doing well and they took me away after a month and put me on fatigues and guard duties.
Q127 - What finally made you decide to go Absent?
A127 - I had a chance to have chat with my lieutenant and I asked him to get me out of the Holding Unit and I would settle down to soldiering. I waited two weeks and couldn't get any satisfaction.

The Court is closed for the consideration of the sentence.

Summary of Evidence in the case of
No. C 2394 Spr. LeBlanc, M. J.

Evidence taken on oath by order of Commanding Officer

First witness: Lieut. J. J. Donovan, No. 1 (Edm) Engineer Holding Unit having been duly sworn states:
"I am Assistant Adjutant No. 1 (Edm) Engineer Holding Unit and as such produce in evidence
a) Certified copy declaration of a court of inquiry dated 8th November 1940.
b) Certificate of arrest.
c) Statement of Evidence of Sgt. R. W. Ward.
I have satisfied myself that the accused is referred to in these documents.
From the required documents in my possession it appears that the accused is a sapper and is not and has never been a corporal."

J. Donovan 2/Lt RCE
Asst/Adj.

The accused makes no objection to the production of the above documents.
The accused declines to cross-examine this witness.

Second witness: M/41663 Spr. Schwede, A. No. 1 (Edm) Engineer Holding Unit. having been duly sworn states:
"I am attached to Regimental Police No. 1 (Edm) Engineer Holding Unit. On 21st January 1941 I was ordered to take three prisoners from the Guard Room to the Field Aid Post. The accused, whom I now recognize, was one of these prisoners. At 0715 hours outside the Field Aid Post the accused and Spr. Cretti ran away in the dark. I reported the escape to the Orderly Officer. I reported to the Provost Sergeant and

we formed a search party. In company with the Provost Sergeant and Sapper Wilson I found the accused on the road in the vicinity of Bramshott. We pursued and captured the accused. We then returned the accused to the guard room. I had asked for an extra escort from the guard commander before attempting to take these prisoners to the First Aid Post but was refused."

M41663 - A. Schwede

The accused declines to cross-examine this witness.

Third Witness: B5817 Sgt. Martin No1 (Cdn) Engineer Holding Unit having been duly sworn states:

"I am Provost Sergeant No.1 Engineer Holding Unit. At about 0720 hours 21st January 1941 Spr. Schwede reported to me that Sappers Lebano and Ceretti had escaped custody while being taken to the M.O. in the fog and darkness. I immediately organized a search party posting Cpl. Brant and Spr. Simpson at the intersection of the Bordon - Farnham - Southampton Roads. I proceeded with Spr. Schwede and Spr Wilson along the Southampton Road to Alton and then back to Bordon, then along London road via Bramshot. In the vicinity of Bramshott Hospital I saw the accused and Spr. Ceretti walking on the side of the road. I stopped the truck and when they saw me they made off into the gorse. My escort and I gave chase and caught them and returned them to Louisburg Detention Barracks. We caught them about 0930 hours.

Sgt. B Martin.

B5817.

The accused declines to cross-examine this witness.

Fourth Witness: L 22039 Cpl. Milton, D.A., No 1 (Cdn) Engineer Holding Unit, having been duly sworn states: "I am a Corporal in Q.M. Stores No 1 (Cdn) Engineer Holding Unit. On the 27th day of January 1941, I checked the kit of the accused. I found that he was deficient kit to the value of £14. 5. 2½ in accordance with the attached list of deficiencies."

Cpl D d Milton
No 1 C.E.H. Unit

The accused declines to cross-examine this witness.

The accused is then warned in accordance with the provisions of R.P. 4 (E).
The accused declines to make a statement or give evidence.
Certified that RP 4 (C), (D) and (E) have been complied with.

Taken down before me in the presence and hearing of the accused at Louisburg Barracks, Bordon, Hants, this 28th day of January, 1941.

Wm Curry
Lieut R.C.E.
No 1 (Cdn) Engineer Holding Unit

GJB

Supplementary Summary of Evidence

In the case of No. C-2394 Sapper M.J. Lebano, No 1 Can Engineer Holding Unit, a soldier of the Canadian Army (overseas).

Evidence taken on oath by order of the Commanding Officer.

Fourth witness (recalled) L-22039 Cpl Milton D.A. No 1 Can Eng Hldg Unit, having been duly sworn states:

I am a Corporal in the Q.M. stores of No 1 Eng. Holding Unit. On 27 Jan. 1941 I took an inventory of the kit of the accused No C-2394 Spr Lebano, M.J. whom I recognize. I checked the inventory of kit against the entry in M.B. 68 and found the accused to be deficient of the following, to a total value of £14-5-2½

Brasses, Button		1	-2
Brushes Boot Blacking		1	-8½
Brushes Boot Polishing		1	2-1
Caps comforter		1	1-3
Caps field service		1	2-2
Great coat		1	2-8-6
Dressing first field		1	1-2
Forks		1	-4
Holdall		1	11½
Housewife		1	6
Jacket sweater		1	8-6
Knives table		1	-8½
Shoes canvas		1	2-3
Bags ration		1	2½
Bottles water		1	3-0
Carriers water bottle		1	1-10
Covers mess tin		1	3
Helmets steel		1	7-0
Slings rifle		1	1-3
Straps shoulder		2	8-1½
Straps web suppo.		2	2-8½
Tins mess		1	2-3
Bayonet + scabbard		1	1-1-9
Oil bottle		1	7
Rifle #K-2311		1	7-8-0
Respirator comp.		1	17-11½
	Total		£14-5-2½

Cpl D.A. Milton

The accused does not wish to cross examine this witness.

The accused is then duly warned as provided by RP. 4.(E)

The accused declines to make a statement or give further evidence.

Certified that RP. 4 ~~CD+E~~ CD+E have been complied with.

Taken down before me in the presence and hearing of the accused at Louis bury barracks BORDON Hants this 28th day of February 1941

J H Williamson Lieut RCE
No 1 Cdn Eng Hldg Unit

[illegible]

2nd Supplementary Summary of Evidence

in the case of No. C2394. Spr. Lebano, M.J. No 1 Cdn Engineer Holding Unit, a soldier of the Canadian Army (Overseas).

Evidence taken on oath by order of the Commanding Officer.

Fifth Witness - Lieut W. S. Hogg, No 1 Cdn Eng. Holding Unit, having been duly sworn, states.—

I am Lieut. W. S. Hogg, Officer i/c Records of No 1 (Cdn) Engineer Holding Unit. I produce in evidence copies of:

(a) Certified account of the cost of expenses in apprehending and returning No. C-2394. Spr. Lebano, M. J., to this unit from Edinburgh to London, in the amount of £6-10-2, dated 4-1-41.

(b) Certified true extract from Routine Orders (Overseas) No. 234.

(c) Certified true copy of Extract from No. 1 General Holding Unit Part 1. Daily Order No. 134, dated 12th October 1940.

A/m documents attached as exhibits to this Supplementary Summary.

W. S. Hogg Lieut RCA

~~Accused makes no objection to this documentary evidence.~~

~~Accused is duly warned as provided by R.P. 4(E).~~

The accused does not wish to make any objection to this documentary evidence other than objecting to the costs of apprehension, namely £6-10-2.

The accused is then duly warned as provided for by RP 4(E).

The accused wishes to make a statement as follows:- If Sgt. Ward is brought down as a witness, I desire that the jackknife which is mentioned in his written statement be produced in evidence.

The accused does not wish to give evidence.
Certified that R.P. (C)(D)(E) have been complied with.

Taken down before me in the presence and hearing of the accused at Louisburg Barracks, Borden, Hants, this 5th day of March, 1941

H. L. Boyes
Lieut RCE.
1 (Cdn) Esq. Holding Unit

GJG.

LIST OF EXHIBITS

in the case of No. C-2394, Spr. Lebano, M.J.

(a) Certified copy of Declaration of a Court of Inquiry dated 8th November, 1940.

(b) Certificate of Arrest.

(c) Statement of Evidence of Sgt. R.W.Ward, C.M.P., Edinburgh, Scotland

(d) Cost of Apprehension, certified by A.P.M., London.

(e) Certified copy of Extract from R.O. 234

(f) Certified copy of No1 General. H.Q. Part 2 Order No 134 dated 12 Oct 40

GJG

LIST OF WITNESSES

in the case of No. C-2394, Spr. Lebano, M.J.

For the prosecution:-

Lieut. J.J.Denovan	No.1(Cdn)	Engineer	Holding	Unit.
M-41663, Spr. Schwede, A.	"	"	"	"	"
B-5817, Sgt. Martin,B.	"	"	"	"	"
L-22039, Cpl. Milton, D.	"	"	"	"	"
2/Lieut. H.M.Brock	"	"	"	"	"
Sgt. R.W.Ward	C.M.	Police,	Edinburgh,	Scotland.
L/Cpl. F.A.Gunn	"	"	"	"	"

For the defence:

GJG

EXTRACT FROM :

NO I CANADIAN GENERAL HOLDING UNIT

PART I ORDERS

D.O. 134
12 Oct 40.

SUB-PARA 5.

STEEL HELMETS

(a) It is brought to the attention of all ranks that steel helmets will be carried by all ranks on occasions when respirators are carried in accordance with R.O. (Overseas) 234. When troops are walking out, or on leave, respirators will be worn in the slung position, i.e. the sling over the right shoulder, haversack on the left side.

(b) The steel helmet will be fastened to the haversack of the respirator by the chin strap so that the steel helmet is on the outside.

CERTIFIED true extract from Daily Order No. 134 dated 12 Oct 40. as posted up in all Barrack Rooms.

W B Keith

(W.B.Keith) Lieut
Adjutant No.1 GHU
Canadian Army.

(a)

Entry No.11 C- 2394, Spr. Lebano, M.J.

The Court declares that C-2394, Spr. Lebano, M.J., illegally absented himself without leave at Quebec Barracks, Bordon, Hants., at 1015 hours on the 13th day of October, 1940, and that he is still so absent and that on the 14th day of October, 1940 he was deficient and that he is still deficient of the following:-

Anklets, webb prs.,	1		3.11	Shoes, canvas, prs.	1	.	3. 5
Bags, kit	1		4.10	Socks, prs	1		4. 9
Battle-dress				Spoons, tables	1		. 3½
Blouses	2	2.	5. 0	Towels, hand	2		2. 6
Trousers	2	2.	1. 0	Badges, shoulder Canada	2		. 6
Bootlaces, prs	1		. 1¼	Bags, ration	1		. 2½
Boots, ankle, prs.	2	2.	2. 0	Belts, waist	1		4. 7
Braces,	1		1. 5	Bottles, water	1		2. 6
Brasses, button	1		. 1½	Braces, web L&R	2		7. 4½
Brushes, boot, blacking	1		. 7½	Carriers, cartridge	2		17. 6
polishing	1		1. 8	Carriers, waterbottle	1		1. 7
Brushes, button	1		.10½	Covers, messtin	1		. 5½
Brushes, cloth	1		.10½	Frogs, bayonet	1		. 9
Brushes, shaving	1		1. 2	Haversack	1		10. 7½
Brushes, tooth	1		. 4	Helmets, steel	1		7. 0
Cap, comforter	1		1. 3	Packs,	1		12. 5½
Cap, Field service	1		2. 0	Slings, rifle	1		.10½
Greatcoats, drab	1	2.	2. 6	Straps, shoulder L&R	2		8. 1½
Comb, hair	1		. 2½	Straps, web, support.	2		2. 8½
Drawers, woollen, prs	2		11. 0	Tins, mess	1		1. 2½
Dressings, first Fd.	1		1. 2	Bayonets, &scabbard	1	1.	1. 9
Forks,	1		. 3½	Bottles, oil	1		. 7
Gloves, woollen, prs	1		1. 7	Pullthrough	1		. 5
Holdalls	1		.11	Rifle	1	8.	7. 0
Housewife	1		. 7	Sheets, ground	1		10. 0
Jacket, sweater	1		6. 3	Respirator, facepiece	1		9. 6
Knife, table	1		. 8	hvrsck	1		4. 7
Overalls, Blouse, den.	1		12. 3	contnr.	1		3. 6
" Trousers, den.	1		11. 3	outfits A/D	1		. 2½
Razors	1		. 5½	Eyeshields, Mk.II	1 pkg		4. 7
Shirts, flannel, khaki	2		15. 0	Ointment A/G	1		. 6½
Shirts, woollen	2		13. 0	Capes, A/G	1		15. 6
				TOTAL		£29.	11.11

Signed at Quebec Barracks, Bordon, Hants., this 8th day of November, 1940.

A.L. SAUNDERS, Capt. PRESIDENT
H. STRATTON, Capt. MEMBER
J.C.McBRIDE, Lieut. MEMBER

(signed) R.W.Frost Major

Officer Commanding
No.1 General Holding Unit, CASF

CERTIFIED TRUE COPY:

W B Keith Lieut
(Signature of Officer having custody of the Original Record.)
M.B 65

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge or Order of the Dispensing Authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of February 1941

[signature] 2nd Rec Sec/Adj.

Army Form B296

Statement as to Character and Particulars of Service of Accused.

C02394 Spr.Lebano,M.J. of the No. 1 (Cdn) Engineer Holding Unit

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	3 times	3 times
For Breaking out of Barracks	2 times	2 times
For Neglect to the Prejudice etc	1 times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct.

Nil

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act are set out in the Schedule annexed to this statement.~~

[illegible]

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~
~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 76 days in Military Custody.

Total 76 days.

Of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 23 yrs

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 31 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Nil

8. The accused is entitled to deferred pay or gratuity in respect of Nil years' service.

9. The accused is entitled to reckon Nil years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~

11. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of Nil , dated Nil , and in his regiment (*or* corps *or* department) the rank of Nil dated Nil

13. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date,~~

Date of Promotion

In the rank of Nil , years, Nil

In the rank of Nil , years, Nil

In the rank of Nil , years, Nil

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name C-2394 Spr. Lebano, M.J. of the No. 1 (Cdn) Engineer Holding Unit

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		N I L		

(*Continued overleaf.*)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				broke out of barracks till 1230 hrs 27-4-40 when his duty required him to be in barracks (absent 3 hrs)	WO. Bernard				
				(3) Breaking out of barracks in that he at or about 1500 hrs 28-4-40, broke out of barracks when under open arrest	WO. Bernard				
Halifax, NS	10 May 40	Spr		A.W.L. from 1400 hrs 10-5-40 to 1410 hrs 10-5-40 (Absent 10 mins)	Sgt. Carr-Harris L/C Taylor	2 days CB	11-5-40	Maj. Gray	
				Verified to date:- C.S. Brown Adjutant Eng. T.C. Halifax, N.S.					
Halifax NS	31 May 40	Spr		A.W.L. in that he was absent from 2400 hrs 31-5-40 to 2100 hrs 1-5-40 (Absent 21 hrs.	CSM Miller	4 days CB For. 1 days pay	3-6-40	P. Lewis Lieut. RCE	
				Certified true copy of orignal:- J. Donovan 2Lieut RCE Asst. Adjutant, No. 1 (Odn) EMU					

E.G.

District Depot M.D. 3

No. C-2394 Name LEBANO, M.J. Sqn., Battery, or Company ~~Corps~~ Date of enlistment 31-1-40 G.C. Badges Service or Proficiency Pay M.F.M.6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL Sgd(J.F.C. Maunder) Major. RCA O.C. District Depot M.D. 3					
Halifax N.S.	31 3 40	Spr	Nil	A.W.L. 2200 hrs 31-3-40 to 0040 hrs 2-4-40 (Absent 26 hrs 40 mins)	Sgt. Carr-Harris L/C Chisholm	3 days C.B.	2-4-40	Capt. Gray	Forfeits 2 days pay
Halifax N.S.	27 April 40	Spr	Nil	(1) Neglect to the prejudice of Good order and military discipline, in that he neglected to lay out his kit for barrack room inspection when warned to do so	L/C Barriger Sgt. Carr-Harris	7 days C.B.	29-4-40	Capt. Gray	
Halifax N.S.	1 May 40	Spr		(2) Breaking out of barracks in that he, at 0930 hrs 27-4-40	Cpl Orenstein	120 hrs detn Forfeits 3 days Pay	3-5-40	Lt-Col Stein	

(P.T.O.)

(d)

Ref:- K.R.& O.(Can.)539

Rest.No:- C 2394

Rank:- Spr

Name:- LeBano

Regiment:-

Unit:- R.C.E. Holding

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from:- Edinburgh to London

DATE	PARTICULARS	AMOUNT		
4-1-41	Escort's return fare	3		8
	Prisoners's single fare (full single fare)	3		8
	Escort's expenses(bed and meals for escort) for which receipts were produced.		8	10
	TOTAL	6	16	2

I certify that the above expenses are true and correct.

H D Cameron
MAJOR
A.P.M. CANADIANS
LONDON AREA.

TOTAL

(P.T.O.)

K.R.& O.(Can.) 539

"Where expenses have been incurred for the purpose of effecting the arrest of a soldier who is a deserter or absentee without leave(including any reward payable for such arrest)and for the return of such soldier to his corps,which under the Pay and Allowance Regulations may be awarded by such soldier's commanding officer or in case he is tried by court-martial,or if he is on board one of his Majesty's ships,by the commanding officer of the ship,and which upon such award may be deducted from the ordinary pay of such soldier,the sum required to make good such expenses shall be included in the particulars of the charge of desertion or absentee without leave,as the case may be,on which such soldier is tried."

NOTE:-

The expenses over leaf have been recovered by this unit from Public Funds through the command paymaster,and are to be charged against the soldier through your unit Part II Orders.

---------000---------

4N-42

Pte. Le Brasseur. A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E10182 Pte Lebrasseur A R de Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of 1 year

(Sgd) ..... 23 Dec 44 (Sgd) J A Currie Maj.
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) S.M. Lett Lt-Col

Date 24 Dec 44 T/ Commanding 8 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

26 Dec 44 GO Taschereau, Lt-Col.

R de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4N-47

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA31) 40/P 48/1668 (40-0) 4/38B

Convened by Order of Lt-Col S.M. Lett T/ Comd 8 Cdn Inf Bde dated 23 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E10182	Pte	Aniceť Lebrasseur	R de Chaud	Cdn Inf Bde Army Tps

Certified true copy
W.D. Thompson Capt
a D. J. A.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 23 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1445 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J A Currie	N Shore R
Member	Capt	J D McLean	QOR of C
Member	Capt	F Ansell	R de Chaud
Judge-Advocate			
Prosecutor	Capt	J.C. Closson	R de Chaud
Defending Offr	Capt	L.N. Begin	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E Europe II 53

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here "Loose Sheets of Record."

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114. KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (*i*) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 98(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED E10182 PTE ANICET LEBRASSEUR OF LE REGIMENT DE LA CHAUDIERE, A SOLDIER OF THE CANADIAN ARMY OVERSEAS IS CHARGED WITH

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

1ST CHARGE
ARMY ACT
SEC. 15(1)

in that he:

In the Field, at 1400 hrs 11 Nov 44, absented himself without leave, until apprehended by CDN Provost Corps at 1800 hrs 13 Dec 44
(TOTAL ABSENCE: 32 DAYS 4 HRS.)

SIGNED IN THE FIELD
THIS 22ND DAY OF DEC. 44

G O Taschereau
(G.O. TASCHEREAU) LT-COL,
COMMANDING,
LE REGIMENT DE LA CHAUDIERE

TO BE TRIED BY F.G.C.M.

SIGNED IN THE FIELD
THIS 23 OF DEC. 44

S.M. Lett Lt-Col
~~(S.M. LETT) LT-COL,~~
T/COMMANDING 8 CDN INF BDE.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10182	Pte		Anicet	LEBRASSEUR	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 23 Dec 44 endorsed by me, ~~for by an offr of my staff for me~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Pulso appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	J A Currie	N Shore R
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	J.D. McLean	QOR of C
Capt	F. Ansell	R de Chaud
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	R Rochon	R de Chaud
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland	S.M. Lett	~~Brig~~ LtCol
(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)

Dat 23 Dec 44 T/ Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

LE REGIMENT DE LA CHAUDIERE

MEDICAL REPORT

DATE 23 Dec 44

I certify that I have this morning examined

No E-10182 Rank Pte Name Lebrasseur A

and in my opinion is Fit or Unfit to undergo trial by Court-Martial.

P Gauthier

P. GAUTHIER Capt RCAMC
M.O. R DE CHAUD

SUMMARY OF EVIDENCE

In the case of E-10182 Pte Anicet Lebrasseur of Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on Oath.

1st Witness Capt R.L. Boulanger of Le Regiment de la Chaudiere, having been duly sworn states:-

I am Capt R.L. Boulanger of Le Regiment de la Chaudiere Adjutant and Officer i/c of Unit records: I hereby produce.

1- Certified true copy of Finding of the Court of inquiry held in the case of the accused.
2- Certificate of apprehension (A.A. 163(i)(J) (admitted and marked Exhibit "A & B".

R L Boulanger Capt Adjt
R.L. Boulanger Adj.
Le Regiment de la Chaudiere

QUESTION TO THE ACCUSED:

Do you wish to make any statement or give evidence upon Oath? You are not obliged to do so unless you wish to, but whatever you say or evidence you give will be taken down in writing and may be give as evidence.

ANSWER FROM THE ACCUSED:

"No Sir I reserve my defence".

LeBrasseur A
E-10182 Pte A. Lebrasseur
Le Regiment de la Chaudiere

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused and that the rules of procedure 4 C/D/E/F/G have been complied with.

Signed in the Field
this of Dec 1944

R Rochon Capt
R. Rochon Capt
Le Regiment de la Chaudiere.

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (i)

Certified that No .B10182 Rank .Pte... Name .Lebrasseur..A..... of the .A.Coy...Regt.de.Chaud..3.Cdn.Div..Regt No .B97765. was apprehended by Rank .L/Cpl... Name .Stacey..E.H... of the .2.Cdn.L.of.C.Prov.Coy. ...Detach.... at .Ghent..... at .1800....hrs., on the ..... 13...day of ..December. as an absentee without leave.

He was wearing Military Uniform at the time of his Arrest.

Place ..Ghent Belgium

Date ..13 Dec 44.....

P.A. McDonald Lieut

P.A. McDonald
i/c Ghent Detach.

"A"

RECORD of the Declaration of a Court of inquiry assembled at

In the Field on the 11th day of December 1944

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunitions, Instruments, Equipments, Regimental necessaries or clothing of No, E-10182 Pte. LEBRASSEUR, A.

DECLARATION

The Court declare, that:-

E-10182 Pte. LEBRASSEUR, A. Le Regiment de la Chaudiere, has absented himself without leave at 1400 hrs, 11 Nov 44. and is still so absent.

Names of President and Members:- C.R. Lamoureux, Major.,
Le Regiment de la Chaudiere

L. Leclerc, Capt.,
Le Regiment de la Chaudiere.

H. C. Rutledge, Lieut.,
Le Regiment de la Chaudiere.

Signature of Commanding Officer (G.O. Tascbereau).LtCol

Certified true copy. SGD: R.L. Boulanger Capt/Adjt
Signature of Officer having custody of original record.

MFB 375
40/P A 8/392

N8-10182 Name ANDRET LEBRASSEUR | Unit, Battery, or Company | Corps C.I.C | Date of enlistment 22 JUIL 40 | GC Badges N/A | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P[illegible] (5418)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No ONE | Signature OC Company, etc | Character [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sussex	24 Mars 41	Pte		AWL from 1200 hrs 24-3-41 to 1245 hrs 1-4-41(8 dys 45 mins)AA Sec 15(1)	Sgt Duguay Cpl Nadeau	7 dys C.B	2-4-41	Major Audet	Forf 9 dy pay.
Field	22 Dec 41	Pte		Neglecting to obey an order given b his superior officer(AA Sec 11	CSM Ierend	FL Forf of 14 dys pay	25-12-42	Major Power	
Field	24 Dec 42	Pte		Absent from 0830 hrs 9o'clock parade AA Sec 15(1) Commiting a civil offence	Sgt Tremblay				
				Riding a cycle with no red light & two white light Contra Lighting best order 1940 Sec 21 under regulation 1 1939.	West Sussex Constable taken by Documentary	7 dys forf. of pay under RI 12/9(1)A	2-1-43	Major Power	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Trial	By whom awarded	Remarks
				2)Had trafs at lighting act 1927 Sec was modified Sec 5 at 2156 hrs 24-12-42 Sec 41					
Field	4 Jan 44	Pte		A.A.Sec 40 MOAS neglect to the prejudice in that he at 1800 hrs on the 4 Jan 44 when being detailed to be stoker at the officers mess failed to do so	Pte Simoneau FR &I 149(2)				
				AA Sec 15(1) AWL from Officers Mess at 1800 hrs on the 4 Jan until 0600 hrs 5 Jan 44(Total abs 15 hrs)	C.A Ladouc- air	14 dys pay	18 May 44	Paul Mathieu Lt-Col	3 dus pay
Field	12May 44	Pte		AA Sec 15(1) WOAS AWL from 2300 hrs. 12 May 44 till 0800 hrs 15May 44 Abs 2 dys 9 hrs		7 dys Ck			
Field	26May 44			AA Sec 15 (1) AWL		forf 4 dys pay forf 28 dys pay 30 May 44	Paul Mathieus Lt-Col		

Certified true Copy- R.L. Berlanger (Capt & Adjt)
Off i/c Records

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(for Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment(or as the case may be)
E-10182	Pte	Anicet Lebrasseur	Le Regiment de la Chaudiere

NOTE.--The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The number herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the Charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable

(1) The following is a fair and true summary of entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court;

For AWL three Times.

Date of first entry in Field Conduct sheet
24-3-41

Date of last entry in Field Conduct Sheet
26-5-44

(2) Previous convictions of the accused b a court martial or a civil court are set out in the schedule overleaf.

(3) The accused at the present time is under sentence for n/a beginning on the ..... day of ..n/a.. ..

(4) The accused has been awaiting trial on the present charges for n/a. days in civil custody; and for 9 days in military custody, i.e.,..... days in open arrest.....days in close arrest; of which n/a..days were spent in hospital.

(5) The present age of the accused is 28 yrs.

(6) The date of his calling up for Military Service is 22 Jul 40.

(7) The service which the accused is allowed to rekon is 4 years 5 Months.

STATE THE MILITARY DECORATIONS (if any) HELD BY ACCUSED

(8) The accused is in possession of C.V.S.M. and Clasp.

(9) (If the accused is a warrant officer or NCO) The accused has served continuously, without reduction, to the present date

In the substantive rank of n/a
In the war substantive rank of n/a
In the acting rank of n/a

INSTRUCTION.--If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

. . . . Statement in mitigation of punishment

Pte Lebrasseur landed with a Rifle Coy on "D" day & has been a good soldier, doing a good job up to the time he went A.W.L. The fact of being always in the front line in a rifle coy, is the reason he went A.W.L. I hope the Court will consider that he was a "D" day man when passing sentence.

R.P. 83(b) has been complied with.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E 10182 Pte Le Brasseur A R de Chaud

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which ~~10~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for a period of 1 year.

(Sgd) ..... Judge-Advocate, if any. 23 Dec 44 Date awarded. (Sgd) J A Currie Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be ~~to be~~ committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 24 Dec 44 (Sgd) A H McNeill Brig

T Commanding 8 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
	26 Dec 44	10 Transl Coy for OC R de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4N-42

CFA96 (In lieu of AFA3) A.F.P.S. (Jan) (2864)

FIELD GENERAL COURT-MARTIAL

RECEIVED 2 FEB 1945 JAG BRANCH

Convened by Order of Lt Col S.M. Lett T/Cond 8 Cdn Inf Bde dated 23 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 10182	Pte	Aniceet	Le Brasseur	R de Chaud

PROCEEDINGS REVIEWED
for Director Judicial Unit
2 Feb 45
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 23 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18144

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1445 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to as interpreter ? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J A Currie	N Stone R
Member	Capt	J D McLean	2 OR of L
Member	Capt	F Ansell	R de Chaud
Judge-Advocate			
Prosecutor	Capt	J C Clouson	R de Chaud
Defending Offr	Capt	K L Begin	R de Chaud

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D1 E

EUROPE III

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

83

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change~~ his ~~(their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial anefresh proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copies~~ copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED E101682 PTE ANICET LEBRASSEUR OF LE REGIMENT DE LA CHAUDIERE, A SOLDIER OF THE CANADIAN ARMY OVERSEAS IS CHARGED WITH

1ST CHARGE
ARMY ACT
SEC. 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he:

In the Field, at 1400hrs 11 Nov 44, absented himself without leave, until apprehended by CDN Provost Corps at 1800hrs 13 Dec 44
(TOTAL ABSENCE: 32 DAYS 4 HRS.)

SIGNED IN THE FIELD
THIS 22ND DAY OF DEC. 44

W Taschereau

(G.O. TASCHEREAU) LT-COL,
COMMANDING,
LE REGIMENT DE LA CHAUDIERE

TO BE TRIED BY F.G.C.M.

SIGNED IN THE FIELD
THIS 23 OF DEC. 44

J.A. Roberts Lt Col

(J.A. ROBERTS) ~~LT-COL~~,
COMMANDING 8 CDN INF BDE.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10182	Pte		Anicet	LEBRASSEUR	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 48, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	J.A. Currie	N Shore R
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	J.[illegible]. McLean	QOR of C
Capt	F. Ansell	R de Chaud
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	R. Rochon	R de Chaud
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.) — [signature] (Signed personally. RP 105 fn 2.) — Lt Col Brig (Rank.)

Date 23 Dec 44 — T. Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143) — (See overleaf for oaths and notes for use on trial.)

LE REGIMENT DE LA CHAUDIERE

DATE 22 Nov 44

MEDICAL REPORT

I certify that I have this morning examined

No E.10152 Rank Pte Name Lebrasseur A.

and in my opinion he Fit or Unfit to undergo trial by Court-Martial.

P. Gauthier

F. GAUTHIER CAPT RCAMC
M.O. R DE CHAUD

Statement in mitigation of punishment

Pte Lebrasseur landed with a Rifle Coy on "D" day & has been a good soldier doing a good job up to the time he went A. W. L. The fact of being always in the front line in a rifle coy, is the reason he went A. W. L. I hope the Court will consider that he was a "D" day man and ~~give them sentence~~ ~~[illegible]~~ when passing sentence

R.P. 23(b) has been complied with

SUMMARY OF EVIDENCE

In the case of E-IOI82 Pte Anicet Lebrasseur of Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on Oath.

1st Witness:- Capt R.L. Boulanger of Le Regiment de la Chaudiere, having been duly sworn states:-

I am Capt R.L. Boulanger of Le Regiment de la Chaudiere Adjutant and Officer i/c of Unit records: I hereby produce.

1- Certified true copy of Finding of the Court of inquiry held in the case of the accused.
2- Certificate of apprehension (A.A. 163(i)(j) (admitted and marked Exhibit "A & B".

R.L. Boulanger Adj.
Le Regiment de la Chaudiere

QUESTION TO THE ACCUSED:

Do you wish to make any statement or give evidence upon Oath? You are not obliged to do so unless you wish to, but whatever you say or evidence you give will be taken down in writing and may be give as evidence.

ANSWER FROM THE ACCUSED:

"No Sir I reserve my defence".

E-IOI82 Pte A. Lebrasseur
Le Regiment de la Chaudiere

I certify that this summary of evidence was taken down by me ~~at~~ the presence and hearing of the accused and that the rules of procedure 4 C/D/E/F/G have been complied with.

Signed in the Field
this of Dec 1944

R.Rochon Capt
Le Regiment de la Chaudiere.

Ex 'A' Jac

RECORD of the Declaration of a Court of inquiry assembled at

In the Field on the 11th day of December 1944

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunitions, Instruments, Equipments, Regimental necessaries or clothing of No. E-10182 Pt e. LEBRASSEUR, A.

DECLARATION

The Court declare, that:-

E-10182 Pte. LEBRASSEUR, A. Le Regiment de la Chaudiere, has absented himself without leave at 1400 hrs, 11 Nov 44. and is still so absent RLB

Names of President and Members:-

C.R. Lamoureux, Major.,
Le Regiment de la Chaudiere

L. Leclerc, Capt.,
Le Regiment de la Chaudiere.

H.C. Rutledge, Lieut.,
Le Regiment de la Chaudiere.

Signature of Commanding Officer (G.O. Taschereau) Lt-Col.,

Certified true copy. R.L. Boulanger Capt Adjt
Signature of Officer having custody of original record.

MFB 375
40/P & S/392

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (1) Eg "B"

Certified that No. E 10172 Rank PTE Name LEBRASSEUR, A.

of the A COY. REGT. DE CHAUD 3 CDN DIV Regt., ~~surrendered by~~ No. B 97265

was apprehended by

Rank L/CPL Name STACEY, E.H. of the 2 CDN L & C PROV. COY

DETACH at GHENT at 1500 hrs., on the

13 day of DECEMBER as an absentee without leave.

He was wearing Military Uniform at the time of his ~~Surrender~~ ~~Civilian Clothing~~ Arrest.

Place GHENT BELGIUM

Date 13 DEC 44

P. A. McDonald
(Q. SCO) Captain
D.A.P.M., H.Q., C.L.C.

P.A. McDONALD
OC GHENT DETACH.

GHENT DE
2 CDN. L. of
PROVOST CO
PLA GROUP

3)

ARMY FORMSH.296
(WAR)

TATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be).
E-IOI82	Pte	Anicet Lebrasseur	Le Regiment de la Chaudiere

NOTE.-- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The number herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the Charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court;//

For AWL ..... three ..... times.

For ..... times

For ..... times

For ..... times

Date of first entry in Field Conduct Sheet 24-3-41.

Date of last entry in Field Conduct Sheet 26-5-44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

#3. The accused at the present time is under sentence for ....n/a.... beginning on the ..... day of ....n/a....

4. The accused has been awaiting trial on the present charges for ....n/a.... days in civil custody; and for 9 days ~~6hrs~~ days in military custody, i.e., ... days in open arrest ..... days in close arrest; of which ....n/a.... days were spend in Hospital.

#Strike out if not applicable.

5. The present age of the accused is 28 yrs

6. The date of his ~~xxxxxxxxxxx22xJuilx40x~~ calling up for military service is 22 Juil 40

7. The service which the accused is allowed to reckon is 4 Years 5Months

8. The accused is in possession of % C.V.S.M. & Cla

%State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date--

	Date of Promotio
In the substantive rank of ...n/a	
In the war substantive rank of ....n/a	
In the acting rank of ...n/a	

INSTRUCTION.-- If any matter in any of the above paragraph cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT.

SCRIPTION OF URT BY WHICH TRIED	DATE AND PLACE OF TRIAL	CHARGES UPON WHICH CONVICTED	SENTENCE OF THE COURT	PUNISHMENT REMITTED OR SENTENCE SUSPENDED

HEREBY CERTIFY THAT THE FOREGOING PARTICULARS WHICH HAVE BEEN EXTRACTED FROM THE REGIMENTAL BOOKS IN MY CUSTODY, ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed this 22 day of Dec 44

R. L. Boulanger Capt. Adjt
Officer Rec'd Records

No E-10182 Name ANICET LEBRASSEUR Battery or Company ~~SUPPORT~~ RR ~~COY~~ Corps C.I.C. Date of enlistment 22 JUIL 40 GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No ONE Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Dussex	2 Dec 41	Pte		AWL from 1 [illegible] 24-3-41 to 1245 hrs 1-4-41 (1 Days 45 mins) RA Sec 15(1)	Sgt Duguay Cpl Gadeau	7 Days C.B.	2-4-41	Major Fardet	Forfeit 4 Days Pay
Field	22 Dec 41	"		1) Inflicting to Cpl an order given by his superior officer RA Sec 11	Cpl Tremel Pte	Forfeiture of Pay 1/4 Days Pay	23-12-42	Major Power	
Field	24 Dec 42	"		1) Absent from 0830 hrs, clock forward RA Sec 15(1) Committing a civil offence	Sgt Dumblay				
				1) Riding a cycle without red light and two white light Contrs	West Sussex Constable Tabulay	7 Days Forfeiture of Pay under C.R.O. 12/4(1)(A)	2-1-43	Major Power Matrice	
				1) Lighting Sect order 1940 Sec 11 under regulations 1939	Documentary				
				2) Lamp Traps at lighting act 1927 Sec 1 as modified Sec 5 act 2155 hrs 24-12-42 Sec 41					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Jan 44	Pte		AA Sec 40 MCAS [illegible] the [illegible] that he: at 1 [illegible] on the 4 Jan 44 [illegible] being detailed to be [illegible] at the officer [illegible] [illegible] to do so 2) AA Sec 15(1) AA 6 from officer's pass at 1900 hrs on the 4 Jan 44 until 0100 5 Jan 44 Total abs 15 hrs)	[illegible]	5 Days Jay [illegible]	[illegible] 6 Jan 44		Forfeits 1 days pay under FRC 144(1) (a)
Field	12 May 44	"		AA Sec 15(1) MCAS [illegible] from [illegible] the 12 May 44 till 0100 hrs 15 May 44 Abs 3 days 1 hrs	[illegible]	14 Days Jay	18 May 44	[illegible]	3 Days Jay
Field	28 May 44	"		AA Sec 15(1) AA 6	3 Days C.R. Forfeits 4 days pay Forfeiture 30 days pay	30 May 44	[illegible]		

Certified true copy
[illegible]
Capt & Adv
Officer i/c Records

30-S

Pte LEBRASSEUR, J.P.

O. H. M. S.

M. F. B. 270

E-4808 Pte. Jean Paul LEBRASSEUR
R. 22e R. 1 C.D.I.R.U.

30-S.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 5th day of NOVEMBER, 1942. — Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint XXX~~

*~~[1. Three Officers to form the Court;]~~

*~~[2. A Field Officer as President;]~~

~~for the following reasons, namely XXX]~~

* Omit if not applicable.

A. Mercier Capt
Actg Deputy Judge Advocate (MAG Branch) C.M.F.
28 Nov 42

PROCEEDINGS REVIEWED

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	J.M. BOWMAN (48 Highrs.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	R.T. Bonnell (C.B. Highrs.)	5 C.I.R.U.(Arm'd Div.)
Lieutenant	J.G. Mahoney (Fus.M.R.)	2 C.D.I.R.U.
Waiting Member Lieutenant	P.A. Mayer (R.Regt.C.)	2 C.D.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Colonel,
Commanding "A" Group Cdn. Reinf. Units,
Convening Officer. C.A.(O).

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4808 Pte. Jean Paul LEBRASSEUR R. 22e R. 1 C.D.I.R.U.	First Charge A.A. Sec. 11 SEE CHARGE SHEET ATTACHED.	Not Guilty JWB	Guilty. To undergo a detention for a period of six (6) months NOV. 6- 1942 JWB	I confirm the finding and sentence of the Court. W.H. Mercer Col A/Cond "A" Gp C.R.U.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) R. Stewart Lough Colonel, (Signed) J.H. Bowman Maj for
Commanding 2nd Gp. Can. Reinf. Units, #1 C.D.I.R.U.
Confirming Officer (C.R.A.(O)). President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

JWB

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of NOV. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 6 day of NOV 1942.

J.H. Bowman Maj for
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

JWB
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 7th day of Nov 1942.

W.H. Mercer Col
A/Cond "A" Gp C.R.U.
Confirming Officer.

Promulgated and extracts taken in the case of E-4808 Pte. Lebrasseur, J.P. (R22eR)
Promulgated in Part II D.O. 272, dated 10 Nov 42.

(a) (Dated) 9 November 42 (Signed) (C.C. Ferrie) A/Comdr. #1 C.D.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[84] Wt. 28001/5310 50m 2/42 W & Co., Ltd. Gp. 748/2

THE ACCUSED ELECTED TRIAL BY COURT MARTIAL

CHARGE SHEET

The accused E-4808 Private Jean Paul LEBRASSEUR, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
Sec. 11
ARMY ACT

When on Active Service, neglecting to obey Part I Orders,

in that he,

at Algonquin Camp, Witley, Surrey, on the 26th of October 1942 sold two packets of Chesterfield cigarettes to E-5645 Private Rodrigue M. for the sum of three shillings contrary to Part I Daily order 2341 dated 6 October 1942 forbidding any dealing by recipients with cigarettes from Canada.

.....Lt-Col.
(C.C. Ferrie)

Algonquin Camp,
Witley, Surrey,

4 November 1942.

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Colonel,
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
5 Nov. 42.

MEDICAL CERTIFICATE CERTIFICATE

- [illegible] (Gen) Form [illegible] -

I certify that I have this [illegible] examined No. E-4606

Pte J.P. LEBRASSEUR, J.P. (R22eR)

No. [illegible] Cdn. Div. Inf. Reinf. Unit, and in my opinion,

he is fit to undergo trial by Court-Martial.

Algonquin Camp,
Witley, Surrey,
6 Nov. 42

A Beltrin Capt
(Medical Officer) RCAMC

Proceedings of a FIELD GENERAL COURT MARTIAL held at Algonquin Camp, Witley, HANTS, on FRIDAY 6 NOVEMBER 1942, in the case of No. E 4606 Pte. LEBRASSEUR Jean Paul, Royal 22e Regiment, No. 1 Canadian Division Infantry Reinforcement Unit.

President:- Major J.M. Bowman (46th Highrs) No. 1 C.D.I.R.U.

Member:- Capt. H.T. Bonnell, (C.E. Highrs) No. 2 C.I.R.U. (Armd Div.)

Member:- Lieut. J.G. Mahoney (Fus. M.R.) No. 2 C.D.I.R.U.

Waiting Member:- Lieut. P.A. Meyer (R.Regt. C.) 2 C.D.I.R.U.

.....

Prosecuting Officer:- Lieut. J.R. Turner No. 1 C.D.I.R.U.

Defending Officer:- Lieut. M. Perreau No. 1 C.D.I.R.U.

.....

Court Stenographer:- Sgt. G. Robert, No. 1 C.D.I.R.U.

Interpreter:- Sgt. G. Robert, ;

.....

filed B

The Order Convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

The trial commences at 0915 hours.

The Order Convening the Court is read by the President.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.1 Do you object to be tried by me as President or by any of the Officers whose names you have heard read over?

A.1 No Sir.

President, Members are duly sworn.

Q.2 Do you object to Sergeant Robert as shorthand writer?

A.2 No Sir. (Shorthand writer duly sworn)

Q.3 Do you object to Sergeant Robert as interpreter.

A.3 No Sir. (Interpreter duly sworn).

Charge Sheet is signed by the President and annexed to the proceedings.

The accused, is arraigned upon the charge in the above mentioned Charge Sheet.

Q.4 Are you guilty or not guilty of the charge against you which you have heard read?

A.4 NOT GUILTY SIR.

Q.5 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence.

A.5 No Sir.

In the opinion of the Court it is unnecessary to comply with R.P. (83) (3).

Prosecuting Officer proceeds to call the witnesses.

1st WITNESS PROSECUTION

D-66114 Private H.V. Valiquette of the Royal 22e Regiment, of No. 1 Canadian Division Infantry Reinforcement Unit, after being duly sworn is examined by the Prosecutor.

Q.6 Do you recognize the accused in Court?

A.6 Yes, Sir.

Q.7 Tell the Court what happened with regard to your cigarettes when you went on leave.

jac

A.7 When I packed my kit bag I had 500 cigarettes. I put my kit in my cupboard and on Monday morning the pack was open and I was short of 7 or 8 packets of Chesterfield of 20 each, and seven or 8 British consols packets of 25. I packed on Oct. 25th and the cigarettes were missing on monday the 26th.

Q.8 What did you do then?
A.8 I advised Orderly Room.
Q.9 Are these the type of cigarettes stolen? (Prosecutor shows two packets of Chesterfield to the witness) Marked Exhibit "C" + "D" flaws
A.9 Yes, Chesterfields.
Q.10 Where did you get these cigarettes?
A.11 I brought them from Kingston, Ontario.
Court Q.12 How long have you been in England?
A.12 2½ weeks.

No cross-examination by the defence.

2nd WITNESS PROSECUTION

E-5402 Cpl. Riopel, E. Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn, is examined by the Prosecution.

Q.13 Do you recognize the accused in Court?
A.13 Yes Sir.
Q.14 Here are two packets of cigarettes given to me last night, tell the Court what you know about those cigarettes?
A.14 One of these packets of cigarettes was found on Pte. Rodrigue's bed & the other on Pte Paquette's bed.
Q.15 When were they found and how?
A.15 Around 1630 hours on 26th October, because I had an order from Sgt Lemelin to make a kit inspection.
Q.16 What arrangements are made in the Royal 22e Coy for French Canadians who don't read English?
A.16 All principal orders are translated into French & placed on the Coy's Board & very often read on parade.
Q.17 Have you ever heard order regarding cigarettes read on parade?
A.17 I can swear this order was on the Coy's Board but cannot swear they were read on parade.

No cross-examination by the defence.

3rd WITNESS PROSECUTION

E-5545 Pte. Rodrigue, N. Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn is examined by the Prosecution.

Q.18 Do you know the accused?
A.18 Yes, Sir.
Q.19. Tell the Court what you know about a transaction of cigarettes?
A.19 Lebrasseur came into Hut 5 Monday of last week & asked me if I needed cigarettes. I told him I needed some but wouldn't buy them because I was once framed & didn't want to be caught again. I asked him what kind of cigarettes it was & he told me, "American cigarettes". He told me he was broke & he needed money to go to the pictures, he told me he would give me two packets of cigarettes & you give me 3 shillings, to help me so that I can go to pictures. I give him the three shillings and he give me two packets of cigarettes. You give me back 3 shillings and I will return you the two packets of cigarettes of any brand.

JMG

Q.20 Are these the type of cigarettes given?
A.20 Yes.
Q.21 What did you do with the cigarettes?
A.21 I opened one packet and put the other one in my pocket and later loaned the unopened packet to Paquette.

The Defence proceeds to cross-examine this witness.

Q.22 Did the accused offer to sell the cigarettes?
A.22 No.
Q.23 Was that transaction a sale?
A.23 No.

4th WITNESS PROSECUTION E-42464 Pte. Nadeau A., Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn is examined by the Prosecutor.

Q.24 Do you recognize the accused?
A.24 Yes.
Q.25 Tell the Court any thing you know of accused about cigarettes.
A.25 The accused came into Hut 4 with a packet of American cigarettes and asked if anybody wanted to buy cigarettes, and after that went out.
Q.26 Did anybody buy any cigarettes at that time?
A.26 No.

Court Q.27 Does the defending Officer wish to cross-examine this Witness.
A.27 No Sir.

5th WITNESS PROSECUTION Lieut. J.R. Turner, Edmonton Regiment No. 1 C.D.I.R.U. having been duly sworn, states:-

I am Lieut. J.R. Turner, Edmonton Regiment, No. 1 C.D.I.R.U. I produce Part I Daily Order No. 2341 Marked Exhibit "A". This order is dated 6 October 1942, and is certified to be a true copy by Major T.J. MacArthur.
On the 2nd November 1942 the accused having been duly warned in accordance with Rule of Procedure 4 (E) and C.A.R.O. 1424, he elected to make a statement, which I now place before the Court. This statement is marked as Exhibit "B".

DEFENCE

Pres. Q.28 Now I have to warn you that you may give evidence yourself under oath or you can make a statement under oath or you can make a statement not under oath. In that case, if you make a statement not under oath it will not carry as much weight as if it were given under oath, or you need not say anything, you understand that?
A.28 Yes, Sir.
Q.29 Do you apply to give evidence yourself as a witness?
A.29 Yes Sir.

STATEMENT OF THE ACCUSED E-4806 Pte Lebrasseur, J.P. Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn, states:-

Sunday night I was at NAAFI No. 2. There was a game of Bingo. When I was playing Bingo a soldier came to me and asked me if I wanted cigarettes. I told him that I needed cigarettes but that I did not have much money with me. He told me "give me 2/6 and I will give you two packets". I took the two packets and put them in my pocket, it was American cigarettes and I then continued to play Bingo.

JMB

STATEMENT of THE ACCUSED (Continued)

At nine o'clock I returned to my Hut. Monday noon after lunch I was in Hut No. 5 and I asked Pte Rodrigue if he wanted cigarettes. I told him that I was broke and that I wanted to go the pictures that night, and that I needed 3 shillings. He told me that he did not buy cigarettes because he had trouble once and that he did not want any trouble again. I told him I will give you two packets of cigarettes and you will let me have 3 shillings. At pay day or before I will give you back your 3 shillings and you give me back two packets of cigarettes of any brand. He asked me "Can I depend on you" and I told him "Yes". He then give me 3 shillings and I went on parade. On supper parade I was in the ranks when Cpl. Lopez, came to fetch me and brought me back to the hut. "He told me, I have to make an inspection of your kit". I then asked him "Why". I said there was some cigarettes stolen. He made my kit inspection and searched me and did not find anything. I then returned on parade and at 1730 hours they came to fetch me and took me to the Guard Room.

The accused is examined by the Defence.

Q.30 In case you couldn't give the money back, was Rodrigue to keep the cigarettes?

A.30 No Sir.

Q.31 Was the arrangement that if you couldn't give the money back soon he was to wait till pay day.

A.31 Yes Sir.

The accused is cross-examined by the Prosecutor.

Q.32 You heard Pte. Nadeau state that you came into the hut where he was, that you had a packet of cigarettes in your hands, and that you went around asking if someone wanted to buy any cigarettes. What have you to say about the statement of Nadeau?

A.32 I was on parade all afternoon and I didn't go into Hut 4. I didn't have any cigarettes, the cigarettes were given after lunch to Pte Rodrigue.

Q.33 Do you state that Nadeau was lying when he said that?

A.33 Yes Sir.

<u>The Prosecutor, Lieut. J.R. Turner, states.</u>

In summing up, Sir, I wish to summarize the 3 main elements of the charge.

<u>Firstly</u> that although the Daily Order contravened makes it an offence to give cigarettes away as the charge is laid it is necessary to establish the fact that the accused sold the cigarettes. It is for the Court to decide from the evidence before them whether the transaction amounted to a sale or not.

The prosecution contend that as the cigarettes were exchanged for money, that the witness immediately proceeded to make use of the cigarettes a sale had been consumated.

If the evidence of Nadeau is true it corroborates by showing intent on the part of the accused. However either the witness Nadeau or the accused has lied and it rests with the Court to decide the truth in this regard.

<u>Secondly</u> that the cigarettes were such as described in the daily Order. The packages have been produced to show that they were duty free cigarettes.

The Prosecutor, Lieut. J.B. Turner, states:- (Cont'd)

Thirdly, the Court must decide whether or not the accused was given the opportunity of knowing the Order disobeyed. In this regard I wish to point out that there is evidence before the Court that a French explanation of the Order was posted. As the Court have noticed the French Order is not an exact translation of D.O. 2341. I wish to point out that this order is for the purpose of explaining in French the meaning of D.O. 2341. A soldier obeying the French translation would certainly not commit an offence . This French translation also bears the number 2341 and the non-English speaking personel is equivalent to the original order in English. Also in this connection I would like to draw the attention of the Court to the guilty statement of the witness Rodrigue who previous to the sale made a statement to the accused to the effect that he had been framed before and didn't want to be caught again.
In concluding may I draw the attention of the Court to the fact that the accused elected trial by Court Martial. That is all, Sir.

The Defending Officer Lieut. M. Parisseau, states:-

I would like to point two facts to the Court.
Firstly that the accused had not heard the order read.
Secondly. That the transaction was not a sale, but that the cigarettes were given as a guarantee for the 3 shillings given.

The Court is closed for the consideration of the Finding.

The Court is re-opened.

The accused is again brought before the Court.

Court Q.34 Have you any evidence to produce as to the character and particulars of service of the accused?

A.34 6th Witness, Lieut. J.B. Turner states:-

I produce A.F.B. 296 relating to the accused, also M.F.M. 6.

Q.35 Is the accused the person named in the statement which you have heard read?

A.35 He is.

Q.36 Have you compared the contents of the above statement with the regimental books?

A.36 I have.

Q.37 Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true Summary of those entries.

A.37 Yes Sir.

To Def. Q.38 Do you wish to cross-examine this witness?

A.38 No Sir.

Q.39 Do you wish to make any statement in mitigation of punishment?

A.39 Yes, Sir.
The accused E-4808 Pte Lebrasseur, J.P. states:-

I only had 5 days C.B. in the last year. I have never been in Civil Court in my life for stealing. If the Court Martial finds me guilty I will have to take the punishment but I am not Guilty.

The Court is closed for the consideration of the Sentence.

J.M. Bourassa Major

SUMMARY OF EVIDENCE

In the case of E-4808 Private Jean Paul LEBRASSEUR, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

FIRST WITNESS for the PROSECUTION

E-42464 Private A. NADEAU of the Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn states:-

I am E-42464 Pte A. Nadeau, R22eR. Coy, No. 1 C.D.I.R.U. One day this week between 1500 hrs and 1530 hours Pte. Lebrasseur, the accused whom I now recognize came in hut No. 4 where I was. There were 3 or 4 other men in the hut. The accused had a packet of cigarettes in his hand. It was American cigarettes, I don't know the kind. The accused went around the hut and asked if anyone wanted to buy cigarettes.

Questioned by Officer taking Summary.

Q.1 How many packets of cigarettes did he have?
A.1 He had only one
Q.2 Did anyone buy this packet?
A.2 No, Sir.
Q.3 What did the accused do then?
A.3 He went out of the hut.
Q.4 Who were the other men in the hut?
A.4 I don't know their names.
Q.5 Have you bought cigarettes from the accused recently?
A.5 No, Sir.
Q.6 Do you know anyone who has?
A.6 No, Sir.

The accused proceeds to cross-examine this witness.

Q.1 Did you see me in the lecture hut at 1530 hours Monday?
A.1 No, sir.
Q.2 Where you in the lecture hut at that time?
A.2 No, sir.
Q.3 Would you know the men that were in hut number 4?
A.3 I wouldn't know them.

The accused declines to further cross-examine this witness.

A. Nadeau

SECOND WITNESS for the PROSECUTION

E-5545 Pte Rodrigue, N. of the Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn, states:-

I am E-5545 Pte Rodrigue, N. R22eR. No. 1 C.D.I.R.U. Lebrasseur the accused whom I now recognize came in hut number 5 where I was sometime after lunch on Monday of this week. He asked me if I wanted some cigarettes. I told him that I needed cigarettes but that I wouldn't buy any. The accused told me that he needed money to to to the pictures. I asked him what kind of cigarettes they were and he told me American cigarettes. He gave me two packets of cigarettes and I gave him three shillings to go to the pictures. I was supposed to give him back the cigarettes when he gave me back the three shillings.

J.A.B.

SUMMARY OF EVIDENCE

In the case of E-4605 Private Jean Paul LEBRASSEUR, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

SECOND WITNESS for the PROSECUTION, (Cont'd)

Questioned by Officer taking Summary.

Q.1. How many packets of cigarettes did he give you?
A.1. Two packets.
Q.2 What kind?
A.2 I'm not sure but I think they were Chesterfields.
Q.3 How much money did you give the accused?
A.3. Three shillings.
Q.4 What did you do with the cigarettes?
A.4 I opened one packet and smoked 2 or 3 of them. What was left of this packet was taken from me by the Corporal who made the kit inspection the same afternoon. I believe it was Cpl. Riopel.

Q.5 What happened to the other packet?
A.5 I lent the other packet to Pte Paquette.

The accused proceeds to cross-examine this witness.

Q.1. Did I tell you "If I can't give you back the three shillings tonight at payday I will give you your three shillings and you give me two packages of any kind of cigarettes".
A.1. Yes, Sir.

The accused declines to further cross-examine this witness.

Noël Rodrigue
.....

THIRD WITNESS for the PROSECUTION

E-5802 Cpl. Riopel, E. R22eRegiment, No. 1 C.D.I.R.U. having been duly sworn, states:-

I am E-5802 Cpl. E. Riopel, R22eCoy, No. 1 C.D.I.R.U.
On instructions from Sgt. Lemelin, acting C.S.M. R22eR. I made a kit inspection of Pte Rodrigue at 1600 hrs 26 October 1942 and I found a packet of Chesterfield cigarettes on his bed.
I then made a kit inspection of Pte Paquette and found a packet of Chesterfield cigarettes on his bed.
I gave the two packets of cigarettes to the Coy Commander, both packets had been opened.
I then inspected the kit of the accused but did not find any cigarettes of any kind.
I produce certified copy of Part I Daily Order No. 2340.

The accused declines to cross-examine this witness.

E. Riopel
.....

J.M.B.

SUMMARY OF EVIDENCE

In the case of E-4808 Private Jean Paul LEBRASSEUR, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

FOURTH WITNESS for the PROSECUTION

D-66114 Private H.V. Valiquette of the R22e Regiment, No. 1 C.D.I.R.U. having been duly sworn, states:-

I am D-66114 Pte H.V. Valiquette of the R22eR, No. 1 C.D.I.R.U. I packed my kit on Sunday 25 October 1942 to go on leave. On Monday morning when I woke up I looked into my cupboard and I found out that my kit bag had been opened and that there was 7 or 8 packets of Chesterfield Cigarettes and the same quantity of British Consols, packets of 25, missing. I then went to the Office and made a complaint to the Sgt Major and the Orderly Corporal.

The accused declines to cross-examine this witness.

.....

The accused having been duly warned in accordance with Rule of Procedure 4 (E) elects to make a statement. C.A.R.O. 1424 has been complied with.

The accused, E-4808 Pte J.P. Lebrasseur, Royal 22e Coy No. 1 C.D.I.R.U. states:-

On Sunday October 25th 1942 I came down to the NAAFI around 1900 hours. I played Bingo there. While I played Bingo a soldier came up to me and asked me If I wanted to buy some cigarettes. I tell him yes I want to buy some and I say I have not much money on me. He said "Give me 2/6 and I give you two packets. I give him 2/6 and he gave me two packets of cigarettes which I put in my pocket. He said they were american cigarettes and when he handed them to me I saw that they were Chesterfields. The I went on playing. I know he spoke Franch but I don't know his name. On Monday after dinner time I was thinking of going to the Garrison picture and I go into hut number five and see Rodrigue and I told him I wanted to go to the pictures tonight and I say that I have no money. I tell him that I have two packets of cigarettes in my pocket, and I ask him if he want to buy some and he said "No." I said "I'm going to give you two packets of cigarettes and you are going to lend me three bob to go to the pictures. I say to him on pay day I give him three shillings back and he can give me 2 packets of cigarettes of any kind. Then I go on parade. Later Cpl. Riopel examined my kit but he did not find any cigarettes.
I have always been under the impression that it was forbidden to sell cigarettes to civilians only and that between soldiers we could buy and sell some.

.....

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 2nd day of November 1942 and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

J.M. Bowman Major

.....Lieut.
(Officer taking Summary)

ADDITIONAL SUMMARY OF EVIDENCE

In the case of E-4908 Private J.P. LEBRASSEUR, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

FIRST WITNESS for the PROSECUTION

E-5402 Cpl. E. RIOPEL, Royal 22e Regiment, No. 1 C.D.I.R.U. having been duly sworn, states:-

I am E-5402 Cpl. E. Riopel, R22eR. No. 1 C.D.I.R.U. All important Part I Orders are translated into French. Sometimes these orders translated into French are placed on the Company Notice board and sometimes they are read to the men on parade. I remember hearing this order marked 2339-2340-2341, read by an officer on Parade. (Cpl Riopel here, produces order marked Exhibit "B".) This order is dated 6 October 1942.

The accused declines to cross-examine this witness.

E. Riopel

The accused having been duly warned in French in accordance with Rule of Procedure 4 (E) & C.A.R.O. 1424 elects to make a statement:-

The accused E-4909 Pte. J.P. Lebrassaur R22eR. States:-

I have never seen this order and I have never heard it read on parade.

J.P. Lebrasseur

I certify that this Additional Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 4th day of November 1942, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Turner ..... Lieut.
(Officer taking Additional Summary)

Algonquin Camp,
Witley, Surrey,

4th day of November 1942.

J.M. Bowman Major

Royal 22e Regiment -
Compagnie de Renfort - No I C.D.I.R.U.

le 8 octobre 1942.

Ordres No 1 - 6.

ORDRES PARTIE I.

Par le major G.A. Turcot
Commandant - R. 22e R. Coy.

---

1. (2336) Achat de denrees et de tabac par les troupes sur la marche:

Il arrive qu'on donne permission aux troupes de briser les rangs durant les haltes d'une marche. Le cas se produit dans les villages et les villes où les troupes achetent des denrees et du tabac. Ces produits etant tres rares pour les civils, on prive les habitants de ces villes de leur ration.

Les commandants de toutes formations, verront, a l'avenir, a ce que le cas ne se produise plus.

2. (2339) (2340) (2341) Vente illegale des cadeaux recus du Canada.:-

Le Gouvernement anglais a permis l'envoi dans le Royaume Uni de cadeaux, cigarettes et tabac pour les troupes canadiennes. Ces envois etant expedies sans cout de douanes. Plusieurs cas se produisent où les cadeaux et particulierement les cigarettes sont revendus soit aux troupes, soit aux civils. Cette pratique est entierement contre la loi et doit etre abolie immediatement. Dans les cas contraires, action disciplinaire tres severe sera prise contre les delinquants.

Il est de meme defendu de faire cadeaux de ces presents a qui que ce soit.

Comprenons que ces envois sont permis seulement si la personne qui les recoit s'en sert elle-meme.

Ex "B"

3. (2342) TENUE / DISCIPLINE.

Le Corps Canadien de Provost rapporte continuellement le cas des "Autres Rangs" qui portent collet et cravate en "Battle Dress". Ceci est contre les reglements et devra cesser immediatement. Action disciplinaire sera prise contre ces gens.

4. (2346) EFFETS PERSONNELS.

On trouve parmi les effets de plusieurs des articles personnels, tels que habits civils, etc. Les soldats sont avises par la presente que ce Quartier-General n'esp pas responsable des articles autres que militaires.

(5. (2347) TOILETTE - LATRINES.

A l'avenir, il y aura une toilette speciale pour chaqune des maladies ci-bas mentionnees:-
SCABIES - MORPIONS - MALADIES VENERIENNES.

Les gens qui suivent des traitements medicaux pour ces maladies, ne devrong pas aller aux toilettes ailleurs qu'aux compartiments assignes.

Manquement a cet ordre sera puni severement.

6. (1755) COMMUNICATIONS A LA PRESSE.

Sans la Permission des Quartiers-Generaux-Canadiens, il est defendu a tous les rangs de communiquer quoique ce soit a la Presse anglaise, Canadienne ou autres. On comprendra qu'il est vital de garder l'information secrete bien cachee, et que la Presse entre t ous doit rester ignorante de ces faits.

7. (2366) BLACKOUT.

Nuit du 8 oct au 9: jusqu'a nuit du 14 oct au 15:
Commencement du Blackout: 1841 hrs.
Fin du Blackout : 0652 hrs.

Major
O.C. R. 22e R. COY
I.C.D.I.R.

2341. CIGARETTES FROM CANADA - ILLEGAL SALE OR DISPOSAL

1. It has come to notice that members of the Canadian Army receiving gifts of cigarettes from Canada are re-mailing them to civilians in the United Kingdom as gifts or otherwise. Attention is directed to Routine Orders 635 and 960, and it is again emphasized that the privilege extended by the British Government was only in respect of cigarettes or tobacco sent from Canada for personal use, i.e., consumption by the recipient himself. Any other dealing by recipients with cigarettes or tobacco from Canada is hereby forbidden.

2. The use of regimental funds for the purchase of cigarettes or tobacco in Canada for delivery in the United Kingdom, and the sale of any duty free cigarettes or tobacco in messes and canteens, are also contrary to the privilege extended by the British Government, and are hereby forbidden.

3. Any contravention of the above orders will be severly dealt with.

2342. DISCIPLINE - DRESS

1. Cases are constantly recurring of other ranks being checked by the Cdn Provost Corps for wearing collar and tie with Battle Dress.
2. This practise must cease. Severe disciplinary action must be taken by the Officers Commanding Units whenever such irregularities are reported.

2343. AMENDMENT - POSTINGS

Part I D.O. 2311, dated 3 Oct 42 insofar as it relates to F5493 Pte. Woodrow, R. (W.N.S.R.) is hereby cancelled and the following substituted: "E-5493 Pte. Boudreau, R. (R22eR).

2344. AMENDMENT - COURT OF INQUIRY

Part I D.O. 2315, dated 3 Oct 42 is hereby cancelled.

Part I D.O. 2074, dated 9 Sep 42 is hereby amended by deleting all reference to Lieut. L. Barrette, (R22eR) and substituting "Lieut. J.B. Dumont (R22eR)".

2345. CASUAL PAY PARADES

1. Considerable confusion arises every day on casual pay parade due to the fact that former instructions have not been carried out.
2. In the future the following instructions will be carried out. Chits from Coy Commanders will be submitted to the Wing Commander showing the reasons for casual pay. This will be passed by the Wing to the Unit Paymaster not later than 1700 hrs. the day preceeding the casual pay. Soldiers Pay Books, Part II must be in the Pay Office not later than 0900 hrs. the next morning. The men will be properly paraded at 1100 hrs. for casual pay parade.
3. The only men who will receive a casual payment between the regular pay days are those returning from Hospital or detention or are proceeding on privilege or compassionate leave.
4. Men proceeding on week-end pass will NOT be paid.

2346. PERSONAL EFFECTS

1. It has been brought to the attention of this Headquarters that personnel have in their kits numerous personal effects of considerable value. It is hereby pointed out that such effects in soldiers kit are purely his own responsibility.
2. Wing Commanders will ensure that all rank personnel are notified that civilian clothing and all personal effects other than regulation kit will, in the future, be their own responsibility when kept in barracks and that there is no arrangements (other than private) whereby such clothing and effects can be kept.

2347. LATRINES (TOILETS)

1. Wings will immediately arrange to set aside and identify one W.C. for each of the following:
SCABIES - CRABS - VENERIAL DISEASE.
(cont'd)

Ex A

1 WB

Certified true copy
(2 sheets)

T.J. MacArthur Major
(T.J. MacArthur) Admin. Officer

2347. LATRINES (TOILETS) cont'd

These W.C.s will be for the exclusive use of personnel in the above classifications. Signs will be made and posted on the doors of the toilets designated. Personnel will be warned of this fact and it will be pointed out to all C.Os. that personnel requiring treatment in the above classified diseases will use the toilet designated. It will be further pointed out to all C.Os. that failure to comply with these instructions will call for severe disciplinary action.

2348. COURT OF INQUIRY

A Court of Inquiry composed as under will assemble at the call of the President to inquire into and report on the illegal absence and kit deficiencies, if any, of F-29839 Pte. Leverman, G.E. (W.N.S.R.).

President	Capt.	S. Smith	(W.N.S.R.)
Members	Lieut.	W.A.Williamsman	(W.N.S.R.)
	Lieut.	R.W.Spurr	(W.N.S.R.)

Finding to be submitted to Unit Headquarters by 1200 hrs. 9 Oct 42.

2349. PAY BOOKS

1. Effective forthwith the O.C. "A" Wing, O.C. "B" Wing and the O.C. of each Wing Headquarters and all Company Commanders will submit to the Unit Paymaster daily the return appended to this order: This return will be a nominal roll of personnel whose pay or allowance is effected by Part II Daily Orders promulgated the previous day. This nominal roll will include all personnel appearing in orders under the following headings:

1. Promotions
2. Appointments affecting pay
3. Confirmation of rank
4. Reversions
5. Leave of Absence
6. Hospital Stoppages
7. Marriage
8. Deaths
9. Punishments
10 Stoppage of Pay
11 Courts-Martial
12 Suspension of Sentence
13 Remission of Sentence
14 Commutation of Sentence
15 Change of next of kin
16 Change of address of next of kin.
17 Subsistence allowance.

All amendments appearing under the above headings:

2. The Pay Books (part II Only) of the soldiers concerned will be collected daily on the morning parade and submitted along with each nominal roll to the Unit Paymaster not later than 1100 hrs. Should the soldiers pay book not be available the reason will be noted in the space provided on this return. If the soldier is still on the strength of this unit, immediate steps will be taken to procure the paybook and have the same submitted to the pay office with the least possible delay.

3. Wing Commanders will ensure that the procedure outlined in this order is strictly adhered to with effect 7 Oct 42.

2350. POSTINGS

The w/m personnel ctt'd from the Reinf Str of their respective Companies to "A" Wing f.o.p. for training in A.D. Duties w.e.f. 3 Oct 42.

[illegible] Pte. Graham, J.C. (PPCLI) K54073 Pte. Poole, J.C. (SH&FC)
[illegible] Pte. Duncan, H.C. (Edmn R) M67632 Pte. Diamond W.C.(Ed.R)

R.W. Eastbeat Capt. Major
(A.A. Southam) Admin Officer,
No. 1 Can Div Inf Reinf Unit

NOTICE

SOCCER FOOTBALL

All personnel interested in Soccer Football will report to the Unit Gymnasium at 1745 hrs. this date..

Orders No. 2333 - 2350.

NO. I CDN DIV INF REINFORCEMENT UNIT

6 Oct 42

PART I ORDERS

By Colonel G. Hedley Basher, ED

Commander

RSM

2333. BLACKOUTS

Night 1/2 Oct to night 7/8 Oct 42	1856/0640 hrs.
Night 8/9 Oct to night 14/15 Oct 42	1841/0652 hrs.
Night 15/16 Oct to night 21/22 Oct 42	1826/0704 hrs.
Night 22/23 Oct to night 28/29 Oct 42	1812/0717 hrs.

2334. DUTIES

Duty Wing	4-10-42 to 11-10-42	1st Bde Trng Wing
Next for Duty	11-10-42 to 18-10-42	2nd Bde Trng Wing
Sr. Duty Officer	4-10-42 to 11-10-42	Lt.-Col. W.C. Lawson, MC, VD
	11-10-42 to 18-10-42	Lt.-Col. W.J. Bingham, MC, VD
Duty Officers	7-10-42 Major W.O. Stockdale	"I" Wing
	8-10-42 Lieut. B.K. McLean	"A" Wing
	9-10-42 Capt. S.C. Riggs	"A" Wing
Orderly Officers 1st Bde Wing	7-10-42 Lieut. W.J. Leadbeater	48th Highrs
	8-10-42 Lieut. T.M. Cantley	R.C.R.
	9-10-42 Lieut. L.I. Carling	R.C.R.
Orderly Officers 2nd Bde Wing	7-10-42 Lieut. A.V. Soley	Edmn Regt.
	8-10-42 Lieut. D.C. Grant	S.H. of C.
	9-10-42 Lieut. E.L. Boyd	Edmn Regt.
Orderly Officers 3rd Bde Wing	7-10-42 Lieut. H. Chasse	R22eR
	8-10-42 Lieut. H.F. Atkinson	C.& Y.R.
	9-10-42 Lieut. J.B. Dumont	R22eR
Orderly Officers RCOC Trng Wing	7-10-42 Lieut. R.G. Thompson	R.C.O.C.
	8-10-42 Lieut. M.E. Nash	R.C.O.C.
	9-10-42 Lieut. K.B. Walker	R.C.O.C.

2335. PARADES

Parades are as set out in Part I D.O. 2241, dated 25 Sep 42.

2336. PURCHASE OF FOOD AND TOBACCO BY TROOPS ON THE MARCH

1. Instances have arisen recently where troops on the march, on being halted in villages, have been permitted to fall out and purchase food and tobacco in the village shops, with the result that no supplies are available forthe inhabitants.

2. In such cases, the troops, who are provided with adequate rations and who have further provision made in canteens run by NAAFI and Auxiliary Services Organizations, are buying and consuming the limited supplies available for the civilian population.

3. Conduct of this nature is not only a breach of march discipline but is also calculated to damage the good feeling which should exist between the Army and the civilian population.

4. Os.C. will ensure that when on the march or in convoy, troops are forbidden to fall out for the purpose of entering the shops of any town or village in which they may be halted.

2337. AUXILIARY SERVICES VEHICLES - SPEED LIMITS AND TRAFFIC REGULATIONS

1. All orders, rules and regulations prescribing speed limits, traffic regulations and procedure following road accidents and consequent disciplinary action, in respect of the operation of Canadian military vehicles which have been or may hereafter be published will apply in respect of the operation of all vehicles owned or operated by Auxiliary Service Organizations.

JWB

2330. COURTS-MARTIAL - SECURITY

Overseas N.O. 1127 is hereby cancelled.

1. Courts-Martial in which highly secret evidence is given are being conducted and their proceedings handled without regard for the necessary security measures.

2. In future the following instructions will be observed:-

(a) If any evidence against an officer or other rank remanded for trial by Court-Martial is of a secret nature, the Officer commanding will ensure that the abstract or summary of evidence is treated as a secret document and that no more copies than necessary are made of it. After the trial all copies of the abstract or summary of evidence (except the copy attached to or forming part of the court proceedings) will be collected from the individuals to whom they have been issued. If, after trial, the accused applies for his copy in order that he may petition, it may be reissued to him on temporary loan.

(b) In any case where evidence is of a secret nature or the question of security is involved, the convening officer may recommend to the president of the court that on that account the trial be held in camera.

(c) If no such instructions have been issued, but during the course of the proceedings matters unexpectedly arise which are of a secret nature, or which involve the question of security the president of the court will ensure that such evidence is not dealt with in public session. A Court-Martial has inherent powers to sit in camera if such a course is necessary for the administration of justice.

(d) The proceedings of all such Courts-Martial held in camera or which contain any matter involving security will be passed under secret cover.

3. In all cases where an officer or soldier is charged with an offence which relates to communicating or attempting to communicate secret information to an unauthorized person, a copy of the Summary of Evidence will be sent for information to Canadian Military Headquarters.

2339. ILLEGAL SALE OF GIFTS FROM CANADA

The British Government agreed to allow gifts for the Canadian Army to enter the United Kingdom, free of duty, on the distinct understanding that these gifts were for personal use and not for resale.

The number of cases of re-sale of gifts, particularly cigarettes and tobacco, are increasing to such an extent that the British Treasury have made representations that unless the Practice is discontinued, they may have to reconsider their decision regarding duty free entry.

The effect of a decision of this nature is obvious and Officers Commanding will take immediate steps to call the attention of all ranks to the fact that they are liable to lose this privilege, which is now enjoyed through the courtesy of the Government of the United Kingdom, and to see that appropriate disciplinary action is taken immediately any cases are reported or come to their notice.

2340. ILLEGAL SALE OF GIFTS FROM CANADA

1. Attention is directed to Routine Order (Overseas) No. 639 and the instruction therein contained that officers commanding will see that appropriate disciplinary action is taken immediately any cases are reported or come to their notice of the sale by personnel of the Canadian Army of gifts, particularly cigarettes and tobacco, which have entered the United Kingdom free of duty.

2. Disciplinary action should be taken promptly in all cases. To facilitate proof and in order that a charge may be laid under Army Act Sec. 11 the following special order is made.

3. The sale, or any disposal on a commercial or barter basis, in the United Kingdom by military personnel to other military personnel or a civilian person or corporation, of any gift or gifts to an officer or soldier of the Canadian Army or for distribution to the personnel of a unit of the Canadian Army, which have entered, or are commonly known to enter, the United Kingdom, free of duty, is hereby forbidden.

The accused, E-4606 Pte J.P. Lebrasseur, Royal 22e Coy No. 1 C.D.I.P.U. states:-

On Sunday October 25th 1942 I came down to the NAAFI around 1900 hours. I played Bingo there. While I played Bingo a soldier came up to me and asked me If I wanted to buy some cigarettes. I tell him yes I want to buy some and I say I have not much money on me. He said "Give me 2/6 and I give you two packets. I give him 2/6 and he gave me two packets of cigarettes which I put in my pocket. He said they were american cigarettes and when he handed them to me I saw that they were Chesterfields. The I went on playing. I know he spoke French but I don't know his name.
On Monday after dinner time I was thinking of going to the Garrison picture and I go into hut number five and see Rodrigue and I told him I wanted to go to the pictures tonight and I say that I have no money. I tell him that I have two packets of cigarettes in my pocket, and I ask him if he want to buy some and he said "No." I said "I'm going to give you two packets of cigarettes and you are going to lend me three bob to go to the pictures. I say to him on pay day I give him three shillings back and he can give me 2 packets of cigarettes of any kind. Then I go on parade. Later Cpl. Riopel examined my kit but he did not find any cigarettes.
I have always been under the impression that it was forbidden to sell cigarettes to civilians only and that between soldiers we could buy and sell some.

Ex. "B"

J.P. Lebrasseur

.....J.P. Lebrasseur.....

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to court-martial.

Dated at Witley, Surrey,
this 4 day of
July, 1942.

.....

(2) I hereby acknowledge that I have been served with a true copy of an additional summary of evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my court-martial.

Dated at Witley, Surrey,
this ____ day of
_____, 1942

.....

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of _____
if he is available.

Dated at Witley, Surrey,
this 4 day of
July, 1942

.....

No. E4808 Name Lebrasseur J P | Sqn., Battery, or Company | Corps R22eR | Date of enlistment 2-11-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) (1939-40) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On the 2-6-40 this soldier completed 6 Months service and in accordance with his previous Sheet was displayed on the 13-8-42									A.C.(6)319
Field	6-10-40	Pte		Conduct etc absent from Parade without leave A.A.Sec 40	Sgt Pelogrino	3 days C.B.		Lt Catalano Major	
	16-11-40	"		AWL fr 2215 hrs 16-11-40 till 0800 hrs 17-11-40	Cpl Langevin W	2 days C.B	30-11-40	Capt Jameson	1 days pay
	19-11-40	"		4 hrs 45 Mins AA Sec 15(1) AWL fr 2230 hrs 19-11-40 until 0430 hrs 20-11-40 AA Sec 15(1)	Cpl McInnes Cpl Poirier				For 5 days pay
	1-12-40	"		Quit Parade 1-12-40 between 1700 & 1720 (20 Mins) AA Sec 15(1)	Sgt Miville	168 hrs Detention	9-12-40	Capt Flynn	For 5 days pay

Certified true copy of

George Cruickshank Capt

Officer having custody of original document

(P.T.O.)

No. E4808 Name Lebrasseur J P | Sqn., Battery, or Company | Corps R22eR | Date of enlistment 2-11-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) (1939-40) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26-4-41	Pte		AWL fr 1700 hrs 26-4-41 till 2215 hrs 27-4-41 (33 hrs 55 Mins) AA Sec 15(1)	Cpl Arnistal L/C Cote	14 days FP with Pay	29-4-41	Lt Col Poirier	For 2 days pay
Algonquin	30-3-42	"		AA Sec 40 - Cond. sto not present on parade 0800 hrs	Cpl Quesnel L/C Longpre	7 days C.B.	20-3-42	Lt Lemieux	
"	13-4-42			AA Sec 40 Conduct sto guard room last 18 Mins of the Parade	Cpl Bastet	7 days C.B.	13-4-42	Lt Lemieux	
"	24-9-42	"		AA Sec 40 - Neglect sto neglected to clean Cookers and cap belonging to Kitchen	Sgt Hamelin Pte Savard	5 days C.B.	25-9-42	Major Lemieux	

Certified true copy consisting of two sheets

George Cruickshank Capt

Officer having custody of original document

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-12-40	Pte		AWL fr 2230 hrs 18-12-40 to 0630 hrs 19-12-40 Total 0930 hrs - Improperly dressed on Street AA SW 40	Sgt Asselin Cpl Solis Cpl Hopwinski	2 days CB 3 days CB	19-12-40	Lt Lachance	1 days pay.
Field	20-1-41	"		AWL fr Tattoo 2 in bed at 0645 hrs 3 = AWL fr Parade AA SW 15(2)	Cpl Quintal Cpl Solis	3 days CB	31-1-41	Capt Garneau	
Field	11/1/41	"		1 AWL fr 1400 hrs 31-1-41 till 23 44 hrs 2-2-41 (2 days 9 hrs 45 mins) AA 15(1) 2 AWL fr G Mounting and had to be replaced by a comrade AA 15(2)	Cpl Lauzon Cpl Duval	3 days CB	11-1-41	Lt Lachance	
Field	30-1-41	"		AWL fr 2130 hrs 22-3-41 till 2359 hrs 2 hrs 30 min AA 15(1)	Sgt Pelagnin Cpl Lewis	14 days F.P.	4-2-41	Major P.E. Poirier	Pay 3 days pay
"	23-3-41	"		1 AWL fr 1700 hrs 31-3-41 till 1-4-41 AA 15 1 day 2 hrs 15 mins 2 = Improperly dressed	Lt Guite Cpl Quintal	7 days C.B.	24-3-41	Maj Dawson	
	1-4-41	"				7 days F.P. with pay	1-4-41	Major P.E. Poirier	Pay 2 days pay.

Certified True Copy

George Buckshaw Capt

Officer having custody of original document

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4606	Pte	LEBRASSEUR, J.P.	Royal 22e Regiment,

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.		*Since Enlistment.	
For A.A. Sec. 15(1)	0	times	5	times.
For A.A. Sec. 15(2)	0	times	1	times.
For A.A. Sec. 40	0	times	1	times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, NIL.

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has~~ not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 10 days in military custody, making a total of 10 days of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Dec. 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2yrs 303 days

8. The accused is entitled to deferred pay or gratuity in respect of 2yrs. 303 days service.

9. The accused is entitled to reckon 2 yrs 303 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of~~ or entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

(*[illegible]*) W.C.[illegible]/[illegible] [illegible] [illegible] A.S.F.W.[illegible] Gp.698

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-4808 Rank Pte Name LEBRASSEUR J.P. of R22e Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of NOVEMBER 42

George Auckahan Capt.
Officer having custody of original document.

IV. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

Capt.

206/233 C.

~~Pte Leblond, et al.~~

LeBLOND, H

13

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NO. RANK, NAME AND UNIT OF ACCUSED	OFFENCE CHARGED	PLEA	FINDING	SENTENCE	HOW DEALT WITH BY CONFIRMING OFFICER
E14065, Pte. Leblond, H.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for a period of Ten (10) months	Finding & sentence confirmed but two months remitted
B89024, Pte. Loughlin, A	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for seven (7) months.	Finding & sentence confirmed but one month remitted
E14377, Pte. Ouellette, J.R.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for one (1) year	Finding & sentence confirmed but four months remitted
B60824, Pte. Neale, C. V.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for six (6) months.	Confirmed
E14074, Pte. Grogan, W.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Confirmed
E14040, Pte. Lavoie, A.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Ten (10) months	Finding and sentence confirmed but two months remitted
E14450, Pte. Hudon, Jos.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Six (6) months.	Confirmed
E14213, Pte. Dufour, E.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Ten (10) months.	Finding and sentence confirmed but four months remitted
E14267, Pte. Hogan, W.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Nine (9) months	Finding & sentence confirmed but three months remitted
E14380, Pte. Demers, A.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14439, Pte. Bernier, G.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
D36490, Pte. Leroux, R.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14021, Pte. Dubeau, J.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Ten (10) months	Finding and sentence confirmed but two months remitted
B60853, Pte. Thompson, F.L.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Confirmed
E14370, Pte. Theriault, A.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14059, Pte. Belleau, G.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for one hundred and forty (140) days	Confirmed
E14361, Pte. Bouchard, J.P.E.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Six (6) months	Confirmed
E14323, Pte. Gagne, L.P.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14363, Pte. Beaulac, H.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E29377, Pte. Belley, L.P.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14091, Pte. Pettigrew, F.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Not Guilty	To undergo detention for Nine (9) months	Finding and sentence confirmed but three months remitted
E14072, Pte. Verreault, P.A.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Fourteen (14) months	Finding and sentence confirmed but four months remitted
B95580, Pte. Baker. E.J.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
E14089, Pte. L'Heureux, R.	1st Charge) 2nd Charge) See charge sheet attached 3rd Charge)	Not Guilty	Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted

NO. RANK NAME AND UNIT OF ACCUSED	OFFENCE CHARGED	PLEA	FINDING	SENTENCE	HOW DEALT WITH BY CONFIRMING OFFICER
E14441, Pte. Billingsley, A.	1st Charge)	Not Guilty	Not Guilty	To undergo detention for one hundred and forty (140) days.	Finding and sentence confirmed but 50 days remitted
	2nd Charge) See charge sheet attached	Not Guilty	Guilty		
	3rd Charge)	Not Guilty	Not Guilty		
E14292, Pte. Beaulieu, L.	1st Charge)	Not Guilty	Not Guilty	To undergo detention for one hundred and forty (140) days.	Confirmed
	2nd Charge) See charge sheet attached	Not Guilty	Guilty		
	3rd Charge)	Not Guilty	Not Guilty		
E14476, Pte. Connell, D.	1st Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
	2nd Charge) See charge sheet attached	Not Guilty	Guilty		
	3rd Charge)	Not Guilty	Not Guilty		
E14124, Pte. Levesque, G.	1st Charge)	Not Guilty	Not Guilty	To undergo detention for Eight (8) months	Finding and sentence confirmed but two months remitted
	2nd Charge) See charge sheet attached	Not Guilty	Guilty		
	3rd Charge)	Not Guilty	Not Guilty		

(All the above named being soldiers of the 2 Cdn Div. Amn. Coy., Canadian Army, Active.

Signed (2 pages)

Victor W. Odlum

(Victor W. Odlum), Major-General,
Comd. 2 Cdn Div., C.A. (A.F.)

this day of August, 1941
in the field.

J. Wachett Major
President
Two (2) Pages

subs.

(b) Unless unavoidable, not more than three names ... cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this NINTH day of AUGUST, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION, CANADIAN ARMY, ACTIVE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[illegible]

In my opinion military exigencies, namely the dispersion of Units and difficulties of communication and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the persons named in the annexed schedule.

President.

Rank.	Name.	Regiment.
MAJOR	J. D. MacBeth	Sigs 2 Cdn Div.

Members.

Rank.	Name.	Regiment.
CAPTAIN	T. W. Bigelow,	R.C.A.S.C.
CAPTAIN	J. M. VEZINA	Fus. M. R.
LIEUT.	WAITING MEMBER E. M. LaPierre,	R. de Mais.

Must be signed personally by the Officer usually in Command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (Victor W. Odlum), Major-General
2 Cdn Div., Canadian Army (A

Commanding Officer.

Correspondence to be PINNED here.

Army Form A.3.

206/233C

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this ELEVENTH day of AUGUST, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION, CANADIAN ARMY, ACTIVE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint:—~~

~~*(1. Three Officers to form the Court)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service)~~

~~for the following reasons, namely:—~~

In my opinion military exigencies, namely the dispersion of Units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those r[illegible] rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the persons in the annexed schedule.

PROCEEDINGS REVIEWED.

[illegible] Capt 11/10/41

Reserve [illegible] (J.A.) [illegible]

President.

Rank.	Name.	Regiment.
MAJOR	J.D. MacBeth	Sigs. 2 Cdn. Div.

Members.

Rank.	Name.	Regiment.
CAPT.	T.W. Bigelow	R.C.A.S.C. 2 Cdn. Div.
Lieut.	E.H. LaPierre	The. R. de Mais
	WAITING MEMBER	
Lieut.	L.E. Clermont	Fus. M.R.

Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed. Victor W. Odlum

(Victor W. Odlum) Major-General

Commanding 2 Cdn. Div., Canadian Army (Ac

Convening Officer.

No E-14292 Name Beaulieu L. Sqn., Battery or Company 2. Cdn. Amm. Coy. Corps RCASC Date of enlistment 24-11-39 G.C. Badges Service or Proficiency Pay MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 24 May 40 this soldier completed 6 months service, there were no entries on the previous sheet which was destroyed 24 May 40 in accordance with R.O. 71 C.A.S.F. (Overseas).									
Aldershot O/S	1941 5 May	L/Cpl		A.A. Sec 11 (did smoke in the vehicle park, Contrary to standing orders)	Sgt. Donaldson,	Demoted to the rank	6 May 41	Maj Savard	

Certified true copy

Capt.

No E-14476 Name Connell D. Sqn., Battery or Company R.C.A.S.C. Date of enlistment 29-9-40 G.C. Badges Service or Proficiency Pay MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				T.O.S. R.C.A.S.C. effective 5-10-40 pt.11 #259 d/9-10-40					
Camp Borden Ont.	13-1-41			Failing to appear at a place of Parade Pte appointed by his C.O. (Sec.15(2).	Sgt. Verge	3 days C.B. extra drill	14-1-41	Capt. J.G. Chittick	
				S.O.S. on posting to General Holding Unit D.O.#29 d/ 2-2-41				G.Walker Lieut.	

This is a true certified copy

Capt.

No. E-14089 Name L'Heureux R. Sqn., Battery, or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 13-9-39 G.C. Badges Service or Proficiency Pay MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period for reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 13 Mar 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 13 Mar 40 in accordance with R.O. 71 C.A.S.F.(Overseas).									
Camp Borden Ont.	11-6-40	Dvr.		Conduct to the prejudice of good order and military discipline (2pp. on parade unshaven)	CSM Hanson	1 hr. Ex. Dr.	11-6-40	Maj Savard	
Camp Borden Ont.	7-9-40			A.W.O.L. 33 hours 30 mins.	Cpl. Robin	7 days C.B. 7 days pay	9-9-40	Maj Savard	For. 2 days pay
Toronto Ont	16-9-40			A.W.O.L. 27 days	Doc. evidence	10 days detn. 78 days pay	19-11-40	O.C. No.2 D.D.	

Certified true copy

(P.T.O.)

No. E-1444 Name Billingsley A. Sqn., Battery, or Company 2. Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 10-4-40 G.C. Badges Service or Proficiency Pay MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period for reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 10 Oct 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 10 Oct 40 in accordance with R.O. 71 C.A.S.F. (Overseas).									
Toronto	8-11-40	Dvr		A.W.O.L. 12 hours 35 minutes	Cpl. Robin	4 days C.B.	9-11-40	Maj Savard	Forf. 1 days pay.

Certified true copy

(P.T.O.)

No. E-14072 Name Verreault P.A. Sqn., Battery or Company 2 Cdn Div. Amm. Coy. Corps RCASC Date of enlistment 11-9-39 G.C. Badges Service or Proficiency Pay MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character FAIR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec P.Q.	27-1-40	Dvr.		Neglected to obey a Garrison order.	Lieut Alleyn 18th Fd. Amb.	14 days C.B	15-2-40	Maj Savard	
Quebec P.Q.	16-2-40	"		A.W.O.L. 15 days	Sgt. Suess	14 days detn.	1-3-40	Maj Savard	Forf. 29 days pay
On 11 Mar 40 this soldier completed 6 months service and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entries were transferred from previous which was then destroyed 11 Mar 40.									
Quebec P.Q.	15-4-40	Dvr		A.W.O.L. 26 days	CSM Hanson	56 days Detn.	21-5-40	D.C.M. M.D. No.5	Forf. 108 days pay
Aldershot	30-9-40	"		A.W.O.L. 11 hrs. 30 mins.	Sgt Toms	Admonished	5-10-40	Lt. Col. Labatt	Forf. 1 days pay
Aldershot	30-9-40	"		Neglected to obey 2 Cdn Div. Routine order	Sgt. Sayles	14 days C.B?	5-10-40	Lt. Col. Labatt	

(OVER)

(P.T.O.)

No. B-95580 Name Baker E.J. Sqn., Battery or Company #2 D.D. No. Corps 3 Prov. Coy. Date of enlistment 4-6-40 G.C. Badges Service or Proficiency Pay MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 6 Dec 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 6 Dec 40 in accordance with R.O.71 C.A.S.F. (Overseas).									

Certified true copy

Capt

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	20-11-40	Dvr		Neglected to obey standing order	Cpl Greene	Admonished	20-11-40	Capt. Gagnon	
Aldershot	27-1-41	"		Neglected to obey standing order	Sgt Fortin	7 days C.B.	27-1-41	Lieut Dowling	
Aldershot	31-1-41	"		(1) A.A.Sec 11 left his vehicle ungarded and mobilized	Sgt Turgeon	27 days detn $9.90 stop. pay	7-2-41	Maj Savard	Stop. of pay for amt. of $9.90
				(2) A.A. Sec 24(2) losing by neglect accessories to the value of $9.90	Sgt Shaw				
Aldershot	30-6-41	Pte		(1) A.A.10 (4) broke out of Bks. (2) A.A.15 (1) A.W.L. 8 hrs.	Sg Turgeon Cpl Bertrand	20 days forf. of pay	30-6-41	Maj Savard	Total forf. of pay 21 days
Durgates	23-7-41	"		A.A. Sec 11 neglect to obey a standing order (speeding)	L/Cpl. Beardmore L/Cpl Coates	2 days pay	6-7-41	Maj Savard	Tot. Forf. 2 days pay

Certified true copy

Capt

No. E-29377 Name Belley Louis Philippe Sqn., Battery, or Company — Corps 2nd Div R.C.A.S.C. (CASF) — Date of enlistment 3-7-40 — G.C. Badges — Service or Proficiency Pay — MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				T.O.S. R.C.A.S.C. T.C. effective 5-10-40 pt 11 order #259 d/9-10-40					
Camp Borden, Ont.	6-1-41	Pte.		A.W.L. 0630 hrs. 6-1-41 till 1130 hours 6-1-41(6 hrs. 30 mins.) Sec. 15 (1)	Cpl. File Documentary	Admonished	7-1-41	Capt. J.G. Chittick	Forf.1 days pay
				S.O.S. on posting to General Holding Unit		DO #29 d/2-2-41		J. Walker Lieut.	
				T.O.S. 2 Cdn. Div Amm. Coy RCASC-C.A. O/S.		w.e.f. 5-4-41		D.O.#22 d/ 11-4-41	

Certified true copy
[signature]
Capt.

(P.T.O.)

No. E-14091 Name Pettigrew F. Sqn., Battery, or Company — 2. Cdn Div. Amm. Coy. Corps RCASC — Date of enlistment 13-9-39 — G.C. Badges — Service or Proficiency Pay — MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				On 13 Mar 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 13 Mar 40 in accordance with R.O. 71 C.A.S.F. (Overseas).					
Toronto Ont.	31-10-40	Dvr.		A.W.O.L.10 days 17 hrs. 45 mins.	Cpl. Robin	14 days C.B.	15-11-40	Maj Savard	Forf. 11 days pay.

Certified true copy
[signature]
Capt.

(P.T.O.)

MFM 6 (A F B 122)

No. E-14323 Name Gagne Leo Paul | Sqn., Battery, or Company: 2 Cdn. Div. Amm. Coy | Corps RCASC | Date of enlistment: 22-2-40 | G.C. Badges: | Service or Proficiency Pay: | Character

Date of last entry in Company Conduct Sheet: | No. and date of last drunk: | Period for reckoning towards freedom from extra fine: | Sheet No. | Signature O.C. Company, etc.:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont	1-7-40	Dvr		A.W.O.L. 10 hrs.	CSM Hanson	48 hrs. detn.	1-7-40	Maj Savard	Forf. 3 days pay
On 22 Au 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entry was transferred from previous sheet which was destroyed 22 Au 40.									
Aldershot Eng	17 Mar 1941	Pte.		A.A. Sec. 15 (1) A.W.L. 10 hrs.	L/Cpl. Savoy	14 days C.B. 14 days Forf. of pay	18 Mar. 41	Maj Savard	Total Forf. of pay, 15 days pay.

Certified true copy
Capt.

MFM 6 (A F B 122)

No. E-14363 Name Beaulac H. | Sqn., Battery, or Company: 2 Cdn. Div. Amm. Coy | Corps RCASC | Date of enlistment: 29-3-40 | G.C. Badges: | Service or Proficiency Pay: | Character V. Fair

Date of last entry in Company Conduct Sheet: | No. and date of last drunk: | Period for reckoning towards freedom from extra fine: | Sheet No. | Signature O.C. Company, etc.:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont.	1-7-40	Dvr		A.W.O.L. 4 days 5 hrs. 15 mins.	Cpl. Robin	28 days detn.	6-7-40	Maj Savard	Forf. 5 days pay.
Camp Borden	2-9-40	"		A.W.O.L. 12 days 9 hours	Cpl. Robin	14 days C.B. Forf. 28 days pay	16-9-40	Maj Savard	Forf. 41 days pay.
On 29 Sep 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entries were transfered from the previous sheet which was then destroyed 29 Sep 40.									
Toronto Ont.	4-11-40	Dvr		A.W.O.L. 3 days 6 hours 30 mins.	Cpl. Robin	14 day C.B.	7-11-40	Maj Savard	Forf. 4 days pay

Certified true copy
Capt.

No. E-14059 Name Belleau Geo. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 12-9-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 12 Mar 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 12 Mar 40 in accordance with R.O. 71 C.A.S.F. (Overseas).									

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Capt.

(P.T.O.)

No. E-14361 Name Bouchard J.P.E. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 2-4-40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 2 Oct 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 2 Oct 40 and accordance with R.O. 71 C.A.S.F. (Overseas).									
V.D.P.	3-6-41	Pte.		Failed to appear at the place of parade	Sgt. Shaw	3 days C.B.	3-6-41	Capt. Dowling L.A.	

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Capt.

(P.T.O.)

No. B-60853 Name Thompson F.L. Sqn., Battery, or Company 2 Cdn. Div. Amm. Coy. Corps RCASC C.A.O/S Date of enlistment 19-9-39 G.C. Badges Service or Proficiency Pay

M F M 6 (A F B 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 19 Mar 40 This soldier completed 6 months service, there were no entries on previous sheet which was destroyed on 19 Mar 40 in accordance with R.O. 71 C.A.S.F. (Overseas).									
Toronto Ont.	12-12-40	Pte.	A.W.O.L.	3 days 5 hours.	2/Lt. Houde	Admonished	18-3-41	Maj Savard	Forf. 4 days pay.

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[signature] Capt.

(P.T.O.)

No. E-14370 Name Theriault A. Sqn., Battery, or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 3-4-40 G.C. Badges Service or Proficiency Pay

M F M 6 (A F B 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont.	10-9-40	Dvr.	A.W.O.L.	46 hours 55 mins.	Cpl. Robin	7 days C.B. 7 days Forf. pay	12-9-40	Maj Savard	Forf. 9 days pay.
On Oct 3-40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entry was transferred from the previous sheet which was destroyed 3 Oct 40.									
Tournay Bks.	15-5-41	Pte.	A.A.	Sec 11 Neglected to obey a Standing Order. (Rifle uncleaned)	CSM Alger	7 days C.B.	16-5-41	Maj Savard	

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[signature] Capt.

(P.T.O.)

No. D-36490 Name Leroux R. Sqn., Battery, or Company 2 Cdn. Div. Amm. Coy. Corps RCASC CA O/S Date of enlistment 5-8-40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 5 Feb 41 this soldier completed 6 months service, there were no entries on the previous sheet which was destroyed on 5 Feb 41 in accordance with R.O. 71 C.A.S.F.(overseas).									
Toronto Ont	12-12-40	Pte		A.W O.L. 3 days 10 hrs 30 mins	2/Lt. Houde	Admonished	18-3-41	Maj Savard	Forf. 4 days pay.
Tournay Bks.	11-5-41	Pte		A.A. Sec 40 (Improperly dressed)	Cpl. Sands	7 Days C.B.	13-5-41	Maj Savard	

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[signature] Capt.

No. E-14439 Name Bernier G. Sqn., Battery, or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 17-4-40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 17 Oct 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F.(Overseas) no entries were transferred from the previous sheet which was destroyed 17 Oct 40.									

Certified true copy
[signature] Capt.

No. E-14267 Name Hogan W. | Sqn., Battery, or Company: 2 Cdn. Div. Amm. Coy. | Corps RCASC | Date of enlistment: 21-11-39 | G.C. Badges | Service or Proficiency Pay | MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character: GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	1-3-40	Dvr.		A.W.O.L. 60½ hours	Cpl. Shaw	4 days C.B.	4-3-40	Maj Savard	Forf. 3 days pay.
On 21 May 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entry was transferred from the previous sheet which was then destroyed 21 May 40.									
Camp Borden Ont	1-7-40	Dvr		A.W.O.L. 62 hours.	Cpl. Bouchard	20 days detn.	5-7-40	Maj Savard	Forf. 23 days pay.
Aldershot	3-12-40	"		Neglected to obey a Standing Order	Lieut. Swift E.C.	Admonished	4-12-40	Capt Gagnon.	
Dispersal Area	28-6-41	Pte		(1) A.A.Sec.15 (2) failed to appear at the place appointed by his C.O.	Sgt F ortin Cpl. Auclair	14 days Forf pay	30 Jun 41	Maj Savard	Tot forf. of pay 14 days

(OVER)

No. E-14021 Name Dubeau J. | Sqn., Battery, or Company: 2 Cdn. Div. Amm. Coy. | Corps RCASC | Date of enlistment: 16-11-39 | G.C. Badges | Service or Proficiency Pay | MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character: FAIR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec P.Q.	16-12-39	Dvr.		A.W.O.L. 40½ hrs.	Sgt. Dugal	7 days C.B.	18-12-39	Maj Savard	Forf. 4 days pay
Quebec P.Q.	7-2-40	Dvr.		A.W.O.L. 120 hrs.	Sgt. Dugal	5 days C.B.	13-2-40	Maj Savard	Forf. 5 days pay
Quebec P.Q.	30-3-40	Dvr	1	Drunkenness	CQMS Chene 18th AMB.	Reprimand	30-3-40	Maj Savard	
Quebec P.Q.	1-5-40	"		A.W.O.L. 144 hours	Cpl Shaw B.	7 days C.B.	7-5-40	Maj Savard	Fotf. 6 days pay
On 16 May 40 this soldier completed 6 months service and in accordance with R.O. 71 C.A.S.F.(Overseas) the above entries were transferred from previous sheet which was destroyed 16 May 40.									
Camp Borden Ont	1-7-40			A.W.O.L. 20 days 20½ hours	Cpl Shaw B.	168 hrs detn.	27-7-40	Maj Savard	Forf 11 days pay
Bournay Bks.	3-1-41			A.A. Sec.11(neglected to obey standing order	Sgt. Cuellet	7 days C.B.	4-1-41	Lt. Dowling	

(OVER)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			1	(2) A.A. Sec 19 Drunkenness		SEE OTHER SIDE			

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Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28-6-41	Pte		A.A.Sec. 40 (using a curse and obscene language to an N.C.O.)	Cpl Auclair	14 days C.B. 14 days pay.	11-7-41	Maj Savard	Tot. Forf. of pay 14 days

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No. E-14450 Name Hudon J. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 30-4-40 G.C. Badges Service or Proficiency Pay

MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 30 Oct 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 30 Oct 40 in accordance with R.O.71 C.A.S.F.(Overseas).									

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(P.T.O.)

No E-14380 Name Demers A. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 8-4-40 G.C. Badges Service or Proficiency Pay

MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont.	2-9-40	Dvr.		A.W.O.L. 9 hours 30 mins.	Cpl. McGraw	4 days C.B. 4 days Forf. pay	3-9-40	Maj Savard	Forf. 5 days pay.
On 8 Oct 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas) the above entry was transferred from the previous sheet which was destroyed 8 Oct 40.									

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(P.T.O.)

M.F.M. 6 (A.F.B. 122)

No. E-14040 Name Lavoie A. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 8-9-39 Sheet No. G.C. Badges: Service or Proficiency Pay: Character V. Fair

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period for reckoning towards freedom from extra fine: Signature O.C. Company, etc.:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 8 Mar 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 8 Mar 40 in accordance with R.O.71 C.A.S.F. (Overseas).									
Tournay Bks.	24-2-41	Cpl		A.A. Sec, 11 W.O.A.S., failed to obey a standing order	CSM Alger	Severe Repr.	1-3-41	Maj Savard.	Revert to perm. rank at own request
Tournay Bks.	29-6-41	Pte.		A.A Sec 15(2) failed to appear at place of parade appointed by his C.O.	Sgt. Turgeon L/Cpl asch	14 days forf. pay	30-6-41	Maj Savard	

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Capt.

F.T.O.

M.F.M. 6 (A.F.B. 122)

No. E-14074 Name Grogan W. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 12-9-39 Sheet No. G.C. Badges: Service or Proficiency Pay: Character GOOD

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period for reckoning towards freedom from extra fine: Signature O.C. Company, etc.:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 12 Mar 40 this soldier completed 6 months service, there were no entries on previous sheet which was destroyed 12 Mar 40, in accordance with R.O.71 C.A.S.F. (Overseas).									
Camp Borden Ont	1-7-40	Dvr		A.W.O.L. 15 days	Cpl Shaw	20 days detn.	15-7-40	Maj Savard	Forf.15 days pay
Camp Borden	" 29-9-40	"		A.W.O.L. 20 hours	Cpl Robin	7 days C.B.	30-9-40	Maj Savard	Forf.1 days pay
Toronto Ont.	31-10-40	"		A.W.O.L. 8 days 23 hours	Cpl. Robin	7 days C.B. 7 days pay	11-11-40	Maj Savard	Forf.16 days pay
Tournay Bks.	1-1-41	Pte		A.W.O.L. 17 hours 45 mins.	L/Cpl Auclair	3 days C.B.	2-1-41	Lt. Dowling	Forf.1 days pay

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Capt.

F.T.O.

No. E-14377 Name Ouellette J.R. Sqn., Battery or Company 2 Cdn Div. Amm. Coy Corps RCASC CA(OS) Date of enlistment 9-4-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 133)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Ont.	23-6-40	Pte		Conduct of the prejudice of good order and military discipline	E-14394 Poirier A	168 hrs. detn.	24-6-40	Maj Savard	for. 7 days pay
Camp Borden	15-7-40	"		A.W.O.L. 21 hrs.	Cpl. Robin	Reprimand	16-7-40	Maj Savard	For.1 days pay
Camp Borden	1-8-40	"		A.W.O.L. 6 days 19½ hrs.	Cpl Shaw	14 days detn.	8-8-40	Maj Savard	Forf. 20 days pay
Camp Borden	26-8-40	"		A.W.O.L. 12 days 19 hrs.	Cpl. Robin	14 days C.B. 28 days pay	9-9-40	Maj Savard	forf.41 days pay
Camp Borden	29-9-40	"		A.W.O.L. 4 days 16½ hrs.	Sgt. Matthews	20 days detn	4-10-40	Maj Savard	forf. 25 days pay

On the 9 Oct 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F.(Overseas) the above entries were transferred from previous sheet which was then destroyed 10-10-40

(OVER)

No. E-14213 Name Dufour E. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy Corps RCASC Date of enlistment 13-11-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character FAIR

M.F.M. 6 (A.F.B. 133)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	26-12-39	Dvr	1	Drunkenness	Cpl Imbeault	Admonished	27-12-39	Maj Savard	
Quebec	31-1-40	"	2	Drunkenness	Dvr Fournier	Fined $5.00	1-2-40	Maj Savard	
Quebec	15-2-40	"	3	Drunkenness	L/Cpl. Hawey	Fined $10.00	6-2-40	Maj Savard	
Quebec	11-3-40	"	4	Drunkenness	Sgt. Lebel	Fined $10.00	12-3-40	Maj Savard	

On 13 May 40 this soldier completed 6 months service and in accordance with R.O. 71 C.A.S.F.(Overseas) the above entries were transferred from the previous sheet which was then destroyed 13 May 40

Camp Borden	3-7-40	Dvr		A.W.O.L. 72½ hours	Cpl. Fortin	14 days detn.	5-7-40	Maj Savard	Forf.18 days pay
Camp Borden	1-8-40	"		A.W.O.L. 2 days 12 hrs. 25 mins	Cpl. Fortin	20 days detn	5-8-40	Maj Savard	Forf.23 days pay
Camp Borden	19-9-40	"	5	Drunkenness	Cpl. Bowen	Fined $10.00	20-9-40	Maj Savard.	

(OVER)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	12-12-40	Pte		A.W.O.L. 13 hours.	2/Lt Houde	Admonished	18-3-41	Maj Savard	Forf. 1 days pay
Toronto	1-11-40	"		A.W.O.L. 5 days 21 hrs 30 mins	Cpl. Robin	7 days C.B. 7 days pay	7-11-40	Maj Savard	Forf 6 days pay
New Martinque Bordon Hants	27-4-41	Pte		A.A.Sec 9 (1) W.O.A.S. is charged with showing wilful defiance of authority, a lawful command given by his superior officer. At Bordon 27th April 41 when asked to clean a room- Said I wont do it . Tried By F.G.C.M.	Cpl. Bosher Pte. Inglis	60 days Detention less 12 days remission	10-5-41	F.G.C.M. Brdg. L.P. Pacte.	

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Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	18-11-40	Dvr		A.W.O.L. 3 hours 1 Min.	Cpl. Robin	2 hrs. Ex Dr.	20-11-40	Maj Savard.	
Tournai Bks.	1-1-41	"		A.W.O.L. 15 hours	L/Cpl Tache	5 days C.B.	2-1-41	Lieut Dowling L.	Forf. 1 days pay
Tournay Bks.	13-5-41	Pte		A.A.Sec15(1) A.W.O.L. 1 hr. 30min	L/C Savoy	7 days C.B. 7 days pay	14-5-41	Maj Savard	Forf. 7 days pay
Dispersal Area	27 Jun	Pte		A.A. Sec. 40 (did fire a shot from his rifle without cause)	Sgt. Fortin L/Cpl Burke	14 days C.B. 14 days for. of pay	28 Jun 41	Maj Savard	Forf 14 days pay F.R.&I.149(1)(e).

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No. E-14065 Name Leblond H. Sqn., Battery or Company 2 Cdn. Div. Amm. Coy. Corps RCASC Date of enlistment 11-9-39 G.C. Badges Service or Proficiency Pay

MFM 6 (A F B 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character V. Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec P.Q.	16-12-39	Dvr		A.W.O.L. 41 hrs. 40 min.	Sgt. Dugal	7 days C.B.	19-12-39	Maj Savard	Forf. 4 days pay
Quebec P.Q.	1-4-40	"		A.W.O.L. 106½ hrs.	Cpl. Shaw B	2 days C.B.	6-4-40	Lt. Gagnon	Forf. 5 days pay

On the 11 Mar 40 this soldier completed 6 months service and in accordance with R.O.71 C.A.S.F. (Overseas) the above entries were transferred from previous sheet which was then destroyed 11 Mar 40.

Quebec P.Q	15-4-40	Dvr		A.W.O.L. 92½ hours.	Cpl. Bissonnette	4 days C.B.	20-4-40	Maj Savard	Forf. 3 days pay
Quebec P.Q	2-6-40	"		A.W.O.L. 62½ hours	Cpl Bissonnette	7 days C.B.	6-6-40	Maj Savard	Forf. 3 days pay
Camp Borden Ont	3-7-40	"		A.W.O.L. 47½ hours	Cpl. Fortin	14 days detn	5-7-40	Maj Savard	Forf. 16 days pay

(OVER)

(P.T.O.)

No. B-89024 Name Loughlin A. Sqn., Battery or Company # 2 D.D. R.C.A. Corps Date of enlistment 18-7-40 G.C. Badges Service or Proficiency Pay

MFM 6 (A F B 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

On 18 Jan 41 this soldier completed 6 months service, no entries were transferred from the previous sheet which was destroyed 18 Jan 41 in accordance with R.O. 71 C.A.S.F. (Overseas).

Tournay Bks.	3-2-41	Pte		A.A.Sec11,W.O.A.S. neglected to obey a standing order.	B-6564 Pte Buchanan W.	7 days C.B.	3-2-41	Lt. Dowling L.	
Aldershot Eng.	17-3-41	"		A.A. Sec 15(1) A.W.L. 1 hr.	L/Cpl. Savoy	4 days C.B. 4 days For. Pay	18-3-41	Maj Savard	Total For 4 days pay
Tournay Bks.	3-4-41	"		A.A. Sec 40 Conduct to the prejudice of good order and military discipline. (1) walking with his hands in his pockets. (2) Not being in possession of A.B. 1.	L/Cpl. Lucas L/Cpl. Nanne stad.		7 days C.B.	4-4-41 Maj Savard	

(OVER)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CNE Toronto	18-10-40	Dvr		A.W.O.L. 20 hrs. 45 mins.	Cpl Shaw B	7 days C.B.	19-10-40	Maj Savard	Forf.1 days pay

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Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournay Brks.	11-5-41	Pte		1- A.W.O.L. 1 hour	L/Cpl. Savoy	7 days C.B.	12-5-41	Maj Savard	Total Forf.
	10-5-41	"		2- A.W.O.L. 1 hour 30 min.		7 days forf. pay.			7 days pay.

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[signature]
Capt.

No E-14124 Name LEVESQUE G. Sqn., Battery, or Company 2. Cdn. Div. Corps RCASC. Date of enlistment 13-9-39 G.C. Badges Service or Proficiency Pay MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 13 Mar 40 this soldier completed 6 months service, and in accordance with R.O. 71 C.A.S.F. (Overseas), no entries were transfered from the previous which was destroyed 13 Mar 40.									
CAMP CURDEN	4-6-40	Dvr		A.W.O.L. 24 hours	Cpl. Levesque R.	6 hrs. extra drill	15-6-40	Major P.H. Savard	Forf. 1 day pay
TORONTO, ONT.	8-11-40 1941	"		A.W.O.L. 1 day 1 hour 20 mins.	Cpl. Robin	7 days C.B.	9-11-40	Major P.H. Savard	Forf. 2 days pay.
Tournay Bks.	15-5-41	Pte.		A.A. Sec 11 Rifle uncleaned	Lt. Gosselin	7 days C.B.	16-541	Major P.H.Savard	

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No B-60824 Name Neale C. V. Sqn., Battery, or Company (C) Corps Ontario Regt. Tank. Date of enlistment 18-9-39 G.C. Badges Service or Proficiency Pay MFM 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 18 Mar 40 this soldier completed 6 months service, there were no entries transferred from previous sheet which was destroyed 18 mar 40 in accordance with R.O.71 C.A.S.F. (Overseas).									
Tournay Bks.	11-4-41	Pte.		A.A.Sec 15(2) failed to appear at the place of parade	Sgt. Shaw	7 days C.B.	12-4-41	Lt. Dowling. L.A	
Tournay Bks.	10-5-41	"		A.W.O.L. 1 hour 30 mins.	L/Cpl. Savoy	4 days C.B. 4 days pay	12-5-41	Maj Savard	Total forf. 4 days pay

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CHARGE SHEET

The Accused

E-14065	Pte.	Leblond, H.	E-14370	Pte.	Theriault A.
B-89024	Pte.	Loughlin, A.	E-14059	Pte.	Belleau G.
E-14377	Pte.	Ouellette J.R.	E-14361	Pte.	Bouchard P.E.
B-60824	Pte.	Neale C.V.	E-14323	Pte.	Gagne L.P.
E-14074	Pte.	Grogan W.	E-14363	Pte.	Beaulac H.
E-14040	Pte.	Lavoie A.	E-29377	Pte.	Belley L.P.
E-14450	Pte.	Hudon Jos.	E-14091	Pte.	Pettigrew F.
E-14213	Pte.	Dufour E.	E-14072	Pte.	Verreault P.A
E-14267	Pte.	Hogan W.	B-95580	Pte.	Baker E.J.
E-14380	Pte.	Demers A.	E-14089	Pte.	L'Heureux R.
E-14439	Pte.	Bernier G.	E-14441	Pte.	Bellingsley A.
D-36490	Pte.	Leroux R.	E-14292	Pte.	Beaulieu L.
E-14021	Pte.	Dubeau. J.	E-14476	Pte.	Connell D.
B-60853	Pte.	Thompson F.L.	E-14124	Pte.	Levesque G.

of the 2nd Cdn Div Amn. Coy RCASC (CAOS) all soldiers of the Canadian Army Active, are charged with:

FIRST CHARGE A.A.Sec. 7(3) — WH EN ON ACTIVE SERVICE JOINING IN A MUTINY IN HIS MAJESTY'S MILITARY ~~SERVICE~~ FORCES

in that they

at Wadhurst Hall, Wadhurst, Sussex, on the twenty eight day of July, 1941, joined in a mutiny, combining amongst themselves to stay wrongfully away from parade at 1915 hrs 28th July, 1941, and did stay away:

and the above named soldiers of the Canadian Army (Active) are severally charged with:

SEC ND CHARGE (alternative) A.A.Sec. 40) — CONDUCT ~~AN ACT~~ TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at the times and place aforesaid, did wrongfully and willfully not comply with the order of Section Sergent V.G. Fortin to be on parade at 1915 hrs 28th July, 1941, and did wrongfully stay away:

The above named soldiers of the Canadian Army (Active) are severally charged with:

THIRD CHARGE A.A. Sec.1 (1) In the further alternative) — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE?

in that he

at the place and date aforementioned did absent himself from 1900 hrs until 1915 hrs without leave.

P.H.Savard Major
2nd Cdn Div Amn Coy RCASC(CAOS)

Dated in the Field
This 2nd Day of Aug. 1941.

TO BE TRIED BY F.G.C.M.,

("Victor W. ODLUM" Major-General,
Comd. 2 Cdn Div. C.A. (A)

Exhibit F

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT BLENHEIM BARRACKS, ALDERSHOT, HANTS ON 22 AUGUST 1941

TRIAL OF: E14065, Pte. Leblond, et. al., 2 Cdn Div. Amn. Coy., RCASC (As set out in attached schedule)

PROSECUTING OFFICER: Lieut. J. D. Harrison, R. C. A.

DEFENDING OFFICER: Capt. E. G. Swift, 2 Cdn Div. Amn. Coy., RCASC

SHORTHAND REPORTER: D24030, S/Sgt. J. H. Spence, H. Q. 2 Cdn Div.
INTERPRETER: Lieut. L. E. Clermont, Les. Fus. M. R.

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1. The Order Convening the Court is read in the presence and hearing of all accused.

2. Each accused is asked whether he objects to being tried by the President or by any of the other Members comprising the Court.

There are no objections to the Court.

There are no objections to the Shorthand Writer.

2(a) The Court, Shorthand Writer and Interpreter are duly sworn

3. Each accused answers to his name, unit and number, is duly arraigned and is asked to plead individually to each of the charges.

Each accused pleads "not guilty" to the 1st, 2nd and 3rd charge.

4. A proper medical certificate is produced for each accused.

5. Rule of Procedure 39A is complied with, and the Defending Officer indicates his readiness to proceed with the trial.

OPENING ADDRESS OF PROSECUTOR: I think, sir, other than to outline the course which I propose taking, I cannot be of any assistance to the Court. On the first charge the essence of the charge, of course, is banding together, or combining together and to that point I will endeavour to adduce evidence. On the two alternative charges it is simply a question of adducing evidence that orders were given for a parade and that the men refused or did not turn out on the parade, although they were there in the neighborhood. Beyond that sir, I am prepared to proceed with the case.

The 1st witness for the prosecution, Capt. L. Dowling, 2 Cdn Div Amn. Coy., R.C.A.S.C., having been duly sworn, is examined:

Q 1 You are the officer commanding "A" Section, 2 Cdn Div Amn Coy. RCASC?
A 1 Yes, sir.
Q 2 Will you tell the Court the syllabus for training on 28 Jul 41?
A 2 The syllabus of training on that day consisted of M/T and bayonet drill, followed after supper by night patrols.
Q 3 I produce to you a document which purports to be a syllabus of training. Can you tell the Court what that document is, where it came from and where it was on the day in question?
A 3 This document is a syllabus of training for the week ending August 2, 1941. It is issued by the Adjutant of the Company and reaches the Section at the end of the week preceding. It is posted up by me in "A" Section Orderly Room when received. It shows the training by day.

(Exhibit P.1)

Q 4 In this particular case it shows Monday, 28th July from 1900 to 2200 hours night patrols under the Section Commander?
A 4 That is correct.
Q 5 Can you tell me when you received this for this particular week?
A 5 Thursday or Friday. I know it was definitely before Sunday.
Q 6 And it was posted before Sunday in the Orderly Room?
A 6 Yes, sir.

Q 7 I produce what purports to be a copy of Daily Part I Orders of 2 Cdn Div Amn Coy. Can you tell me if these orders were posted on the 28th of July?
A 7 Yes, sir.

(Exhibit P.2)

Q 8 Will you tell the Court what orders you gave subsequently to the syllabus as to the night patrol on the evening of 28 Jul 41?
A 8 I was endeavoring to get as many men of the section on parade and at noon on the 28th I decided that as the exercise didn't entail much physical effort, I would have the old guard, which was coming off at 1900 hours, on the exercise. I therefore ordered Sgt. Fortin, the Section Sgt. to have the men ready on parade at 1930 hours on our usual parade ground in front of "A" Section marquees.
Q 9 That is, to turn the parade over to you at 1930 hours?
A 9 Yes.
Q 10 And did you, in fact, take over the parade at 1930 hours?
A 10 At 1920 hours I was leaving the main building to go up to the parade ground, which is a walk of two minutes. As I left the door I was met by Sgt. Fortin--
Q 11 I don't want to bring in any hearsay evidence. Just what did you do?
A 11 I accompanied Sgt. Fortin.
Q 12 You had some conversation with Sgt. Fortin and as a result of that what did you do?
A 12 I went up to the parade ground and found there the N.C.O.'s of my section, but no men. I asked why the men were not on parade. I waited until 1935 hours and then I instructed my N.C.O.'s to follow me down to the orderly room.
Q 13 Did you, in fact, take over the parade that night?
A 13 There were no men there so I couldn't take over the parade. I took over the parade of my N.C.Os.
Q 14 Had you sent your men on any other details?
A 14 No.
Q 15 Did the men go on the night patrol?
A 15 No.
Q 16 What orders, if any, did you give?
A 16 I ordered my N.C.Os. to place the men who were not on that parade under open arrest.
Q 17 And were the men put under arrest?
A 17 They were placed under open arrest
Q 18 Do you know when they were placed under open arrest?
A 18 In some cases they were immediately placed under open arrest and in other cases as soon as they came back to their quarters.
Q 19 When you went out to take the parade at 1930 hours and found no men on parade did you see the men-- were they standing around?
A 19 There were no men on the side.
Q 20 You know all these accused men here?
A 20 Yes.
Q 21 Were they all in your section?
A 21 Yes.
Q 22 Were any of them excused duty that night?
A 22 Not to my knowledge.
Q 23 So that as far as you know they should have been on that parade?
A 23 Yes, sir.
Q 24 I notice that the syllabus provides that the night patrols would commence at 1900 hours and you say you gave orders to have the parade turned over to you at 1930 hours. Was there any particular reason for that?
A 24 It was to enable the men coming off the old guard to go on that parade.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 25 Will you tell me what time the first relief is changed, as a gener rule, but particularly on this evening?
A 25 The changing of the guard is at 1900 hours.

Q 26 Can you tell me how long it takes to complete the change-over. In other words, how long before the old guard is marched off?
A 26 Ten to fifteen minutes.
Q 27 Before a normal parade, where the men have to be fallen in on parade what length of time do you fall them in, before the actual hour of parade, as a general rule?
A 27 I call upon my N.C.Os to have the men there at the time of parade.
Q 28 And you called this parade for 1930 hours?
A 28 Yes.
Q 29 How many men have you in your Section?
A 29 95 all ranks.
Q 30 How many men, on the night of July 28th were on duties that would prevent them from attending this scheme, in round figures?
A 30 I anticipated approximately 55 men on parade.
Q 31 As there are 28 men here who are supposed to have not fallen in on parade and 55 were available for this parade, may I ask where the others were and why they weren't also charged with supposedly having done the same thing?
A 31 I didn't lay the charges and I cannot answer that question.
Q 32 Then what time did you go up to take over the parade?
A 32 I arrived about 1923 or 1924 hours.
Q 33 Were you there at 1930?
A 33 Yes, I waited until 1935.
Q 34 Will you tell me what the conduct of these men was at the time this happened. You, I presume, didn't see them, but when you saw them, were they talking in groups amongst themselves?
A 34 I didn't see the men until the next morning's parade.
Q 35 Their conduct from this on, up to, say the time of the trial, has been satisfactory?
A 35 Their conduct has been exceptionally fine, under very hard working conditions.
Q 36 I would like to have an opinion of what you constitute absence from that area, or absence from that place of parade, or absence from that section area?
A 36 My orders called for the parade to be held at 1930 hours on a plot of grass, approximately the length of three marquees and the width of about two marquees, surrounded by bushes and hedges.

The 2nd Witness for the Prosecution, E0118, Sgt. Fortin, V.G., 2 Cdn Div Amn. Coy., R.C.A.S.C., having been duly sworn, is examined:

Q 37 You are Section Sgt. in "A" Section, 2 Cdn Div. Amn. Coy., RCASC? And you were such on 18 Jul 41?
A 37 Yes, sir.
Q 38 And did you attend the parades that day?
A 38 Yes, sir.
Q 39 And take the roll-call?
A 39 Yes, sir.
Q 40 And can you tell me who of the accused here were on parade at 1330 hours on that day?
A 40 Not from memory.
Q 41 Have you any book or record which will refresh your memory?
A 41 Yes, sir.
Q 42 Have you got it with you?
A 42 No, sir, but I can go and get it.

BY THE COURT:
Q 43 Would the defence like to admit that they were all on the 1330 hours parade?

IT IS FORMALLY ADMITTED BY THE DEFENDING OFFICER THAT ALL THE ACCUSED WERE PRESENT AT THE 1330 HOURS PARADE.

Q 44 During the afternoon the men who were on parade, I understand, carried our the work laid down in the syllabus of training?
A 44 Yes, sir.
Q 45 And from the syllabus there was to be a night patrol for that evening?
A 45 Yes, sir.

Q 46 And did you receive any orders regarding parade for the night patrols from your Section Commander?
A 46 Yes, sir. After Bayonet practice, which ended at 1600 hours I told them that there was to be a night patrol at 1915 hours.
Q 47 During the afternoon in question did you or did you not send any of the accused men away on any special duties or dismiss them from the parade?
A 47 Not as far as I can remember
Q 48 Do you remember if any of the accused men were coming off guard at 1900 hours?
A 48 They were not.
Q 49 That is, none of the men who are accused and stand trial today in this Court?
A 49 No, sir.
Q 50 Will you tell the Court what procedure you adopted in calling and taking over a parade before handing it over to your Section Commander?
A 50 When I arrived on the paradeground at 1915 hours on 28 Jul 41, there were no privates, only N.C.Os. in this section. I had orders from Capt. Dowling to get the parade ready for 1930 hours
Q 51 Did anything happen that day which would have caused any of the men to have left the parade during the afternoon?
A 51 Not as far as I can remember.
Q 52 And will you tell the Court exactly what happened when you went to take the parade at 1915 hours?
A 52 I found only the N.C.Os. on the parade ground and I asked them where were their men. The answer was from the N.C.Os they didn't want to go on parade.
Q 53 Did you see the men?
A 53 I saw the men but I can't say if they are the accused who are in here now or some others. Passing by I asked them "don't you know there is a parade tonight at 1915?" and there was no answer.
Q 54 Were they your men?
A 54 They were from "A" Section. I met them in front of our barracks. It is the only place where our men could go.
A 55 Should they have been on parade?
A 55 Yes, sir.
Q 56 Did they refuse to go on parade?
A 56 They didn't answer me.
Q 57 Did you tell them to go on parade?
A 57 I told them in the afternoon.
Q 58 And what happened next?
A 56 I returned to Capt/ Dowling.
Q 57 And did anything else happen?
A 57 Not that I remember, about the parade.
Q 58 Where were these men to whom you spoke?
A 58 Around their huts.
Q 59 How far was that from the parade ground?
A 59 Not very far. Something like 100 yards, maybe.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 60 Will you tell me something abouth the conduct of these accused when you saw them that evening?
A 60 It was normal, as far as I could see.
Q 61 The following day and from then on?
A 61 It was just as normal.
Q 62 When you went up around the huts that night at 1930 hours did most of the men appear to be in their huts?
A 62 There was a few of them everywhere.
Q 63 Did they seem to be talking in rather loud voices, or were they acting in any unusual way?
A 63 Normal.
Q 64 On the 1600 hours parade how many men were present?
A 64 52, that is officers and sergeants.
Q 65 Have you any record to that effect?
A 65 No, sir, I coulted them only.
Q 66 That is, you can't say whether all these men were present on that

parade or not?
A 66 No, sir, I cannot.
Q 67 If one of your men was in the canteen at 1910 hours on the night of 28 Jul 41 would you have considered him absent from parade at that particular time?
A 67 No, sir.
Q 68 When you went up at 1930 hours what steps did you take with your N.C.O.s to warn the men of the gravity of what they were accused of doing?
A 68 I asked the Corporals to tell the men to come on parade.
Q 69 Do you know if your N.C.Os did this?
A 69 They told me it was the second time.
Q 70 You didn't tell them yourself to go on parade?
A 70 I passed it on before reporting myself to Capt. Dowling.
Q 71 You didn't warn them when you went around there on parade?
A 71 I did.
Q 72 Had any of these accused reason during the afternoon to be absent for such duties as maintenance on their trucks, or would they have had occasion to, shall we say, be sent for any small thing that might occur during the course of the normal day?
A 72 Not with my permission.
Q 73 Were you with this group of men from 1330 to 1600 hours during the afternoon?
A 73 Yes, sir.
Q 74 Then none of these men could have left this parade without asking your permission?
A 74 No, sir.
Q 75 Has this ever happened before, they have left parade without asking your permission?
A 75 Yes, sir.
Q 76 How is your section paraded-- that is, is it paraded by sub-section in charge of corporals, during the normal hours of parade?
A 76 They can't let a man leave to go to any place without my permission.
Q 77 On the afternoon in question there was M/T from 1330 to 1445 hours and you have how many trucks in your section?
A 77 Over twenty.
Q 78 Over how great an area are these trucks, or were these trucks on that particular day, when M/T was being done?
A 78 There were no men left down there on M/T at 1445 hours.
Q 79 Did you make sure?
A 79 I didn't go. They were in charge of Sgt. Turgeon, the M/T Sgt.
Q 80 During this time couldn't have Sgt. Turgeon given permission to any of these men to leave?
A 80 Maybe.
Q 81 Did all the accused parade at 1500 hours with their rifles for bayonet fighting?
A 81 I couldn't say.
Q 82 You have no record of each individual?
A 82 No, sir.
Q 83 Then you couldn't swear that all these men were present on that parade?
A 83 No, sir.
Q 84 If any of your Section men's rifles were in the Q. M. Storesfor repairs or anything would they just fall in on this bayonet fighting without their rifles?
A 84 Yes, sir. Because this parade is followed by P.T.
Q 65 What time did you leave the men when you found out they wouldn't do as they are accused of having done?
A 65 I turned about on the parade ground at 1935 and I went back to the orderly room. I went up to the Orderly Room with the Corporals and Capt. Dowling.
Q 66 What time did you see Capt. Dowling first that evening?
A 66 Around 1930 hours.
Q 67 Where did you meet him or see him?
A 67 Very near to the Orderly Room of "A" Section. He was coming to take his parade.

BY THE COURT:
Q 68 At what time, or did you actually order a parade for this particular night?

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A 88 At 1600 hours.
Q 90 And what time was the parade to be?
A 90 1930 hours by the Captain.

RE-EXAMINED BY THE PROSECUTOR:

Q 91 You have told us, Sgt. at that time you told the men to go on parade?
A 91 I didn't say to go on parade. I said "don't you boys know there is a parade tonight," and there was no answer at all.
Q 92 And what did you do?
A 92 I just walked away, sir.

BY THE DEFENDING OFFICER:
Q 93 Who took the P. T. Parade that afternoon?
A 93 I can't remember very well whether it was Lieut. Symons or Cpl. Savoy.
Q 94 Did you attend this parade?
A 94 Yes, sir.
Q 95 And you were on the parade ground between 1600 and 1700 hours?
A 95 Yes, sir. They went down for a swim.
Q 96 And from 1500 to 1600 hours you were there without a break?
A 96 Yes, sir.
Q 97 And it was between the parade of bayonet fighting and the P.T. that you advised the parade for that night?
A 97 It was at 1600 hours.
Q 98 Did you, at any time, when you were up there with the men from 1915 hours on order them to fall in on parade?
A 98 No, sir, I just told them.
Q 98 And was there during the afternoon a medical inspection?
A 99 A bath parade and foot inspection.
Q 100 During the afternoon?
A 100 Yes, sir.
Q 101 At what time?
A 101 After the bath parade.

BY THE PROSECUTOR:
Q 102 What time was the bath parade?
A 102 Between 1600 and 1700 hours.

The 3rd witness for the Prosecution, E14093, Cpl. Lantier, C., 2 Cdn Div. Anp. Coy., M.C.A.S.C., having been duly sworn, is examined:

Q 103 You are in charge of No. 1 Section?
A 103 Yes, sir.
Q 104 And as a sub-section commander are you familiar with the syllabus of training?
A 104 I knew it for that day. We had our highway drill in the afternoon. I think we had some bayonet fighting. In the evening we had patrols.
Q 105 What orders were given regarding the evening patrols?
A 105 I received orders from the Sgt. in the afternoon for the evening training.
Q 106 What were these orders?
A 106 Parade to be held at 1915.
Q 107 Where did you receive these orders?
A 107 On the parade ground. They were verbal orders to all the N.C.Os. by the Sergeant.
Q 108 Who were on the parade grounds at that time?
A 108 Most of the Section, but I can't say if all the Section was there.
Q 109 Tell the Court what you did regarding the evening parade after supper?
A 109 I arrived at my hut by 1900 hours and I called the parade at 1905.
Q 110 And what happened then?
A 110 I called the parade again at 1915 and nobody answered the call.
Q 111 From where did you call the parade?
A 111 On the regular place in front of my own hut.
Q 112 What men were there?

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A 112 In my own opinion there was nobody in the hut.
Q 113 How many of your sub-section did you call on to go on parade?
A 113 When I called the parade my own sub-section was on the other side of the road, facing my own hut. They didn't fall in. I put them under open arrest and I returned to the Section Sergeant. As far as I know the Sgt. took charge of all these things after that. He told me when I was calling my xxxx tattoo roll call in the evening to say to all the men that they were under open arrest.
Q 114 Did you attend the 1330 parade that afternoon and take a roll call?
A 114 Not ~~it~~ I.
Q 115 Does the sergeant take the roll call of the whole section?
A 115 I don't remember.
Q 116 Were any of your men missing from that parade?
A 116 I don't know. I didn't make any roll call.
Q 117 How many of your sub-section were standing around when you called the parade at 1915 hours?
A 117 As far as I can judge they were all there.
Q 118 What did they say when you called them on parade?
A 118 Absolutely nothing.
Q 119 What did you say?
A 119 I called the parade again 10 minutes later.
Q 120 What hap pened after you reported to Sgt. Fortin?
A 120 As far as I am concerned I stayed on the parade ground, but Sgt. Fortin took charge after that.
Q 121 How long did you remain on the parade ground?
A 121 At the most 15 minutes
Q 122 And then what happened?
A 122 We received orders to report ourselves to the Section Commander.
Q 123 Did the men fall in at any time that evening?
A 123 They fell in for supper
Q 124 Was there any parade that evening at all, for the patrol?
A 124 Our Section had a parade, but it didn't take place.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 125 What time did Sgt. Fortin leave the parade ground after you called the parade and no one fell in?
A 125 I can't say exactly, but I left my hut around 1915, there must have been a few minutes. He left around 1930.
Q 126 Was Capt. Dowling with him at the time?
A 126 I don't remember.
Q 127 What are your duties in charge of No. 1 Sub-Section?
A 127 I am responsiboe for my own sub-section when they are on duty or anything else.
Q 128 Is the sub-section left to you to handle, subject to your reporting to higher authority?
A 128 In this case I was responsible to form up my parade at 1915 so that I could give it back to Sgt. Fortin.
Q 129 When you are doing, for example, M.T. You are doing it as a sub-section-- you are in charge of your sub-section, subject to the M.T. Sergeant's supervision?
A 129 Yes, sir.
Q 130 Have you permission to excuse any of your men from that parade, for any reason?
A 130 I have to ask the Sergeant for that.
Q 131 Have you ever given anyone of your sub-section permission to leave a parade, without asking permission?
A 131 Only after I reported to the Sergeant.
Q 132 I don't mean excused from parade, I mean given permission to leave the parade for 10 minutes to go to the lavatories or to go to the R.A.F. or something like that? Have you ever given your men permission to do that without asking the sergeant's permission?
A 132 Yes, it happens very often.
Q 133 How often do you make a roll call of your sub-section during the day?
A 133 Just in the morning and at tattoo at night.
Q 134 You say you were told about the 1915 hours parade at approximately 1600 hours in the afternoon?
A 134 Around that.

Q 135 And I understand you say that the N.C.Os. were called out and told about this parade?
A 135 Yes, sir.
Q 136 How were the men to know about this parade?
A 136 The Sgt. was to tell them in front of the parade.
Q 137 Were you on parade from 1500 to 1700 hours?
A 137 It may have happened that I left, but I was on parade.
Q 138 Did you hear Sgt. Fortin advise the men of your section about this parade?
A 138 Yes, sir.
Q 139 Can you tell me why he didn't make one announcment of the parade or why he called the N.C.Os out first and then turned around and gave it to the men?
A 139 I think the sergeant addressed the whole section before addressing the N.C.Os. to warn them for the parade, but he addressed the N.C.Os. after and I think he wished to tell us what dress we were to wear that evening.
Q 140 You only think-- you don't know-- whether he told the men before he told you or after he told you?
A 140 I can't say if it was before or after.
Q 141 But you did hear him?
A 141 Yes, sir.
Q 142 What hour did he call the parade for?
A 142 I can't remember.
Q 143 Did he say that in a loud enough voice so that everyone on parade could have heard him?
A 143 It is very difficult to answer.
Q 144 Was all your sub-section onparade then?
A 144 Just as I said to you a few minutes ago. I didn't make any roll call of my sub-section.
Q 145 You called a parade yourself of your sub-section for what hour?
A 145 1905.
Q 146 Why did you call it half an hour before the actual hour of the parade?.
A 146 My orders were to lead my sub-section on the parade ground for 1915.
Q 147 What time did you report to Sgt. Fortin?
A 147 I must have left my hut immediately after calling the last parade, something like 1916 or 1917.
Q 148 Did you order the men to fallin on parade at 1905?
A 148 No, sir, I gave the order when they still had ten minutes to get ready.
Q 149 Did you order them to fall in on parade at 1915?
A 149 Yes, sir.
Q 150 And they refused to obey your order?
A 150 They didn't answer me.
Q 151 When this happened what did you do then?
A 151 I put them under open arrest.
Q 152 And do I understand you, at 1915 you told the men "you have ten minutes to get ready for parade?"
A 152 Yes, sir.
Q 153 And at 1915 you told them to fall in?
A 153 Yes, sir.
Q 154 No one obeyed your command?
A 154 Nobody.
Q 155 You immediately put themunder open arrest?
A 155 Yes, sir.
Q 156 What chance did you give them to obey that order of yours?
A 156 At 1905 I warned them that they still had 10 minutes, at 1915 the groups of men that were before me weren't dressed to go on the parade yet.
Q 157 Would you say that they were refusing to go on parade and were they not merely ready and a trifle late for parade?
A 157 They didn't refuse my parade; they might have been late.

BY THE COURT:
Q 158 When men are warned for parade there is usually some form of activity, that is getting dressed, putting on equipment,

shining boots. What form of activity did you notice after you gave the order to get on parade?

A 158 Nothing, sir.

The 4th Witness for the Prosecution, E14039, Cpl. Gagne, G., No. 2 Sub-Sec. 2 Cdn Div. Ammn. Coy., R.C.A.S.C., having been duly sworn, is examined:

Q 159 You are in charge of No. 2 Sub-section?
A 159 Yes, sir.
Q 160 Were you on the 1330 hrs. Parade on 28 Jul 41?
A 160 Yes, sir.
Q 161 And were you familiary with the syllabus of training for that day?
A 161 For the day, yes, not for the evening, as for the evening syllabus it had been given to me by the sergeant.
Q 162 What orders did you receive as to the evening training?
A 162 Concerning the evening training I received the orders to bring my sub-section on the parade ground to be fallen in by 1915.
Q 163 And when did you get these orders?
A 163 The Corporals were a little bit far away from the sub-section in one other group and I can't say exactly where it was I received these orders.
Q 164 Approximately?
A 164 Before supper, before 1715.
Q 165 And what orders were given to your men about the evening parade?
A 165 I didn't give the general orders. First we went on a reconnaisance, we didn't have supper at the same time as the other sub-sections, we had supper at the double, because the Corporals had been called to go on a reconnaisance immediately after supper at 1745 hours.
Q 166 What orders did your men receive during the afternoon?
A 166 All what I heard, "there is a parade tonight," when I was with the men. Sergeant Fortin gave that order.
Q 167 When was that?
A 167 It was around 1600 hours.
Q 168 What did you do regarding the evening parade?
A 168 Before going on reconnaisance, it was exactly 1740. I passed in my hut and I didn't notice what men were there, but I told them there is a parade tonight, and after that I went on the reconnaisance with Lieut' Symons and the other Corporals. I came back from the reconbaisance and I went into the canteen with Corporal Lantier. I came back to my hut at 1900 hours sharp. I told my sub-section, just as usual, "No. 2 Sub-Section, fall in." This was around 1905. Nobody moved, nobody talked. At the moment I didn't say anything because it happened sometimes when we say "okay, fall in boys" and then I went in my hut and I got back outside my hut around 1910 and I called the parade again. Nobody moved; nobody spoke. I waited until 1915 shapp and when I saw that nobody was falling in I said "No. 2 Sub-section open arrest". Then I reported myself to Sgt. Fortin on the parade ground.
Q 169 How were the men dressed then?
A 169 Some had the blouse on, others didn't, generally speaking they were in all kinds of dress.
Q 170 What was the dress ordered for the parade?
A 170 Battle order.
Q 171 How many of your men were there at that time?
A 171 Nearly everybody was there.
Q 172 And what happened after you reported to Sgt. Fortin?
A 172 I told Sgt. Fortin I had called my parade and nobody moved and nobody spoke and he said "don't you thinkit would be better to go and tell them a second time to fallin?" I told him I had called them twice and asked him if he didn't think it would be better for him to go and tell them himself, and he said to me "okay". I don't know what happened after that. Sgt. Fortin came back from seeing the men and he said "I am going to report this matter to Capt. Dowling. Capt. Dowling came back five or ten minutes after with the Sergeant and he said "okay, all the Corporals there is a meeting in the Section Orderly Room.

Q 173 What happened after that?
A 173 He asked us the same questions that you are just asking me. He asked us what did we do and I told him exactly what I have said and he said to leave them under open arrest. A little bit later I put them one by one, the only ones I can remember are Geo. Beaulleau, George Levesque, Billingsley and Gagne, L.
Q 174 Are they the only four that you put under arrest like that?
A 174 No, sir, twelve men.
Q 175 How many of these men are in your Section?
A 175 At the present time there are still eleven of them
Q 176 What was their attitude when you ordered them on parade?
A 176 One was walking in the direction of the hut and the others were sitting around there talking.
Q 177 How did they look?
A 177 It looked to me as if they showed signs as if they were acting, they pretended as if they didn't understand me, but they understood all right.
Q 178 How many men are there in a sub-section?
A 178 In my sub-section 16 men. Myself, a lance-corporal and 14 men.
Q 179 And there are 11 of the accused belong to that sub-section?
A 179 Yes, there were 12.
Q 180 What about the other two?
A 180 The other two were on guard that night, the old gunnd.
Q 181 Do you live in the same hut as the sub-section?
A 181 Yes, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 182 How long would it take your men, having been told to fall in on parade, right away, to dress for that parade?
A 182 When I am doing it myself very quickly. It takes me five minutes.
Q 183 You are in charge of No. 2 Sub-Section?
A 183 Yes, sir.
Q 184 Were you present on the parade from 1330 to 1700 hours on the 28th of July?
A 184 Not up to 1700 hours, because at 1600 hours the parade by itself is finished, and we had after that a bath parade and foot inspection.
Q 185 You said earlier that Sgt. Fortin told the men about this parade somewhere before a quarter after five?
A 185 No, sir, I talked about 1600 hours.
Q 186 Did you hear him?
A 186 I just understood-- I heard that he said to the men there was a parade that night.
Q 187 You can't remember how he said to fallin?
A 187 I can't remember if they gave them any hour to fallin.
Q 188 How were they to know when to fall in?
A 188 They told us, all the Corporals together, at what time the parade was to be and this is the way we were warned. I can't remember if he did say 1900 or 1915 hours.
Q 189 What time did you tell the men of your Sub-Section about this parade?
A 189 After my supper I told the men.
Q 190 You didn't take a roll call?
A 190 No, sir.
Q 191 You can't say whether they were all there?
A 191 No, sir.
Q 192 When you went and reported to Sgt. Fortin what had happened what time was that?
A 192 It must have been about 1920, because I left from the front of my hut after 1915.
Q 193 You say you said "come on, fall in, boys"?
A 193 What I did say, before it happens often that we used these words " fall in, boys," but on that mentioned evening I told them "No. 2 sub-section fall in" and then very naturally I went into my hut
Q 194 Where do the men normally fall in?
A 194 In front of my ownhut.
Q 195 Did you order them a second time to fall in?
A 195 Yes, sir.

Q 196 When you are in charge of your Sub-Section do you ever give your men permission to leave to go to, say the Section Orderly Room, R.A.P., or down to see the M/T Sergeant?
A 196 When I, myself, am in charge of the Section I can give them permission.
Q 197 (BY THE PRESIDENT) What is the length of your service, Cpl?
A 197 17th of September it will be two years.

The 5th Witness for the Prosecution, E14454, Cpl. P. A. Bertrand, No. 3 Sub-Section, 2 Cdn Div Amn Coy., having been duly sworn, is examined:

Q 198 You are in charge of No. 3 Sub-Section and were on the 28 Jul 41?
A 198 Yes, sir.
Q 199 Which of these men were in your Sub-Section?
A 199 Loughlin, Thompson, Pettigrew, F. and Verrault.
Q 200 Were any of these four men on guard with you that night?
A 200 No, sir.
Q 201 Were you on the afternoon parade at 1330 hours?
A 201 No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 202 You are in charge of No. 3 Sub-Section?
A 202 Yes, sir.
Q 203 When you were following out a routine parade, such as M.T. you were solely responsible for the men at that time?
A 203 Most of the time I have my own Lance-Corporal with me, under the supervision of the M.T. Sergeant.
Q 204 Have you, on your own, in cases like that given permission for your men to leave the parade to go say, to the orderly room or the lavatories?
A 204 Yes, sir.

BY THE COURT:
Q 205 Who provided the guard that day?
A 205 There was some of Sub-Section 3, some of H.Q. some of No. 2; I am not very sure if there was some from No. 1. They were all mixed up.

Q 206 How many men did you have on your guard?
A 206 Nine.
Q 207 What did you do with these nine men when you finished your guard duty?
A 207 After I marched out from the guard I left my men in front of the hut and I returned to Sgt. Portin and asked him what I was to do with these men. He didn't answer, so I went back and dismissed my men to have some washing and go to the cookhouse.
Q 208 Where was the remainder of your Sub-Section?
A 208 I didn't care about the remainedr of my men. When I came back off guard I immediately reported myself to Sgt. Portin.
Q 209 When you came back off guard were the rest of your Sub-Section in the Section hut?
A 209 Frankly speaking, I didn't see any men in my hut or around.
Q 210 How much service have you?
A 210 Since May, 1940.

The 2nd Witness for the Prosecution, Cpl. Lantier, recalled:

Q 211 Which of these men are in No. 1 Sub-Section?
A 211 Leblond, Grogan, Lavoie, Hudon, Duford, Hogan, Demers, L'Heureux, Baker and Connell.
Q 212 How much service have you?
A 212 11 September 1939.

The 3rd Witness for the Prosecution, Cpl. Gagne, recalled:

BY THE COURT:

Q 213 Which of these men are in No. 2 Sub-Section?
A 213 Neale, Bernier, Therrault, Beaulleau, Bouchard, Gagne, L.P. Beauliac, Belley, Billingsley, Bealieu, Legesque, Ouellette.
Q 214 How much service have you?
A 214 Since 7 Sep 39.

The 6th Witness for the Prosecution, E14266, L/Cpl. Roy, G., #3 Sub-Section, 2 Cdn Div Amn Coy., R.C.A.S.C., having been sworn, is examined:

Q 215 Yous re 2 i/c No. 3 Sub-Section and were so on 28 Jul 41?
A 215 Yes, sir.
Q 216 And you were on the 1330 hours parade on 28 Jul 41?
A 216 Yes, sir.
Q 217 And what training did you do that afternoon?
A 217 Bayonet fighting, one hour of drill, bath parade and foot inspection
Q 218 Did the syllabus provide for any other training for that day?
A 218 I didn't see the syllabus.
Q 219 Did you receive any orders as to any other training that day?
A 219 No, sir. At 1600 hours I heard about a parade for 1930 hours.
Q 220 What orders were you given?
A 220 To get ready for a parade at 1915 hours.
Q 221 Where were you when you received these orders?
A 221 On the parade ground
Q 222 Who gave you these orders?
A 222 Cpl. Gagne, sir.
Q 223 What did you do about the parade that was called for 1915 hours?
A 223 I reported myself to the parade ground. I warned my Sub-Section that there was a parade to be held at 1915 hours.
Q 224 What did you do next?
A 224 I began to prepare myself for the parade and at 1910 I told the boys to get ready to walk to the parade ground. At 1915 hours I went over to the N.C.O.'s to call their own parade and I called my own parade, too. Nobody moved or attempted to move.
Q 225 Where were you when you called the parade?
A 225 In front of my own hut.
Q 226 And where were your men?
A 226 They were all dispersed all around.
Q 227 In how big an area?
A 227 One acre.
Q 228 Were they around the hut?
A 228 No, sir, they were in front of the hut. A few minutes after 1915 I went to get the Sgt. Sgt. Fortin turned about and went to report himself to somebody else. I don't know who. I remained on the parade ground and the Captain came back. The Captain led us to the Sub-Section Orderly room and we had a meeting and he talked about all kinds of subjects. I received a dismissal from the Capt. and I came back to our hut. When I came back there were only a few in the hut. I told them when they didn't go on parade they were to consider themselves under open arrest until further orders. I said the whole Sub-Section #3 is under open arrest.
Q 229 What happened when you told the men to get ready for parade?
A 229 Nothing.
Q 230 Did they start to get ready for the parade?
A 230 I had work to do. I didn't notice, sir.
Q 231 You told us that at 1905 you told the ~~xxxx~~ men to get ready for parade. Did they get ready for parade?
A 231 I don't know. I had work to do. I didn't see it.
Q 232 In any event, they weren't ready for parade at 1915 hours?
A 232 No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 233 How many men are there in your Sub-Section?
A 233 14, including the L/Cpl. and Cpl.
Q 234 Yourself and four men were on guard on the night of the 27/28 July?
A 234 Yes, I had three men on guard.
Q 235 How many men were not on guard then?
A 235 Eleven.
Q 236 During the day of the 28th 11 men were not on guard?
A 236 Yes, sir.
Q 237 You were in charge of the 11 men who weren't on guard?
A 237 Yes, sir.
Q 238 Were they on parade in the afternoon?
A 238 Yes, sir.
Q 239 You are with No. 3 Sub-Section?
A 239 Yes, sir.
Q 240 Then when you went on the parade at 1915 hours some of your men fell in on parade?
A 240 None of them, sir.

BY THE COURT:
Q 241 I would like to ask the witness to describe his feelings when he gave the order to get on parade and no one moved?
A 241 I was surprised that nobody moved.

The 7th Witness for the Prosecution, Capt. J. A. Mercier, 2 Cdn Div Amn Coy., having been duly sworn, is examined:

Q 242 Capt. Mercier, you are O.C. "B" Company 2 Cdn Div Amn Coy?
A 242 I am.
Q 243 You were present when the accused made certain statements in writing and signed them before you?
A 243 Yes, sir.
Q 244 These statements were made to you?
A 244 Yes, sir.
Q 245 What did you say, if anything, to each of the accused before such a statement was made to you?
A 245 I warned them and I told them that there was nothing to be gained and nothing to be lost. This evidence may be used before a Court Martial. I had them in front of me and before they gave any statement I warned them that the evidence that they were going to give may be taken again in Court and they have nothing to gain or nothing to lose by giving this evidence.
Q 246 I produce a statement P.3, will you tell me what that is?
A 245 That is my handwriging and that is the statement of Dubeau.
Q 247 And what is that?
A 247 That is his signature and that is my initial. I initialed every statement I took.
Q 248 That is the statement Dubeau made to you?
A 248 And before signing I had them read their statement and I read them myself. "Now that is what you gave me. Is that right?" and he signed it.

THE DEFENDING OFFICER: May I object to this evidence going in yet?

THE COURT: I don't think we want him to read the whole of the 28. I think if you establish the fact that he took the summary of evidence--

THE PROSECUTOR: I want to prove each one separately.

BY THE COURT:
Q 249 Could you tell me, Capt. Mercier, if, when taking down these statements, you were acting according to the provisions of that recent D. R. O. 772, procedure in taking down abstracts of evidence?
A 249 I had read the D.R.O. 772 before taking the abstract and that is how you will find that the abstract is done, by handwriting, and I have warned them, and I don't believe they thought it was a summary of evidence. I warned them that this was to get information as to what had happened and it may be used against them in a Court Martial.

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Q 250 And you feel satisfied that each, in turn, realized---
A 250 Yes, sir.
Q 251 Were they also warned that they didn't have to make a statement if they didn't wish to?
A 251 I told them before, "if you don't want to make a statement you don't have to; if you make a statement it may be taken against you." They knew they didn't have to make any statement and if anything might come up after that, if they don't want to make a statement the Court will decided what to do with them.

THE DEFENDING OFFICER MOVES THAT THE STATEMENTS BE EXCLUDED FROM THE RECORD.

THE COURT IS CLOSED TO CONSIDER THE MOTION.

THE COURT IS RE-OPENED AND THE COURT RULES THAT THE STATEMENTS ARE ADMISSIBLE AGAINST THE ACCUSED.

THE COURT ADJOURNED UNTIL 1000 HOURS, WENDESDAY, 20 AUG 41.

THE COURT RE-ASSEMBLED AT 1030 HOURS, WEDNESDAY, 20 AUG 41.

THE PRESIDENT CALLED THE ATTENTION OF THE PROSECUTING AND DEFENDING OFFICER TO PAGE 92 OF M'M.L. REGARDING THE ADMISSIBILITY OF EVIDENCE, AND THE BALANCE OF PARA. 78

THE PRESIDENT: The Court wishes it brought out by Capt. Mercier the method by which he took the written evidence.

CAPT. MERCIER IS RECALLED:

THE PROSECUTOR: Is this going to dissolve itself to a trial within a trial because if it is the situation would have to be determined so that if the defence propose to call any of the accused--

THE COURT: It is in no sense a trial within a trial and the defence may call any of the accused as witnesses if the defending officer so desires, but the Court willhear Capt. Mercier's evidence of the taking of the evidence.

THE PROSECUTOR: Do you wish me to bring out evidence as to what was simply done with regard to these statements, which are in issue?

THE COURT: Just as to the taking of the statements for the present.

BY THE PROSECUTOR:

Q 252 Capt. Mercier, you were asked to take an abstract of evidence in accordance with D.R.O. 772?
A 252 Yes, sir.
Q 253 And after taking that abstract certain statement were made to you by the accused which were taken down in writing and signed by each of the accused as to his own statement. Is that correct?
A 253 Yes, sir.
Q 254 Will you tell the Court exactly what took place with reference to these statements which were made by the accused?
A 254 Would you like me to start at the beginning, after this thing happened on Monday night? I was called to the C.O.'s office the next morning. Col. MacQueen, C.R.C.A.S.C., was there, he told me what had happend and he told me that a charge was laid against these men and told me to look up D.R.O. 772 as to how to take an abstract and to have this done as soon as possible. I told him that would be done. I went into Capt. Dowling's orderly Room and told him that I might need him to get the story of what had happened. Before taking a statement of any of the accused I warned them that they didn't have to make any statement and anything that would be said might be

taken down in writing and might be used against them and they had nothing to gain or nothing to lose by doing so, and I went on taking the abstract.

Q 255 Did you, or anybody else, hold out any inducement, in order to obtain these statements from these men?

A 255 Never. And Col. MacQueen told me before starting, the same thing, to warn them and not to have them say anything under using my authority to have them say anything.

Q 256 Did you or anybody else exercise any pressure of any sort on these men in order to obtain these statements?

A 256 I was the only one to take the abstract.

Q 257 Was any promise made to these men?

A 257 Never.

BY THE COURT:

Q 258 Did you state, Capt Mercier, that each and every man was warned?

A 258 Each and every man was warned before giving a statement and before and after signing it.

BY THE PROSECUTOR:

Q 259 These statements were taken down in your hand-writing?

A 259 Yes, sir.

Q 260 Were they read over to these men before they were signed?

A 260 I had the original statements signed by them first and then I found out it wasn't very very clean , so I made them out over again and had them read the statement and sign it again. I didn't have every one sign it myself, because I had to leave, but they all had an opportunity of reading them themselves.

Q 261 Did you give them any order to sign these?

A 261 I told them that they weren't obliged to sign if they didn't want to sign not to sign.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 262 Might I ask, sir, that the original rough copies of these statements be produced in evidence?

A 262 I haven't got them.

Q 263 Where are they?

A 263 When I left on the advance party I had these put in my box and I cannot find the originals. It is not as you might call an original. It is just a rough draft. I couldn't take a statement offhand like that and make a clean job of it.

Q 264 What I want to bring out is that there is a possibility that when the statement was put in in the new form that the wording may be changed, so that it wasn't what the accused meant to say.

THE PRESIDENT: There is that possibility, but no one who has taken any evidence in a Court of Inquiry or Board of Officers, or an abstract or summary of evidence knows that the particulars especially have to be taken down in writing and they are generally not a very clean job and then they are put together and in many cases later typewritten out, which are referred to the maker of the statements for signature.

BY THE DEFENDING OFFICER:

Q 265 What charge did you read to the men before you warned them?

A 265 I think you misunderstood me. I didn't say that I read the charge.

Q 266 I understand the charge has to be laid and then the accused warned?

A 266 That is not my business.

THE COURT: It is not necessary, the men were placed under open arrest and being placed under open arrest pre-supposes that they have done something wrong and that also pre-supposes that a charge will be laid. In other words, that they have committed a crime. I am presuming that all of these men can read, but I suppose that some of them could not read.

Q 267 May I ask Capt. Mercier if you had an interpreter to read out the charge to them?

A 267 I couldn't find out who couldn't read.

Q 268 There are several who can't read?

A 268 Maybe they can't read now but they could read then.

RE-EXAMINED BY THE PROSECUTOR:

Q 269 Did these men understand what they were signing?
A 269 Perfectly, in my opinion. With my explanation and telling them what they had done and I asked them now, what have you got to say about that. I explained to them that what they might say might be taken against them, so in my opinion they knew exactly what they were signing.

BY THE COURT:
Q 270 These were your instructions from Colonel McQueen before taking the summary?
A 270 Yes, sir.

THE DEFENDING OFFICER: I object to the admission of the statements, firstly because they were taken under force or compulsion and to substantiate that I would like to call the accused; secondly they weren't properly warned; and thirdly the original charge, as I understand from the accused was simply of disobeying a lawful command given by a superior officer in the execution of his duty. Fourth that the accused thought that this was a Court of Inquiry with reference to the meals that had been served and fifth that corrections were necessary in the two statements and I feel that were really necessary.

THE PROSECUTOR: My friend has made some statements which are evidence. There is no evidence of them before the Court. Is he going to produce the accused on the witness stand to substantiate these statements which he has made. If so, it involves a trial within a trial.

THE PRESIDENT: If the accused are called it is under the usual procedure adopted in calling the accused.

THE DEFENDING OFFICER: In other words I am hoping to be able to call the accused in this case as witnesses and to substantiate the reasons why I want these statements thrown out. It is the only way I have of proving that they were taken under force. They thought it was a Court of Inquiry.

The 8th Witness for the prosecution, Lieut. W. C. Newman, H. Q., 2 Cdn Div., having been duly sworn, is examined:

Q 271 You are a commissioned officer in His Majesty's Canadian Forces Overseas?
A 271 Yes, sir.
Q 272 And you are posted to 2nd Divisional Headquarters?
A 272 That is right.
Q 273 What are your duties there?
A 273 My duties are those that are the proper duties of the A.D.J.A., which includes advising Commanding Officers on matters of discipline.
Q 274 You say advising Commanding Officers. I assume also that your advice is available to other officers in connection with matters pertaining to your Department?
A 274 That is true.
Q 275 And I assume that you have, on many occasions, given your advice in connection with the taking of summaries of evidence and abstracts of evidence and statements from accused persons?
A 275 That is true.
Q 276 And in this case there are certain statements purporting to have been made and signed by the accused who are in Court and which were taken, according to the evidence which is now before us, by Capt. Mercier?
A 276 I was present when statements were given by two or three of the accused now before the Court, but not all of them. I was there at the start and advised Capt. Mercier in the manner in which to take them.
Q 277 Were all the accused present at that time or just two or three?
A 277 No, actually they came in, when I was there, one by one.

Q 278 And did you advise Capt. Mercier as to the proper procedure in that case?
A 278 I did.
Q 279 And what procedure was carried out by Capt. Mercier while you were there?
A 279 I can become quite specific, as a matter of fact, if it would help you. If I see the statements-- the first statements that were taken in my presence-- the first was that, if I recall correctly, Pte. Thompson.

THE COURT: I don't want the statement read at this time.

THE WITNESS: (continuing) Pte. Thompson came before Capt. Mercier; there was some conversation with Pte. Thompson.

Q 280 What was that conversation?
A 280 It was a discussion of what actually took place prior and during the parade at which the accused is alleged to have failed to attend and then Pte. Thompson was warned that he was requested to make a voluntary statements, that the statement might be used in evidence against him, that he had nothing to hope for or fear in making it. That warning was actually written in, I believe, in the statement, which he signed in our presence. Pte. Thompson read the warning and, as I remember, stated that he wasn't quite aware of the gravity of what he had done previously, but now he was willing to take his punishment.
Q 281 Was he told that he had to make a statement or was he told that he didn't have to make a statement?
A 281 He was clearly told and it was impressed on him that it was a voluntary statement. He wasn't forced to make any at the time. I think Pte. Thompson would be the first to admit it.

THE COURT: Let us just keep to the point of how these people were warned, and was Capt. Mercier instructed in the way of taking evidence

THE WITNESS: (continuing) Two or three more statements were taken in this manner and Capt. Mercier was instructed that the warning given to Thompson and the others must be given to any soldiers whose statements he obtained and failure to do so would render these statements inadmissible before a Court-Martial.

Q 282 Was the proper procedure carried out by Capt. Mercier as to these men whom you saw give statements?
A 282 In my opinion-- it is opinion evidence-- yes.
Q 283 And was any threat made to them in your presence?
A 283 No, there was no threat, and in fact in the statements which were signed by the men it was definitely incorporated in the statement that they made the statement without fear of threat or hope of reward.
Q 284 Was any promise held out to the man?
A 284 No, there was no promise when I was there.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 285 You said that it was very clearly brought to their attention that any statement they might make might be used against them?
A 285 It was impressed as clearly as I knew how, both verbally and in writing that these statements were voluntary and might be used in evidence against them.
Q 286 Would you say that this was brought more stongly again to their attention, that they didn't have to make a statement?
A286 The voluntary nature of the statement, as I said before, was impressed on the people who appeared before me, and I recollect, as a matter of fact, in this specific instance, of telling Pte. Thompson that he didn't have to make a statement.
Q 287 Referring to Pte. Thompson, you said that he was called into the

orderly room in your presence and Capt. Mercier's presence and a conversation took place?

A 287 That is true.

Q 288 Was any charge read out to him?

A 288 Not in my presence, but I understand that one was, two or three days previously.

Q 289 But not in your presence?

A 289 No.

Q 290 In your opinion, could he have thought he was giving evidence before a Court of Inquiry, when evidence is also, if requested by the O.C., given on oath?

A 290 In view of the fact that the accused people who appeared before me were clearly told that their statements might be used in evidence against them I don't see how any conclusion could arise. Whether it did or did not is not for me to say.

Q 291 And you have no knowledge of any charge being read out to them, or were never there when a charge was read out to any of the accused?

A 291 That is true, though the course of the conversation, of course, was directed to men who were already in arrest and directed to a subject of alleged failure to appear on parade, as the statements will reveal, andthey were told at the time the statements were taken that they would be tried for this and would be duly punished severely, if found guilty.

BY THE COURT:

Q 292 As advisor, accessible to officers in charge of the administration of military law and justice, can you tell the Court if, in preparing an abstract of evidence, it is necessary that a definite charge be formulated against the accused prior to the actual taking of depositions, or whether the purpose of the abstract of evidence is to sift out the information, in order to place a charge, if one need be placed, under the proper section of the Army Act?

A 292 I would state that where an abstract is actually being taken that a charge should precede the abstract, though the charge can be added to, altered or dropped, but there is no charge need be laid at the time of taking of a confession or the time of receiving a voluntary written confession, that may be taken before a charge is laid, while a charge is being laid, or after a charge has been laid. There is no time limit, except that the procedure varies if a person is in custody and it is intended to charge him, you have to give him warning, which is not true at the time you are merely investigating a charge, and you don't intend to lay a charge.

AT THIS POINT THE COURT GRANTS THE DEFENCE THE RIGHT TO CALL WITNESSES IN CONNECTION WITH THE TAKING OF THE STATEMENTS:

The 1st Witness, in rebuttal, E14065, Pte. Lebeland, H. #1 Sub-Sec., 2 Cdn Div Amn Coy., R.C.A.S.C., having been sworn, is examined:

BY THE DEFENDING OFFICER:

Q 293 I believe you were placed under open arrest on 28 Jul 41?

A 293 Yes, sir.

Q 294 When were you paraded before the Company Commander?

A 294 I think on the afternoon after.

Q 295 What charge was laid against you?

A 295 In my opinion the charge was of disobeying to a superior officer.

Q 296 Were you charged before any Board of Officers, group of officers, or any officer?

A 296 I have not been, sir.

Q 297 Were you charged before Capt. Mercier?

A 297 Yes, sir.

Q 298 Tellus in your own words the opening remarks of your conversation with Capt. Mercier?

A 298 When I came into the room the Capt. told me "you are a friend of Sgt. Deverneau at the Immigration Shed."

Q 299 What did he ask you next?

A 299 He talked about the food.

Q 300 Did you think that he was questioning you about the general quality of the food and the meals that the unit had been served with?

THE PROSECUTOR: I don't want to keep interrupting, but I think there is a limit.

THE PRESIDENT: Continue, in your own words.

THE WITNESS: He talked to me about the food and I told him what I had eaten this previous night and I told him that I ate only about a tablespoonful of fish, half a slice of bread, a little bit of margarine and a cup of tea.

Q 301 Did Capt. Mercier read any charge to you?
A 301 He never talked to me about it.

BY THE COURT:
Q 302 The charge had been read previously in regard to your statement?
A 302 Yes, sir.

BY THE DEFENDING OFFICER:
Q 303 Did he ask you to make a statement?
A 303 He didn't ask me.
Q 304 Did you think he was taking down what you were giving him as a statement?
A 304 No.
Q 305 Did he warn you that you would be giving a statement and that anything you would say might be used against you?
A 305 He didn't warn me about it.
Q 306 Did he ever ask you to sign any statements?
A 306 He told me to sign that.
Q 307 To what do you refer by "that"?
A 307 He had written a few words when I was talking.
Q 308 Did you read this over?
A 308 No, I didn't.
Q 309 Can you read?
A 309 Yes.
Q 310 What did you think you were signing?
A 310 I thought it was an inquiry about the food.

CROSS-EXAMINED BY THE PROSECUTING OFFICER

Q 311 When did you first see Capt. Mercier?
A 311 A few days after. I am not sure how many.
Q 312 And you told us that at that time you discussed the supper you had?
A 312 Yes, sir.
Q 313 Did you also discuss the parade that was meant to be held on 28 July?
A 313 I can't remember of it.
Q 314 When did you see Capt. Mercier again?
A 314 I saw him twice altogether.
Q 315 Did you sign a statement the first time that you saw Capt. Mercier?
A 315 No, sir, I signed on the second time.
Q 316 Did you sign only one statement?
A 316 Yes, sir.
Q 317 Is that the first statement?
A 317 I can't say. I haven't read it.
Q 318 Is that your signature?
A 318 It is my signature.
Q 319 Then you must have signed that?
A 319 Yes.
Q 320 When did you sign it?
A 320 I can't say what day.
Q 321 Was it the first or second time you saw Capt. Mercier you signed it?
A 321 The second.
Q 322 Can you read?
A 322 Yes, sir.

Q 323 You say you didn't read that when you signed it?
A 323 No, sir.
Q 324 Didn't Capt. Mercier question you about the parade on the Monday night?
A 324 Not as much as I can remember.
Q 325 Did you tell Capt. Mercier what is written here?
A 325 I can't remember.
Q 326 You knew that you were charged with an offence at that time?
A 326 No, sir.
Q 327 Weren't you under open arrest at that time?
A 327 Because I was disobeying to an order.
Q 328 Didn't Capt. Mercier question you about that?
A 328 He might have given such questions to me but I can't remember them.
Q 329 You know that there was meant to be a parade on Monday night at 1915 hours?
A 329 I didn't know it.
Q 330 Where were you at 1915 hours?
A 330 I must have been in the marquee of H.Q. "A" Section.
Q 331 You say then that this statement you signed is wrong?
A 331 I didn't know it.
Q 332 Do you remember Capt. Mercier telling you that you didn't have to make a statement regarding this matter?
A 332 He never talked to me about anything.
Q 333 Who was present when you Capt. Mercier the first time?
A 333 Nobody.
Q 334 The second time?
A 334 Nobody.
Q 335 Were you on parade at 1330 hours?
A 335 Yes, sir.
Q 336 Were you excused duty that day for any reason?
A 336 No, sir.
Q 337 Did you not know that there was to be a night patrol that night?
A 337 No, sir.
Q 338 Cpl. Lantier is your Corporal?
A 338 Yes.
Q 339 Where did you go after your supper?
A 339 I went to do some writing.
Q 340 Do you remember Corporal Lantire telling you to ger ready to go on parade?
A 340 No, sir. I wasn't there.
Q 341 Where were you?
A 341 I can't say.
Q 342 Did you not make this statement to Capt. Mercier?
A 342 No, sir, I wasn't there.
Q 343 When were you put under open arrest?
A 343 In the evening around 10 o'clock.
Q 344 Where were you when you were put under arrest?
A 344 I was in the H.Q. marquee.
Q 345 Who put you under arrest?
A 345 Corporal Lantier.
Q 346 Were you alone when he put you under arrest?
A 346 They were there-- all the H.Q. Section.
Q 347 What explanation did he give you as to why he was putting you under arrest?
A 347 He told me "you are considered open arrest."
Q 348 Did you know why you were under arrest?
A 348 I think he said something about having not been on parade.
Q 349 Did you ask him why you were under arrest?
Q 349 I can't say. I know he has said it.
Q 350 What did you do when you were put under arrest?
A 350 I turned over and went to sleep.
Q 351 You were at the H. Q. hut then?
A 351 The H..Q. of "A".
Q 352 Were any of the other persons there meant to be on the 1915 parade?
A 352 I don't know.
Q 353 Were you the only person there that was put under arrest?
A 353 I think no.
Q 354 Did you ask him the second time you saw him why you were under arrest?
A 354 I think not.

Q 355 Did you ask him why you were charged with disobeying an order?
A 355 No.
Q 356 Did you tell him that you didn't know about the parade at 1915 hours?
A 356 I can't remember.
Q 357 Weren't you worried about being under arrest?
A 357 No.
Q 358 Weren't you worried about being charged with disobeying an order of a superior officer?
A 358 I didn't know that.
Q 359 Did you see Sgt. Fortin on Monday night?
A 359 No.
Q 360 When you first saw Capt. Mercier were there others waiting to see him before you?
A 360 I think there were some others who went in before me.
Q 361 Why did you go to see Capt. Mercier?
A 361 I didn't go by myself; the others sent me there.
Q 362 Why did you discuss what you had had to eat on Monday night with Capt. Mercier?
A 362 He was talking to me about it and I thought he was conducting an inquiry about the food
Q 363 Were you brought before any other officers after Monday night?
A 363 I don't know.
Q 364 Were you brought before your C.O.?
A 364 The Monday evening after the inquiry.
Q 365 What inquiry?
A 365 The inquiry of Capt. Mercier.
Q 366 Was that held on Monday evening?
A 366 One of the boys in the tent went there twice in the evening and the other boys the day after.
Q 367 Is this the document you signed?
A 367 The only one, of my own knowledge.
Q 368 Did you go before your C. O. on Tuesday morning?
A 368 No.
Q 369 At any time on Tuesday?
A 369 I can't remember. The only thing I know is the first time we paraded we paraded on the day after at 1700 hours.
Q 370 Paraded to whom?
A 370 Major Savard.
Q 371 For what?
A 371 In my opinion it was for having disobeyed the word of a superior officer.
Q 372 What were you charged with by Major Savard?
A 372 I think it was disobeying a superior officer.
Q 373 Were you theonby person who was charged with disobeying a superior officer at that time?
A 373 No, I don't know. I don't think so.
Q 374 Were you paraded alone to Major Savard?
A 374 No, not altogether.
Q 375 What do you mean altogether?
A 375 We were 42 or 44.
Q 376 What was all this about?
A 376 It was about having our charge read to us.

BY THE COURT:
Q 377 You realize that you have been sworn?
A 377 Yes. There is a month these things happened a month ago and there is many things I don't remember of.
Q 378 When you saw Capt. Mercier did he threaten you regarding the parade on Monday night?
A 378 Not to my knowledge.
Q 379 Did he promise you any reward for speaking about the parade?
A 379 He didn't promise me any reward.
Q 380 And you knew you were charged with an offence at that time?
A 380 Yes, sir.
Q 381 And you knew that this statement that you had signed had something to do with that offence?
A 381 No, I didn't know it. Nobody told me

Q 382 What were you told before you signed this statement?
A 382 He talked to me about the kitchen, about the immigration shed and then about the food. I don't remember all the things.
Q 383 Did Capt. Mercier never say anything about the 1915 hour parade?
A 383 He might have talked to me about this but I can't remember. It is a month ago.
Q 384 When did you first know that there should have been a parade at 1915 hours?
A 384 I never knew it.
Q 385 Do you know it now?
A 385 Yes.
Q 386 When did you first learn about it?
A 386 I can't say.
Q 387 You knew, did you, about it, when all 40 odd of you were paraded to your Commanding Officer?
A 387 The Major told us.
Q 388 Was that the first you had heard about it?
A 388 Yes.
Q 389 Where did you sleep that night?
A 389 In H.Q. of "A" Section.
Q 390 Were any of the men in there under arrest?
A 390 Maybe there were some, but I don't know.
Q 391 Did you tell anybody you were under arrest?
A 391 No, not on this evening.
Q 392 When did you first tell anybody you were under arrest?
A 392 I know I talked about it, but I can't say what time.
Q 393 Did you know any other men who were under arrest?
A 393 I heard about it on the day after and on the evening, too.
Q 394 And what did you hear that evening?
A 394 I heard on this evening of them putting somebody else under arrest.
Q 395 What for?
A 395 Because there was another private who was sleeping in the H.Q. who belonged to No. 1 Sub-Section. I can't remember his name.
Q 396 Did you ask him why he wasunder arrest?
A 396 No, he said it.
Q 397 What did he say?
A 397 You are open arrest.
Q 398 Why?
A 398 I don't remember what for.
Q 399 Did you ask him?
A 399 I was in my bed and he told me open arrest and so I turned myself over and went to sleep.
Q 400 At what time was that?
A 400 Around 2230 hours.
Q 401 Where were you at 1900 hours?
A 401 I can't say.
Q 402 You knew there should have been a parade?
A 402 I knew it the next day.
Q 403 And this statement. What was it you thought you were signing?
A 403 I thought we weresigning for an inquiry in food.
Q 404 Why would there by an inquiry?
A 404 Because we didn't have enough food and it wasn't cooked right.
Q 405 Was that the reason you didn't go on parade?
A 405 It was the first reason.
Q 406 So that you knew there was meant to be a parade?
A 406 No, I didn't know it.

The 2nd Witness, E14040, Pte. Lavoie, A., 2 Cdn Div Amn Coy. RCASC, having been duly sworn, is examined:

Q 407 Were you paraded before any particular group, or any officer and asked for any statement regarding the incident which occurred on the night of July 28th?
A 407 Yes, Capt. Mercier.
Q 408 Will you tell us what happened when you were paraded before him?
A 408 When I entered the room I was alone with Capt. Mercier. He told me to sit on the bench. He asked me why I wasn't on parade on the 28th of July at 1915. I answered him because I didn't eat enough at

supper. There was only a piece of meat, a piece of bread cut in two and a piece of cheese and tea.
Q 409 Were you given any warning before making this statement to Capt Mercier?
A 409 No, sir.
Q 410 What did you think he was questioning you about?
A 410 First he questioned me about the supper and he asked me if in my opinion we had normal rations. I answered in my opinion we hadn't.
Q 411 Did he tell you that he was taking an abstract or summary of evidence?
A 411 I think he didn't mention that to me in that way.
Q 412 Would you tell me what the M.M.L. is?
A 412 I knew the significance before but it is a year, I don't remember now.
Q 413 Can you tell me your interpretation of the word "mutiny"?

THE PROSECUTOR: Just a minute. This is a matter of the admissibility of statements and it is examination in chief.

BY THE PRESIDENT:
Q 414 Capt. Mercier said "why weren't you on parade?" so you thought the inquiry was about rations?
A 414 Yes, sir.

BY THE DEFENDING OFFICER:
Q 415 Will you tell us when you were last read Secs. 4 to 44 of the Army Act? Or have you ever been read these chapters?
A 415 No, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q 416 I produce a statement to you. Is that your signature?
A 416 Yes, sir.
Q 417 Can you read that statement?
A 417 Yes, sir.
Q 418 When did you first learn of the 1915 hour parade on 28 Jul 41?
A 418 At 1700 hours or 1650 in the hut of No. 1 Sub-Section, given by Cpl. Lantier.
Q 419 Were you at your hut at 1900 or 1915 hours?
A 419 I was in front of the hut.
Q 420 At approximately 1900 hours Cpl. Lantier told you to get ready for parade?
A 420 He told Sub-Section No. 1 "there is a parade at 1915."
Q 421 Did you fall in on that parade?
A 421 No, sir.
Q 422 Were you put under arrest for not falling in on that parade?
A 422 Yes, sir.
Q 423 And were you paraded before your C.O. the next day?
A 423 Yes, sir, at about 1645 hours.
Q 424 And you were charged with an offence?
A 424 Yes, sir.
Q 425 And after that you were paraded to Capt. Mercier?
A 425 Two days after.
Q 426 And you discussed this parade with Capt. Mercier?
A 426 He asked me why I didn't go on the parade/
Q 427 What did you say to him?
A 427 As I hadn't a big supper I decided not to fall in on parade. I had bread, meet, cheese butter and tea. At around 1750 hours, Cpl. Lantier, in charge of the Sub-Section told us about the 1915 hours parade. After supper I went to my hut until around 1845 hours. After I stood in front of my hut with a group of men. I remember saying I wouldn't fall in on parade if the others wouldn't. That is what the statement says, but it isn't exactly what I have declared. The time should be 1650, and I didn't say "I remember" I said I "might have said".
Q 428 And where else is it wrong?
A 428 I didn't say it as it is written there now.

Q 429 How did you say it?
A 429 I said I thought I heard-- I am on oath, I can't give the name of these two men, because they are not the only ones who talked this mentioned evening. Capt. Mercier, when I made my statement, told me to give a few names and that these people I would have named would have no charge on them, because I would have been obliged to give all their names and I didn't remember all their names. I didn't know it was to reach a Court Martial.
Q 430 You knew that you were charged with an offenne?
A 430 Yes, sir.
Q 431 And you knew that this had reference to that offence
A 431 Yes, sir.
Q 432 Did Capt. Mercier threaten you with anything?
A 432 He didn't directly threaten me, but after the manner he acted I thought I was obliged to talk.
Q 433 Did he make any promise to you?
A 433 No, sir.
Q 434 Isn't it true that Capt. Mercier told you that you didn't have to make a statement?
A 434 I don't think he said that to me, sir.
Q 435 Were you alone with Capt. Mercier?
A 435 Yes, sir.
Q 436 Wasn't Mr. Newman there?
A 436 No, sir.
Q 437 How many times did you seehim?
A 437 Once only. I spoke to him the other time I signed the documents.
Q 438 Is this the only document you signed?
A 438 No, sir.
Q 439 When did you sign the other documents?
A 439 The first time I saw Capt. Mercier.
Q 440 And didn't he tell you that you didn't have to sign it?
A 440 I think he didn't say that in the same words.
Q 441 Did he threaten you with anything at that time?
A 441 Before that he asked me whether I was married and he told me "you may have more than detention for that." I couldn't say what he was thinking on this matter.
Q 442 Did he hold out any promise to you?
A 442 No, sir, he told me "you don't want to talk, others have talked" and then he took two pieces of paper, he placed them on the bottom of another sheet of paper and he showed me my name as having been named by somebody else.
Q 443 Did he threaten you with any punishment if you didn't sign this statement?
A 443 No, sir.
Q 444 And this statement, except for the corrections you have made, is what you told Capt. Mercier? - Exhibit P 4 filed with court -
A 444 Yes, sir
Q 445 And it is the truth?
A 445 What I have said it is the truth, as far as I corrected it.

BY THE COURT:
Q 446 You were first paraded to Major Savard at 1645 hours on the 29th, the next day?
A 446 Yes, sir.
Q 447 And you were paraded to Capt. Mercier for the first time when?
A 447 I can't say exactly. About five days.
Q 448 At the time Capt. Mercier mentioned etention-- at that time you had been up on a charge read out by Major Savard?
A 448 Yes, sir.
Q 449 Capt. Mercier, who took your statement, gave you some kind of warning?
A 449 No, sir.
Q 450 But in answer to a question put to you by the prosecutor, you answered "he didn't tell you that you didn't have to sign, and you answered "he didn't tell me that in those words." What were his words?
A 450 I can't remember.

BY THE PROSECUTOR:

Q 451 Is that your signature?
A 451 Yes, sir.
Q 452 And do you remember signing that? That is the first copy you signed?
A 452 I remember having signed a similar copy, very like this one.

Exhibit P5 filed with court

THE PRESIDENT: The Court will adjourn now, and we will consider the admissibility of these statements.

THE COURT IS ADJOURNED UNTIL 1000 HOURS, THURSDAY, 21 AUG 41

1000 HOURS THURSDAY, 21 AUG 41, THE COURT RESUMES

THE DEFENDING OFFICER: These sstatements I am letting go in subject to anything that may be said by the accused, as they come up later. I will accept them, sir.

THE PROSECUTOR: I would ask that they each be marked separately.

(Bundle of statements referred tom now marked Exhibits P.3 to 31, inclusive)

Subject to reading the statements which, perhaps, can be dispensed with until the argument that is the case for the prosecution.

THE PROSECUTION IS CLOSED.

D E F E N C E

RP. 40 IS COMPLIED WITH, AND EACH OF THE ACCUSED WILL BE ASKED INDIVIDUALLY WHETHER HE WISHES TO GIVE EVIDENCE ON OATH, CALL WITNESSES, MAKE AN UNSWORN STATEMENT OR SAY NOTHING.

THE FOLLOWING WITNESSES ARE ACCUSED WHO ELECTED TO GIVE EVIDENCE, EITHER ON OATH OR NOT ON OATH. THE BALANCE OF THE ACCUSED DECLINED TO GIVE ANY EVIDENCE AT ALL.

The 1st Witness for the defence, B89024, Pte. Laughlin, A., 2 Cdn Div Amn Coy., R.C.A.S.C., having been duly sworn, is examined:

Q 453 I will merely ask Pte. Laughlin to describe the events of the evening leading up to the incident?
A 453 When I was taken into the Orderly Room by Capt. Mercier I was told to sit down on the bench. The first question he asked me was what did we have for supper. He told me I could be crimed for making a false statement, so he turned around he told me what we had for supper and I told him that was correct, and then he asked me did I have a girl back in Canada and all about my finances. Later he asked me what I knew about it and I said nothing. He says "Laughlin" I know you don't care for the army rules or regulations. He didn't tell me that I didn't have to make a statement, nor did he tell me that I didn't have to sign.

THE COURT: What you have said, Laughlin, has been taken down in the minutes but has that anything to do with the statement that you made and signed. The statement that you signed was the right statement?
A 454 If you have a statement signed by me it must be right.
Q 455 When was this statement signed by you?
A 455 I am not sure, maybe three or four days after.
Q 456 I produced Exhibit P. 6 to you, do you admit this as being correct?
A 456 Yes, sir.
Q 457 Did Cpl. Roy, when he was telling you to fall in on parade, warn you or any of the others of the gravity of what you were doing?
A 457 I wasn't there sirm.

BY THE COURT:
Q 458 Where were you when you got the command to fall in on parade?
A 458 I was down in the canteen, sir.
Q 459 When you were in your hut and he others were not falling in on parade did the L/Cpl. warn them of the gravity of what you were doing by not complying with what you were supposed to do?
A 459 No, sir, he just called the parade and I didn't move.
Q 460 Did he call it a second time to your knowledge?
A 460 Yes, sir.

The 2nd witness for the defence, E14377, Pte. J. R. Ouellette, 2 Cdn Div Amn Coy., RCASC, having been first duly sworn, is examined:

Q 461 Will you tell the Court in your own words the circumstances leading up to all the events that supposedly took place on the night of the 28th July?
A 461 On the 28th in the afternoon parade at 1330 hours I was on parade for all the afternoon, long after the bath, around 1645 hours, after the foot inspection, Sgt. Portin told us there was a parade to be held at 1915. We were something like ten men on the foot inspection parade. After the foot inspection I went to my hut and to the cookhouse parade. After supper I returned to my hut and there I felt sick and I went to the latrines, and that is all that happened.
Q 462 You didn't hear Cpl. Gagne order your sub-section to go on parade?
A 462 If he gave the order I wasn't there.

BY THE COURT:
Q 463 Amongst your companions who might have been in the barrack room did anyone else know that you were sick?

D E F E N C E

RP. 40 IS COMPLIED WITH, AND EACH OF THE ACCUSED WILL BE ASKED INDIVIDUALLY WHETHER HE WISHES TO GIVE EVIDENCE ON OATH, CALL WITNESSES, MAKE AN UNSWORN STATEMENT OR SAY NOTHING.

THE FOLLOWING WITNESSES ARE ACCUSED WHO ELECTED TO GIVE EVIDENCE, EITHER ON OATH OR NOT ON OATH. THE BALANCE OF THE ACCUSED DECLINED TO GIVE ANY EVIDENCE AT ALL.

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Q 453 I will merely ask Pte. Laughlin to describe the events of the evening leading up to the incident?
A 453 When I was taken into the Orderly Room by Capt. Mercier I was told to sit down on the bench. The first question he asked me was what did we have for supper. He told me I could be crimed for making a false statement, so he turned around he told me what we had for supper and I told him that was correct, and then he asked me did I have a girl back in Canada and all about my finances. Later he asked me what I knew about it and I said nothing. He says "Laughlin" I know you don't care for the army rules or regulations. He didn't tell me that I didn't have to make a statement, nor did he tell me that I didn't have to sign.

THE COURT: What you have said, Laughlin, has been taken down in the minutes but has that anything to do with the statement that you made and signed. The statement that you signed was the right statement?
A 454 If you have a statement signed by me it must be right.
Q 455 When was this statement signed by you?
A 455 I am not sure, maybe three or four days after.
Q 456 I produced Exhibit P. 6 to you, do you admit this as being correct?
A 456 Yes, sir.
Q 457 Did Cpl. Roy, when he was telling you to fall in on parade, warn you or any of the others of the gravity of what you were doing?
A 457 I wasn't there sirm.

BY THE COURT:
Q 458 Where were you when you got the command to fall in on parade?
A 458 I was down in the canteen, sir.
Q 459 When you were in your hut and the others were not falling in on parade did the L/Cpl. warn them of the gravity of what you were doing by not complying with what you were supposed to do?
A 459 No, sir, he just called the parade and I didn't move.
Q 460 Did he call it a second time to your knowledge?
A 460 Yes, sir.

The 2nd witness for the defence, E14377, Pte. J. R. Ouellette, 2 Cdn Div Amn Coy., RCASC, having been first duly sworn, is examined:

Q 461 Will you tell the Court in your own words the circumstances leading up to all the events that supposedly took place on the night of the 28th July?
A 461 On the 28th in the afternoon parade at 1330 hours I was on parade for all the afternoon, long after the bath, around 1645 hours, after the foot inspection, Sgt. Fortin told us there was a parade to be held at 1915. We were something like ten men on the foot inspection parade. After the foot inspection I went to my hut and to the cookhouse parade. After supper I returned to my hut and there I felt sick and I went to the latrines, and that is all that happened.
Q 462 You didn't hear Cpl. Gagne order your sub-section to go on parade?
A 462 If he gave the order I wasn't there.

BY THE COURT:
Q 463 Amongst your companions who might have been in the barrack room did anyone else know that you were sick?

A 463 Not to my knowledge.
Q 464 Did you tell anyone else that you were sick?
A 464 I didn't say a word to anybody else. I just lay on my bed.

CROSS-EXAMINED BY THE PROSECUTOR:

Q 465 What time did you have supper?
A 465 1730 hours.
Q 466 You have said that after supper you went to your barracks. Is that correct?
A 466 Yes, sir.
Q 467 And then you were sick?
A 467 Yes, sir.
Q 468 And you went from there to the Latinres?
A 468 Not at this moment. I went to the bed before.
Q 469 And at what time did you go to the latrines?
A 469 From 7:15 to 7:30.
Q 470 Then you were in your barracks from 7 o'clock to 7:15?
A 470 I was outside, sir.
Q 471 In front of your barracks?
A 471 Yes, sir.
Q 472 You knew there was a parade at 1915 hours?
A 472 I heard it from Sgt. Fortin at 1645.
Q 473 Who is your Corporal?
A 473 Coporal Gagne.
Q 474 Do you not remember Cpl. Gagne coming in at about 1900 hours and saying "get ready for the parade"?
A 474 No, sir, if he said it why I wasn't there.
Q 475 Did you report to anyone that you were sick?
A 475 No, sir.

The 3rd witness for the defence, E14074, Pte. Grogan, 2 Cdn Div Amn Coy., RCASC, having been first duly sworn, states:

As far as I can remember I went on the 1:30 parade in the afternoon and at four o'clock we were told to gown to the lake for a swim and at a quarter to five we were supposed to have a foot inspection. I didn't go down to the lake and at about a quarter to five Lieut. Symon came around and looked at our feet and we were the first ones so I went in my hut and then I went to supper and I don't remember exactly what time I had supper. Then we came back from supper and I hung around the hut and then Cpl. Lantier came around and told us to get ready for parade. He came back after and said "on parade" and nobody moved or nobody spoke and then Sgt. Fortin came around later and he says "don't you boys know you are supposed to be on parade," and no one said anything.

Q 476 Were you warned by the Corporal of the gravity of what you were doing?
A 476 The only thing, he just said "on parade".
Q 477 Was a roll-call taken of those who were there?
A 477 No, sir, there wasn't.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS.

BY THE COURT:
Q 478 Who told you not to fall in on parade?
A 478 No one.
Q 479 You said no one moved and no one spoke? How did you all make up your minds?
A 479 It was just that we were there.
Q 480 What kept you from moving?
A 480 I wasn't ordered to, sir.

The 4th Witness for the Prosecution, E14140, Pte. A. Lavoie, R.C.A.S.C. having been already under oath, stated:

On Monday the 28th July I was on parade at 1330 hours. We had

maintenance up to 1430 and then we had bayonet fighting and then the parade was handed over to the Sgt-Major and we went about something like 500 feet away from the parade ground to our bayonet fighting in the field. I heard Sgt. Fortin saying those who want to go back and swim to get their bathing suit and he turned and went to go and talk to someone. I went and got my suit and towel and when I came back there was a few of the boys who had not wanted to go for a swim. I didn't hear Sgt. Fortin calling a parade for the night. I heard Cpl. Lantier at 1650 hours, I was in No. 1 Section hut. He warned us that there was a parade to be held at 1915 to go on a night patrol. I went to have my supper. I didn't have very much for my supper. I stayed in my barracks up until 1845 and I went across the road and stayed there. When Cpl. Lantier called the parade I had no watch, but it was around 1900 or 1905 hours. He said "No. 1 Section on parade" I didn't move, nor did I speak. He called the parade again. Nobody moved again and he put the section under open arrest. Sgt. Fortin came back something like fifteen minutes after that and he passed before the men who were there and I didn't hear him say anything about the parade. He went back and at 2130 hours, when Corporal Lantier made his ~~a~~ tattoo he told us we were under open arrest by orders of Capt. Dowling. That is all.

Q 481 Were you told by your Section Corporal of the gravity of what you were doing by not falling in on parade?

A 481 No, sir.

BY THE COURT:

Q 482 Every time that an order is given in this unit are you always warned that it is a grave thing not to obey?

A 482 No, sir.

Q 483 What made you suddenly decide that night not to obey that order?

A 483 I thought myself I didn't have enough rations to go on the parade.

Q 484 Have you ever missed a meal since you have been in England, on an exercise, on a scheme, or manoeuvres?

A 484 I remember it happened once. We went off to get some ammunition somewhere and the rations truck had a breakdown on the road.

Q 485 Did you refuse to obey the next order after that meal was missed?

A 485 When we heard that the ration truck had broken down all the trucks were loaded.

Q 486 Are you going to decide for yourself each time a meal is missed, each time you are allowed to disobey one order?

A 486 No, sir.

Q 487 Then why on this night in particular did you decide to disobey?

A 487 In the afternoon we had one hour of bayonet fighting and one hour of P. T. without a break and at the same time we didn't eat right.

CROSS-examined by the PROSECUTOR:

Q 488 You can speak and read English, Lavoie?

A 488 I can't write it but I can speak it and read it. But not very well.

Q 489 Do you remember signing this statement, Exhibit P. 4?

A 489 Yes, sir.

Q 490 After you had had your supper, there were others who didn't think they had had enough supper, either?

A 490 Yes, sir.

Q 491 And did you discuss the supper with some of the others?

A 491 I can't remember.

Q 492 You remember, though, that you said that you wouldn't fall in on parade if the others stayed away?

A 492 I said yesterday that I didn't say I remember. I said I might have said it.

The 5th Witness for the defence, H14450, Pte. Jos. Hadon, 2 Cdn Div Amm Coy., RCASC, having been duly sworn, states:

Q 493 Is there any addition or change you would like to make to the statement you gave when your statement was made to Capt. Mercier?

A 493 No, sir, the statement which is written on my charge is exact

but I would like to add something to it. I told Capt. Mercier to add something on my sheet, something that I have said to Capt. Mercier that he didn't write on my declaration. I told him that if I didn't go on parade that evening it was because I hadn't eaten for something like a month and that evening I found that I couldn't go on the parade and that I wasn't able to do overwork and that is the reason I didn't go on that parade. For over a month the rations were so bad that I nearly didn't eat. I ate very scarcely, the quantity, and more than that I told Capt. Mercier in some days I worked for 16 or 20 hours. Sometimes I had only one meal and sometimes a meal and a half or two.

Q 494 Were Sections 4 to 44 of the Army Act read over to you during the service you have in the army?

A 494 Yesterday we have been read that, but I don't know all that corresponds

Q 495 Were you told by the Corporal of that Sub-Section that what you were not doing or by not complying with this order you were doing a very grave thing?

A 495 No, it isn't the custom, either, sir.

The 6th witness for the defence, E14213, Pte. E. Dufor, makes the following unsworn statement:

In the afternoon we were on bayonet fighting and after that we had an hour of P.T. and then at ~~1600~~ 1600 we went to have a swim. And then after supper I came back to the barrack room and I was for sometime in the barracks and then I went on the other side of the barracks and then our Corporal shouted "fall in". Nobody moved or nobody spoke. So I didn't move myself. He shouted again and he told us I give you still five or ten minutes. Nobody moved and nobody spoke so I didn't move either, and I felt as we didn't have a very good meal, I shouldn't go on parade. And moreover as the officer has taken down my name on foot inspection, I had sore feet.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS

The 7th Witness for the defence, E14439, Pte, G. Bernier, 2 Cdn Div Amn Coy., having been first duly sworn, states:

Q 496 Do you wish to exaplain the statement before the Court or add anything to it?

A 496 My first statement is not right about the accusation or charges that have been laid against me. I have been charged with refusing a parade and I gave to Capt. Mercier my reason for not going on that parade. I asked him if he wanted my own personal reasons and he asked me why I did not go on that parade and I answered him that I didn't feel very well and I was feeling not being able to get on that parade and he asked me what did I have for supper. I told him only about the supper. I told him I had for supper two slices of bread, margarine, one teaspoonful of jam and a cup of tea. He asked me if I had some fish or stew and I answered him that maybe there was some for the supper but as for myself I didn't get any and he asked me what are the reasons you didn't have some. I told him maybe I had been a little late for the supper but that wasn't my fault. I showed my supper to the Orderly Officer and made a complaint about it. My own personal reason that I lay before the Court I didn't have enough rations since about something like about three weeks previous to this affair.

PROSECUTING

CROSS-EXAMINED BY THE ~~WITNESS~~ OFFICER:

Q 497 Who told you that nobody else was going to fall in?

A 497 Nobody told me not to go on parade.

Q 498 Who told you that they, themselves, weren't going on parade?

A 498 I talked to somebody, but not on the parade subject and nobody did talk to me whether he was going, yes or no, on this parade.

The 8th Witness for the Defence, E14091, Pte. Pettigrew, F., 2 Cdn Div Amn Coy., RCASC, having been duly sworn, states:

I want to add something to my own statement/ I went on parade at 1330 in the afternoon. I received a break for to go and work on maintenance. My truck wasat the workshop so I stayed there until 1600 hours when I came back. There was to be a foot inspection at 1700 and I went to the inspection and Lieut. Symon inspected my feet and then I went and had supper. After supper, around 1745 I was with my Corporal in my hut. He said there was to be a parade at 1915 and he told me he was going on a reconnaisance and that he might not be on the parade at 1915. I told him I didn't feel very much like getting on the parade because I had a headache and then he went on reconnaisance. Seeing that I stretched myself on my own bed and remained there. I don't know what time he came back but when I saw him the next time he was coming back from the canteen and he told me that we had ten minutes to get ready for the parade. I didn't talk and I stayed in my bed. At 1915 he called the parade and I just made as if I didn't understand him. Sgt. Fortin came around at 1930 and came in the hut and asked me where was Corporal Bertrand. I told him I didn't know.

Q 499 Did you realize the gravity of what you were doing by not going on parade?
A 499 Sincerely, I couldn't say at that time what was to happen after that but there was something like five or six boys there and I had a headache and I preferred to stay in my bed.
Q 500 Were Chapters 4 to 44 of the Army Act ever read to you?
A 500 In my opinion I never heard them.

CROSS-EXAMINED BY THE PROSECUTING OFFICER:

Q 501 Were you on sick parade that day?
A 501 At 1815 I went to the M.O.'s and this was something like five or six days I was going there. You may ask the M.O.

BY THE COURT:
Q 502 Is the witness stating that the reason he didn't go on parade is because he was sick?
A 502 I told the L/Cpl. I didn't feel too good and I didn't want to go on theparade because I have got a headache and he said maybe he wouldn't be there himself.
Q 503 He didn't excuse you from the parade?
A 503 No, sir.
Q 504 What did the M.O. do to you every night for a week?
A 504 He always gave me pills.
Q 505 You weren't excused parade during that time?
A 505 No, sir.

The 9th Witness for the Defence, E14089, Pte. H. L'Heureux, 2 Cdn Div Amn Coy., RCASC, having been duly sworn, states:

We had the parade at 1330. At 500 yards from our own parade ground in front of the marquees of H.Q. "A" Section. As far as my statement goes it is correct.

THE PROSECUTION DECLINES TO CROSS-EXAMINED THE WITNESS.

THE 10th Witness for the Defence, E14072, Pte. Verrault, P.A., 2 Cdn Div Amn Coy., RCASC, having been duly sworn, states:

In the afternoon of 28 Jul 41 I was on parade at 1330 hours. Sgt. Fortin ~~fxxit~~ fell in the parade and then gave charge of the parade to Sgt. Turgeon, because this was an M/T day. Sgt. Turgeon told us to go and make maintenance on our own trucks. Whilst making my maintenance my safety brakes were not secure, so I asked Driver Mechanic Thibault to repair my brakes and that is what he did. We finished up with this work by 1620 hours or 1630. I left my truck where I am supposed to park it and I carried on with my maintenance because my checking of tools was necessary. I finished with my checkup by 1730 hours and I went to supper. I then went to put my

mess-tin back in my truck and I went to the latrines. From the latrines I went to the barber shop, it was around 1900 hours. I got off the barber around 1930 or 1935 and I went back to my barrack room. In my barrack room I learned that there was supposed to be a parade in the evening. In the evening, later on, they put me under arrest.

CROSS-EXAMINED BY THE PROSECUTOR:

Q 506 At what time were you put under open arrest?
A 506 The exact time it is very difficult to say, but as soon as I was lying in my bed, as much as I can remember, 2115 or 2130.
Q 507 And who put you under arrest?
A 507 Corporal Bertrand, in charge of the Sub-Section.
Q 508 What did he say to you?
A 508 Only that I was under open arrest, and the reason was for the said parade.
Q 509 And what did you say to him?
A 509 I didn't say a word. I just ~~said nx~~ turned over because I had heard during the evening, before getting to bed, that there was supposed to be a parade in the evening at 1915 and that nobody attended that parade so I thought this must be the reason why I was put under arrest and I said to myself the Corporal thought I was supposed to be on parade, that is why he is putting me under arrest.
Q 510 And when did you first hear of the parade?
A 510 I heard about it when I came back from the barber-shop.
Q 511 Where?
A 511 When I came into the barrack room.
Q 512 What time was that?
A 512 It was around 1930 or 1935.
Q 513 Who was the barber?
A 513 His name is Martel.
Q 514 Did you tell your Section Sgt. that you hadn't heard anything about this parade?
A 514 I couldn't know that there was a parade to be held because I was on maintenance.
Q 515 Answer my question?
A 515 The Section Sgt. didn't ask me about it because I was on maintenance and the Sgt. of the Section has nothing to do with the maintenace.
Q 516 You were meant to go on bayonet fighting, were you not?
A 516 I had no business at all on the bayonet fighting, because I had the order to fix my truck.
Q 517 Who gave you that order?
A 517 Sgt. Fortin.
Q 518 Did you tell Sgt. Fortin why you weren't on parade?
A 518 I had no reason to explain to Sgt. Fortin why I wasn't on parade, because I was on the maintenance.
Q 519 When did you first tell Sgt. Fortin why you weren't on parade?
A 519 I never talked to Sgt. Fortin about that, except yesterday I talked to him about it. I said that I couldn't be on the bayonet fighting and at the same time be on maintenance.

BY THE COURT:

Q 520 Are you stating that you were placed under open arrest on 28 Jul 41, you were brought up before Major Savard on the 29th, charged with an offence that you say you had not committed, and it wasn't until the 20th of August that you said anything about it?
A 520 I never asked to be paraded to the Major, secondly they asked me for a statement about this and after everybody was saying it wasonly an inquiry, that is the reason I waited and didn't speak a word.
Q 521 And when did you know it was a Court Martial?
A 521 I heard about it a few days before the Court Martial, but I can't say the exact day of the month.
Q 522 So, knowing it was a Court Martial and knowning that you were accused before Major Savard of something you hadn't done you said nothing?
A 522 I didn't say a word, I was just basing myself on the supposition it was a Court of Inquiry and it is sufficient that having passed before a Court Martial in Canada and that we had a lecture on Section 4 to 44, and on my first Court Martial they warned me, they told me

that everything I would say would be taken on oath, that it was a Court Martial that I was to go in front of, but the supposed inquiry that I went through they read me no paper at all, they didn't warn me, and the first question asked by Capt. Mercier was to make a narrative of what happened on this mentioned evening and my declaration is on the paper.

Q 523 And so knowing all about Sections 4 to 44 of the Army Act and knowing the refusal to obey an order was a crime, you didn't think there was anything strange that you and all the others were under open arrest with no pay-- you didn't think that was strange?

A 523 I can't remember what is stated in Secs. 4 to 44, because that is the articles that is supposed to be read out twice a year and there is a year and a half that they haven't been read. It is very difficult to have a clear memory.

BY THE PROSECUTOR:

Q 524 When were you first charged as a result of missing the parade?
A 524 When they warned me on the evening, when I was in my bed.
Q 525 How many times that night were you told that you were under arrest?
A 525 When I was in my bed Corporal Bertrand told me I was under arrest; one time is enough and I slept after that.
Q 526 And what time was that?
A 526 Something, 2115 or 2130
Q 527 And were you paraded before your C. O. the next day?
A 527 I don't remember on what exact date I wasparaded to Major Savard. I know it wasn't the same evening.
Q 528 What happened next morning?
A 528 They repeated to me that I was still under open arrest.
Q 529 At what time was that?
A 529 A few minutes after reveille, as much as I can remember
Q 530 Who said that?
A 530 I can't say.
Q 531 And what did you say?
A 531 I said nothing.
Q 532 Did you go on parade that morning?
A 532 Yes, sir.
Q 533 And do you remember being paraded to Major Savard that afternoon?
A 533 I don't remember whether it is the day after or the exact day I was paraded to the C.O.
Q 534 Were you ever paraded to Major Savard?
A 534 Since I have been in the army?
Q 535 As a result of missing the parade on this occasion?
A 535 Yes.
Q 536 How many times?
A 536 It is very difficult to s ay because this is a month ago.
Q 537 Did Major Savard charge you with any offence?
A 537 He read to me the same charge as he read to the others/
Q 538 And what did you say?
A 538 I didn't say a word. I was on parade.
Q 539 Did you speak to your Corporal-- Bertrand-- about this matter?
A 539 I didn't ask him because he told me I was under arrest.
Q 540 Did you never tell your Corporal that you didn't know anything about the parade?
A 540 Since my arrest, up until today I never talked to Corporal Bertrand anything relating to myself.
Q 541 Who is your Lance-Corporal?
A 541 L/Cpl. Roy.
Q 542 Did you complain to him about being put under arrest?
A 542 No.
Q 543 Isn't it correct that L/Cpl. Roy put you under arrest that evening?
A 543 No.
Q 544 Did you ever say anything to Major Savard to the effect that you had known nothing about the parade?
A 544 No.
Q 545 After your supper you say that you went and put your mess-tin in the truck. Is that correct?
A 545 Yes.
Q 546 At what time was that?
A 546 It was around 1810 or 1815.

Q 547 What time did you leave supper?
A 547 It was about 1810 or 1815, although all that I can say it was supper time.
Q 548 When did you first see Capt. Mercier about this?
A 548 I don't remember very much, a few days after.
Q 549 And what happened then?
A 549 Capt. Mercier, when I entered the room told me only to relate what happened.
Q 550 Who was there?
A 550 Nobody.
Q 551 You knew, then, that you were charged with an offenee?
A 551 That depends on the offence.
Q 552 When you first appeared before Capt. Mercier did you know that you had been charged with an offence, as a result of missing a parade on Monday, 28 Jul 41?
A 552 When I paraded before Capt. Mercier they told me it was for an inquiry, not the authorities, but others who I heard around talking.
Q 553 Did you or did you now know you were charged with an offence?
A 553 Yes.
Q 554 And did you then explain to Capt. Mercier that you had known nothing about the parade?
A 554 Yes, I told Capt.,Mercier that I didn't know nothing about the parade.
Q 555 Why did you think this was a Court of Inquiry?
A 555 They had talked about the food and this was the reason.
Q 556 When did you talk about the food?
A 556 I, myself, didn't make any complaint about the food.
Q 557 Did you read orders that day?
A 557 We are supposed to have some orders posted in "A" Section and there was none.
Q 558 Did you read the orders posted in the orderly room?
A 558 No. The orderly room is out of bounds. You have to be paraded there by a N.C.O.

The 11th Witness for the defence, E14127, Pte. O. Thibault, 2 Cnd Div Amn Coy., having been duly sworn, is examined:

BY THE ACCUSED: (Pte. Verrault)

Q 559 In the afternoon of 28 Jul 41, where was I?
A 559 You worked with me in the afternoon up until 1620.
Q 560 What kind of work did we have on the truck that afternoon?
A 560 We worked on the ~~rear~~ rods and brakes.

BY THE COURT:
Q 561 Thibault, July 28th was a month ago?
A 561 About.
Q 562 How many trucks do you work on in one day?
A 562 I have normally 6 trucks, but on this day I had only three.
Q 563 As far as the 28th of July last your memory was so good that you remember the time you stopped working on the truck and the sort of work that you did on the truck?
A 563 On that evening I left by 1715.
Q 564 And you remember the time you and Pte. Verrault stopped working?
A 564 Around 1620 or 1630.
Q 565 You remember the day very well?
A 565 Very well.
Q 566 On July 28th what time did it start raining?
A 566 I know it rained that day, but I can't say what time it began to rain.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS

The 12th Witness for the Defence, E14130, Pte. E. Martel, 2 Cdn Div. Amn Coy. having been first duly sworn, is examined:

BY THE ACCUSED (Verrault)

Q 567 Can you tell on the day of the 28th of July would you be able to say what I have done in the quarters of the Castle?
A 567 I know that you came to have a hair cut at 1900 hours.

Q 568 How long was I in the barber shop?
A 568 Something like three-quarters of an hour or an hour.
Q 569 Were there any other persons there?
A 569 Yes, that is why I couldn't pass you before.
Q 570 Do we pay you in money or have we got credit for our hair cuts?
A 570 We have the regimental funds.
Q 571 Is the day entered on these forms?
A 571 No, I receive them from one month to another.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS

The 13th Witness for the Defence, E14441, Pte. Billingsley, A., 2 Cdn Div Amn Coy., having been duly sworn, states:

"I was on parade at 1330 hours on 28 Jul 41. After supper I went into my barracks and lay on the bed. There was some talk about the night patrols amd the men were going back and forth and I thought maybe the parade was cancelled, though I knew it was supposed to be for 1915, and then I overheard a conversation at the door of the hut, which was open and after hearing that conversation or remarks I would say that I didn't feel that I could go on parade. So when I thought it was just time I didn't see anyone getting ready I went outside across the road and I stayed there with a bunch of men. The Corporal came out later and he said "No. 2 Section on parade." I stayed mostly by myself on the other side of the road, because I was alone, and none of us moved. I didn't move myself. Later on we were placed under open arrest. About two days later I was told to go to the orderly room of "A" Section with Capt. Mercier. I saw Capt. Mercier. He asked me why I didn't go on parade on the night of the 28th July and I said " well, sir, nobody went on parade and I couldn't very well go on alone." We spoke of the food situation, the meals. He says "how did you like the supper tonight?" I says "it was all right, sir,"but I says "I didn't get as much to eat as I used to get in Tournay Barracks." "Well," he says, "you are in the field." I told him the food is good but we don't get enough of it. I told him first that I have never done anything wrong, I always try to keep out of trouble as best I can. I always tried to do what was right. He says "I don't like to see an innocent man punished for a crime that he didn't intend to do, or didn't wish to do." Capt. Dowling came in and he says "don't you know, Billingsley, that this is a very serious charge," and I says "I don't know much about it, I suppose it is. I don't know very much about Military Law or crimes." He says "don't you know this may be the work of 5th Columnists?" I says "I don't think so." He says "it has been proven, I know I am right." Capt. Mercier asked me if there was anyone told me not to go on parade, and I told him no, they didn't tell me not to go on parade. I just couldn't go on alone. He asked me if I heard anyone talking or suggesting such a thing, and Capt. Dowling says to me "you have nothing to be afraid of, Billingsley, we will just have their mails investigated and see if they are being paid by German agents." I didn't know what to say. And Capt, Mercier asked me if I couldn't think of some names and so did Capt. Dowling. I didn t know exactly what to do, anyway, at the time I gave him a name and Capt. Mercier wrote something down, I don't know if he wrote the name or not. He kept at me to see if I couldn't think hard, and then I gave him another name. At that time Major Savard and a couple of other officers came in and he told me that would be all.

Q 572 You came into Capt. Mercier's officer and he, I believe, warned you that he wanted a statement?
A 572 No, he just asked me.
Q 573 You gave him that information, the subject of which you have just told us. When you next saw Capt. Mercier did he ask you to sign anything?
A 573 Yes, that is correct.
Q 574 When you came to sign this statement were you warned then that you didn't have to sign?
A 574 No, sir, he didn't tell me I didn't have to sign it.
Q 575 Did your Corporal bring to your attention the gravity of what you were doing by not falling in on parade?
A 575 He never brought it to my personal attention.

BY THE PRESIDENT:

Q 576 What was the gist of the conversation you heard in the doorway of the hut that made you feel that you couldn't go on parade?
A 576 I heard someone say "the first man that goes out of this hut on parade tonight gets this stick over his head."
Q 577 Was this conversation you overheard in French or English?
A 577 It was in English..

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS.

THE DEFENCE IS CLOSED.

THE COURT IS CLOSED FOR CONSIDERATION OF FINDING.

THE COURT IS RE-OPENED AND THE ACCUSED ARE MARCHED IN.

THE COURT FINDS THE ACCUSED "NOT GUILTY" OF THE FIRST CHARGE AND "NOT GUILTY" OF THE ~~XXXX~~ THIRD CHARGE.

THE PROSECUTOR FILES M.F.M.6 IN CONNECTION WITH EACH ACCUSED, WHICH ARE FORMALLY ADMITTED BY THE DEFENCE.

THE PRESIDENT: The Court wishes it placed on record that their findings have been based on the evidence which concerns each individual solely and the principle that each of the written confessions refer to themselves only and what was hearsay has not been taken into consideration.

THE COURT: Each of the accused, in turn, will be asked whether they wish to say anything in mitigation of punishment, or to call any witnesses in their behalf as to character.

1st Witness: E14065, Pte. Leblond: I didn't know the ~~exact~~ exact gravity of the offence and this is the first time in this Court that I heard about the articles 4 to 44.

2nd Witness: B89024, Pte. A. Laughlin: I am not happy in the unit, sir, and I would like to get a transfer, sir. I applied for a transfer once but I didn't hear anything about it.

3rd Witness: Cpl. Lantier: (Sworn) As far as I am concerned Pte. Leblond is a very good soldier and I cannot have better.

4th Witness B60824, Pte. Neale, C.V.: I would like to get into another part of the service because it is very inconvenient for me to get along in a French speaking unit. I would like to get into an English unit, if I could.

5th Witness: E14074, Pte. Grogan, W.: This is the first time that anything like this hashappened to me and I would like to get Sgt. Fortin.

6th Witness (Character): Sgt. Fortin: As far as duties are concerned he has always been first class, for myself.

7th Witness: E14040, Pte. Lavoie, A.: I have been nearly two years in the Regiment. I think I haven't a very bad conduct sheet, as I have been for 16 months a N.C.O. and Cpl. Lantier, a few days before this incident happened has told me "I would like to have you again as L/Cpl. again for my sub-section." I have lodged an application for repairing shoes and I have told the Corporal to let the stripe go.

Cpl. Lantier (recalled): He is a very good soldier and I even recommended him for a stripe.

The 8th Witness, E14450, Pte. Hudon, Jos.: I would like to

say to the Court that if I acted in that manner that mentioned evening it was because I was feeling myself unable for any extra work, because I had very little food since a month.

Capt. E. G. Swift, sworn: Pte. Hudon, while in Canada, was in "C" Section, of which I was acting O.C. It was over a long period. His duties were carried out in a very satisfactory manner and he is, I would say a very high type of man.

E14267, Pte. Hogan, W.: This is the first time it happened to me, sir, and my witness will be Sgt. Fortin:

E14380, Pte. Demers, A.: No, sir I want Sgt. Fortin

E14439, Pte. Bernier, G.: I would like to ask the Court if they would take into consideration my conduct sheet. Previous to this incident and after the incident.

D36490, Pte. Leroux, R.: I have been in the Ammunition Company for six months and all what I have learned is no use at all in the Army Service Corps. Before that I belonged to the 3rd Rifles Regiment and I would like to have a transfer, if the matter is possible.

Sgt. Forgin (recalled): Hogan, for the duty, for the work being considered, is a good soldier, just as the other. Demers is a good soldier for the work, always willing.

E14089, Pte. L'Heureux, R. I would like Sgt. Fortin to say something.

Sgt. Fortin: L'Heureux has not been a long time with us. From now up to date I have nothing against him, except of the above mentioned evening.

E14021, Pte. Dubeau, J.: It will be two years that I have been in the Amn Coy. I have to say to the Court that I have no knowledge of the laws and regulations of the army and of articles 4 to 44. I would ask the Court, if I am found guilty of the charge that has been laid against me to give my punishment as being married and father of 7 children.

Cpl. Levesque: Dubeau has always been a good soldier. I have no complaint against him.

E14058, Pte. Belleau, G.: I didn't know the gravity of the offence. In a few days it will be the second year that I have been with this Amn Coy. and I never refused any order from anybody else.

Cpl. Cagne: Pte Belleau is a very good soldier. I have no complaint against him. Pte. Bouchard is a good soldier. Pte. Beaullac is a very good soldier. Pte, Belley is a good soldier. Pte. Billingsley is a very, very good soldier. Pte. Levesque is a very good soldier.

E14323, Pte. Gagne: I have been for 18 months in this mentioned Company and always fulfilled my duties and never refused an order and on this evening I was sick and I couldn't go on the parade and I didn't know the gravity of the offence. I would ask the Court's consideration of my amount of service.

Cpl. Bertrand: Pte. Gagne is a perfect soldier and fulfills his duties, all his duties to the best of his knowledge. Pte. Verrault is a good soldier and in all the instances I asked him to do work he always fulfills his duties to his best.

E28377, Pte. Belley, L. P.: I have not been for a very long time in this unit. Before I was in a Holding Unit. I have always fulfilled my duties, never refuse an order and I would like to ask the Court to take into consideration my conduct sheet.

E14091, Pte. Pettigrew, F.: I have been in this Company for two years and I would like to ask the Court to take into consideration that I

don't know the military law very well. I would like to have Capt. Swift as a witness for my character:

Capt. E. G. Swift: Pte. Pettigrew was in my section while in Canada. He was very satisfactory and fulfilled his duties in as good a manner as can be expected. I would say he was a very good soldier, sir.

E14072, Pte. Verrault, F.A.: At the end of August I have been in the army for two years and every time I assess a punishment by my own fault I accepted the punishment without a word, but every time I didn't deserve a punishment I took the necessary procedure as much as I could to defend myself. I would ask the mercy of the Court and I would ask Capt. Swift because he knew me for two years in this unit, whether he can make any statement as to my character.

Capt. E. G. Swift: Sir, Pte. Verrault was one of the first men to join our unit and as far as I am concerned any duties he has carried out for me have always been carried out. In my own opinion he is a good soldier. I am perfectly satisfied with anything he has ever done for me.

B95580, Pte. Baker, E. J.: I have been in the army 15 months and all orders I have carried out to the best of my ability and I have caused no trouble to anybody. I would like to ask Sgt. Turgeon.

Sgt. Turgeon, called and sworn: A very good soldier, he always done his work well with me and any time he is stuck he always comes to me for advice and I always gave him my best advice.

E14089, Pte. L'Heureux, R.: On the 7th of September it will be the 2nd year of my service and I have always been a good soldier, as a soldier is supposed to be. This is the first time it happened to me to disobey an order and I didn't have a very good knowledge of the military laws and regulations.

E14411, Pte. A/ Billingsley: I have been a year and four months in the army and I always tried to do my best and to do what I was told. I don't think there is anybody can say I have a bad character. I always do what I am told and everyone knows it.

E14292, Pte. Beaulieu, L.: Since the year 1939, the 24th of November I am in this unit. I have always done what I was told and I done it with heart and I never refused an order and I never squaked or said anything. When the parade was called what was going on it was none of my business. I was on guard, I was on any kind of duty that could be done in the unit. When I left Quebec, in the Immigration shed I was on guard, and it was always the same thing, guards and all kinds of duties and I never said anything. As far as my crime sheet goes I was crimed for smoking in the vehicle park, but I didn't know anything about that order at all, and I lost my stripe for it.

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCES:

I HEREBY CERTIFY THAT THE FOREGOING PAGES OF TYPEWRITTEN MATTER IS A TRUE AND ACCURATE TRANSCRIPT OF SHORTHAND NOTES TAKEN BY ME IN THE ABOVE TRIAL, AT THE TIMES AND DATES FIRST ABOVE WRITTEN.

J. H. Spence (Sworn)

M4080, J. H. Spence S/Sgt.

"IN THE FIELD" 2 CANADIAN DIVISIONAL AMMUNITION COMPANY R.C.A.S.C., CANADIAN ARMY "OVERSEAS"

SYLLABUS OF TRAINING FOR THE COMPANY

DAYS	TIME	SUBJECT	INSTRUCTORS	PLACE	REMARKS
MONDAY 28-7-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants	Parade Ground	I Respirators will be worn for the following periods: Tuesday 1000-1030 hrs. Wednesday 0930-1030 hrs. Friday 1030-1130 hrs. II The 3 Section Commanders will work in conjunction to prepare a separate TANK HUNTING scheme for each section. III Bayonet Fighting must be done in P.T. Dress. IV The 3 Section Commanders will work in conjunction to prepare a separate ROAD BLOCKING scheme for each Section. NOTES I Compass March. ii Map 125. --- Add to Wednesday Syllabus 1900-2200 NIGHT PATROLS, supervised by O.C. Section
	0900-1200	M. T.	M.T. Sergeants	Vehicle Park	
	1330-1445		Sect. Cpls. superv. by Sect. Sergeants.	Parade Ground	
	1500-1600	BAYONET FIGHTING		LAKE (See Note 1)	
	1600-1700	P.T. followed by SWIMMING	O.C. Section		
	1900-2200	NIGHT PATROLS			
TUESDAY 29-7-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants	Parade Ground	
	0900-1200	Inspection of Anti-Gas Equipment Gas-Spray and Respirator Drill	Section Cpls. Loading Cpls.	Parade Ground AREA	
	1330-1445	M.T. and Stacking of Ammunition	Sect. Cpls. superv by Sect. Sergeants	Parade Ground	
	1500-1600	BAYONET FIGHTING		LAKE	
	1600-1700	P.T. followed by SWIMMING			
WEDNESDAY 30-7-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants O.C. Sections Loading Cpls. Sect. Cpls. superv. by Sect. Sergeants.	Parade Ground VICINITY AREA	
	0900-1200	TANK HUNTING			
	1330-1445	M.T. and Stacking of Ammunition		Parade Ground	
	1500-1600	BAYONET FIGHTING		LAKE	
	1600-1700	P.T. followed by SWIMMING			
THURSDAY 31-7-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants O.C. Sections	Parade Ground (See Note ii) LAKE & AREA	
	0900-1200	ROAD BLOCKING			
	1330-1700	S P O R T S			
FRIDAY 1-8-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants C.C. Section Load. Cpls. Sect. Cpls. superv. by Sect. Sergeants	Parade Ground VICINITY Area. Parade Ground LAKE	
	0900-1200	ROUTE MARCH, Full marching order			
	1330-1445	M.T. and Ammunition Stacking			
	1500-1600	BAYONET FIGHTING			
	1600-1700	P T. followed by SWIMMING			
SATURDAY 2-8-41	0800-0900	Squad & Rifle Drill, Rifle Inspection	Section Sergeants	Parade Ground Along the Drive	
	0900-1100	O.C's Parade by Sections			
	1100-1200	BAYONET FIGHTING (Recapitulation)	Sect. Cpls. superv. by Sect. Sergeants		
	1330-1700	RECREATIONAL TRAINING			

[illegible]

[illegible] PART I ORDERS

BY

MAJOR P.H. SAVARD, O.C. 2 CDN. DIV. AMN. COY. R.C.A.S.C., ARMY "OVERSEAS".

NUMBER 211 (Last Part I order No. 210, d/ 27.7.41.

1. **DUTIES:**

Captain of the Week.....Capt. T. 'OShea,

Orderly Officer.....Lieut. P.F. Gosselin,
Period: from 1900 hrs., 27.7.41, TO 1900 hrs., 28-7-41.
Next for Duty.....Lieut. E.A.D. Simons,
Orderly Sergeant.....Sgt. COTE, B.
Next for Duty.....Sgt. FORTIN, V.G.
Orderly Corporal.....Cpl. PARADIS, L.V.
Next for Duty.....Cpl. SLAUGHTER, A.

2. **PARADES:** (For MONDAY the 28th of July 1941)
0800 hrs., ... As per Company Syllabus.
1330 hrs., ... As per Company Syllabus.

3. **BLACKOUT:** Blackout precautions will be taken between 2235 hrs., 27.7.41 AND 0530 hrs., 28.7.41.

4. **PROMOTIONS AND APPOINTMENTS**
D106614 L/Cpl. WELLER, F., promoted to the rank of Acting Corporal with pay, w.e.f. 28.7.41.
E-14374 Pte. McGRAW, E., appointed to the rank of Lance-Corporal with pay, w.e.f. 28.7.41.

5. **PREVENTION OF AND METHOD OF DEALING WITH CARBURETTOR FIRES ON MOTOR CYCLES**

Owing to the number of reports of carburettor fires with motor cycles it is thought necessary to issue the following instructions

PREVENTION

(a) Blow-backs in the carburettor intake are usually caused by the ignition timing being too far retarded. With the engine running on the stand and with the ignition lever fully retarded if rapid manipulation of the throttle produces the emission of flames from the air-intake, the adjustment of the ignition timing should be set further advanced. With the ignition timing correctly set, back-fire should not be occasioned at any position of the timing lever.

(b) Never attempt to start the machine with the timing lever in the fully retarded position. If the ignition timing is correctly set the machine will not start.

(c) Never leave a machine propped up and leaning over to the side away from the prop stand. A machine so parked will be liable to carburettor flooding.

(d) Make a habit of turning off the petrol whenever a machine is left for longer than a minute or two.

ACTION TO BE TAKEN IN THE EVENT OF A FIRE OCCURING.

The correct way to deal with a carburettor fire is to turn off the PETROL and then if possible start the engine so as to suck the flames into the cylinder. Serious damage to machines is usually caused by time being wasted in running for a fire extiguisher or some material with which to smother the flames, whereas had the petrol been turned off damage, if any, would have been localised to the carburettor or parts of the machine close to it.

(Authority 57/Vehs/8499 (S.T.3.b.)16.6.41. RASC Circ. No.129)

(Alex. Gagnon) Capt. Adjt.
for Major P.H. Savard, O.C.,
2 Cdn Div Amn Coy R.C.A.S.C.
Canadian Army "Overseas".

P-2

91

E-14[illegible]5 Leblond [illegible]
#1 sub section.

Je savais qu'il y avait une parade à 1915 hrs. Je ne suis pas tomber en parade vu qu'il n'y avait personne, j'étais prêt à y aller.

J'étais présent lorsque le Cpt Lantier a ordonné la parade à 1905 hrs. Personne ne parla, ou bougea.

Henri Leblond

P3

93

E 14040 Pte Lavoie A.

" 1 Sub Section.

As I had not a big supper I decided not to fall on parade. For supper I had, bread, meat, cheese, butter and tea.

At around 1750 hrs. Cpl Lantier in charge of the sub section, told us about the 1915 hrs. After supper I went to my hut till around 1845 hrs, after I sat in front of my hut with a group of men. I remember saying that I would not fall on parade if the others would not, E14292 Beaulieu L and E14213 Dufour E who were there said that they would not fall on parade. That is all I know.

A Lavoie

P4

E 14[illegible] Lavoie A. #1 95

As I had not a big supper I decided not to fall on parade. For supper I had Bread, meat, cheese, butter, tea. Cl Cantier in charge of our sub-sec. told us about the 1915 hrs at around 1750 hrs. After supper I went to my hut, and at around 1845 hrs I was across the road in front of my hut sitting with a bunch of fellows. I remember saying that if I would not fall on parade if the others would not.

Beaulieu L. Dufour C.

who were there said that they would not fall on parade. That is all I know.

I have been warned that I need not have to make a statement and that what I have said might be used against me in court. I have nothing to gain or ~~[illegible]~~ loose by making it.

R 5 Jan A Lavoie

~~[illegible] Lerouxe R.~~ ~~#1~~

D26490 Leroux R. #1

I was there ~~when~~ on the 16th hrs when Sgt Vortin told us about the 1915 hrs parade, and my intention was to go. After supper, as I was sitting down with the men, they were all carping that they would not go on parade. I can't remember names, so I said to myself if I go something might happen to me so I just stayed there. When Cpl Lanteri ordered us to fall in, none moved or spoke. I have been warned that I did not have to make a statement and if so it ~~would~~ might be taken against me in court. I have nothing to gain or loose by making this statement.

R. Leroux

B. 89024 Loughlin A. 97
#3 Sub. Section

I was there when Sgt Vor-
ten told us at 1600 hrs that
there would be a parade at
1915 hrs I was ready to go
on parade, when I saw that
no one was falling, I stayed
where I was in my hut
Pte Thompson told me there
was no use going on para-
de, because no one was going.
Pte Lavoie was also talking
to a group of men but
as he was talking in French
I could not understand, but
I think he was talking a-
bout the parade.

A Loughlin

P6

E-[illegible]377 (Ouellette). 94

#2 Sub-Section

Le Sgt Fortin nous a dit dans l'après-midi sur la parade, qu'il y avait une parade à 1915 hrs le même jour.

Le soir en question j'étais malade, mais je ne me suis pas rapporté à R.A.P. Je n'étais pas sur le terrain lorsque le Cpl Gagné a ordonné la parade, j'étais aux latrines.

Je n'ai pas entendu personne disant qu'il ne tomberait pas en parade seulement plus tard on me dit que j'étais "Peu arrest"

Roland Ouellette

P 7

E 14074 Pte Grogan W.

#1 Sub Section 107

On the 28th July 1941, I had hash which was burnt and which I did not eat and fish which I could not eat, because it gives me heartburn. I complained to Lieut. Gosselin the orderly officer. I had supper at around 5.30 p.m.

I was present at the 1600 hrs parade when Sgt Fortin told us to be on parade, for a night patrol at around 1900 hrs or 1915 hrs. When the time came to go on parade, I was hungry, and along with the others did not fall on parade.

B Grogan

P8
Jom

E-14[illegible]0 Pt Hudon 103

#1 Sub Section.

I did not feel well enough to fall on parade, as I had a light supper. I had bread, fish, jam, new-potatoes and tea.

I was on the 1600 hrs when Sgt Fortin told us that we had a parade at 1905 hrs. I was also there when Cpl Lantier ordered us to fall in at around 1905 hrs. I was with a bunch of fellows under a tree in front of my hut. I was fully aware of what I was doing.

Pt Hudon

P9

B-60 24 Neale C. 105

#2 Sub. Section

I had a very light supper; bread, fish, margarine, jam, potatoes and tea. As I had had a big day, after supper I decided on my own not to go on parade. I knew I had a parade for 1845 hrs.

I was there when Cpl. Gagne ordered us to fall on parade. I neither moved or spoke. I sat where I was on my bed and stayed there.

Neale A.V.

P 10
Jan

E-14 [illegible] Dufour E. 107

#1 Sub-Section

Je n'avais pas pris un gros souper, alors j'ai décidé avec les autres de ne pas tomber en parade.

J'ai mangé du poisson, pain, margarine et thé, il y avait de la confiture et du fromage mais je n'en mange pas.

Après le souper, je suis allé à la hutte. Le sgt Dortin avait dit sur la parade dans l'après-midi vers 1600 hrs qu'il y avait une parade ~~les~~ soir à 1915 hrs. Comme le monde avait décidé de ne pas y aller, je fis la même chose, j'avais aussi mal à un pied.

Le Cpl Lantier ~~[illegible]~~ vers 1905 hrs, ordonne la parade.

P 11 Jan

mais personne ne bougea, il
nous a alors mis sous arrêts.

Emile Empuri

14267 Hogan H. 109

#1 Sub. Section

I was told by Sgt. Fortin about the 1915 hrs parade, and I was ready to go. I was satisfied about the food, we don't get the same quantity as in Canada, but it's good food. I was nearly obliged to get in with the rest, because as soon as I got out of my hut, they called me over with them, on the other side of the road.

When Cpl. Lantier called the parade, no one moved, I was waiting to fall in, but I could not fall in alone. Cpl. Lantier then told us, that we were all under open arrest.

They seemed to be dissatisfied with the quantity of the food, and that

P12

is why they did not fall on parade

William Hogan.

110

14380 Demers A. 111

, sub. Section

Le Cpl Lantier nous a dit qu'il y avait une parade le soir à 1915 hrs. Je ne suis pas tombé sur la parade parce que personne ne voulait y aller.

Je ne puis vous dire pourquoi exactement, la nourriture était le sujet de conversation, ils parlaient tous ensemble. J'aurais tombé sur la parade si j'en avais eu d'autre avec moi.

a Demers

P13 Join

113

E-1[illegible]39 Pernier [illegible]

#2 Sub Section

Je n'ais pas tomber en parade parce que je me sentais faible, nous avions eu un petit souper; pain, margarine, confiture, thé. Le Sgt Poitin nous a dit sur la parade de 1600 hrs, que nous devions faire une parade a 1845 hrs. Lorsque le Cpl. Gagné ordonna la sous-section de tomber en parade, personne ne bougea.

Au souper je fis une plainte a l'officier du jour, que je n'avais pas assez de nourriture, et que après le route march si je pourrais avoir un lunch. Il me dit que le C.C. Section était celui qui decidait cela.

P14

Le Cdt. a ordonné la sous-section, deux fois de conduite en parade, et a donné environ 5 minutes pour les hommes, de liberté.

F. Bernier

D-36496 Leroux R. 115

#1 Sub Section

I was there on the 1600 hrs parade when Sgt. Norton told us about the 1915 hrs parade, and my intention was to go.

After supper, as I was sitting down with the men, they were all saying that they would not go on parade, but I can't remember their names. I then said to myself if I go, something might happen to me, so I just stayed where I was.

When Cpl. Lanteer ordered us to fall on parade, no one moved or spoke.

R. Leroux

P 15

Statements of the accused. 117

E 14021 Dubeau J.

H.Q. Sub Section

Le Sgt. Fortin m'a dit vers 1645 hrs que nous étions supposé avoir une parade vers 1915 hrs.

Je ne suis pas tombé en parade, parce que je me sentais incapable d'y aller, affaibli par le marque de nourriture. Pour le souper, j'ai mangé du poisson, du pain, de la margarine et du thé. Je ne suis pas certain s'il y avait du fromage.

Lorsque la parade a eu lieu, j'étais sur le chemin qui conduit à la garde centrale. Je suis retourné à ma tente vers 2030 hrs.

P16

Jules Dubeau

B-60853 Thompson F. L. 119
#3 Sub Section

I have missed the parade because the meals were bad. When Sgt Porter told us to fall in, I like most of the others, did not say or do anything. I know that I have done wrong and I've learned my lesson.

F Thompson (B60853)

P 17

E-1[illegible]70 Thériault A. 121

#2 Sub-Section.

J'étais présent sur la parade de 1600 hrs lorsque le Sgt. Vortin nous a dit qu'il y avait une parade à 1915 hrs.

Lorsque le Cpl Tagné a ordonné la parade à 1905 hrs, j'étais l'autre coté de la hutte sur le bord du chemin. Personne ne bougea alors je fis de même, je me sentais incapable de faire la parade car je n'avais pas eu un gros soupes. Pour le soupes j'ai mangé; du poisson, pain, margarine de la confiture et du thé. (~~je savais ce que je faisais en me tombant pas en parade~~) Thériault A

P 18

E- 1[illegible]59 Belleau [illegible] 123

2 Sub Section

J'ai appris durant le souper qu'il y avait une parade a 1915 hrs, les hommes en parlaient. J'étais en face la hutte lors que le Cpl Gagné a ordonné les hommes de tomber en parade. Personne ne bougea, ou parla, alors je fis la même chose.

Georges Belleau

P19

E-361 Bouchard P.E. 125

#2 Sub Section

J'étais sur la parade a 1600 hrs lorsque le (Cpl) Sgt Porter a ordonné la parade pour 1915 hrs.

Après le soupet je suis allé dans le bois faire une marche, et me reposer. Lorsque je suis retourné a la hutte la parade avait eu lieu et j'étais en retard, il était plus tard que je pensais, j'étais seul

P.E. Bouchard

P 20

E-14[illegible]28 Gagné L. 127

2 Sub Section

Je n'ai pas tombé sur la parade parce que je me sentais faible. Pour le souper j'ai mangé, du pain, poisson margarine, et du thé. Sur la parade de 1600 hrs, le Sgt. Fortin a peut-être dit qu'il y avait une parade à 8-5 hrs. mais je ne suis pas certain, je ne l'ai pas compris. Lorsque le Cpl. Gagné a ordonné la sous section en parade à 1900 hrs je l'ai entendu de ma hutte, mais je n'ai pas tombé sur la parade, je me sentais trop faible, j'étais au pied de mon lit. Je n'ai pas entendu personne disant qu'il ne tomberait pas

P 27

en Saiade

Les Paul Yogni

128

E-14[illegible]63 Beaulac 129

#2 Sub-Section

Je savais qu'il y avait une parade à 1915 hrs. Après le souper, je suis allé à la Cantine, il était vers 1815 hrs et je suis arrivé en retard pour la parade. J'étais avec J. Boutet de la section "D" alors l'on me mis sous "Sen-arrêt"

Henri Beaulac

P 22 Jour

E 2 77 Belley L. B. 121

#2 Sub-Section

J'étais présent sur la parade de 1600 hrs, lorsque le Sgt Fortin nous a dit qu'il y avait une parade à 1915 hrs.

Lorsque le Cpl Gagné a ordonné la parade à 1905, j'étais dans le bois couché, alors je n'ai pas entendu le commandement. En retournant dans ma hutte on m'a dit que j'étais sous-arrêt

Louis Ph Belley.

P 23

E. 1[illegible]91 Pettigrew P. 133

#3 Sub. Section

Vers 1900 hrs le 2 Jeff Roy est venu dans la hutte et me dit que la parade aurait lieu dans 10 minutes. Dans l'après-midi je suis allé à R.A.P. pour avoir des aspirines car j'avais mal à la tête et mon mal de tête n'était pas mieux, alors vu qu'il n'y avait personne sur la parade, je suis resté dans la hutte.

Je ne savais pas qu'il y avait une parade le soir. Je n'était pas sur la parade à 1600 hrs.

F. Pettigrew

P 29

Alphonse Verrault 2 Can Div Amm
Coy RCASC - Cavfs)

135

I did not fall in on parade because I did not know there was a parade. I was not there when Sgt Fortin told us about the parade. Cpl Bertrand was on guard at the time of parade and that is why I did not fall in on parade.

The supper that night was enough for me as I was not hungry. I did not hear during the day of anyone not wanting to go on parade.

E.D.

P. A. Verrault

P 25 A

E 14 Vereault C. A. #3 137

I did not fall on parade because I did not know there was a parade I was not there when Sgt Gorlin told us about the parade in the afternoon ~~evening~~. My Cpl. of sub-section Cpl. Bertrand was on guard at the time of the parade and that is why I did not fall on parade.
The supper that night was like usual and enough for anyone to give him strength to go on a rout march after.
I did not hear before during the day about anyone not wanting to fall on parade.
I have been warned that I need not make a statement and that it may be used against me in court I need not fear to gain or loose anything by making this statement

P. J. Vereault

P. 25 B Jan

I have been warned that the evidence I gave may be used against me in court I have nothing to gain or loose by ~~dor~~ giving this evidence

Douglas Connell

B 60824 Neale C. N. Q. A. Sect.

I had a very light supper, Bread, fish, butter, Jam, potatoes, tea, as I had had a big day, after that supper I decided on my own not to go on parade. I knew I had a parade for 1845 hrs. I was there when Cpl. Gogue ordered us to fall on parade. I neither moved or spoke. I sat where I was on my bed and ~~the~~ stayed there.

I have

I have been warned the this evidence might be taken against me in court I have nothing to gain or loose by giving this evidence.

Neale C.

821

B-95580 Pte Baker E. 139

#1 Sub. Section.

I did not fall on parade because I was hungry, as I had not enough for supper. I had fish, bread, new potatoes, jam and tea.

I was on the 1600 hrs parade when Sgt Fortin told the Sect. that there was a parade at 1915 hrs. I was also there when Cpl. Lantier gave us the command to fall on parade at around 1905 hrs. At the time I was in front of my hut with a group of men. Pte Connell was with me. I did not hear anyone saying that he would not fall on parade. I for myself knew what I was doing by not falling on parade.

Ernest J. Baker

P 26 Jm

E-14089 Cte L'Heureux R. 141
1 sub-section.

Le Sgt Vortin nous a dit sur la parade de 1600 hrs, qu'il y avait une parade a 1915 hrs. Après le souper je me reposa un peu avant la parade. Dix minutes avant la parade je me suis mis prêt pour y aller.

Lorsque le Cpl Lantier ordonné la sous section a tomber en parade, (~~sur~~ Sur) personne ne bougea alors je fis la même chose. J'avais peur qu'on me fasse un mauvais parti si j'etais seul en parade, car plusieurs en parlaient, J.C. ne puis vous dire qui, car je n'ai pas bien remarqué. J'aurais voulu tomber en parade car j'aime

P27 jm

un route-march et aussi fai-
re de la garde B. J. Lemieux

147

K. 1441 Billingsley A. 143

#2 Sub Section

I knew about the 1915 hrs. Sgt. Porter had told us.

I did not fall on parade because the others would not, and I followed. When Cpl. Gagni ordered us to fall, I was there but did not move.

Alfred Billingsley.

P 28 Jan

E-14[illegible]92 Beaulieu Leonard 145
#2 sub-section

I was present at 1600 hrs when we were told to parade for night patrol at 1845 hrs. At supper I had fish, bread, tea. After supper I went out and fooled around until 1830 hrs, after I went to my hut.

When Cpl. Gagné called the parade twice, I was with the rest of the boys in front of the hut. I like the others did or said nothing. When I went in the hut at 1830 hrs I heard the boys talking about not going on parade, because they were hungry. I told them we had better go on parade, if we have anything to do, we

P29 [illegible]

can explain these." Some of the boys said "We are not going on parade", so I did not go on parade, either.

Leonard Bisschin

971

E 14474 Connell D. 147

" 1 Sub Section.

I was told by Sgt. Fortin in the afternoon to fall on parade at 1915 hrs that evening. The supper was very little, bread, meat, potatoes, jam, butter and tea. After supper I decided on my own not to fall in.

When Cpl Lantier told the sub section to fall I did'nt move or speak, he then told us that we where under open arrest. I decided on my own that I would not fall in.

Douglas Connell

P30 pm

Abstract of [illegible] E 14124 Ste Georges Levesque 2 Can. Div. Ammn Coy RCASC - Ca (ofs)

I knew of the 1915 he parade as Sgt Fortin told us about it during the afternoon, but I did not feel capable of going as I did not have enough to eat for supper when I had fish bread jam and tea. I was also present when Cpl Gayne told us to fall in on parade but as no one moved or spoke I did likewise staying where I was.

Georges Levesque.

P31 pm:

Supplement to Page 3, of Army Form A.3

FIELD GENERAL COURT MARTIAL

Promulgated and extracts taken in the cases of the u/m Personnel of the 2 CDN. DIV. AMN. COY. R.C.A.S.C. - C.A.O/s.

E-14065 Pte. LEBLOND, H.

B-89024 Pte. LOUGHLIN, A.

E-14377 Pte. OUELLETTE, J.R.

B-60824 Pte. NEALE, V.C.

E-14074 Pte. GROGAN, W.

E-14040 Pte. LAVOIE, A.

E-14450 Pte. HUDON, Jos.

E-14213 Pte. DUFOUR, E.

E-14267 Pte. HOGAN, W.

E-14380 Pte. DEMERS, A.

E-14439 Pte. BERNIER, G.

D-36490 Pte. LEROUX, R.

E-14021 Pte. DUBEAU, J.

B-60853 Pte. THOMPSON, F.L.

E-14370 Pte. THERIAULT, A.

E-14059 Pte. BELLEAU, G.

E-14361 Pte. BOUCHARD, J.P.E.

E-14323 Pte. GAGNE, L.P.

E-14363 Pte. BEAULAC, H.

E-29377 Pte. BELLEY, L.P.

E-14091 Pte. PETTIGREW, F.

E-14072 Pte. VERREAULT, P.A.

B-95580 Pte. BAKER, E.J.

E-14089 Pte. L'HEUREUX, R.
E-14441 Pte. BILLINGSLEY, A.
E-14292 Pte. BEAULIEU, L.
E-14479 Pte. CONNELL, D.
E-14124 Pte. LEVESQUE, G.

(a) (Dated) .. 1 September 1941 .. (Signed) P.H. Savard
1st. September, 1941 (P.H. Savard) Maj
2 Cdn Div Amn Coy. RCA
Canadian Army Overse

I have this morning examined No: E-29377 Pte. BELLEY, L.P. ✓
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fie ld.
20-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div ~~XXXXXX~~ RCASC, Overseas.

I have this morning examined No. E-14040 Pte. LAVOIE, A. ✓
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is ~~unfit~~ fit
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div Amn Coy RCASC. Overseas

I have this morning exa ed No. E-14450 Pte. HUDON, Jos. ✓
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martia.

Field.
19.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this mor. g examined No. E-14363 Pte. BEAULAC, H. ✓
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morn. g examined No: E-29377 Pte. BELLEY, L.P. ✓
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

have this morning examined No: E-14441 Pte. BILLINGSLEY, A.
2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
undergo trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

ield.
-8-41.

have this morning examined No: B-95580 Pte. BAKER, E.G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major,
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-14089 Pte. L'HEUREUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morni examined No: E-14361 Pte. BOUCHARD, J.P.E.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

morning examined No: E-14323 Pte. GAGNE, L.P.
Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

examined No: E-14363 Pte. BEAULAC, H.
Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14441 Pte. BILLINGSLEY, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14091 Pte. PETITGREW, F.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major,
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., -Overseas-

I have this morning examined No: B-95580 Pte. BAKER, E.J. - of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14089 Pte. L'HEUREUX, R. - of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div ~~XX~~ R.C.A.S.C., Overseas.

I have this morning examined No: E-14059 Pte. BELLEAU, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., -Overseas-

I have this morning examined NO: E-14072 Pte. VERREAULT, P.A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

FIELD.
19.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overse as.

I have this morning examined No: E-14124 Pte. LEVESQUE, G. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined NO: E-14292 Pte. BEAULIEU, L. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

FIELD.
19.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14370 Pte. THERIALUT, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field,
19.8.41.

Major,
Medical Officer, Att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14476 Pte. CONNELL, D.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, Att'ed,
2 Cdn Div ~~XM~~ R.C.A.S.C., Overseas.

I have this morning examined No: E-14380 Pte. DEMERS, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

Field
20-8-41.

I have this morning examined No: E-14074 Pte. GROGAN, W.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

Field
20-8-41.

I have this morning examined No: E-14059 Pte. BELLEAU, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

George S. Magee Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

Field
20-8-41.

I have this morning examined No: E-14072 Pte. VERREAULT, P.A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

George S. Magee Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

Field
20-8-41.

I have this morning examined No: E-14091 Pte. PETITGREW, F.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field
20-8-41.

Major,
Medical Officer, Att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14292 Pte. BEAULIEU, L.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

Bundle of Medical Certificates. Exhibit E

George J Mayer Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14476 Pte. CONNELL, D.
of 2 Cdn Div Amn Coy RCASC, in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George J Mayer Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14124 Pte. LEVESQUE, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George J Mayer Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14439 Pte. ~~EAR~~ BERNIER, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George J Mayer Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14370 Pte. THERRIAULT, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George J Mayer Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14292 Pte. BEALIEU, L.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major,
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: B-60853 Pte. THOMPSON, F.L.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div ~~RCASC~~ RCASC, Overseas.

I have this morning examined No: D-39490 Pte. LEROUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

Field.
20-8-41.

I have this morning examined No: E-14439 Pte. BERNIER, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-14021 Pte. ~~MX~~ DUBEAU, J.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have thi morning examined No: E-14124 Pte. LEVESQUE, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

George S. Morgan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas

I have this morni examined No: E-14476 Pte. CONNELL, D.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

George S. Morgan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14370 Pte. THERRIAULT, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fie ld.
20-8-41.

George S. Morgan Major.
Medical Officer, att'ed,
2 Cdn Div ~~XXXXXX~~ RCASC, Overseas.

I have this morning examined No: E-14040 Pte. LAVOIE, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

George S. Morgan Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-14450 Pte. HUDON, Jos.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

George S. Morgan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morn g examined No: E-14213 Pte. DUFOUR, E.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field,
20-8-41.

Geo S Mogan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C. Overseas.

I have this morning examined No: E-14267 Pte. HOGAN, W.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Geo S Mogan Major.
Medical Officer, att'ed,
2 Cdn Div ~~XXXXXX~~ RCASC, Overseas.

I have this morning examined No: E-89024 Pte. LOUGHLIN, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

Geo S Mogan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14065 Pte. LEMDOND, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field,
20-8-41.

Geo S Mogan Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C. Overseas

I have this morn g examined No: E-14377 Pte. OUELLETTE, J.R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field,
20-8-41.

Geo S Mogan Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C. Overseas.

I have this morn g examined No: B-60824 Pte. NEALE, C.V.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fie ld.
20-8-41.

George S Magee Major.
Medical Officer, att'ed,
2 Cdn Div ~~XXXXXXX~~ RCASC, Overseas.

I have this morning examined No: B-60853 Pte. THOMPSON, F.L.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19-8-41.

George S Magee Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No. D-36490 Pte. LEROUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41

George S Magee Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No. E-14021 Pte. DUBEAU, J.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

George S Magee Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No. E-14439 Pte. BERNIER, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is ~~unfit~~ fit
to undergo trial by Court Martial.

Field.
19.8.41.

George S Magee Major.
Medical Officer, att'ed
2 Cdn Div Amn Coy RCASC. Overseas.

I have this morning examined No. E-14361 Pte. BOUCHARD, J.P.E. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Field,
19.8.41.

Major,
Medical Officer, att'ed
2 Cdn Div Amn Coy RCASC, Overseas.

I have this morning examined No. E-14323 Pte. GAGNE, L.P. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field,
19.8.41.

Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this mor ng examined No: E-14267 Pte. HOGAN, W. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field,
19-8-41.

Major,
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No. E-14377 Pte. OUELLETTE, J.R. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field,
19.8.41

Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morni examined No. B-89024 Pte. LOUGHLIN, A. of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~ to undergo trial by Court Martial.

Field.
19.8.41.

Major,
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morni examined No: E-29377 Pte. BELLEY, L.P.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morni examined No: E-14091 Pte. PETITGREW, F.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14363 Pte. BEAULAC, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

I have this morning examined No: E-14021 Pte. DUBEAU, J.
of 2 Cdn Div Amn Coy RCASC, in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: B-89024 Pte LOUGHLIN, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

morning examined No: E-29377 Pte. BRILEY, L.P.
Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

George S. Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

morning examined No: E-14091 Pte. PETIGREW, F.
Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

George S. Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

is morning examined No: E-14363 Pte. BEAULAC, H.
Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

George S. Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

is morning examined No: E-14021 Pte. DUBEAU, J.
Div Amn Coy RCASC, in my opinion he is fit ~~or unfit~~
trial by Court Martial.

George S. Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

is morning examined No: E-89024 Pte. LOUGHLIN, A.
Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
trial by Court Martial.

George S. Morgan Major,
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

I have this morning examined No: D-36490 Pte. LEROUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14377 Pte. OUELLETTE, J.R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: B-60824 Pte. NEALE, C.V.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14074 Pte. GROGAN, W.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14361 Pte. BOUCHARD, J.P.E.
of 2 Cdn Div Amn Coy RCASC, in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14323 Pte. GAGNE, L.P.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14450 Pte. HUDON, J.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14040 Pte. LAVOIE, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

Major.
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

I have this morning examined No: E-14213 Pte. DUFOUR, E.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14380 Pte. DEMERS, A.
of 2 Cdn Div Amn Coy RCASC, in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14267 Pte. HOGAN, W.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14065 Pte. LEBLOND, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: B-95580 Pte. BAKER, E.J.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14072 Pte. VERREAULT, P.A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

I have this morning examined No: E-14089 Pte. L'HEUREUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14441 Pte. BILLINGSLEY, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: B-60853 Pte. THOMPSON, F.L.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21-8-41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC- Overseas.

I have this morning examined No: E-14059 Pte. BELLEAU, G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
21.8.41.

George S Morgan Major.
Medical Officer, att'ed
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14074 Pte. GROGAN, W.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., -Overseas-

I have this morning examined No: B-60824 Pte. NEALE, C.V.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No. E-14065 Pte. LEBLOND, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed
2 Cdn Div Amn Coy RCASC. Overseas.

I have this morning examined No. E-14213 Pte. DUFOUR, E.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14380 Pte. DEMERS, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed.
2 Cdn Div R.C.A.S.C., -Overseas-

I have this morning examined No: B-95580 Pte. BAKER, E.G.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

George S. Monger Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-14089 Pte. L'HEUREUX, R.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

George S. Monger Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14361 Pte. BOUCHARD, J.P.E.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

George S. Monger Major.
Medical Officer, att'ed
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-14323 Pte. GAGNE, L.P.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Fiedl.
20.8.41.

George S. Monger Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-14363 Pte. BEAULAC, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

George S. Monger Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C.-Overseas.

I have this morning examined No: E-29377 Pte. BELLEY, L.P.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

I have this morning examined No: E-14441 Pte. BILLINGSLEY, A.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
20-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No. E-14450 Pte. HUDON, Jos.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41.

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No. E-14363 Pte. BEAULAC, H.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19.8.41

Major.
Medical Officer, att'ed,
2 Cdn Div R.C.A.S.C., Overseas.

I have this morning examined No: E-29377 Pte. BELLEY, L.P.
of 2 Cdn Div Amn Coy RCASC, and in my opinion he is fit ~~or unfit~~
to undergo trial by Court Martial.

Field.
19-8-41.

Major.
Medical Officer, att'ed,
2 Cdn Div RCASC, Overseas.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th, 20th, 21st, 22nd of August, 1941, and duly tried the persons named in the Schedules, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of ~~that Schedule~~ the two pages of the said Schedules

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~ Shorthand writer)

were duly sworn.

* Omit if not applicable.

Signed this twenty second day of August 1941.

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this [illegible] day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 28 day of August 1941.

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

5 H-144

Pte. Leboeuf F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-46311 Pte LEBOEUF F, Fus MR, 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 15(1)	Guilty	Guilty	
2nd		~~Guilty~~ NG		
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To undergo detention for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for six months

(Sgd) ..... 23 Feb 45 (Sgd) A J Osler major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3); RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) ..... (G S N Goetling) Brig
Date 24 FEB 45 Commanding 2 CDN BASE RPT GP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-46311 Pte Leboeuf F	26 Feb 45	..... Lt-Col Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CR 6/
d/23FEB45

RECORDED AT CMHQ IN AB 160 5H-144

25 MAY 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

(CPA66 (In lieu of AFA3) 40/P & S/1698 (40-6)P 4/38B)

Convened by Brig G S N Goetling, ED Comd 2 CBRG dated 22 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 306, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46311	Pte		F	LEBOEUF	Fus MR, 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
J.P. Grayson Capt 25 May 45

PROCEEDINGS OF TRIAL

REVIEWING OFFICER JAG BRANCH C.M.H.Q. BELGIUM on (date) 23 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(F), RP 46 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S OSLER, RCA, I-S List, att 3 CDN NETD		
Member	Capt	J P G Grayson	CIC	13 Bn 2 CBRG
Member	Lt	J Y Valanté	CIC	10 Bn 2 CBRG
Judge-Advocate		nil		
Prosecutor	Lt	J P Grayson	CIC	10 Bn 2 CBRG
Defending Offr	Lt	W H Sparrow	CIC	10 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Nil. (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 86 (3) and fn 2 seem not followed. See D1 p 2.)

A8. The accused D-46311 Pte LEBOEUF F. before arraignment make(s) (no) ~~(or plea)~~
(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submission made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is advised~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRGVol 7 p 145

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accusd and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes/s his (their) pleas) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (f).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereupon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D6.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 47(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(1. *MFB 355 or AFB 296.* 2. *MFM 8.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes in mitigation of punishment (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, RP 46. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

P20

CHARGE SHEET

The accused, D-46311 Pte LEBOEUF F, Les Fusiliers Mont-Royal, on strength of 1 Cdn Disciplinary Centre, a soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he
In the Field, at 2359 hrs on 13 Jan 45, did absent himself without leave until he surrendered himself in BRUSSELS, Belgium at 2215 hrs on the 20 Jan 45. (Total time absent 15 days 22 hrs 15 minutes)

(A C Wood) Lt-col
OC 1 Cdn Disciplinary Centre

In the Field
21 Feb 45

To be tried by Field General Court-Martial

(G S T Gosling) Brigadier
Comd
2 Cdn Base Rft Gp

In the Field
22 Feb 45

P10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46311	Pte		F	LEBOEUF	Fus MR; 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 FEB 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S OSLER,	RCA, X-9 List, att 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC 13 CBR Bn	13 CBR Bn
Lieutenant	to be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 22 FEB 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Gostling)

Commanding 2 CDN BASE REPT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/16WT (8143)

(See overleaf for points and notes for use at trial.)

P10.

MEDICAL OFFICERS CERTIFICATE

(ER(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D. 46311 (No.)

Pte. (Rank) Lebouf (Name) F. and in my opinion he is

~~fit~~ unfit to undergo trial by Court-Martial.

Station C. Disc. C

Date. 23 Feb 45

(Sgd)
Medical Officer
(unit) C. Disc. Centre

P.J.O

Plea in mitigation

Was not apprehended but surrendered himself to N.P.S. Pte Le Boeuf absented himself while under severe mental strain caused by disturbing news from home relating to his Wife & family Pte Le Boeuf is quite prepared & willing to return to his Unit at anytime.

W.H. Sparrow Lt.

P.J.O

Exhibit A p30

Summary of Evidence in the case of D-46311 Pte LEBOEUF F, Les Fusiliers Mont-Royal, on strength 1 Can Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from FMR Pt II Order No 9 dated 10 Feb 45.

Exhibit "B" - Certification of apprehension dated 30 Jan 45.

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A The accused made the following statement not on oath.

STATEMENT BY ACCUSED

I, D-46311, Pte LEBOEUF F received a letter from my sister-in-law who told me that conditions at home were not good, that my wife was not taking proper care of my child, and other things concerning my wife that were very disturbing. This news discouraged and depressed me and I lost interest in my Army work and went AWL for a few days, hoping that the change of environment would help me to get a more cheerful attitude towards things at home. I now realize that this was the wrong thing to do under the circumstances.

The above is an English translation of the statement made by Pte LEBOEUF. He had the English translation translated back into French and concurs with the morning and letter of the statement so recorded

J F Rutherford

(J F Rutherford) Capt
R C Signals
Officer detailed to take Summary of Evidence

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP4(C) (D) (E) (F) and (G) have been complied with.

(J F Rutherford) Capt
R C Signals
Officer detailed to take Summary of Evidence

Dated in the Field
17 Feb 45

EXHIBIT "A"

PART II ORDER EXTRACT FORM

99/20/ FWB/1(A.5c)

TO:

10 FEB 19 45

EXTRACTS FROM: UNIT LES FUSILIERS MONT-ROYAL

Part II Order No. 9 dated 10 FEB 45

ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 13 JAN 45 App 2215 hrs 29 JAN 45
D46311 Pte LEBOEUF F

This is exhibit A referred to in the Summary of Evidence in the Case of D46311 Pte Lebeauf F taken before me this 17 day of Feb 45
J.F. Rutherford Capt.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

JRRB
Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
40/P & S/1276 (6704)

EXHIBIT B.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) J

I A/Capt. J. Tweddle, OC 2 Cdn L of C Provost Coy Certify that

Reg No D-46311, Rank Pte. Name LEBOEUF F.

REGIMENT "A" Coy, F.M.R.

UNIT 2 Cdn Div.

STATIONED AT FIELD

Surrendered himself to No L22669, Rank L/Cpl. Name BRYAN F.J.

of the 2 Cdn L of C Provosts Corps, Cdn Provost Corps.

on the 29 Day of Jan 1945 at 2215 Hours,

AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) or
(xxxxxxxx xxxxxxxx.

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of his Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender

Field 30 Jan 45

This is EXHIBIT "B" referred to in the Summary of Evidence in the case of D #311 Pte Leboeuf F.

(J. Tweddle) A/Capt.
OC 2 Cdn L of C Provost Coy.

21 2 B.

taken before me this Day of Feb 45 J. F. Rutherford Ca

Exhibit B pso

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D46311	PTE	LEBOEUF F.	Fus. MR.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA15(1)	1 times	2. times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~23~~ 25 pso days in military custody, making a total of ~~23~~ 25 pso days, of which NIL days were spent in hospital.*

5. The present age of the accused according to his record of service ~~attestation paper~~ is 28

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 22 Aug 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C.V.S.M. avid clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____, and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*25800) Wt.34898/1730 20,000 10/43 A. & E. W. Ltd. Gp.698
(26906) Wt.35934/1499 12,000 2/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of Feb 45

Capt, I Cdn Disciplinary Centre

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years.

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTIONS—If any matter in any of the above five columns cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

Exhibit C pso.

D46311
No.

Name LEBOEUF Florian

Sqn, Battery, or Company

Corps CIC

Date of enlistment 22 Aug 40

GC Badges

Service or Proficiency Pay $1.50

3/17 MFM 6 (AFB 136) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		AA 15(1) AWL from 2300 hrs 3 OCT 43 to 2230 hrs 4 OCT 43 (Absent 23 hrs 30 mins)		7 days CB 7 days pay FR&I 149(2)	5 Oct 43	CO	1 days pay FR&I 149(1) (a)
		Pte		AA 15 (1) AWL from 2359 hrs 5 DEC 44 to 1020 hrs 14 DEC 44 (Absent 8 days 10 hrs 21 mins)		14 days pay FR&I 149(2)	27 DEC 44	CO	9 days pay FR&I 149(1) (a)

"DUPLICATE CREATED FROM MFM 4(17 FEB 45) RECORD OF CONDUCT IN CANADA NOT AVAILABLE"

"J R FENELON" Captain
for Officer i/c Records
Cdn Sec 2nd Ech HQ 21 A Gp

Certified True Copy of MFM 6 in my possession

A O Hood

(A O Hood) Lt-col
OC 1 Cdn Disciplinary Centre

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13Jan 45	Pte		AA sec 15(1) AWL from 2359 hrs 13 Jan 45 until 2215 hrs 29 Jan 45 Total absence: 15 days 22hrs 15 mins.	Documentary	16 Days pay 180 days pay 25 days pay	23 Feb45		FR&I 149(1)a FR&I 149(1)b FR&I 149(1)(c)(ii)

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from FMH Pt II Order No 9 dated 10 Feb 45 "A"

Certification of apprehension dated 30 Jan 45 "B"

I, D-46311 Pte LEBOEUF F hereby certify that I have ~~received~~ READ one (1) copy of charge sheet and one (1) copy of Summary of Evidence free of charge on 23 February 1945.

F Leboeuf

D-46311 Pte LEBOEUF F

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-46311 Pte LEBOEUF F, Pus MR, 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd	~~Guilty~~ F.O.		
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for six months.

(Sgd) ..... 23 Feb 45 (Sgd) "P S Osler" Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) c FOO

(1. AA 57A. Delete if not used.)

(Sgd) "G S K Gostling"
(G S K Gostling) Brig

Date 24 Feb 45

Commanding 2 CDN BASE RMT GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D46311 Pte Leboeuf F	26 Feb 45	"A C Wood" Lt (Adj) Comdg 1 Cdn Disciplinary Centre

CF 61
1/21Feb45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5H-144

FIELD GENERAL COURT-MARTIAL

CFAA96 (In lieu of AFAA) 40/P & B/1608 (H144) 4/38B

Convened by Order of Brig G S K Gostling, ED Comd 2 CBRG dated 22 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46311	Pte		F	LEBOEUF	Pus MR, 1 Cdn Disciplinary Centre

ADJT.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date*(1)) 26 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/145

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn BOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to~~ as Interpreter ? Ans

~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	P S Osler,	RCA x/9 List, att 3 Cdn RETD
Member	Capt	J P S Gagnon	CIC 13 Bn 2 CBRG
Member	Lt	JY Vilandre	CIC 10 Bn 2 CBRG
Judge-Advocate			
Prosecutor	Lt	J P Gougeon	CIC 10 Bn 2 CBRG
Defending Offr	Lt	W H Sparrow	CIC 10 Bn 2 CBRG

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-46311 Pte LEBOEUF F, before arraignment make(s) (no) (~~a~~) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Do you intend to call witnesses on your behalf ? Ans. Are they witnesses as to character only ? Ans.
(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6, respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFW 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes in mitigation of punishment (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(15), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-46311 Pte LEBOEUF P, Les Fusiliers Mont/Royal, on strength of 1 Cdn Disciplinary Centre, a soldier of the Canadian Army placed on Active service, is charged with:-

CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 2359 hrs on 13 Jan 45, did absent himself without leave until he surrendered himself in BRUSSELS, Belgium at 2215 hrs on the 29 Jan 45. (Total time absent 15 days 22 hrs 15 minutes)

In the Field
21 Feb 45

"A C Hood"
(A C Hood) Lt Col
OC 1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial.

In the Field
22 Feb 45

"G S N Gostling"
(G S N Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

PSO

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAB) 40/FAR/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D46311	Pte		P	LEBOEUF	Pnx MR, 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~," To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for referrals to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint~~ (a) three Offrs ~~to form~~ the Court, (b) a Fd Offr ~~as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat~~ the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S OSTER	RCA, X-9 List, att 3 Cdn MTTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC 13 CSR Bn	13 CSR Bn
Lieutenant	To be detailed by OC 10 CSR Bn	10 CSR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

"G S N Gostling" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G S N Gostling)

Date 22 Feb 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 557) PSO
(CMHQ CL 173)

I certify that I have this day examined D 46311

Pte Lebeouf F and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station 1 C Disc C

Date 23 Feb 45

"A A Toms" Capt
Medical Officer
1 C Disc Centre
Unit

PLEA IN MITIGATION

Was not apprehended but surrendered himself to MP's. Pte Le Boeuf absented himself while under severe mental strain caused by disturbing news from home relating to his Wife and Family. Pte Le Boeuf is quite prepared and willing to return to his unit at anytime.

"W H Sparrow" Lt

P SO

Exhibit A PSO

Summary of Evidence in the case of D-46311 Pte LEBOEUF P, Les Fusiliers Mont-Royal, on strength of 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from PMR Pt II Order No 9 dated 10 Feb 45

Exhibit "B" - Certification of apprehension dated 30 Jan 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anyting or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. The accused made the following statement not on oath.

STATEMENT BY ACCUSED

I, D-46311, Pte LEBOEUF P received a letter from my sister-in-law who told me that conditions at home were not good, that my wife was not taking proper care of my child, and other things concerning my wife that were very disturbing. This news discouraged and depressed me and I lost interest in my Army work and went AWL for a few days, hoping that the change of environment would help me to get a more cheerful attitude towards things at home. I now realize that this was the wrong thing to do under the circumstances.

The above is an English translation of the statement made by Pte LEBOEUF. He had the English translation translated back into French and perceives with the meaning and letter of the statement so recorded.

"J P Rutherford"
(J P Rutherford) Capt
R C Signals
officer detailed to take Summary of Evidence

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

(J P Rutherford) Capt
R C Signals
officer detailed to take Summary of Evidence

Dated in the Field
17 Feb 45

PART II ORDER EXTRACT FORM Exhibit "A"

99/[illegible]/FMR/1(A.5c)

TO:

10 FEB 1945

EXTRACTS FROM: UNIT.... LES FUSILIERS MONT-ROYAL

Part II Order No. 9 dated 10 FEB 45.

ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 13 JAN 45 App 2215 hrs 29 JAN 45
D46311 Pte LEBOEUF F

This is exhibit A referred to in the Summary of Evidence in the Case of D46311 Pte Leboeuf F taken before me this 17 day of Feb 45
"J F Rutherford" Capt

Certified to be a true extract from the regimental books and documents in my custody
"J R Fenelon" Capt
Officer IC Records, 'C'
Cdn Sec GHQ 2 Ech 21 Army Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

Originating clerks initials JRRB for
Officer in Charge
Canadian Section GHQ 2nd Echelon

Exhibit B

CERTIFICATE UNDER THE ARMY ACT SECTION 163 (1) (J)

I A/Capt. J. Tweddle, OC 2 Cdn L of C Provost Coy Certify that

Reg No D-46311, Rank Pte. Name LEBOEUF P.

REGIMENT "A" Coy, F.M.R.

UNIT 2 Cdn Div.

STATIONED AT FIELD

Surrendered himself to No L22669, Rank L/Cpl. Name BRYAN F.J.

of the 2 Cdn L of C Provosts Coy, Cdn Provost Corps.

on the 29 Day of Jan 1945 at 2215 hours.

AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) of
XXXXXXXXXXXXXXXXX

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of his Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

"H W Mahaffy" Lieut
for (J Tweddle) A/Capt.
OC 2 Cdn L of C Provost Coy.

Field
30 Jan 45.

This is Exhibit "B" referred to in
the Summary of Evidence in the
case of D-46311 Pte Leboeuf P
taken before me this day of Feb 45.
213 B. "J F Rutherford" Capt

Exhibit B
PSO

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be
D 46311	Pte	[illegible]	Pnr M R

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AA 18(1) 1 ..... 2 ..... times

For .... times

For .... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....

beginning on the N/A day of .....

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 98 days in military custody, making a total of 98 days of which NIL days were spent in hosp.

5. The present age of the accused is 28

6. The date of his attestation is 22 Aug 40

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of #

GVSM & Clasp

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through

State the military decorations (if any) held by accused.

Army Form B.296 (War)

which tried trial

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this .....23..... day of .....Feb 45.....

.....
"A G Hood" Lt Col.
Comdg 1 Cdn Disciplinary Centre

Exhibit C PSO

No. D46311 Name LEBOEUF Flori[illegible] Sqn, Battery, or Company Corps CIC Date of enlistment 22 Aug 40 CC Badges Service or Proficiency Pay $150 3/17 MFM 6 (AFB 122) 40/P&R/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | ~~Sheet No~~ | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		AA 15(1) AWL from 2300 hrs 3 OCT 43 to 2230 hrs 4 OCT 43 (Absent 23 hrs 30 mins)		7 days CB 7 days pay FR&I 149(2)	5Oct43	CO	1 dys pay FR&I 149(1)(a)
		Pte		AA 15(1) AWL from 2359 hrs 5 DEC 44 to 1020 hrs 14 DEC 44 (Absent 8 days 10 hrs 21 mins)		14 days pay FR&I 149(2)	27DEC44	CO	9 dys pay FR'I 149(1)(a)
				"DUPLICATE CREATED FROM MFM 4 (17 Feb 45) RECORD OF CONDUCT IN CANADA NOT AVAILABLE"					
				"J R RENELON" Captain for officer i/c Records Cdn Sec 2nd Sch HQ 21 A Gp		Certified True Copy of MFM 6 in my possession "A O Hood" (A O Hood) Lt Col OC 1 Cdn Disciplinary Centre			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Jan 45	Pte		AA sec 15(1) AWL from 2359 hrs 13 Jan 45 until 2215 hrs 29 Jan 45 Total absence: 15 days 22 hrs 15 mins.	Documentary	14 days pay 180 days pay 25 days pay	FOOM 23Feb45		PR&I 149(1)a PR&I 149(1)b PR&I 149(1)(c)(11)

000-11.

PTE LEBRETON L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 5266 Pte Leo LeBRETON - 17 Cdn Gen Hosp

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 40	Not Guilty	GUILTY	
2nd	~~AA~~ Sec 15(1) ~~Sec~~	GUILTY	GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date) ...~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which N16 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for Six (6) Months.

(Sgd) ... Judge-Advocate, if any.

5 June 44 Date awarded.

(Sgd) J.H. Roberts President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 63. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 7 June 44.

(Sgd) J.H. Roberts

J. H. ROBERTS, Maj-Gen.,
Comd. Cdn. Rft. Units.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G-5266 Pte. LeBreton Leo	Pt II #43 9 June 1944	Capt Paymaster RCAMC O.C., No. 17 Canadian General Hospital.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 000-16

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA8) 40/P Ar S/1600 (40-06) 4/38B

Convened by Order of Maj-Gen J.H. Roberts DSO MC Comd Cdn Rft Units dated 3 June 1944

RECEIVED 9 JUN 1944 JAG BRANCH D.M.H.Q. OTTAWA

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 5266	Private		Leo	Le BRETON	17 CGH

PROCEEDINGS REVIEWED 17 Jun 44

DEPUTY JUDGE ADVOCATE, JAG BRANCH, D.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter?~~ Ans ...

~~The Interpreter is sworn.~~(1) Do you object to Sgt Duncair as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller ED	HQ CRU
Member	Capt	J.B. McLean	3 Can Ru
Member	Lt	J.C. Gardner	3 Can Ru
~~Judge Advocate~~			
Prosecutor	Major	H.A. Talbot	17 C. Gen Hosp
Defending Offr	Major	J. De St Victor	17 C Gen Hosp

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ... before arraignment make(s) (no) ~~(to)~~ plea ... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give evidence on oath. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans. ———
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces ~~the finding(s), if any, of Not Guilty, and state~~ to the accused that the finding(s) of the Court on the ~~first~~ charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. By my Defending Officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him, ~~and the JA, if any.~~(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on 2nd charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex D, for identification relating to 2nd charge, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

CHARGE SHEET

The accused, G-5266 Pte. Lebreton, Leo, on strength of No. 17 Canadian General Hospital, R.C.A.M.C., a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A.SEC. 40

WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 20 May 44 was improperly concerned in the unauthorized selling of a wrist watch belonging to M-101861 Spr. Reed, F.C., No. 17 Canadian General Hospital, R.C.A.M.C., a person subject to Military Law.

SECOND CHARGE
A.A.SEC.15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field absented himself without leave from 0915 hours 20 May 44 to 1230 hours 20 May 44 (Total time absent 3 hours 15 minutes)

(C.P.Caboury) Colonel, RCAMC
Officer Commanding,
No. 17 Cdn. Gen. Hospital

2 June, 1944.
Pinewood, Berks.

To be tried by Field General Court Martial.
the Field - 3 Jun 44

(H. Roberts) Maj.
Comd - HQ Cdn Rit

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 5266	Pte		Leo	LeBRETON	17 CGHosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 June 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO	3 CACRU
Lieutenant	To be detailed by CO	3 CACRU

~~WAITING MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 3 June 1944

J.H. Roberts (Signed personally. RP 105 fn 2.)

Commanding Cdn Rft Units — Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

NO. 17 CANADIAN GENERAL HOSPITAL,
R.C.A.M.C.(C.A.O.)

5 June, 1944.

TO WHOM IT MAY CONCERN

This is to certify that I have to-day examined, G-5266 Pte. Lebreton, L. and find him medically fit to undergo trial by Field General Court Martial, this 5th day of June, 1944.

.....
17 GGH

CASE OF

G.5266 Pte LEBRETON L 17 Cdn Gen Hos RCAMC

D-3 -PROSECUTION-

FIRST WITNESS

E.20628 WO3(WOII) MIGNAULT, M.L., 17 Cdn Gen Hos RCAMC, having been duly sworn, states:

On 20 May 44 I had Mr F.J. Hare the jeweller here as a visitor and as a result of my conversation with him the accused was brought into the office, was recognized by Mr Hare and he also recognized Mr Hare. He told me that he had sold a watch to Mr Hare that morning for $5. He said he had got the watch from Pte Degagne. He also told me that Pte Degagne had given him $2 out of the $5. He took out $1/10 out of his money belt which he gave back to me. He said he had no money. I put him under close arrest and handed over the watch and the money to the Registrar next morning. The accused identified the watch, except for the leather bracelet.

Q. Can you identify this as the watch?
A. That is the watch, Sir.

WATCH OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT "A" FOR IDENTIFICATION PURPOSES ONLY.

CROSS-EXAMINED

Q. Pte Degagne told you that he had sold the watch?
A. Yes, Sir.

Q. Your statement in the summary of evidence is not to that effect.
A. I remember Sir, at that time the question was quite involved as to who had or had not sold the watch. That is all the conversation I recollect, but I know when the question came up as to who had sold the watch I could not get at the bottom as to who had.

Q. Now you say you aren't sure?
A. Well of course it is since the 30th May and I know the question had been involved as to who had sold it or who had not, but as far as I can remember he said that Degagne had sold the watch.

QUESTIONS BY THE COURT

Q. Was the conversation in English or French?
A. Part English, part French, Sir.

Q. In which language are you most at home?
A. Both, Sir.

Q. And Letreton?
A. I think he understand and speaks better in French, Sir.

Q. According to what the accused told you they were both at this shop together?
A. Yes, Sir.

Q. Did Lebreton say how he came to go to this shop to sell the watch?
A. No, he did not, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 86(B).

SECOND WITNESS

D.61431 S/Sjt PINEAULT, R, 17 Cdn Gen Hosp RCAMC, having been duly sworn, states:

I recognize the accused. On the afternoon of 20 May I saw him in the RSM's office after 4 o'clock. Mr Hare, the QMS and myself. At first the accused was asked if he recognized Mr Hare and he said yes, and then he was asked if he remembered having sold a watch to Mr Hare and in answer to this question he said he went with Pte Degagne that morning to sell a watch to Mr Hare. I did not quite understand the question put to him. Lebreton did admit that he did go with Degagne to Mr Hare's place to sell the watch and he said that Degagne was selling watch and he was doing it for him and that Degagne had got the money and gave him $8. He said that he was selling it on Degagne's behalf. His story though was not very clear.

CROSS-EXAMINED

Q. Was that conversation in French or English?
A. It was in French mostly, and when it was English it was translated.

Q. You remember that Lebreton said that he was selling the watch on behalf of Pte Degagne?
A. Yes, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

Mr. F.J. HARE, High Street, Crowthorne, Berks., having been duly sworn, states:

I am F.J. Hare of High Street, jeweller and watch repairer. I saw this watch on Thurs the 18 May 44. Spr Reed brought it into my establishment. He did not leave it with me. I next saw the watch on Sat morning the 20 May 44. It was brought to me and handed over to me by one Pte Degagne. He was accompanied by a man that I knew as Lebreton whom I now recognize as the accused. The watch was offered for sale to me and I offered £5 for it. One of the men requested the sum of £10 for it. My impression is that it was Degagne who asked this for it. The discussion ended with me paying £5 for it. I remember placing the money on the counter, but as to who picked it up I am not certain. It is my belief that this was a joint transaction. This watch remained in my possession from 10.30 to 4.30 when I handed it in here to a MS. The accused was not present at the time I handed it over to the QMS, but was present later.

CROSS-EXAMINED

Q. You seemed to be under the impression that it was Pte Degagne who handed the watch to you?
A. I am quite certain of that, although I would not state that under oath. This of course is only my impression.

QUESTIONS BY THE COURT

Q. There was some discussion about the £5?
A. Yes, between Lebreton and Degagne, and as a result of this discussion, they decided to accept my offer.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FOURTH WITNESS

M.101861 Spr REED, F.C., 17 Cdn Gen Hosp RCAMC, having been duly sworn, states:

I am a member of this unit, and have been for 3 months employed as a stoker.

Q. Do you recognize Exhibit "A" here?
A. Yes, that was my watch, but it has a new strap since I saw it last. I bought this watch in B.C. around Jun 43. I last saw it on 19 May 44 at about 5.30 in the afternoon. After setting it I put it in the breast pocket of my tunic and buttoned the pocket. I left my tunic in my hut, hut six, and then I went to the picture show. The time must have been about 8 o'clock. Between 5.30 and 8 o'clock the tunic was either on me or beside me. I never looked in my pocket after 5.30 for the watch. The next time I went to get it was after the show, after 10 o'clock, and it was not there. The next time I saw it was on Sun morning in the Sgt-Maj's office.

Q. You did not sell this watch?
A. I had made arrangements with Mr Hare the jeweller in Crowthorne to dispose of it, but later.

DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THIS WITNESS

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

FIFTH WITNESS

D.133100 Pte DEGAGNE, J.C., 17 Cdn Gen Hos RCAMC, having been duly sworn, states:

Q. Have you ever seen this watch before? (Shown Ex 'A') JDeg
A. Yes, Sir.

Q. When did you first see this watch?
A. Around 7.30 at night on 19 Mar I found it on the ground by the coal box near Hut 4. I picked it up and put it in my pocket. About 9 o'clock I met Lebreton and showed him the watch and told him I found it. I did not say anything else to him about the watch that night. I kept the watch in my pocket over night and in the morning at a quarter to ten Lebreton and I went to town. He asked me if I would sell the watch, and I said O.K. The jewellers was closed so we went to a tea shop and at 10 o'clock we went back to the jewellery shop. The man who was here as a witness was the jeweller. When we went into the shop Lebreton had the watch, he handed the watch to Mr Hare and he took the money from Mr Hare. He gave me £3 and I gave him a £ back.

Q. Did Lebreton ask you where you got the watch?
A. No, Sir

Q. Did you tell him?
A. I told him I found it.

CROSS-EXAMINED

Q. When did you hand the watch to the accused?
A. On the road going down there, Sir.

Q. The previous night after you found that watch you told Pte Lebreton that you found the watch - you swear that?
A. Yes, Sir.

QUESTIONS BY THE COURT:

Q. How long have you known Lebreton?
A. About 4 months maybe.

Q. Friends all that time?
A. No, not very friendly. I have gone out with him a couple of times. He gave me 10 shillings when on a course about 8 weeks before and half a crown another time.

Q. You were pretty good friends?
A. No, Sir. We had gone to town a couple of times together, that's all.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

D-5 -DEFENCE-

FIRST WITNESS

The accused, C.5232 Pte LEBRETON, L, 17 Cdn Gen Hosp having been duly sworn, states:

On the 19 May 44 at about 9 o'clock when I met Pte Degagne around that time he showed me a watch which he said he had to sell. I did not pay much attention to him as I was going to the washroom. The next day he showed me the watch again and asked me to come with him to sell the watch. On Friday night he never told me he had found the watch.

Q. Did he tell you the following morning?
A. No, Sir, he did not.

Q. He just told you he had a watch to sell?
A. No, Sir.

Q. Did you ask him where he got it?
A. No, Sir. Just before we got to the shop he took the watch off his wrist and gave it to me and I went into the shop and asked Mr Hare how much he would give me for the watch and he said £5, and I turned around to Pte Degagne and asked him would he take that and he said he would. I handed the watch to Mr Hare and I collected the money. I gave £3 to Pte Degagne and he gave me back 10 shillings which he owed me.

CROSS-EXAMINED

Q. How much money did you get out of the £5?
A. Two pound ten, Sir.

Q. Did you think it was Degagne's watch?
A. I thought it was, because he had one about 3 weeks ago and was talking about selling it.

Q. Can you tell us why he should give you £3 out of £5 for selling it?
A. I think it was because we were friends and went out together.

Q. Did Degagne ever threaten you?
A. No, Sir.

Q. Did he ever hit you?
A. No, Sir.

QUESTIONS BY THE COURT:

Q. Did Mr Hare ask you where you got the watch?
A. No, Sir.

Q. DID he ask Degagne?
A. He talked to him but Degagne did not speak English very well and did not have conversation with him, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

D-4 STATEMENT BY THE PROSECUTOR ON THE FINDING

The accused is charged with being improperly concerned with the unauthorized selling of a watch. He says that Degagne did not tell him he found this watch. Degagne said he did tell him he found it. It seems to me that he is intelligent enough to have known that on a perfectly honest deal a man is not going to give another man $2 for helping him to sell a $5 watch, and I think that the evidence as given is fairly clear, and that the accused knew well that it was not Degagne's own watch. I am perfectly willing to entertain the suggestion by the Defending Officer that the accused was intimidated in this whole business.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDING

The accused gives evidence that he did not know the watch had been stolen. They were friends and they had the habit of lending money to each other. The morning after they go down together, Lebreton makes a deal with the jeweller, asks for the most he can have, gives the money back to Degagne. I don't think he knew it was a stolen watch and I don't think he should be charged with the improper unauthorized selling of the watch.

THE COURT IS CLOSED FOR A FINDING

PLEA IN MITIGATION

I would like the Court to take into consideration that the accused has only minor crimes on his NPM 6, and also that he has already been 16 days in detention. Would the Court please consider these facts when arriving at sentence.

WITNESSES IN THE CASE OF

G-5266 Pte. Lebreton, L., No. 17 Cdn.Gen.Hospital, RCAMC.

PROSECUTION

E-20628 Q.M.S.(WO II) Mignault,E.L.	No. 17 Cdn.Gen.Hospital, RCAMC.
G-18552 S/Sgt. Leblanc, O.A.	No. 17 Cdn.Gen.Hospital, RCAMC.
D-105026 R.S.M.(WO I) Lavigne,C.B.	No. 17 Cdn.Gen.Hospital, RCAMC.
D-81421 S/Sgt. Pineault, R.	No. 17 Cdn.Gen.Hospital, RCAMC.
D-94137 A/Cpl. Frigon, L.	No. 17 Cdn.Gen.Hospital, RCAMC.
Mr. Frederick James Hare	High St., Crowthorne, Berks.
M-101861 Spr. Reed, F.C.	No. 17 Cdn. Gen.Hospital,RCAMC.
D-133100 Pte. Degagne, J.C.	No. 17 Cdn.Gen.Hospital, RCAMC.

SUMMARY OF EVIDENCE

in the case of

G-5266 Pte. Lebreton, L., No. 17 Canadian General Hospital, R.C.A.M.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, Colonel C.P.Gaboury No. 17 Canadian General Hospital, R.C.A.M.C., the Summary of Evidence is taken on oath.

1st WITNESS for the Prosecution

E-20628 Q.M.S. (WO II) Mignault, E.L., No. 17 Canadian General Hospital, R.C.A.M.C., having been duly swDDn states:-

On 20 May 44 I was Acting R.S.M. At about 1600 hours, I was visited by Mr. F.J. Hare, a jeweller of Crowthorne, not previous -ly known to me. He asked for assistance in identifying 2 soldiers who he alleged had sold him a watch that morning. His description was not enough for me to go on, so I took him to the Men's Mess where some of the men were eating but the men he wanted weren't there. I then remembered that certain men had been A.W.L. for a time that morning and had them paraded to my office one at a time.

Pte. Lebreton was paraded first and Mr. Hare identified him as one of the men who had come into his shop that morning to sell him a watch. I asked Lebreton about this and he told me he had gone to Mr. Hare's shop in High St., Crowthorne, accompanied by Pte. Degagne, and that Degagne had sold the watch to Mr.Hare for £5-0-0, and given him £2-0-0 of the money. I asked him if he still had the money and he gave me £1-10-0.

I placed Pte. Lebreton under close arrest. I turned Lebreton's £1-10-0 over to the Registrar the next morning.

(The watch he had turned over to the Registrar was then pro- duced, identified by the witness, and marked exhibit "A")

CROSS EXAMINED BY THE ACCUSED

Q.1. What did Mr. Hare ask me, after asking me if I knew him?

A.1. He asked if you had a watch to sell that morning, and you answered yes.

(E-20628 QMS(WO II)Mignault,E.L.)
No. 17 Cdn.Gen.Hospital,RCAMC.

2nd WITNESS for the Prosecution

G-18552 S/Sgt. Leblanc, O.A., No. 17 Cdn. General Hospital, R.C.A.M.C., having been duly sworn states:-

At about 0945 hours on 20 May 44, the B.O.C., Cpl. Prigam, reported in the Orderly Room that three men, including Pte. Lebreton and Pte. Degagne were A.W.L. I toured the hospital area with him but couldn't find them.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

(G-18552 S/Sgt.Leblanc, O.A.)
No. 17 Canadian Gen.Hosp.RCAMC.

3rd WITNESS for the Prosecution

D-94137 A/Cpl. Frigon, L., No. 17 Canadian General Hospital, R.C.A.M.C., having been duly sworn states:-

I was B.O.C. the morning of 20 May 44. Pte. Lebreton was supposed to report to the guard room at 0915 hours, after the ambulances were loaded. Pte. Degagne was supposed to be collecting ashes from the wards. At 0945 hours neither was where he was supposed to be. I reported this at the Orderly Room. S/Sgt. Leblanc and I then searched the hospital area but could not find them. I don't know when they returned. They did not report at the guard room. I saw them next near the main gate at 1230 hours the same day.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

L. Frigon

(D-94137 A/Cpl. Frigon, L.)
No. 17 Cdn. Gen. Hospital, RCAMC.

4th WITNESS for the Prosecution

Mr. Frederick James Hare, High St., Crowthorne, Berks., having been duly sworn states:-

I am a watch and clock repairer and have a shop in High St., Crowthorne. I identify the accused. I saw him for the first time on 20 May 44 at about 1045 hours, though I didn't know him then by name. They came into my store to dispose of a watch. Degagne presented it for sale. Lebreton was in the background at first. I offered him £5-0-0 for it. One of the two, I don't remember which, asked £10-0-0. I replied that £5-0-0 was all I would pay. They conferred briefly in what I assume was French. Degagne then agreed, turned over the watch, and I paid him in five one pound notes. The whole transaction would not have lasted more than five minutes.

I recognized the watch at once as one which had been shown me by Spr. Reed the previous Thursday afternoon - 18 May 44. At that time he had discussed with me the exchange of his wrist watch for a pocket watch and he was to come in on Saturday afternoon (20 may 44) to close the deal.

When Degagne and Lebreton brought the watch in on Saturday morning I took no steps to ascertain the ownership except that I asked them if it was their watch, and as I remember, one of them said they had bought it.

At 3.30 that afternoon, Spr. Reed called at my shop and told me that the exchange was off because his watch had been stolen from the pocket of his tunic the night before. I didn't tell Reed that I had his watch, but called the police as soon as he had left. They advised me to come here, and I did so and saw Q.M.S.Mignault After a short time he produced the two men who sold me the watch, and I identified them. I turned the watch over to Q.M.S. Mignault.

(The witness identifies exhibit "A" as the watch which Sapper Reed showed him on 18 May 44, and which he bought on 20 May 44)

CROSS EXAMINED BY THE ACCUSED

Q.1. Who sold you the watch?

A.1. Pte. Degagne. He had the watch in his hand and handed it to me.

Q.2. Who took the money?

A.2. Degagne.

Q.3. What was the first question you asked me in the R.S.M's office that afternoon?

A.3. I asked you if you remembered me and you said yes.

Q.3. What was the next question?

A.4. I asked you whether you remembered selling me a watch in the morning and you said yes.

Q.5. Did you ask me if you still owed me £5-0-0?

A.5. I made a statement to the effect that I thought I owed you more money on the watch I had bought that morning. The purpose of the statement was to trap you into admitting you had sold it to me.

F. W. Jas Jam Hare

(Mr. Frederick James Hare)
High St., Crowthorne, Berks.

5th WITNESS for the Prosecution

M-101861 Spr. Reed, F.C., No. 17 Canadian General Hospital, R.C.A.M.C., having been duly sworn states :-

I have been a member of this unit for about three months and I am employed as a stoker.

(The witness was asked if he could identify exhibit "A")

I recognize this as my watch, but it has a new strap since I last saw it. I bought it in Chilliwack, B.C. around June 43.

I last saw it on 19 May 44 at about 5:30 P.M. I remember the time because I set it then, by a friend's watch. This was in the boiler room of the cook-house. After setting it, I rolled the strap around it and put it in the breast pocket of my battle-dress tunic - I think it was the left pocket, and buttoned the pocket. I usually wore it on my wrist, but had given this up because a jeweller told me it was too frail to wear that way during my rough work.

That night I went to the second show of the movies in camp, which started at about eight. I left the cook-house shortly after 5:30 and went to my quarters in hut 6. I stayed there reading until it was time to go to the show, except for when I went to the toilet. I go on duty at 11, so before going to the show I changed into fatigue clothes and left my tunic on my pillow. I hadn't looked at my watch since 5:30, and I didn't look into the pocket before I left the hut. I don't remember whether I took off my tunic just before going to the show, or earlier, but if I had, nobody could have taken the watch because I was awake all the time. After the show, between ten and ten-thirty, I went back to get my watch; the tunic didn't seem to be in the same position, but I can't be positive of this. The watch was gone. I looked through all the pockets, and in the bed, and around it, but couldn't find it. I didn't report the loss.

On Thursday afternoon, 18 may 44, I made arrangements with Mr. Hare, in Crowthorne, to change the watch for a pocket watch. This was to be done on Saturday. On Saturday afternoon I went to tell him that the deal was off. I told him I thought the watch had been stolen from my tunic pocket. I don't remember that he made any particular reply.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

F.C. Reed

(M-101861 Spr. Reed, F.C.)
No. 17 Cdn.Gen.Hosp.RCAMC.

6th WITNESS for the Prosecution.

D-105025 R.S.M.(WO I) Lavigne, C.B., No. 17 Canadian General Hospital, R.C.A.M.C., having been duly sworn states:-

On 20 May 44 at approximately 0930 hours, it was reported to me by the B.O.C. that Pte. Degagne and Pte. Lebreton were A.W.L. I ordered him and S/Sgt. Leblanc to search the area. They later reported that they could not find the men.

6th WITNESS for the Prosecution (Cont'd)

I did not see Pte. Lebreton before I went off duty at 1200 hours that day.

CROSS EXAMINED BY THE ACCUSED

Q.1. Did you see me when you saw Degagne?

A.1. No.

C.B. Lavigne

(D-105025 RSM(WO I)Lavigne, C.B)
No. 17 Cdn.Gen.Hospital, RCAMC.

7th WITNESS for the Prosecution

D-61421 S/Sgt. Pineault, R., No. 17 Canadian General Hospital, R.C.A.M.C., having been duly sworn states:-

On 20 May 44, Mr. Hare came to the Orderly Room. I was in the A.& D. Room and met him as he was coming in. There was a policeman with him, who left after introducing Mr. Hare. I called Q.M.S. Mignault and we all went into the R.S.M's Office. Mignault and Mr. Hare went out for about 10 minutes, leaving me in the office. They returned together and Mignault called for Pte. Degagne and Pte. Lebreton to be brought in one at a time. Lebreton came first. Mr. Hare identified him as one of the men who had been in his shop and sold him a watch that morning. Lebreton admitted this. Mignault asked him where he had got the watch and he said he got it from Pte. Degagne, but his answers about this were not very clear. Lebreton then said that Degagne had taken the £5-0-0 and given him back £2-0-0. He turned over to Mignault £1-10-0 which he had in his belt.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

R. Pineault

(D-61421 S/Sgt.Pineault, R)
No. 17 Cdn.Gen.Hospital,RCAMC.

8th WITNESS for the Prosecution

D-133100 Pte. Degagne, J.C., No. 17 Canadian General Hospital, R.C.A.M.C., having been warned that he need not give any evidence that would incriminate him, and having been duly sworn states:-

I showed the watch to Lebreton at 9 in the evening on 19 May 44, and told him I had found it. I said we 'd sell it in the morning and I'd give him half the money. This was for his help in selling it, which I asked him to do because he speaks English better than I do.

After the watch was sold we left the shop and Lebreton gave me £2-10-0 and kept £2-10-0.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

J. Degagne

(D-133100 Pte. Degagne, J.C.)
No. 17 Cdn. Gen. Hospital,RCAMC.

QUESTION TO ACCUSED - G-5266 Pte. Lebreton, L.

DO YOU WISH TO MAKE ANY STATEMENT OR TO GIVE EVIDENCE ON OATH? YOU ARE NOT OBLIGED TO SAY ANYTHING OR GIVE EVIDENCE, UNLESS YOU WISH TO DO SO, BUT WHATEVER YOU SAY OR ANY EVIDENCE YOU GIVE, WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE.

ANSWER:- I, G-5266 Pte. Lebreton, L., of No. 17 Canadian General Hospital, R.C.A.M.C., will give evidence on oath.

G-5266 Pte. Lebreton, L., No. 17 Canadian General Hospital, RCAMC., having been duly sworn states:-

Pte. Degagne first showed me the watch on 19 May 44 at about 2100 hrs. in the evening, and said we'd sell it in Crowthorne. I didn't know anything about how he got the watch or where he got it. The next day I went with him and he gave it to me and I sold it. I gave it to Mr. Hare and took the money from him. That's all I know about it.

L Lebreton
(G-5266 Pte. Lebreton, L.)
No. 17 Cdn.Gen.Hospital,RCAMC.

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF FIVE PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED, AND THAT RULES OF PROCEDURE 4(c),(d),(e),and (g), HAVE BEEN COMPLIED WITH.

H S Talbot Major
(H.S.Talbot) Major, RCAMC.,
Officer Detailed to take the Summary of Evidence.

Pinewood Berks,
No. 17 Canadian General Hospital,
R.C.A.M.C.,
23 May, 1944.

No. G-5266 Name LEBRETON LEO Sqn., Battery, or Company Corps RCAMC Date of enlistment 4 Sept. 1941 G.C. Badges

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Service or Proficiency Pay yes Character

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8025) H.Q. 1772-43-15

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Previous		sheet destroyed upon completion of six months service. (O.R.O 2084)(5a)					
Camp Borden	26-3-42	Pte.		Conduct, etc Failed to get out of bed at reveille (A.A.Sec.40)	L/Cpl. Stone P.	7 days C.B.	26 Mar. 42	J.R.Berry Captain	
Cove, Hants.	6-7-42	"		WOAS. Conduct to the prejudice of good order and mil. disc., in that he failed to get out of bed at 0645 hrs when ordered to do so by the Room N.C.O. (A.A.Sec.40)	Cpl. Cutway	7 days C.B.	6 July 42	Major R.A.Potter	
Smallfield		"		WOAS AWL hr 30 mins and missing military duty. (A.A.Sec.15 (1))	Cpl.Campbell	7 days C.B. Aut.forfaits. 1 day pay.	26 Nov. 42	Alb. Ross Colonel	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Smallfield	15-1-43	Pte.		WOA&S., neglect to the prejidice of good order and mil. discipline (A.A.Sec.40)	RSM Hardy	10 days C.B.	16-1-43	Alb.Ross	
Horley,		"		Drunkenness 1st offence (A.A.Sec. 19)	Provost Corps.	Admonished	7-5-43	C.D.T.Mundelly Major.	
Field.	30-1 44	"		A.A.Sec.15 (2) at 0835 hrs 30-1-44 did not appear for this papade as ordered by Part I no.24 29-1-44 A.A.Sec 40 at 0930 hrs 30-1-44 was found in bed.	Sgt.Vallee Cpl.Belanger	7 days C.B.	31-1-44	Colonel C.B.Gaboury	
				awarded the Can Volunteer Service Medal + Clasp Part II SA 18-1-44			18-1-44		

"CERTIFIED TRUE COPY"

H.S.Talbot Major, RCAMC
(H.S.Talbot) Registrar.
Officer having custody of Regimental Books.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G-5266	Pte.	LEBRETON, L.	No. 17 Cdn.Gen.Hosp.RCAMC.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. SEC. 40	4 times.
For	A.A. SEC. 15 (1)	1 times.
For	A.A. SEC. 15(2)	1 times.
For	A.A. SEC. 19 Drunkenness (1st charge)	1 times.

Date of first entry in Field Conduct Sheet 26 March 42

Date of last entry in Field Conduct Sheet 30 January 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. Previous convictions of the accused by a court martial or a civil court are not set out in the Schedule overleaf, but the accused has been under stoppages of pay for [illegible] days.

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 16 days in military custody, *i.e.*, Nil days in open arrest, 16 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 22 yrs.

6. The date of his attestation / enlisting or for military service is 4 September, 1941.

7. The service which the accused is allowed to reckon is 2 yrs.8 mos.29 days.

†State the military decorations (if any) held by accused.

8. The accused is in possession of †Cdn.Volunteer Service Medal and Clasp.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(22459) Wt.29286/1873 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5th day of June, 1944.

H S Talbot
Maj or, RCAMC.
(H.S.Talbot) Registrar,
For:-O.C.No. 17 Cdn.Gen.Hospital.

21 A. P. J. and J. P. ~~Lehrer~~ (Printer) 10-L-224
22 A. 3 Cent. Rev. Sgd. 10 L - 225

See also No 208

C H A R G E S H E E T

The accused, No. D.106086 Pte. LeBrooy, Paul ~~Jones~~ James, and No. D.106087 Pte. LeBrooy, John Peter, 3rd Cdn. Recce. Sqn., soldiers of the Canadian Active Service Force are charged jointly with:- WOAS

First Charge
A.A. Sec. 18
(4)

Stealing public property,

in that they,

at Withdean, near Brighton on the 6th November, 1940 stole butter, public property.

J. P. Lefebvre Maj

O.C. 3rd Cdn. Recce. Sqn.

Field,
November, 1940.

CBP

MEDICAL OFFICER'S CERTIFICATE

I certify that No. D106086 Pte. Lebrooy, P. J.-3CRS, is fit/~~unfit~~ to undergo trial by Court-Martial.

Date:- 3-12 1948

J. Benson Capt.
Medical Officer

Fun and Trudeau Maj.
President.

Form A.

PROCEEDINGS OF A.F.G.C.M.
HELD IN THE FIELD ON THE
5th. DAY OF DECEMBER 1940

Trial of No. D 106006 Pte. Lebrocy, Paul James, 3rd Cdn, Recce. Sqn. & D 106007 Pte Lebrocy J.P. 3rd Cdn Recce Sq.

Prosecutor :- Capt. W.O. Whitmore, 3rd. Cdn Recce. Sqn.

Defending Officer:- Major P. Payan, Royal 22e Regiment C.A.S.F.

Officers under instruction : Nil.

1- The order convening the court is read in the presence of the accused.

2- The accused is asked the following question:-

Do you object to be tried by the President, or any members of the Court, whose names you have heard read over?

Answer : No.

3- The Members, President, Shorthand writer are duly sworn.

4- R.P. 39 (A) has been complied with.

5- The accused pleads "Not Guilty".

6- A Medical Officer's certificate is produced by the prosecutor. (Appendix "A" Attached)

7- Notice that they are to be charged and tried together, was given in accordance with R.P. 16.

8- Motion was asked by the accused to be tried separately. The Court was closed in order to consider the Motion. After consideration the Court agree that they should be tried separately.

9- D 106007 Pte Lebrocy J.P. is marched off.

Edward Judson Maj.
President

FORM B

Case of D 106087 Pte Lebrooy J.P.
3rd Cdn. Recce. Sqn.

D E N F E N C E

The a ccused is informed of his rights in accordance with R.P. 40 (A) and Note 2 on Page 644 of the manual of Military Law, 1929 Edition.

The accused is asked the following questions:-

Q.1. Do you wish to give evidence as a witness ?

A.1. No.

Q.2. Do you intend to call any other witnesses on your behalf ?

A.2. Yes.

Q.3. Are they witnesses a s to character only ?

A.3. They are witnesses to facts a nd character.

Fernand Trudeau Major
President

No opening Address by Prosecutor.

1st Witness:- G. 17624 Pte Lauridson H.E. 3rd Recce Sqn.,

is duly sworn in F.T

Questions by Prosecutor:-

Q.1. Will you please tell this Court, what you know about the Lebrooy Brothers taking butter on Ration Truck on the 6-11-40.

A.1 I have seen the ration truck pull in the yard at Brighton on the 6-11-40. I saw with my own eyes, rations taken out of the truck by one of the Lebrooy Brothers.

Q.2. Which of the two Lebrooy's took the Butter ?

A.2. They both look alike, I cannot tell the difference between them. One ma de a threat to hit me, if I made any complaints, hes would smash me in the fa ce.

Q.3. Do you know how much he took ?

A.s One package. I do not know what it did conta in, I reckon it wa s 1 lb of Butter. Mr Deniset came up a nd asked me if I had seen him take the butter. "I said Yes", and with my own eyes". Then I turned and went. Mr Deniset said that it was O.K. he would fix the rest. After tha t he came to me again, and asked me if I would be a witness to his office. " I Said Yes Sir. That is All.

Q.4. You say you don't know the difference between the Lebrooy's?

A.4. I can't tell them a part.

Q.5 You're certain one of them took the butter ?

A.5. Yes, I've seen him.

Q.6. Both were there at that time?

A.6. Yes.

Q.7. You're sure the accused is one of them ?

A.7. Yes Sir I'm sure.

Questions by Defending Officer.

Q.1. You realize this man is for trial ?

A.1. Yes Sir.

Fernand Trudeau Maj
President.

Q.2. Can you Identify his Yes or No ?

A.2. No Sir.

Q.3. You said in your testimony, that this man was going to smash you in the face, still, you can't identify him ?

A.3 Put the two together, and I will identify them.

Q.4. You said that there was other men at the time ?

A.4. Yes Sir.

Q.5. Would it be possible, that one of the men nearer to Lebrooy could have made the threat, Yes or No ?

A.5. No.

Q.6. Did you ever threaten on e of the Lebrooy's, that you would shoot them one day ?

A.6. No, I never did.

Q.7. You testify, that they were taking rations from the truck, yet it was butter. State whether it was rations from the truck or butter?

A.7. It was butter.

Questions by the Court.

Q.1. What was your duty around the truck ?

A.1. I was just standing there, when the truck pulled in, fa cing the building.

Q.2. Was there anybody else around?

A.2. Yes.

Q.3. Who were they ?

A.3. Pte McKinnon was standing on a 7 foot concrete roof.

Q.4. Anybody else ?

A.4. Pte Strong was standing in door of small veranda under the roof and the two Lebrooy's were standing under veranda.

2nd Witness Lieut. Deniset, 3rd Recce Sqn., having been duly sworn in:-

PROSECUTOR Q.1. This man is charged with stealing butter on the 6-11-40 Please tell the Court what you know.

A.1 On the 6-11-40 as I came out in the afternoon, from Midway , I was told by Pte Lauridson, that the two Lebrooy's had stolen some butter. Later on I met them nearer Spinny, I asked them, which one had stolen the butter. One of them said "I did". The other said something like," I'm going to get that squa ler". The one that had said "I did", told his brother to give me the butter. He did give it to me. It wa s about ¼ of a lb. Later in the day, I gave the butter to the Cook, Pte Dufresne, and when I gave it to him, I told him, that it was the butter, that the Lebrooy's had stolen from Ration truck.

Fernand Trudeau
President

Q.2. Can you identify the accused, as one who gave the butter?

A.2. I cannot say which onse said "I did", or which one gave me the butter.

Q.3. Can you identify the accused, as one of the brothers you refer ?

A.3. Either one of the Lebrooy brothers could have been the one.

QUESTIONS BY DEFENDING OFFICER.

Q.1 You can't identify the man that said "I did".

A.1. No Sir.

Q.2. You have only Lauridson's word, that he had seen it, but you did not see both Brothers ?

A.2. No Sir.

Q.3. Where was the Butter kept, between the time Lebrooy gave it to you, and you gave it to the Cook ?

A.3. I put it in Mr Hart P. Motor Cycle, under a specia l compartment of some kind.

Q.4. Tell me how long the butter was there ?

A.4. Exactly I can't remember. From 25 minutes to an hour and a half.

Q.5. You knew that for a charge of this nature, that the evidence would be necessary ?

A.5. I knew, bu t I did not realize it.

Q.6. Do you admit, when the charge was put, before this ma n, that there was only butter as evidence, except for Lauridson's that it was stolen ?

A. 6. With Lauridson's words, and the fact, that one of the Lebrooy's told me plainly "I did".

Q.7. You still can't Identify this man, as the one that said "I did "

A.7. No.

Q.8. Always known the Lebrooy's to be honest ?

A.8. Yes, as far as I know.

Q.9. Did you ever say, at one time, that the defendant would not be convicted ?

A.9. I can't swear that I never said this.

Q.10. Did you tell the Cook, to keep the butter as evidence?

A.10 No.

Q.11. Did you tell the Cook that this was the butter which was taken from the Lebrooy's ?

A.11. Yes.

Fernand Trudeau Mgr
President

3rd Witness E. 4532 Pte Dufresne C.H. Having been duly sworn in.

PROSECUTOR Q.1. Being interpreted, asked the witness to tell the Court what he had seen.

A.1. I was workin in the kitchen as a Cook, Lauridson came to me, and said that the Lebrooy's had taken the butter, and also asked me, if it was O.K., to have made the report. Lieut Deniset brought the butter wrapped in a magazine, saying that this was butter taken from the truck. That's all.

Questions by Defending Officer.

Q.1. How much butter was there?.

A.1. One inch thick of a ½ lb Butter.

Q.2. Besides what Lauridson said, and Mr Deniset brought you, do you know any thing about this ?

A.2. No.

Q.3. Was it Ma rga rine or Butter, Mr Deniset brought you?

A.3. Not certain which.

Q.4. Did Mr Deniset ask you to keep the Butter ?

A.4. Yes.

Q.5. Are you the Cheif Cook ?

A.5. Yes.

Q.6. Did you use the butter for the night ration ?

A.6. Did you use the butter for the night Ration ?.

Q.7. Besides what Lieut Deniset told you, this butter could have been taken elsewhere, than accused Mess-Tin?

A.7. That Night Ration had just come in.

Q.8. Ha ve you ever had such reports from Lauridson ?

A.8. First time it happened in ten Months.

4th., Witness. E. 4857 Pte Paige E. 3rd Cdn Recce Sqn., Having been duly sworn in.

PROSECUTOR. Q.1. Tell the Court what you know about the Lebrooy's stealing Butter on the 6-11-40 ?

A.1. I was in the Kitchen, when Mr Deniset handed the Butter to the Cook. He told me that I might be asked for witness in this case.

Fernand Trudel, Major
President

QUESTIONS BY DEFENDING OFFICER:-

Q.1. Did you see if it was butter Mr. Deniset gave to Pte. Dufresne ?

A.1. No, Sir.

Q.2. It could have neem something else from butter or margarine ?

A.2. I did not see what was in the parcel when Mr. Deniset handed it to the Cook.

5th Witness.

Lieut. P. Hart, 3rd Cdn Recce Sqn., having been duly sworn in.

Witness Testimony.

I've known Pte. Lebrooy P.J. from 14-9-40 when he first joined my troop. I considered him to be as good and no worse than any other soldier in my troop, and up to the time of the alleged crime, I found him to be honest.

Question by the Court:-

Q.1. Do you know both Lebrooy's brothers and it this one in your troop ?

A.1. Yes, and I can differenciate them from each other this one is P.J.

The Court called E 4382 Pte Strong W. 3rd Cdn. Recce. Sqn. in order to give evidence in the case.

6th Witness. E 4382 Pte Strong W., 3rd Cdn. Recce Sqn. being duly sworn states:

Court: The two Lebrooy's have been charged with stealing butter at Brighton. Can you give any evidence in this case ?

Witness: No sir I did not see or witness anything.

Court: We have evidence from Pte Lauridson that you were standing in a verandah close where the truck was standing ?

Witness: That's incorrect Sir, I was not in the vicinity when that thing happened.

Fernand Jodoin Major
President.

The Court is closed for finding.

The Court is re-opened and with the accused present find him 'NOT GUILTY'.

Fernand Fredo Moz
President

Brighton Nov 1940.

Summary of Evidence in the case of:
D106046 Pte. Le Brocq P.J. 3rd Edw Recce Sqdn.

By the direction of the C.O. the summary of evidence is taken on oath.

1st Witness for the Prosecution:

G17624 Pte Lamidien H.E. having been duly sworn states:

On Nov 6, 1940 I saw one of the Le Brocq brothers take a package of butter and put it in his pocket. The other one told me not to say anything about it. I told them to put it back but one of them told me he was going to smash my face. I told Lieut. Hemsley what had happened.

Question 1: Did I take it

Answer 1: I dont know. I saw one of you take it

Question 2: How many pounds of butter did you see me take.

Answer 2: I dont know. I dont know how many pounds there are in a package.

signed H.E. Lamidien
G17624.

2nd Witness for the Prosecution:

Lieut L. Hemsley 3rd Edw Recce Sqdn. having been duly sworn states:

At about five o'clock on Nov 6 1940 Pte Lamidien told me that he saw the Le Brocq brothers stealing some butter from the truck. I went up the hill to Spenny. On arriving there I saw the two Le Brocq brothers. I asked them "Which one of you stole that butter." One of them answered "I did". The other one looked mad and said something like I am going to get that squealer. The one that said "I did" told his brother "you have had the butter." The other one gave me the butter.

Question 1: Did you know us at Valeswater.

Answer 1: Yes I did, but not very well

Question 2: Having been with only sixteen of us on the boat for ten days would you not say that you came to know us quite well.

Answer 2: I cant say that I knew you very well. If you mean I should be able to tell you apart I cant even now.

2nd Witness for the Prosecution:

Question 3. How long have we been closely connected or associated since we have been in England.

Answer 3. I cannot say that we have been closely connected though you have been in my troop. Because usually I dont come directly in contact with you but through the n.c.o's. But you have been in this troop about one month and twenty days.

Question 4. Have you ever declared to anyone that you could tell the difference between my brother and me.

Answer 4. I did not declare that. I might have said it jokingly rather than seriously.

Question 5. Can you definitely state from whose mess tin the butter came from and the quantity in pounds.

Answer 5. From the mess tin of the one who said "I am going to get that squealer." The amount was about 1/4 of a pound.

Question 6 Who said "I'll get that squealer".

Answer 6. One of the Le Brooy brothers

Question 7 Have you the evidence

Answer 7. No. I gave the evidence to the cook about an hour later when I came to Midways.

signed Louis Deniset Pte

3rd Witness for the Prosecution:

E4057 Pte Paige H. having been duly sworn states:

On Nov 6 1940 I came to our billet with the rations. I went into the house with the bread and was putting it in the cupboard. About ten minutes later Mr Deniset came in with something between a quarter or half pound of butter, I am not quite sure of the amount, and gave it to Pte Dufresne saying that it was the same butter that the Le Brooy brothers had taken and to remember it well as he might have to be a witness in the case.

3rd Witness for the Prosecution:

Question 1. Have you the butter and can you produce it in court.

Answer 1. No, because we had to use it for the rations.

signed H Paige
54867

4th Witness for the Prosecution:

E 45332 Pte Dufresne BE having been duly sworn states -

On Nov 6 I was taking the rations from the ration truck into our billet. Pte Lamarre came and told me that someone had taken some butter from the truck and wanted to know if it was right. A little while later Lieut Vincent came to me with some butter wrapped in a magazine and told me it was the butter stolen from the truck.

Question 1. What was the quantity of butter

Answer 1. From a quarter to a half pound

signed No 3 Dufresne E 45332

The accused having been duly cautioned in accordance with rules of procedure 4(E) elected not to make a statement and asks that Capt Charlebois R22eR act for him in his defence.

Certified that rules of procedure 4(c)(d)(e)(f)(g) have been complied with

Taken down by me in the presence of the accused this 9th day of November 1940.

Officer taking the summary

Brighton, Nov 8, 1940.

Summary of Evidence in the case of:-

D106087 Pte Le Brooy J. P. 3rd Canadian Recce Sqdn

By direction of the C. O. the summary of evidence is taken on oath.

1st Witness for the Prosecution:

G17624 Pte Lauridsen H. E. having been duly sworn states:-

On Nov 6 1940 I saw one of the Le Brooy brothers take a package of butter from the ration truck and I told him to put it back and the other one told me not to say anything about it. I told Lieut Deniset about it and he said he would take care of it. One of the Le Brooy brothers said that he would smash my face if said anything about it.

Question 1. What did the package represent in poundage

Answer 1. I reckoned that it was a pound package

signed H E Lauridsen
G 17624

2nd Witness for the Prosecution:

Lieut Deniset 3rd Cdn Recce Sqdn having been duly sworn states.

On Nov 6 1940 at about 5 o'clock Pte Lauridsen told me that he had seen the Le Brooy brothers stealing some butter from the ration truck. Then I left for the Spinney. Near Spinney just a little later I saw the two Le Brooy brothers. I asked them "Which one of you stole that butter" One of them said "I did" The other one said something like I am going to get that squealer. The one that said "I did" told his brother give him back the butter. The other one gave it to me.

Question 1. After Lauridsen had come up to you did you say "I'll fix them"

Answer 1. I said something but I cant swear that these were my words.

2nd Witness for Prosecution

Question 2 Can you give the amount of butter taken

Answer 2 I can give the amount he gave me but not the amount taken

Question 3 What was the amount given to you

Answer 3 About 1/4 of a pound

Question 4 From where was the butter taken from when it was given you

Answer 4 From the mess ten of the La Brooy brother that said "I am going to get that squeeler"

signed Jules Deniset Lieut.

3rd Witness for the Prosecution.-

E4857 Pte Paige H. having been duly sworn states:-

On Nov 6 1940 I came to our billet with the rations. I went into the house to put the bread in the kitchen. About ten minutes later Mr. Deniset came in and gave Pte Dufresne about 1/4 or 1/2 pound of butter. I cannot give the exact amount, and told him to remember it well as he might have to be a witness in the case.

Question 1 Have you the evidence

Answer 1 No sir. I had to use it for the rations

signed H Paige E4857

4th Witness for the Prosecution.-

E4532 Pte Dufresne C.G. having been duly sworn states:-

On Nov 6 1940 I was unloading the rations from the ration truck and was in the kitchen. Pte Lamidson came in and told me that someone had taken some butter from the ration truck. A little while later Mr Deniset came in and handed me a package of butter wrapped in a magazine and told me that it was the butter that had been stolen.

Question 1 What was the quantity of butter

Answer 1 From a quarter to a half pound

Question 2 What happened to the evidence

Answer 2 I used it for the rations

signed C G Dufresne E4532

The accused having been duly cautioned in accordance with rules of procedure 4 (E) elected not to make a statement and asks that Capt Charlebois, R and R act for him in his defense

Certified that rules of procedure 4 (c)(d)(e)(f)(g) have been complied with

Taken down by me in the presence of the accused this 9th day of November 1940

Pilot Lieut

Officer taking the summary

1st Witness

No. F45610 Cpl. Walker, G.H. being duly called states:-
I was M.O.O. i/c Guard 3rd Cdn Recce Regt. on 26th November 1940. At 0200 hrs I went to Pte Cottreau and ordered him to get ready for guard mounting immediately. He said "I am not going on guard." When ordered a second time he said "You fuck yourself, I'm not going" or words to that effect. I placed him in closed arrest.

G.H. Walker cpl

The accused declines to cross examine the witness.

2nd Witness

No. F41557 Pte. Brown, R.F. being duly called states:-
I was present at 0200 hrs on 26th November when Cpl. Walker came in my billet room and heard him order Pte. Cottreau on guard. Pte. Cottreau said "I'm not going on guard." On the second order Cottreau said, "You fuck yourself I'm not going on guard."

R.F. Brown Pte.

The accused declines to cross examine the witness.

Questions to the accused - "Do you wish to give evidence on oath or make any statement? You are not obliged to say anything [illegible] less you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer by the accused -"I wish to make no statement."

R.M. [illegible]

Rules of Procedure No. 4 (c), (d), and (e), have been complied [illegible].

Taken down by me in the presence and hearing of the accused in the field this 26th day of November 1940.

[illegible]

LIST OF WITNESSES

F.C.C.M. - case of Pte. R.M. Cottreau F43636 of the 3rd Cdn Recce Squadron.

No.F43610 Cpl. Walker, G.H. - 3rd Cdn Recce Sqn
No.F41557 Pte. Brown, H.F. - 3rd Cdn Recce Sqn.

(A.P. Ardagh) Major,
O.C.3rd Cdn Recce Sqn.

No. D-106086 Name Le Broy Paul Jones Sqn., Battery, or Company Royal 22nd R Corps C.A.S.F. Date of enlistment 8 Jun 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—6-39 (1703) H.Q. 1773-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	22-7-40	Ste		Conduct to the prejudice of good order and Military discipline in that he did not pay his train fare from Montreal to Quebec. Value $4.90	Evidence attached	He agreed to pay $4.90	23-7-40	Lieut Col J L Renault	
In the field	14 oct 40	"		W.O.A.A. absent from parade without permission	S/Sgt Lamoureux Ste Barron R.	5 days C.B.	15 oct 40	P Hart Lieut	

True certified copy
Jobtefebvre Major

Fernand Fredeau Brigadier Maj.

(P.T.O.)

97 P.

Pte LEBROOY J.P.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8068-69-70)
H.Q. 1772-23-67

97 P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 17 day of September, 19 42.

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	W.A. MacArthur	1 Cdn Div Sup Coy

Members.

Rank.	Name.	Regiment.
Capt.	A.T. Gardiner	HQ 2 Cdn Inf Bde
Capt.	J. Lunam	9 Cdn Fd Amb
Waiting Lieut.	P.J. Ivey	1 Cdn Div Amn Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (H.L.N. Salmon) Major General
Commanding 1st Canadian Division
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D.106067 Tpr. LEBROCQ, J.P. 4 P.L.D.G.	1st charge A.A. 40	Not Guilty	Guilty	I confirm the finding of the Court but remit 2 days of the sentence. H.L.N. Salmon Maj-Gen
	2nd charge A.A. 40	Not Guilty	Guilty	
	3rd charge A.A. 40	Not Guilty	Guilty.	
			30 days Detention.	
			W A Mc Arthur Maj	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— N/a

(Signed) (H.L.N. Salmon) Major General, Commanding 1 Cdn Div

(Signed) W A Mc Arthur Maj, Convening Officer (*e*)

President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28 day of Sept, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~*(3. The interpreter)~~

~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 28 day of September 1942.

W A Mc Arthur Maj
President of the Court Martial.

* See footnote (*b*) on page 762 M.M.L. 1929.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ Hmm

Signed this 1st day of October 1942

H.L.N. Salmon Maj-Gen
Confirming Officer.

Promulgated and extracts taken in the case of Tpr Lebrocq J.P.

(*a*) (Dated) 3rd Oct. 42 (Signed) W.S. for Major Unit 4 A/A

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44729) Wt. 40173—855 400 m 1/42 P. St. C. 6a

28 Sep 42
R.A.P.

This is to certify that I have examined DT06087
Tpr. Lebrooy J.P. and find him fit to
undergo trial by Court Martial

Ex.
"L"

CON. RECCE. REGT.
R.A.P.
(4 P.L.D.O.)

C B Caswell
Capt.

W A McArthur
Maj.

CHARGE SHEET

in the case of

D 106087 Tpr Lebrooy, J.P. of the 4 Cdn Recce Regt (4 P.L.D.G.), a soldier of the Cdn Army, is charged with, when on Active Service:-

1st Charge
A.A.Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

submitted for publication in a magazine a letter containing military information without special permission from Cdn Military Headquarters, contrary to Part I Order No. 820 d/8 Oct 41.

2nd Charge
A.A.Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, submitted for publication a photograph of military equipment without due authority of a written permit contrary to Part I Order No. 389 (2) (e) d/3 Jun 41.

3rd Charge
A.A.Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, mailed a photograph in His Majesty's Mails without first having it censored by his Sqn Commander, contrary to Part I Order No. 870 (6) d/ 22 Oct 41.

F. D. Adams

(F. D. Adams) Lt.-Col.,
O.C. 4 Cdn Recce Regt (4 P.L.D.G.)

Refused to accept Commanding officer's punishment
W. C. Johnston Lieut
S/Adj.

To be tried by Field General Court Martial.

H. L. N. Salmon

(H.L.N. Salmon)
Major General
GOC 1 Cdn Div

B-2

W. A. McArthur Maj

PROCEEDINGS OF FIELD GENERAL COURT MARTIAL

held in the Field, on 28 Sep 42

Trial of: D 106087 Tpr Lebrooy, J.P., 4 Cdn Recce Reg't(4 PLDG)

Prosecuting Officer: Lieut. E.S. Thorne (4 PLDG)

Defending Officer: Lieut. W.H. Powell (4 PLDG)

Before trial commences R.P. 22 - 25 are complied with.
At 1015 hours, the trial opens.

The Convening Order is read in the presence of the accused.

The accused, on being questioned, did not object to any members of the court.

The Court is duly sworn.

The accused is arraigned and pleads 'Not Guilty' to the charges (3), as read.

R.P. 39 A complied with and accused's answer recorded.

PROSECUTION

The prosecutor makes the following address:-

Sir, in this matter these charges are almost entirely a matter of technical violation of certain unit orders. The prosecution is not going to attempt to show that the material alleged to have been submitted by the accused was of a particularly serious nature.

There are three charges 1st (charge sheet), the prosecution is producing this letter and can show to the satisfaction of the court that it was submitted by the accused.

The second charge is of submitting a photo of military equipment, without the authority of a written permit. There will be produced to the court two photographic negatives which were enclosed in the letter which is the subject of the 1st charge.

The third charge is a charge of violating an order which forbids the mailing of photographs without having them censored by Squadron H.Q.

The prosecution will produce witnesses of the violation of the three orders referred to and the orders, themselves, will be placed before the court.

1st Witness
for Prosecution

B 74070 Sgt. Roberts, W., 4 Cdn Recce Reg't(4 PLDG) having been duly sworn, states:-

Q. What is your official capacity in the Reg't?

A. Orderly Room Sgt., Sir.

Q. Is it your duty to handle general correspondence coming into the Orderly Room.

A. Yes sir.

Q. I produce a letter (exhibit A) and Censor Comment slip (exhibit B). Did you receive these papers.

A. Yes sir.

Q. Do you identify the accused as Tpr. Lebrooy, J.P.?

A. Yes sir.

(cont'd)

(cont'd) Sgt. Roberts, W.

Q. If any permission for the mailing of letters and pictures for publication, had been granted by the Commanding Officer, would that permission have passed through your hands?

A. Yes sir.

Q. Did any such permission for the accused pass through your hands?

A. No sir.

Cross examined by the defending officer:

Q. In your experience have you ever seen such special permission for passing letters for publication?

A. I don't recall any case of written permission being given to send a letter to a magazine.

Q. Have you ever seen censorship of a photograph done by a Squadron Commander.

A. I have on quite a few occassions seen censhrship of photographs by the Adjutant.

Q. Is it not a fact that on more than one occassion articles or interviews with Canadian Military personnel and particularly with members of your unit, have appeared in Canadian newspapers.

A. Not to my knowledge.

Prosecutor declines to re examine the witness.

Question by the Court

Q. Is it a regular occurrence for photos in a soldiers mail to be censored by his Squadron Commander.

A. It is a common occurrence for Squadron Commanders to send photos to the Adjutant for censorship.

2nd witness
for Prosecution

Lieut. C.D. Lough, 4 Cdn Recce Reg't(4 PLDG), is duly sworn and examined:-

Q. At the time that the accused is said to have mailed the letter (exhibit C) were you his officer?

A. Yes, 5th Troop, B Squadron.

Q. Did the accused submit photos to you for censhrship?

A. No.

Cross examined by the defending officer:

Q. Until this case arose, were you aware of the proper method of dealing with photographs for mailing?

A. They were to be censored by the Intelligence Officer through the Squadron Commander.

Q. Can you say whether or not this particular order was strictly adhered to?

A. To my knowledge it was not strictly adhered to.

Q. Can you tell the court if this particular unit Part One Order No. 870 (exhibit[illegible]) was read on parade?

A. (cont'd)

(cont[redacted] Lieut. C.D. Lough

A. It was read on Squadron Parade by the Squadron Commander, but I cannot say that it was read every three months.

Q. I suggest that you do know that this order was not read on 'B' Squadron parades as laid down.

A. I have been away on occassion and cannot say.

Q. In your opinion is the accused a good soldier?

A. Yes, he is.

Q. How long was he under your command?

A. Approximately eight months.

Q. Had he shown any literary tendencies?

A. He did a lot of reading.

Q. Has the particular Army Routine Order referred to in unit order No. 870 (exhibit C) been published in unit orders every three months?

A. I don't know.

Prosecutor declined to re examine the witness.

No questions by the Court.

The Prosecution closed.

DEFEN[illegible]

To accused.

Q. Do you apply to give evidence yourself as a witness?

A. Yes sir.

Q. Do you intend to call any other.

A. Yes sir.

Q. Is he a witness as to character only.

A. No sir.

The defending officer makes an opening address.

First of all, I might say that the reason this case has reached a F.G.C.M., is because Tpr. Lebrooy feels that, not only has he not committed an offence for which he should be punished but also that he was doing his unit and the cause for which he is fighting a real service. There is no doubt about the fact that the accused did not have the Part One Orders of 1941 at his fingertips but in any event I hope to show that no real offence has been committed as charged.

Dealing with the 1st charge the court will note that one of the ingredients of the supposed offence is that the letter he wrote contained military information and I hope to satisfy the court of the fact that no military information was involved.

In regard to the second charge I shall endeavour to satisfy the court that there is no offense committed under the Part One Order mentioned.

Under the 3rd Charge, I hope to convince the court that the procedure laid down in this Part One Order was not adhered to and that the reason for this state of affairs was that the order was not properly brought to the attention of the troops of this unit. If the court is not prepared to agree with me entirely on those three points, I still hope to convince the court that good order and military discipline has not, in fact, been prejudiced in any way.

I produce for the Court's perusal C.A.O.R.O. 1089, para 9, dated 11 Oct 41.

1st witness
for Defence

The accused, D 106087 Tpr Lebrooy, J.P. 4 Cdn Recce Reg't(4 PLDG) having been duly sworn, is examined:

Q. Will you tell the court your motive in writing this letter?

A. On a Saturday afternoon, having been to the movies, where a newsreel of the Libyan campaign was shown, a few remarks were made by the civilians as to why the Cdns were enjoying themselves while English in Libya were having such a rough time. In answer to this caustic criticism I returned that evening and with great deliberation proceeded to write an account of interest about a Cdn Section in the impersonal tense, while on a four day scheme behind the 'enemy' lines. With regard to all names, places, identifications, I took special care to avoid mentioning anything harmful.

Q. This letter written by you did not, in your mind, contain any military information but was merely a recounting of your own experiences?

A. Yes, that is right.

Counsel submits two prints of original exhibits (exhibit D)

(cont'd)

(cont'd) Accused.

Q. Did the letters appearing in the pages of the magazine 'Life' influence you in any way.

A. Yes.

Q. Are you a subscriber to 'Life'.

A. Yes.

Q. Do you read these letters which appear in this magazine regularly.

A. Yes sir.

Q. Have you seen letters published in 'Life' written by British Navy, Army or Air Force personnel.

A. Yes sir.

Q. Until this charge arose, what was you understanding as to the correct procedure which must be adopted if a soldier wishes to write a personal experience letter to a magazine.

A. I was unaware of any special procedure.

Q. Were you aware of any special procedure re the mailing of photographs outside the U.K.

A. No sir.

Q. Can you ever recall having heard read, unit Part One Order No. 870.

A. No sir.

Q. Has Part One Order 870 been brought to your attention or read out on parade (Read to accused)

A. Not within my memory.

Counsel showing witness 'Sunday Pictorial' (exhibit H), of 27 Sep 42.

Q. Is this the type of article you intended to be published.

A. Yes sir.

Q. Did you feel that in Canada and U.S.A. the public had too little of this sort of thing.

A. Yes sir.

I submit a copy of the Sunday Pictorial (exhibit H)

Q. Why was it that when you came before the C.O. and were confronted with these orders that you were not prepared to accept the punishment the C.O. might give you.

A. In the belief that an acceptance of his punishment would be the admittal of a mom intentional guilt, I could not bring myself to accept even his smallest punishment because I did not know I had committed any crime.

Prosecutor cross examines witness.

Q. Did you make an effort to have this correspondence censored?

A. No sir.

Q. Did you intend the letter and photos to be published.

A. Yes sir.

(cont'd)

(cont'd) Accused.

Q. Did you at anytime make written application for permission?

A. No sir.

Q. Did you ever receive any written permission from anyone?

A. No sir.

Question by Court.

This letter (exhibit C) is signed, "A Canadian", did you write this letter.

A. Yes sir, I did.

Q. Are these the photos (exhibit D) , you enclosed for publication.

A. Yes sir.

2nd Witness
for Defence

P 21365 Squadron Sgt-Major Henry, B Squadron 4 Cdn Recce Reg't(4 PLDG) having been duly sworn is examined.

Q. (Showing witness exhibit G) Was this order read on B Squadron parade every three months since 22 Oct 41.?

A. Not to my knowledge sir.

Q. Has the witness caused an average amount of trouble as a soldier.

A. His behaviour has been better than average.

Prosecution declines to cross examine witness.

No questions by the Court.

3rd witness
for Defence

Major M.A.G. Stroud, O.C. B Squadron, 4 Cdn Recce Reg't(4 PLDG) having been duly sworn, is examined.

Q. Can you tell the court if Unit Order 870 Paras 6 and 10 (exhibit G) was read to B Squadron every three months.

A. It was not read out every three months.

Q. When was it read last.

A. It has not been read since February 1942.

Prosecution declines to cross examine witness.

No question by Court.

4th witness
for Defence

D 106086 Tpr Lebrooy P.J. 4 Cdn Recce Reg't(4 PLDG) having been duly sworn, narrated at some length on the past history of the accused who is his twin brother, and himself. He stated they had always been together and that the accused was an ardent reader, very patriotic and eager to actively serve his King; and that his letter for publication was evidence of just such characteristics.

The evidence was not taken verbatim, with agreement of Prosecution and Defence. (R.P. 95 A)

(cont'd)

(cont'd)

The Defending Officer addressed the Court. He points out That the letter contained no military information merely an account of the accused's personal experiences and that many accounts do appear in daily periodicals showing much more military detail than the accused revealed; that the order No. 870 (exhibit G) mentions arsenals, magazines, stores etc. which the photographs (exhibit G) do not reveal; that instructions re censorship were not carried out every three months, as laid down and consequently the accused was not aware of his responsibilities; that there was not any effort to cover himself since he placed his name and Regimental number on the envelope and mailed it through proper channels; that the accused was inspired by his annoyance at comments he had overheard and a feeling that he should do something to glorify his unit in a manner illustrated in the Sunday Pictorial (Exhibit H) for example, in which the tactical numbers and signs are obvious, and which he, in his photographs, was careful not to reveal.

The prosecuting officer addresses the court.

The prosecution is not concerned with the motives of the accused or with content of material submitted.

Dealing first with the closing address of defence, the latter submitted most certainly contains military information. It mentioned certain equipment used, numbers of Engineer personnel attached to a sub unit. It is impossible for information to be written about a manoeuver and not to mention military information. Re Unit Part One Order 389 para(e) (exhibit F), it is open to question whether it should be read as meaning, any arsenal, factory, magazine or store of equipment, or if equipment should be considered above. Sub section 2(m), forbids the photo of any persons, camp, or transport vehicles.

The accused in his own statement has admitted he never made any attempt to submit material in question for censorship and that he intended material to be published, - that he neither asked for nor got permission, - finally admitted he was author and that he had submitted the photos.

In all charges intention or motive is not part of charge and is therefore admitted he has violated all the Orders referred to on charge sheet.

On e of the first rules a man in the army is taught is that he is responsible for knowing contents of all orders which concern him. The entire evidence of defence has been directed to showing that certain of these orders were not repeated at specified times and that accused has given evidence that he did not know of the existence of these Orders. Evidence was given by the Squadron Commander that orders were read on at least one occasion. In any case all troops are presumed to know contents of all official orders concerning them. Accused made no attempt to inquire whether any specific regulations applied when submitting articles for publication although it is common knowledge that no military personnel may give interviews for publication without permission.

All three charges are laid under Sec 40 Army Act. I am not going to insist that information should not have been divulged, but this man is setting himself up to judge what is suitable for publication and if this is permitted, the effect on good order and discipline of the army would be serious. This man has violated certain orders and I submit that the court must find him guilty of so violating them. Evidence has been brought as to good character and prosecution does not question character nor ask for heavy sentence. However, the prosecution does submit the man must be found guilty and must undergo certain punishment for the violation of certain rules even though his intentions may have been the best.

The Court closes to consider the finding.

The Court find the accused guilty of all charges.

The Court is re-opened.

Lieut. E.S. Thorne, 4 Cdn Recce Regt (4 PLDG), the prosecuting officer is duly sworn and states:

I produce certified true copy of the M.F.M. 6 (marked J) and a short statement of particulars of service (marked K). These are true extracts from Regimental records and refer to the accused.

The Court closed to consider sentence.

Summary Of Evidence in the case of

D 106087 Tpr Lebrooy, J.P. of the

4 Cdn Recce Regt (4 P.L.D.G.), a soldier of the Canadian Army, Overseas, is charged

By direction of the Commanding Officer the evidence is taken under Oath.

1st Witness for the Prosecution

B 74070 Sgt Roberts, W., having been duly sworn, states:- I am a Sgt of the 4 Cdn Recce Regt (4 P.L.D.G.). In my capacity of Orderly Room Sgt, I received and opened a letter on 5 Sep 42 from H.Q. 1 Cdn Div, which had seemingly originated at C.M.H.Q.(Exhibit "A"). Enclosed with the letter was Postal and Telegraph, Submission slip No. CM/S/513 (Exhibit "B") and a letter purported to have been written by D 106087 Tpr Lebrooy, J.P., addressed to Contributions Editor Life Magazine, "Time"and "Life" Biulding, Rockerfeller Center, New York.(Exhibit "C"). Enclosed also were two photograph negatives (Exhibit "D"). I turned the documents over to the Adjt.

Questioned by Officer taking Summary.

Q1. Do you know if this Tpr Lebrooy, D 106087, mentioned in the documents, Exhibits "A" and "B", is the accused man ?
A1. Yes, he is.

Q2. If any written permission had been granted by the C.O. to publish the document, Exhibit "C", would it have passed through your hands in the normal course of events ?
A2. Yes, it would have, but in this case no such permission passed through my hands.
The accused, Tpr Lebrooy, declines to cross-examine this witness.

W. Roberts
(B 74070 Sgt Roberts, W.)

2nd Witness for the Prosecution

Lieut C.D. Lough, having been duly sworn , states:- At the time that D 106087 Tpr Lebrooy, J.P. is said to have mailed the letter in question, I was his Troop Officer (5 Troop, B Sqn). He did not approach me to censor the negatives (Exhibit D) enclosed in the letter (Exhibit C) or ask me to have them censored by the Intelligence Officer.

Q1. Was this the normal proceeding, to go to the Troop Offr and then to Sqn H.Q. ?
A1. Yes, this would be the best way.

The accused, Tpr Lebrooy, declines to cross-examine this witness.

C. D. Lough
(C. D. Lough) Lieut.

The accused having been duly warned in accordance with R.P. 4 elects to make an statement on Oath.

Statement by D 106087 Tpr Lebrooy, J.P.

Technically speaking I may have been wrong in breaking a Military Law, as I afterwards learned, but my own conscience and convictions led me to refuse a punishment for an offence that was done in the best of faith toward my Regiment and my Country.

J.P. Lebrooy
(D 106087 Tpr Lebrooy, J.P.)

Certified that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 14th day of September 1942.

(E.S. Thorne) Lieut.,
4 Cdn Recce Regt (4 P.L.D.G.)

B-3

EXTRACT C.A.R.O. (O's) No. 1059, para 9

9. This order will be republished in unit orders forthwith and at least every three months thereafter. Attention is directed to K.R. (Can) 410, 411, 1099 and 1491. In respect of disciplinary action in this connection attention is directed to Army Act Secs 5(4) and footnote, 11 and 36.

Certified true copy

EXHIBIT "M"

F.G.C.M. D-106067 Tpr LeBrooy, J.P.

LIST OF EXHIBITS

Exhibit "A" - CMHQ Letter 10/LeBrody, J.P./1

Exhibit "B" - Postal & Telegraph Censorship Submission No. CM/S/512

Exhibit "C" - 6 page letter on blue paper purported to have been written by D 106067 Tpr Lebrooy, J.P. and white envelope

Exhibit "D" - Two photographic negatives and prints in envelope

Exhibit "E" - Battalion Part One Orders setting out Order No. 820 (ref. 1st charge)

Exhibit "F" - Battalion Part One Orders setting out Order No. 369 (ref 2nd charge)

Exhibit "G" - Battalion Part One Orders setting out Order No. 870 (ref 3rd charge)

Exhibit "H" - Issue of Sunday ictorial newspaper dated 27 Sep 42 (pages 6 and 7)

Exhibit "M" - Certified true copy C.A.R.O. (O's) No. 1058 para 9.

Exhibits "J", "K", & "L" - Documents.

W a McArthur Maj

(A)

CANADIAN MILITARY HEADQUARTERS

Name D.106087 Tpr. LeBrody, J.P. File Ref 10/LeBrody, J.P./1...

Unit 4 Cdn. Recce. Regt.....

1. Herewith intercepted letter and Censor Comment Slip.

2. May appropriate action be taken please.

3. Please return letter and comment when same have served their purpose and advise action taken, using form below.

4. This ~~does~~ does not contravene C.A. (C/S) R.O. 847

5. This ~~does~~ does not contravene C.A. (C/S) R.O. 659 para 6.

(J.P. Montague) Major-General,
Senior Officer,
Canadian Military Headquarters.

FROM	SIGNATURE RANK & APPT	TO	DATE	REMARKS
C.M.H.Q. (M.I.c.)	John P. Bourque (J.P. Page) Capt G.S.O.2, (M.O. & I.)	Adv H.Q., Cdn Corps "G"	14 Aug 42	
H. Qt 1 Cdn Corps	P. Lamm Capt GSO 3(I)	H. Qt 1 Cdn Army	22 Aug 42	
H.Q FST. CON ARMY G.S. I(b)	J. Lemmon Capt	H.Q. 1 CON CORPS. G. I.	1 SEP 42	PASSED. SEP 4 '42 AM
1 Cdn Cap.	[illegible] GSO 2(I)	1 Cdn Div.	3 Sep.	
1 Cdn Div	LCPL Sorby Capt GSO 3(Int)	4 Cdn Recce Bn	4 Sep.	

3-2-1 Int.

ACTION TAKEN: (To be filled in by O.C. Unit)

AWARD:

O.Cs. REMARKS:

Encl.
gdt

Exhibit "A"

(B) (97) Wt. 20514/T940 200m 8/41 Orch.St. 410

POSTAL & TELEGRAPH CENSORSHIP. SUBMISSION No. CM/S/512

P.C. 72

Terminal Mail ~~Air~~ Surface

M1

Letter from Le BROOY, J.P.
D.106087

~~Address~~ or postmark F.P.O. 314.

~~Date of Letter~~ or postmark F.P.O. 3.8.42.

To Contributions Editor,
Life Magazine,
"Time and Life" Building,
Rockefeller Center,
New York, U.S.A.

H.Q. 70 AUG 22 1942 3-11-0 I CAN. ARMY TANK BDE

Language English. 12 AUG 1942

ORIGINAL LETTER:

Submitted x Photographed

Retained Released

Returned to Sender

SUBMITTED TO:

Orig. to F.C.(H)

Seen by: Naval Adviser Air Adviser I.M.12

SUBJECT

(Include necessary references to Watch Lists, with Authority requiring the Watch)

Article intended for publication, presumably from a Canadian soldier.

Enclosure. - 2 negatives.

Operating Unit	Section	Examiner	D.A.C.	Date
HOL/PRI.	T.9/F.3	5899	DMW.	10.8.42.

Exhibit "3"

(C)

Dear Sir,

"Life Magazine" has always faithfully reported on subjects of interest from the War fronts, but little or nothing has been published about the activities of the "Can. Army Over-seas", which many rate to be one of the best lead and equipped Corps in the world. My implicit faith in the Canucks tough abilities, hard training and hereditary courage, that after an average of over two years waiting for action they are just as keen as ever to have the chance to try their metal against the dogs they were cheated of such well in France and a last minute consolation for a voyage to Norway.

In answer to the faithless critics about their inactivity, I shall not relate the experiences of the Canadians as a whole, but one of a section of carriers in the 1st Reconnaissance Regiment in the British Empire. This Can. Recce. Reg. was formed immediately after the Evacuation of Dunkirk". They are thoroughly versed in the art of good reconnaissance and to ten specific tasks, besides others of minor importance to which by experience they are daily adding.

A few days prior to the opening of hostilities (Manoeuvers.) against a Czech English Corps, two Recce. Sqns. — others in reserve — of the Can. Army moved successively by night to take up sectional positions on important signs and hold military objectives, miles in front of their respective Infantry Brigade support.

Three armoured carriers [illegible] harboured within a small wood by the edge of [illegible] roads. Their crews nine apart of the complement of a dozen engineers building road blocks, in preparation for

the next day's 5.A.M. offensive by the enemy. At the expectant time a Bren gunner and a soldier with an anti-tank rifle lay concealed overlooking the roads edge at vantage points a hundred feet or so before the logged barrier. The others were cooking eggs (at three and three a dozen.) over gas stoves provided, on the alert for a quick evacuation, that soon ensued when the sentries hurriedly returned to report that having let three enemy carriers proceed to the road block — supposedly blown up by anti-tank mines, — they had fired dummy ammunition and clay hand-grenades at the two trucks which stopped just opposite. Naturally, though the enemy was considered technically out, they turned about, to make a hasty exit unhindered; for though their former opposition had the right, they had not then the backing to enforce their view.

Having acted according to orders in remaining at the road block until contact with the enemy had been made, the carrier section then started for Troop H.Q. at full governor controlled speed, down the road. Suddenly a partially dismounted troop of English Recces were caught unawares to find two unfriendly armoured units rush through their line of parked carriers, the third quite willing for a good crash rather than be captured. This was cleverly avoided by the driver with right and left turns to counter the awakening efforts by carriers being swung too late to completely close further passage. Unfortunately they captured the I.R. and the Engineers who made a belated departure.

Proceeding at a good clip down

a main road, followed by their former opposition, an enemy post was seen on the brow of an oncoming hill. A motor-cyclist umpire came up ready to put the section out of action. The only alternative was to turn off the road into the bush, to recross in the enemies rear and make for map marked paths in a large wood.

Having given them the slip they cautiously proceeded to the offside of their tree refuge, when tanks and armoured cars were heard going by on a nearly highway. The Sergeant made a reconnaissance on foot, and on his return sent forward under a Corporal, a Bren gunner and another trooper with thunder flashes to capture two parked armoured cars and a V.R. in a field at the edge of the main road. The afore ~~said~~ mentioned English Referee who had with difficulty followed, was, while watching at a distance, quite impressed with the agility of the three Cdns; stealthily creeping then crawling to within a grenades throw of two unmindful crews. Their capture surprisingly led-up to the freeing of a section of carriers in another troop of their Sqn. Realizing Troop H.Q. must have moved or been taken prisoners, they returned to the woods edge to make plans, repair a carrier, put in a reserve of petrol and cook lunch.

On the completion of a noon meal and wash-up in a nearly pound, the three armoured vehicles were headded over track and field, with the intensions of capturing an important, well guarded bridge. A single carrier having reconnoitred down a road in the direction of the approach, found it to be too well guarded. The

decision to strike from the next road over was thought to be feasible. Then as a result of the constant passage of enemy vehicles, it was thought more profitable to hide two carriers at concealed entrances to lights where they could block the road at the opportune moment to trap behind and in front all the opposition in echelon. The prime motive of the road block was in the desire to catch a petrol truck. This was not forthcoming except for a couple of the usual U.R. tillers and a few light trucks. Leaving the captured to continue their way, the section made up a private side route, endeavouring to outflank the next German guards at the bridge.

Travelling along country tracks and across fields for about an hour, a main highway was approached. Instantly the tops of wireless trucks were sighted, at the map marked cross roads. The carriers arbeing with hidden behind two hay stacks, the Sergeant in charge went ahead on foot, in order to get the lay of the ground. Upon returning he gave a quick account of the unsuspecting opposition hidden in the road's dip and by the usual hedges, also affording cover to three men with one light machine gun who might creep upon their front, while on a similar manner a flanking crowd by three others against their rear. These latter were to wait for the former to open the action, but on reaching their position they were in danger of being perceived by the arrival of next officers, so the flank attackers opened at once plant fire upon large bewildered groups of men and petrol vehicles. Immediately the others closed in on them, the carriers on being rushed

up took positions blocking all escapes. The three umpires decided that all the English were either killed or captured. Apparently a "Battalion's Orders Group" had been taken, consisting of twenty-three officers and half that number of other ranks, including the equipment of two wireless vehicles - their receiving and sending set being the first thing to be turned-off, - staff cars, light trucks and motor-cycles were all put out of action for three hours. Vehicles were still coming in, only to be captured, but when an advance guard of bicycling infantry were caught it was thought to be about time to promptly clear out. There was no desire to tangle with such odds that were to follow, so in a cloud of dust the carriers left the way they had entered; later to canvas down for the night amongst flocks in distant fields. Next morning after a delicious breakfast of spring lamb, a start was made for a highway leading into an enemy occupied village, to inflict as much damage as was feasible on the few passing transport. Two lorries packed with prisoners to be exchanged were stopped then allowed to proceed having surmised that the main line of advance was a long way off. Travelling on a main highway in the direction of the supposed front, an English staff car when foolishly wishing to pass finished its run sandwiched between two carriers.

Petrol getting short a fail road block was erected, backed by clubbed rifles and even Bren guns against stubborn D.R.'s, but powerless against obstinate truck drivers; who sometimes on refusing capture would crash through, narrowly miss taking

a brave defenders life with him. Never the less a good two dozen or so enemy vehicles were cut off into a side road. No luck however on the fuelling-up problem, though quite pleased to hear one of the two captured Colonels asking if it was the same three carriers that were causing so much trouble and some what becoming the terror of the neighbourhood.

Off the highway, over difficult country paths, then across a maze of miniature railway tracks in a large quarry, at length to reach another minor road, where the carriers were concealed down a driveway. The crews, excepting the drivers went ahead on foot to capture if possible a presighted dozen oad men, their two carriers and a few motor-cyclists. Though completely caught unawares the opposition - unumpired - immediately returned the fire, and as numbers are the deciding factor in the eventuality of a decision of this kind, it was thought more expedient to beat a hasty retreat to the protection of their armoured vehicles.

In disorderly array over-crowded English Recce. carriers followed by combinations, solos, and what have you on foot, pursued the Scout Section pell-mell down a hill to a stream that at the present impeded further flight. As was usual, an argument ensued, the Impere being on hand for this last pay but not the former, gave the Cdns. fifteen minutes to clear out, miners a lost man from the first encounter. Taking to the woods, the section not too far distant waited in ambush for the possibility of any pursuite.

Hours later a foot patrol was sent out to find a way round the enemy and perhaps capture a petrol truck. While thus occupied they captured several D.R.s. to good effect, when the sergeant having borrowed one of their solos recognized a passing bicyclist to be his missing soldier. Apparently unable to pinch a watched carrier, failing to start a parked motor-cycle, he at length got away on what the English call a soldiers push bike. From a freed D.R. the enemy learnt the intensions of their hidden opposition; the result was a well guarded petrol truck sent up and down the road – the bait failed in its purpose.

On the move again in the warning, the carriers left the vacinity for a road upon which at that time there was a continual procession of enemy vehicles, possibly on the retreat. For a good half hour, dismounted Bren gunners lay hidden with their automatic weapons trained on this road. Meanwhile concealed carriers overlooking the road's edge were ready to be shot forward, blocking further passage. It would have been fool-hardy to tackle an artillery convoy followed by one of Heavy Machine Gunners. Needless to say once they had passed, every time a motor was heard to round either bend a carrier was run across at the last moment. A wireless truck, two filled staff cars, several empty army trucks and thirty infantry bicyclists were all directed down a coul de sac. The latter after waiting five minutes, just bicycled off, and there being nothing one could do about it, all left.

In dispair of procuring gasoline

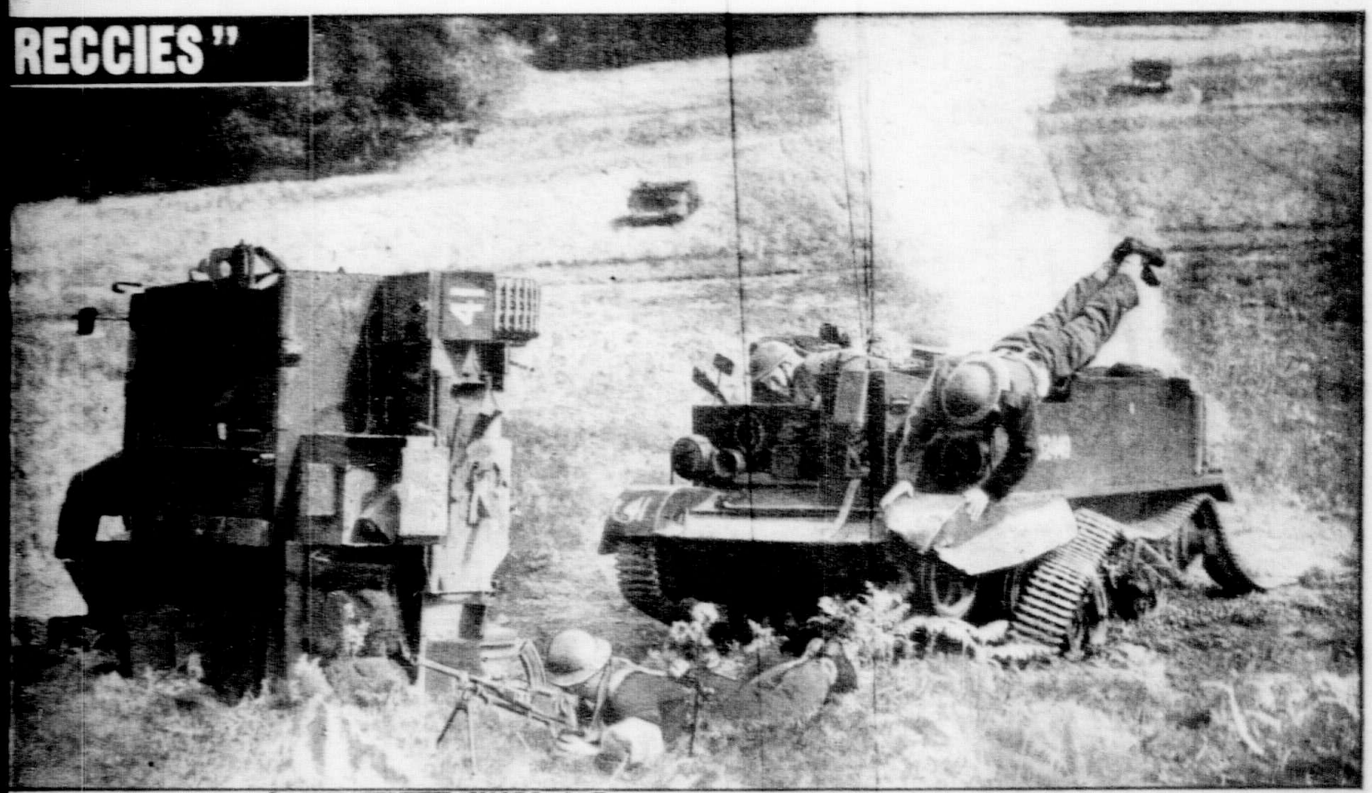
The next best alternative was to crash through to their own lines, where ever that might be! With that intension they proceeded hell-for-leather, flying splinters and strewn timbers of flimsy road barriers marking their unexpected passage, until at length chased by two heavy armoured cars. Anti-tank rifles and Bren guns were placed in positions covering the highways steep climb to the point of the sections departure into woods. Thunderflashes permeated the silence and the noise of blank cartridges rent the air as the A.C.s. stopped opposite the perceptible tracks. But all to no avail, for it takes force to stop force while on manoeuvers and many are the umpires like the one accompanying on his motor bike, who calmly drove away with his charge.

In short, having sheltered under antiquated oaks for the night, the section next day managed to procure a little gasoline, and was able because of the enemies sudden retreat, to reach its own squadron and continue a set role of "True Reconnaissance" for the next eight days.

Anonymous yours.
A Canadian.

P.S. I apologize for not having the time to rewrite and correct this letters many mistakes, but if it should be just understood, I'm sure the staff could polish it up considerably and perhaps make it worthy for publication.

RECCIES"



R-A-S-H!

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HT: Anti-tank gun in the "Reccies" rained and make use of natural uflage.





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EXHIBIT "H"

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(Signed) Mrs. R. B. Watford.



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(Tablets or Liquid)

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Depression	Neuralgia	Sciatica
Headache	Sleeplessness	Anaemia
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Brain Fag	Rheumatism	Neurasthenia

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He came up, spluttering. "About eight feet, sir."

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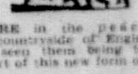

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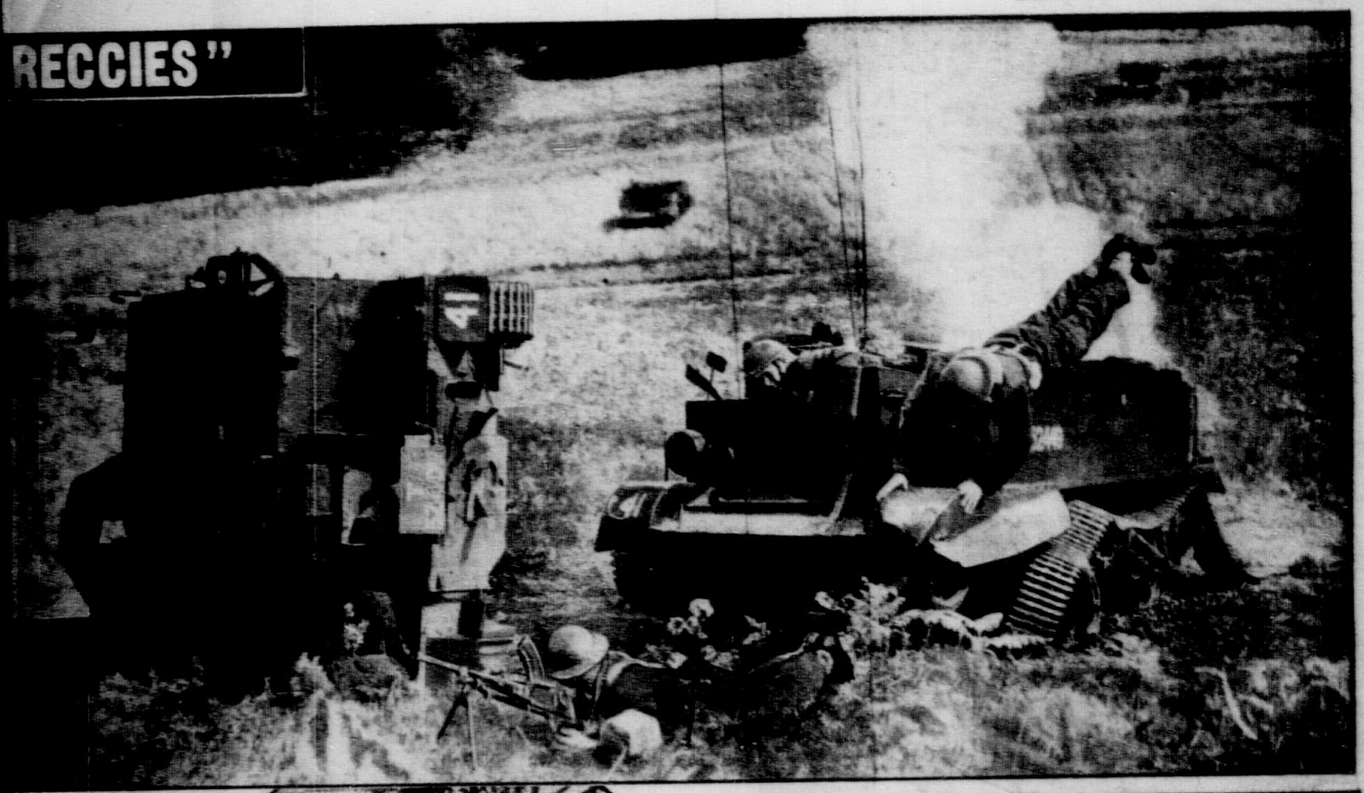

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Contributions Editor Life Magazine
Time and Life Building
Rockefeller Center,
New York.
U.S.A.

LeBROOY. J. P.

D. 106087.











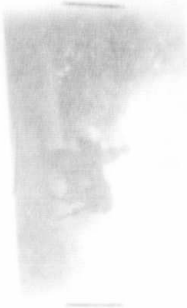

T.O.S. 4 Cdn Recce Regt (4 PLDG) 8 Feb 41

No. D106087 Name LeBrooy P. Att. Battery or Company Corps Royal 22 Regt Date of enlistment 8 Jun 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Oct 40	Pte		W.O.A.S. Absent from parade without permission.	Sgt Perron	5 days C.B.	15 Oct 40	Lieut Cat	
"	16 Feb	"		A.A. Sec 40	Maj Ardagh	2 days CB.	17 Feb 41	Maj Ardagh	
"	10 Mar 41			A.A. Sec 15 A.W.L. from 0600 hrs 10 Mar 41 till 1130 hrs 10 Mar 41	Sgt Monzillo	Forf 1 days pay.	11 Mar 41	Maj Wetmore	
"	19 Mar 41			W.O.A.S. A.A. Sec 40 i.e. he neglected to carry out a lawful command given by his superior officer.	Sgt Carters Cpl Buzay	21 days F.P. Forf 21 days pay.	20 Mar 41	Lt Col Foster H.W.	
"	1 Sep 41			A.A. Sec 15 A.W.L. from parade	Sgt Dixon	7 days C.B. 1 days pay	1 Sep 41	Capt MacGowan	
"	29 Jul 42			A.A. Sec 15 A.W.L. 4 hrs 10 mins.	Sgt Birss	3 days C.B.	31 Jul 42	Capt A.H. Claxton	

CERTIFIED TRUE COPY IN ALL MATERIAL DETAILS

(W. F. Johnston) Lieut & A/Adjt.,
4 Cdn Recce Regt (4 P.L.D.G.)

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED

D 106087 Tpr Lebrecy, J.P.
4 Cdn Recce Regt (4 P.L.D.G.)

(a) The accused has been in confinement awaiting trial on the present charges for ...no... days in Civil Custody and ...no... days in military custody making a total of ...no... days of which ...no... days were spent in hospital.

(b) The present age of the accused according to his attestation paper is ...22... years.

(c) The date of his attestation specified in the attestation paper is ...8 Jun 42...

(d) The accused is in possession of, or entitled to no military decoration or military reward, ~~or is in possession of or entitled to~~

I hereby certify that the foregoing particulars are true extracts from the Regimental books in my custody.

As at 1000 hrs
28 Sep 42

A. J. Duck
Capt.,
(for C. D. ADAMS) Lt.-Col.,
C.O. 4 Cdn Recce Regt (4 P.L.D.G.)
(signature)

W. A. McArthur Maj
Pres. 46 CM

D-10[illegible] [illegible] Lebrooy, 4 P.L.D.G.

REVIEW SHEET

28 Sep 42

F.G.C.M. - Trial:

Date of trial:

Major N.A. Macarthur, 1 Cdn Div Sup Coy.

President of Court:

---

1. For the information of the officers asked to sign below, the following irregularities are noted:-

(a) [illegible] Sheets [illegible] without being attached to the A.F.M.3 in a [illegible] disorderly and confused condition.

(b) Medical certificate is not in the "approved" form. Specimen certificate is attached hereto.

(c) Convening order [illegible] by the president of the court. (See [illegible] p.742).

(d) Date of [illegible] of court is not inserted in the [illegible] of [illegible] on page 2 of A.F.M.3. [illegible] Book [illegible] (b, as amended).

(e) It [illegible] the [illegible] of [illegible] of [illegible].

(f) Court [illegible] (See [illegible] R.P.27).

(g) [illegible] of the accused with respect to [illegible] not [illegible].

(h) The full name of the accused is not set out in the [illegible] on page 2 of A.F.M.3 [illegible] (See [illegible] p.714).

(i) Convening order [illegible] the parts [illegible] are not [illegible] (See [illegible] A.F.M.3 p.1).

(j) The [illegible] the [illegible] officer or the [illegible] (See [illegible] p. 14).

---

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters, please.

O. C. 4 P.L.D.G.	
Adjutant	
President of the Court	
A.D.J.A. 1 Cdn Div	
Staff Officer for Convening Officer	
Staff Officer for Confirming Officer	

(A.W. Embury) Major,
D.J.A., 1 Cdn Corps.

DISTRIBUTION: CMHQ
A.D.J.A. 1 Cdn Div
[illegible]
[illegible] Cdn Div

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED

D 106087 Tpr Lebrooy, J.P.
4 Cdn Recce Regt (4 P.L.D.G.)

(a) The accused has been in confinement awaiting trial on the present charges for ...no... days in Civil Custody and ...no... days in military custody making a total of ...no... days of which ...no... days were spent in hospital.

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(c) The date of his attestation specified in his attestation paper is..8 Jun 40.

(d) The accused is in possession of, or entitled to no military decoration or military reward, ~~or is in possession of or entitled to~~

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As at 1000 hrs
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(A. J. Duck) Lt.-Col.,
for (F. D. ADAMS) Recce Regt (4 P.L.D.G.)
O.C. 4 Cdn
(signature)

Ex. K

W. A. McArthur Maj
Pres. 4 G.C.M.

T.O.S. 4 Cdn Recce Regt (4 PLDG) 8 Feb 41

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Sheet No.

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4 CdnRecce Regt (4 P.L.D.G.)

(P.T.O.)

D-106082 [illegible] J.P. Lebrooy, 4 P.L.D.G.

REVIEW SHEET

28 Sm 42

F.G.C.M. - Trial: Major W.A. MacArthur, 1 Cdn Div Sup Coy.

Date of trial:

President of Court:

1. For the information of the officers asked to sign below, the following irregularities are noted:-

(a) The documents have been forward without being attached to the A.F.A.3 in a most disorderly and confused condition.

(b) Medical certificate is not in the "approved" form. Specimen certificate is attached hereto.

(c) Convening order is not signed by the president of the court. (See M.M.L. p.742).

(d) Date of sentence of court is not inserted in the 4th col of schedule on page 2 of A.F.A.3. (See "The Green Book" p.23, para 59(b) as amended).

(e) It was not necessary to use a court reporter. (See C.R.O. 442 of 1941).

(f) Court reporter having been used he should have been sworn. (See R.P.27)

(g) R.P. 40 is not complied with, i.e. the rights of the accused with respect to his giving evidence were not explained to him.

(h) The full name of the accused is not set out in the schedule on page 2 of A.F.A.3 or in the charge sheet. (See M.M.L. p.714).

(i) Convening order is irregular in that the parts to be omitted are not struck out. (See marginal noted A.F.A.3 p.1).

(j) The charge sheet is not dated either by the commanding officer or the convening officer. (See M.M.L. p.714).

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters, please.

4 P.L.D.G.	
O. C. 4 P.L.D.G.	
Adjutant	
President of the Court	
A.D.J.A. Cdn Div	
Staff Officer for Convening Officer	
Staff Officer for Confirming Officer	

(A.W. Embury) Major,
D.J.A., 1 Cdn Corps.

DISTRIBUTION: CMHQ
A.D.J.A. 1 Cdn Div
[illegible]H.Q.
[illegible] Cdn Div

COUNTER NUMBER 77627

HOUR 10:45

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR E. M.

FFF 79

PTE LEBRUN E

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-4091 Pte Lebrun, Ernest - Gen List - 3 Cdn Inf Rft Unit

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(4)	not guilty	not guilty	
2nd AA Sec 40	not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

K At present under sentence for ~~imprisoning~~ on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ____ days, of which ____ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ____ 3rd Mar/44 ____ President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding ____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6;46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) ____

Date ____ Commanding ____ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

A-4091 Pte Lebrun Ernest 8/May/44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.P. FFF-29

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFAB) 40/P & S/1608 (2864)

Convened by Order of Brigadier G. Francoeur Comd HQ "D" GP CRU dated 2 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-4091	Pte		Ernest	LEBRUN	Gen List ++++++++ 3 CIRU

PROCEEDINGS REVIEWED
R. Dawkins Capt
27 MAR 44
REVIEWING OFFICER, JAG BRANCH, AMHQ

PROCEEDINGS OF TRIAL.

K Held in the Fd in (country) England on (date(s)) 3 Mar/44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

K A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF RFS, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

K A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

K A5. ~~President to accused: Do you object to~~ F/3776 ~~as interpreter? Ans~~

K The Interpreter is sworn.(1) Do you object to Cpl Schultz as shorthand writer? Ans NO - SIR
The shorthand writer is sworn.(1) case

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO - SIR(2):

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

K A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D L REDMAN	HQ CRU
Member	Capt	C V MATSON	7 CIRU
Member	Lt	A R WILSON	4 CIRU
~~Judge-Advocate~~			
Prosecutor	Lt	T C ODETTE	3 CIRU
Defending Offr	Lt	J A DUNLOP	3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

K A8. The accused ____ before arraignment make(s) (no) ~~a~~ plea ____ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 128), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

K A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF Rfts to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3., RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - SIR (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE - ATT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans To give Evidence. Do you intend to call witnesses on your behalf ? Ans NO - SIR. ~~Are they witnesses as to character only~~ ? Ans .....
(1. RP [redacted] 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding~~(s) ~~of the Court on the charge(s), being subject to confirmation, will be promulgated later.~~(1)
~~Or~~, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ..... (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7 x D
(1. When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, Regt. Number A.4091, Private Ernest LEBRUN, General List, a reinforcement on the strength of 5 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC. 15 (4)

WHEN ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the Field, at 2215 hrs. 26 Feb 44, stole one haversack pack and contents., i.e. 3 (1 pound) boxes of chocolates, approximately 4 pounds of Coffee, 50 packets (25s) Sweet Caporal Cigarettes, one packet (22) Black Cat cigarettes, the property of A.106742, Pte. Goforth, L.R., Gen. List, a person subject to Military Law.

SECOND CHARGE
A.A. SEC. 40
(ALTERNATIVE CHARGE)

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, at 2215 hrs. 26 Feb 44, was improperly in possession of one haversack pack and contents, i.e., 3 (1 pound) boxes of chocolates, approximately 4 pounds of coffee, 50 packets (25s) Sweet Caporal Cigarettes, one packet (22) Black Cat Cigarettes, the property of A.106742, Pte. Goforth, L.R., Gen. List.

J.A. McIntosh

(J.A. McIntosh) Colonel
Commanding Officer
5 Cdn. Inf. Reinf. Unit

Dated in the Field,
28 February, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

G. Francoeur

(G. Francoeur) Brigadier
Commander
"D" Group, Cdn Rft Units.

In the Field
2 Mar 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-4091	Pte		Ernest	LEBRUN	Gen List ++++++++ 3 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~s~~ attached and dated (date) 2 Mar 1944 endorsed by me, ~~"as by an offr of my staff for same,"~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior (position) offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason(s) stated attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-col (Rank.)	D. L. Redman (Must be named. RP 106.)	H$_q$ CRU (Unit.)

MEMBERS.

A Captain	to be detailed by CO	7 CIRU
A Lieutenant (Rank.)	to be detailed by CO (Named or detailed. RP 106.)	4 CIRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 2 Mar 44

G Franklyn (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "D" Group, Cdn Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CP(AG) (Dir Distr of AFAS) 80-7-8-5/1944 (403)

(See overleaf for oaths and notes for use on trial.)

3 CANADIAN INFANTRY REINFORCEMENT UNIT

Medical Officers Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined No. L Brown C. A 4091 P
Name & Rank
of Gen List and in my opinion he is fit to undergo trial
by Court Martial.

Station Field

Date 8/8/44

J. Winter Capt
Medical Officer
3 Cdn. Inf. Reinf. Unit.

TRIAL OF

A 4091 Pte LEBRUN, E., No 3 CIRU

The accused, when arraigned, plead not guilty to the first charge and guilty to the second or alternative charge. The Court, under Note 2, RP 37, proceeded to try the accused as if he had plead not guilty to both charges.

EVIDENCE FOR THE PROSECUTION -- NOTE: D-3

1st WITNESS FOR THE PROSECUTION
A 102152 Pte DUPUIS, J.B., 3 CIRU, having been duly sworn states:

On the 26 Feb 44 I was sleeping in the sleeping quarters of No 24 hut, Salamanca Barracks. That night I was in my quarters at approximately 2215 hrs. I was a corporal at the time and I was in my cubicle in room 24 talking to two of my friends when I saw the accused, whom I now recognize, walking out of room 24. He was going through the door with a soldier's large pack. He was a stranger to me and walking out in this way with his large pack caused me to become suspicious. I hollered at him to stop, but he continued on. I took up my flashlight and followed him out. I saw him stop and lay the pack down on the verandah and he came back. I asked him where the pack was and he said, "What pack?" Pte Chalmers was with me and we brought the accused back into room 24, then Pte Chalmers went away and came back immediately with a soldier's large pack. I told Chalmers to stay there and hold the accused. I then tood the pack into room 24 and asked if anyone had lost a pack, no one answered, but in the presence of the accused Pte Chapman said that he had seen the accused come through the other door to room 24, at the back, carrying a soldier's large pack. I went into room 25 with the pack and Pte Chalmers and the accused came along also with Ptes Chapman and Oram. When I got into room 25 I asked if anyone there had lost a pack. Pte Goforth answered that he had lost a pack. I went to him and asked him if he could identify the pack and its contents. He said that there were cigarettes and I think he said coffee was in his pack. At this time Cpl Guilfoyle came along and I turned this business over to him. It appeared that the accused had been drinking. I cannot say to what extent, nor can I explain what there was about him that made me think he had been drinking, but he was not drunk. I looked into the top of the bag but did not take anything out of it.

CROSS EXAMINATION BY THE DEFENDING OFFICER

I believe the pack was closed. I believe I opened it. I had never seen the accused before. There are few strangers who walk through, between rooms 24 and 25. It is against the rules. We had moved into these rooms just shortly before. There is a joint ablution room between rooms 24 and 25.

2nd WITNESS FOR THE PROSECUTION
A 106056 Pte CHALMERS, W.A., 3 CIRU, having been duly sworn states:

On the 26 Feb 44 my sleeping quarters were in room 24, Salamanca Barracks. At approximately 2215 hours that night I was standing in the cubicle of room 24 talking to Pte Dupuis, a corporal then, I saw a man whom I now recognize as the accused walking out of the room with a large pack. I heard Corporal Dupuis go to the door and call the accused back. He did not stop, Corporal Dupuis took his flashlight and went out after him. I went to the door and heard Cpl Dupuis call the accused back and then ask the accused where the pack was. The accused said "What pack?" Cpl Dupuis brought the accused back in and sent me out to get the pack. I went out and got the pack which was on the upper verandah of the barracks.

TRIAL OF

A 4091 Pte LEBRUN, E., 3 C.I.R.U.

2nd WITNESS FOR THE PROSECUTION (Cont'd)

It is about 15 or 20 feet away from the door of room 24 out of which the accused had gone.

I gave the pack to Cpl Dupuis then I saw him examine it. He did not take anything out of it. Cpl Dupuis then asked if anyone in room 24 had lost a pack. No one said that he had lost a pack. I could hear this and the accused was with me. Cpl Dupuis, the accused and I went into room 25. Cpl Dupuis asked if anyone had lost a pack. Pte Goforth said his pack was missing. The accused was with me. I heard Cpl Dupuis ask Goforth if he could tell what was in the pack. Goforth said there was chocolates, coffee and cigarettes in it. After Goforth said he lost a pack the accused said he had not stolen it. No one had accused him of stealing it.

(The Prosecutor shows the witness a pack. Witness opens and looks into it. He examines the outside of the pack). Witness continues

That is the pack which I got off the verandah on the 26 Feb 44. I note that it has several metal coat hangers attached to the bottom and as I now look into it the contents appear to be the same as when I looked into it on the 26 Feb. There is no number or name on the outside of the pack.

(Pack and contents marked Exhibit 'I' by the Court)

I gained the impression that the accused had been drinking. I could smell drink on him, he got pretty mad and wanted to clean the house out. He said that everyone were accusing him of stealing the cigarettes. I would not say that he was drunk.

CROSS EXAMINATION BY THE DEFENDING OFFICER

I first saw this pack when the accused was going out the door of room 24. I went towards room 23 to the place where I picked up the pack. I think the pack was fastened when I picked it up. I did not examine it inside to see if it were closed, I gave it to Cpl Dupuis. I saw the pack opened by Cpl Dupuis when he and I looked into it. I am sure this is the pack by the coat hangers on it and the contents, that is each time it has had Sweet Caporal cigarettes in it. On the 26 Feb Cpl Dupuis took some of the cigarettes out and he put them back. I see chocolates there now and they were there on Sat 26 Feb. I had never seen the accused before the 26 Feb. We had just moved into that hut on Friday morning. I can't remember whether I had seen men coming through the door between room 25 and 24 or not. Dupuis did not accuse the accused of taking this pack.

QUESTION BY THE COURT

I do not think I could have identified the accused here today if I had only seen him when I first saw him as he was walking out of the room with the pack. If I had not seen this pack before today, after I saw the man carrying it out of the room No 24 I would not have been able to recognize it as the same pack. I do not think there was enough time elapsed between the time I saw the accused marching out of the room and time he was brough back in to enable it to have been anyone else.

Trial of A 4091 Pte LEBRUN, E., 3 CIRU

3rd WITNESS FOR THE PROSECUTION
A 117446 Pte CHAPMAN, G.S., 3 CIRU, having been duly sworn states:

On the 26 Feb 44 I was quartered in hut 24, Salamanca Barracks. At approximately 2215 hrs I was sitting on my bed looking towards the lavatory, which is between hut 24 and 25. I saw a man come through our quarters from the direction of room 25. He had a soldier's large pack under his arm, I didn't say anything to him. He went through room 24 towards the door at the other end. This is the man who came out of the door (pointing to the accused). I had never seen him before and when he went through I took a pretty good look at him. Then Pte Dupuis came through, I do not know whether he was a corporal or not. He had no hooks up. The accused and Pte Chalmers were with him and Dupuis asked who had lost a large pack. Pte Dupuis had the pack and it appeared to be the same pack that I saw this here lad carrying with him, I saw the coat hangers hanging down from the bottom and I told Dupuis it was the pack I saw a man carrying under his arm coming from hut 25. No one claimed the pack in hut 24, so Dupuis, the accused, myself and others went into hut 25. Dupuis enquired there who lost a large pack then Pte Goforth said his pack was missing. Dupuis asked Goforth if his name or number was on the pack, Goforth said "No." Dupuis then asked Goforth to describe the contents of his pack. Goforth named the articles as cigarettes, coffee, boxes of choclates. I would say that I remember all that he said, I was standing back quite a ways. The accused then went to Goforth and said "Do you accuse me of stealing this pack?" Goforth said "I do not do any such thing, I only said my pack was missing." Then there was considerable talk as to whether anyone was accused of stealing anything. Then Pte Dupuis handed the pack and the accused over to Cpl Guilfoyle.

CROSS EXAMINATION BY THE DEFENDING OFFICER

The lights were on when the accused came from room 25. I had not got into bed yet. I was sitting on my bed facing the door towards room 25. I had been down town that night. I had had nothing to drink as I had been to a show. When I saw the accused I knew he was a stranger, I had never seen him before that night. I can remember his face. As far as I remember the pack was closed when it was brought back into the room from outisde. The coat hangers were hanging down from the pack, from the back and bottom, that the accused carried through the room 24. The accused was fully dressed but did not have his cap on. The accused had to look around for his hat when he went away with Cpl Guilfoyle.

QUESTION BY THE COURT

I think that about two minutes elapsed from the time I saw the accused firt go through the door and the time when he was brought back into the room with Dupuis.

4th WITNESS FOR THE PROSECUTION
A 106742 Pte GOFORTH, L.R., 3 CIRU, having been duly sworn states:

On the 26 Feb 44 I was quartered in room 25 Salamanca Barracks. I had gone out that afternoon as soon as we broke off parade about 1400 or 1430 hrs and was absent until I came back to camp at 2200 or 2215 hrs. I went to my room, room 25, at about 2215 hrs. I just stepped into the room when I heard Dupuis ask if anyone had lost their soldier's back pack. I happened to be standing near my bed and I looked over to the corner and I saw my ground sheet thrown off and that my pack was gone. I had left my ground sheet over my pack. I told Dupuis that it must be my pack. Then Dupuis asked me if I could describe the contents in the pack. I said I knew just about everything that was in it. The accused was with Dupuis. I told Dupuis that I I had 30 packages of Sweet Caporals and one large package of Black Cat cigarettes, approximately four pounds of coffee and

Trial of A 4091 Pte LEBRUN, E., 3 CIRU

4th WITNESS FOR THE PROSECUTION (Cont'd)

some choclates, and that there was a wire clipping across the top of the bag of coffee, I told him that there was four coat hangers hanging on the bottom of the pack by a white string, and that the corners of the hangers were tied by a piece of string. Then he showed me the pack. The accused here was getting a little wild and Cpl Guilfoyle had come in and went to talk to the accused.

(Witness examines the Exhibit '1' and its contents, and continues)

I cannot tell what brand of coffee was in my pack. As far as I knew the things I described were all that were in my pack. There were three one pound boxes of Neilson's mixed choclates.

(Witness then took the contents out of the pack consisting of thirty packages of Sweet Caporal cigarettes twenty-five in each and one package of Black Cat cigarettes containing twenty-two. All cigarette packages were unopened. The package of coffee, with no markings on the bag, the top of the coffee parcel had a wire clip across and through the top of it. The witness took out of the pack three one pound boxes of Neilson's mixed choclates, the cellophane in each of these boxes was unbroken)

This is my pack and the contents belong to me. I got the choclates and cigarettes on the boat coming over (these packages were neither marked "Gifts to Canadian Solders" nor were there any Excise Stamps on them. I brough the coffee on to the boat.

(The witness pointed out that the four coat hangers were as described and in the position and condition in which he tied them up)

I just arrived in Salamanca Barracks from Canada on Friday 25 Feb 44.

CROSS EXAMINATION BY THE DEFENDING OFFICER

My bed was about fifteen feet from the door of the lavatory between rooms 24 and 25. I occupy the lower deck of a two bunker. The accused was sleeping in the upper bunk of my bed. I never went through the lavatory and into the room 24, I never saw the accused go that way either.

5th WITNESS FOR THE PROSECUTION

A 103115 Cpl Guilfoyle, J.J., 3 CIRU, having been duly sworn states:

On the 26 Feb 44 I was quartered in room 25 Salamanca Barracks. I came into the room at 2215 hrs. I found a crowd and after obtaining the necessary information I took the accused, whom I now recognize, and a large pack to the guard room.

(Prosecutor shows the witness Exhibit I and the contents, the witness continues)

This is the pack and the contents in are those which I got from Pte Dupuis and took to the guard room with the accused. I saw the tear which is in the package of coffee being made that night when it was being examined. When the accused was searched in the guard room no money was found on him. I could smell drink on the breath of the accused, otherwise I could not tell that he had been drinking.

DEFENDING OFFICER DECLINED TO CROSS EXAMINE THIS WITNESS .

The Prosecutor said he did not think it necessary to call the witness B 39091 Pte ORAM, H.S.

The Defending Officer said he did not require this witness for cross examination.

Trial of A 4091 Pte LEBRUN, E., 3 CIRU

PROSECUTION IS CLOSED

EVIDENCE FOR THE DEFENCE -- NOTE D-5

1st WITNESS FOR THE DEFENCE
A 4091 Pte LEBRUN, E., 3 CIRU, having been duly sworn states:

I am 24 years of age. I am single. I joined the Army 3 May 1940. I landed in England 25 Feb 44. I was quartered in room 25, Salamanca Barracks. My bed is the upper birth and opposite the lavatory door, Pte Goforth was sleeping in the lower bunk. On Sat 26 Feb from about 1230 to 1600 hrs I was in a church canteen near my barracks, I came back to my barrack room about 1605 hrs. I slept in my bunk for about an hour and a half. A fellow wakened me and asked if I were going down town. I said "yes". I got up, put on my cap and went down town. I walked around for a while and then we went into a pub. We ordered two drinks of gin each and then we had a few glasses of beer, then we got a drink of whiskey, of Scotch, and then we drank beer from then on. Then I came back to barracks with the intention of shaving and changing my clothes. I went to grab my pack and probably grabbed the wrong one, then I don't remember having the pack until there was a gang around me. Then I was taken to the guard room. I keep my shaving kit and clothes in my large pack. Every night I shave and wash before I go to bed. I had about three packages of Winchester cigarettes of my own that night. If I needed more cigarettes I could have gotten them from my friend Bob Irwin who had a carton of Winchesters.

CROSS EXAMINATION BY THE PROSECUTOR

I forgot everything from the time I picked up my pack until there was a crowd around me. I kept my large pack up on the rail above my bed and Pte Goforth keeps his pack under the ground sheet on the floor. I do not remember where I picked this pack up that night, mine was on the rack. When I said I intended to change my clothes I mean I was going to change my underwear then I was going to bed. I was going to shave with my whole pack under my arm. There is only a toilet between room 24 and 25, we have to go out into the hallway to wash and shave. I had only come into the hut the day before and I had been going through room 24 to get to the wash room.

DEFENCE IS CLOSED

PROSECUTOR'S ADDRESS TO THE COURT ON THE FINDING

We have pointed out to the Court that the accused had no money at all in his possession. He came into his room at night, picked up a large pack which he claims he thought was his. His pack was on a rail above his bunk, the pack in question was on the floor, and then with intention of shaving and changing his clothes, it is to be noted that he did not take the direct method of proceeding to the wash room but proceeded through another hut. There is not any doubt that the pack and contents were not his and belonged to Pte Goforth. By having in his possession goods of another person, there is the presumption of theft, it is up to him to prove that it was otherwise. The evidence in this case shows that despite the fact that the accused had been drinking he was not drunk. In any event drunkeness is no defence. The Prosecution feels that the Court has the full facts and there is nothing further to be added.

Trial of A 4091 Pte LEBRUN, E., 3 CIRU

DEFENDING OFFICER'S ADDRESS TO THE COURT ON THE FINDING

On a charge of stealing the Prosecution must prove
Firstly - possession of someone else's goods: and
Secondly - a guilty intent.

In the Prosecution's case the witnesses have endeavoured to prove possession of a pack by the accused which belonged to someone else. I submit none of the Prosecution's witnesses have proved the necessary guilty intent. Another point in argument is that apparently the prosecution could not find any direct evidence that the pack in question was taken by the accused, they have no eye witnesses and, therefore, we can assume that there was no one in room 25 when the alleged taking is supposed to have happened and in view of this, it is hard to believe that the accused would steal a pack and then proceed through a room occupied by at least four other persons when he would have had a direct exit through his own room. If the Court believes the accused statement it must necessarily agree that there was no guilty intent, required for a conviction on this charge. I submit that no guilty intent has been proven by the Prosecution. In any event the accused is entitled to all the benefits of doubt under a charge, and must be acquitted if the Court is satisfied that there is reasonable doubt as to his guilt.

Re A-4091, Pte. Ernest Libreson

Received large pack, coat hangers and contents as noted in charge sheet viz:- 30 packs Sweet Cepsal cigarettes, 1 package Black Cat Cigs., 4 pounds of bulk coffee & 3 one lb. boxes of Chocolates.

L. C. Odette
Lieut.

My

SUMMARY OF EVIDENCE

In the case of Regt. number A.4091, Pte. LEBRUN, Ernest, (General List), on strength of 3 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS: Prosecution

A.106742, Pte. Goforth, L.R., Gen. List., 3 CIRU, having been duly sworn states:

On 25 Feb 44 I was attached "A" Coy. 3 CIRU and was quartered in Room 25, Salamanca Barracks. I was absent from my quarters from 1430 hrs. 26 Feb 44 and returned at 2200 hrs. going to Room 25 at approximately 2215 hrs. A few minutes after I had entered I heard Pte. Dupuis call out if any man had lost a large pack. I noticed that the ground sheet I had left over my own pack had been thrown aside and that the pack was missing. I told Pte. Dupuis, who had a pack in his hands, that it must be mine and Pte. Dupuis then asked me to identify the pack and contents, which I did. There were 4 coat hangers on back with two white strings holding each end together. Approximately 4 pounds Coffee with wire clip through top of bag; 50 packets (large) sweet Caporal cigarettes, 1 Packet (22) Black Cat cigarettes and 3 (1 pound) boxes of Chocolates. During this time I had noticed a crowd of men around Pte. Lebrun in the Room. The pack was then turned over to Cpl Guilfoyle, who then left Room 25 with the pack and Pte. Lebrun. I next saw the pack at "A" Coy Orderly Room at 0900 hrs 28 Feb 44, when I was a witness when Pte. Lebrun was charged with stealing my pack and contents.

L.R. Goforth

A.106742, Pte. Goforth, L.R.

The evidence is read back to the accused.

The accused declines to cross-examine the witness.

SECOND WITNESS: Prosecution.

A.103115, Cpl. Guilfoyle, J.J., Gen. List., 3 CIRU, having been duly sworn states.

On 26 Feb 44 I was attached "A" Coy., 3 CIRU, and was quartered in Room 25 Salamanca Barracks. I was not in Room 25 until 2215 hrs. when I was asked by Pte. Dupuis to take over an incident which had occured. I learned that Pte. LeBrun had been found attempting to leave the Room with a pack which it was claimed was not his own property, by way of Room 24, at approximately 2200 hrs. I thought the matter over and decided to take Pte. LeBrun to the Guard Room as he was under the influence of liquor and behaving in a noisy manner. Pte. Goforth told me that he had identified the pack as his own but I did not give it to him but took it to the Guard Room with Pte. LeBrun. I checked the contents of the pack at Guard Room and found that they agreed with a list given to me by Pte. Goforth before leaving Room 25. I asked the MP's to take Pte. LeBrun into Custody pending investigation and after talking the matter over with CSM Simpson, I. "A" Coy., a charge of stealing the pack and contents was laid against Pte. Lebrun. I appeared as a witness at "A" Coy Orderly Room at approximately 0945 hrs 2m Feb 44.

J.J. Guilfoyle

A.103115, Cpl. Guilfoyle, J.J.

SECOND WITNESS: Prosecution Continued.

The evidence is Read back to the Accused.

The accused declines to cross-examine the witness.

THIRD WITNESS: Prosecution.

A.102162, Pte. Dupuis, J.B., Gen. List., 3 CIRU, having been duly sworn states.

On 26 Feb 44 I was attached "A" Coy, 3 CIRU, and was quartered in Room 24, Salamanca Barracks. At approximately 2210 hrs. I was in my room talking to two of my friends when I saw Pte. LeBrun pass my door going towards the Room entrance. I knew he was a stranger, I saw that he carried a pack which made me suspicious of theft and called him back. He did not answer but kept on going, so I got my flashlight and followed. I saw him lay the pack on the top verandah of Salamanca Barracks. He then returned and asked me what I wanted. I asked him what he had done with the pack He answered "What Pack" he did not give me any other answer and I sent Pte. Chalmers to get the pack from the verandah, which he did. I took the pack and told Pte. Chalmers to stand guard over Pte. LeBrun who appeared to be intoxicated. I inquired if any man in Room 24 had lost a pack and was told "No". Pte. Chapman told me that he had seen Pte. LeBrun coming from Room 26 with the pack so I took the pack, Pte. Chalmers and Pte. LeBrun to Room 26 where I made the same inquiry. Pte. Goforth said that his pack was missing. I asked him to identify the pack and contents which he did but I did not open the pack, as Cpl. Duffoyle then came along I handed the matter over to him.

J.B. Dupuis

A.102162, Pte. Dupuis, J.B.

The evidence is read back to the accused.

The accused declines to cross-examine the witness.

FOURTH WITNESS: Prosecution.

A.106056, Pte. Chalmers, W.A., Gen. List., 3 CIRU, having been duly sworn states.

On 26 Feb 44 I was attached "A" Coy, 3 CIRU and was quartered in Room 24 Salamanca Barracks. At approximately 2210 hrs. I was standing in Cubicle doorway Room 24, talking to Pte. Dupuis when I saw Pte. LeBrun leaving Room 24 carrying a pack under his arm. We wondered why the man would be leaving at that time of night with a pack and Pte. Dupuis called him back, but he did not stop. Pte. Dupuis got a flashlight and followed while I stood in the doorway. Presently Pte. Dupuis returned to the room with Pte. LeBrun and he told me to go on to the verandah and fetch the pack, which I did. Pte. Dupuis looked at the pack to see if there was anything to identify it as belonging to Pte. LeBrun. There was no indication that it belonged to him. I was left in charge of Pte. LeBrun whilst Pte. Dupuis checked with the occupants of the room as to the ownership of the pack. Pte. LeBrun appeared to have been drinking. Later we took Pte. LeBrun and the pack to Room 26 where it was identified by Pte. Goforth as being his.

W.A. Chalmers

A.106056, Pte. Chalmer, W.A.

The evidence is read back to the accused.

The accused declines to cross-examine the witness.

FIFTH WITNESS: Prosecution

A.117446, Pte. Chapman, G.S., Gen. List., 3 CIRU, having been duly sworn states.

On 26 Feb 44 I was attached "A" Coy. 3 CIRU, and was quartered in Room 24 Salamanca Barracks. At approximately 2215 hrs. I was sitting on my bed facing the lavatory when I saw Pte. LeBrun enter the Room from the lavatory carrying a pack under his arm. Later Pte. Dupuis enquired generally if any man in room 24 had lost a pack. I looked at the pack and told Pte. Dupuis what I had seen. I went to Room 25 with Pte. Dupuis and Pte. LeBrun. There I heard Pte. Seforth claim the pack and it was turned over to Cpl. Quilfoyle.

G.S. Chapman

A.117446, Pte. Chapman, G.S.

The evidence is read back to the accused.

The accused declines to cross-examine the witness.

SIXTH WITNESS: Prosecution

B.396091, Pte. Oram, H.S., Gen.List., 3 CIRU, having been duly sworn states.

I am attached "B" Coy. 3 CIRU, at approximately 26 Feb 44. I was in Room 24 Salamanca Barracks talking to Pte. Chalmers when I noticed Pte. LeBrun carrying a pack through the doorway of Room 24. I later saw Pte. Dupuis with the pack and heard him ask if any man in Room 24 and 25 had lost his pack. I saw a man in Room 25 claim it. I later escorted Pte. LeBrun to the Guard Room with Cpl. Quilfoyle. Pte. LeBrun appeared to have been drinking and was noisy.

H.S. Oram

B.396091. Pte. Oram, H.S.

The evidence is read back to the accused.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f), and (g) have been complied with.

S.J. Mason

(S.J. Mason) Major.
Officer detailed to take the Summary of Evidence

In the field
28 Feb 44.

G. C. M. - 27

Capt. Lebrun, L. E.

Copy

G.C.M. 27

A

Army Form A9.

Small printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General ~~and District~~ Courts-Martial.

3 Dec 42

Proceedings of a GENERAL Court-Martial held at ALDERSHOT on the 2 & 3rd day of DECEMBER 1942 by order of MAJOR-GENERAL P. J. MONTAGUE, C.M.G., D.S.O., M.C., V.D.

Commanding CANADIAN MILITARY HEADQUARTERS dated the 20th day of NOVEMBER 1942.

President.

BRIGADIER J. C. STEWART, D.S.O.,
COMMANDING "C" GROUP, C. R. U.

Members.

BRIGADIER J.P.U. ARCHAMBAULT, D.S.O., M.C.,
COMMANDING "F" GROUP, C.R.U.

COLONEL H. R. TYNER, M.C., E.D.,
COMMANDING I CDN SIGS R U

COLONEL O. H. BARRETT,
COMMANDING I CDN A.S.C. R.U.

LIEUT-COLONEL J.G.G. CHARLEBOIS,
COMMANDING 4 WG C.T.S., R.22e R.

MAJOR A.H.FRIEDGUT, K.C., D.J.A., C.R.U., Judge Advocate.

Trial of*
CAPTAIN LOUIS EUGENE LEBRUN,
1 CDN CONV DEPOT, R.C.A.M.C.

No illegalities or irregularities such would warrant withholding confirmation

18 Dec 42

(W.A.I. Anglin) Colonel
D.J.A.G., C.M.H.Q.

Certified true copy of original proceedings herein
17 Mar 43

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court. & medical certificate

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor MAJOR W.A.D.GUNN, J.A.G. Branch? C.M.H.Q. (BAS
Asst.Prosecutor - Capt.W.G.Elder, J.A.G. BR, C.M.H.Q.
~~XXXXXX~~ or defending officer Lt.Col.J.G.Power, Le Regt de la Chaudiere (Barrister)

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer* NO, SIR

Question by the President to the accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

Reviewed after confirmation ~~promulgation~~ and found in order

"31 Dec 42"
(W. A. I. Anglin) Colonel,
D.J.A.G.
Canadian Military Headquarters

a.H.F.

We have satisfied myself that none of the officers detailed as members of this Court have previously served upon any court of Inquiry respecting the matters forming the subject of the charges before this Court-Martial

(Sgd) J. C. Stewart (President)
Brigadier

2/12/42

B

The President, members and judge advocate are duly sworn and writer? A. No, Sir
Q. Is you reporter and judge advocate are duly sworn
The Court Reporter, B.26026 Sgt. P.J. Aethercut, RCE, J.A.G. Br, C.M.H.Q.
is duly sworn
The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

CHARGE SHEET "B"-2

(sgd) J. C. Stewart Brig.
President

The accused Captain Louis Eugene LeBrun, No. 1 Canadian Convalescent Depot, R.C.A.M.C. an officer of the Canadian Army Overseas is charged with, when on active service:-

First Charge
Sec. 16
Army Act

BEHAVING IN A SCANDALOUS MANNER UNBECOMING THE CHARACTER OF AN OFFICER AND A GENTLEMAN

in that he

in the field in or about the month of March 1941 when Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot R.C.A.M.C. requested Patrick Skellet, Manager of R. Grant & Son, to submit accounts to the Officers Mess of No. 1 Canadian Convalescent Depot for the months of December 1940 and January 1941 for lesser amounts than were actually due for said periods to R. Grant & Son with intent to mislead the unit audit board and the Regimental Funds Board.

Second Charge
Sec. 40
Army Act
(Alternative to First Charge)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field in or about the month of March 1941 when Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot R.C.A.M.C. requested Patrick Skellet, Manager or R. Grant & Son to submit accounts to the Officers Mess of No. 1 Canadian Convalescent Depot for the months of December 1940 and January 1941 for lesser amounts than were actually due for said periods to R. Grant & Son with intent to mislead the unit audit board and the Regimental Funds Board

Third Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 13th day of June 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot R.C.A.M.C connived in the withdrawal of the sum of £8.10.9 from the Regimental Funds of No. 1 Canadian Convalescent Depot R.C.A.M.C. and in the improper application of the said sum to the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

Fourth Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 10th day of October 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. connived in the withdrawal of the sum of £35.3.6½ from the Regimental Funds of No. 1 Canadian Convalescent Depot R.C.A.M.C. and in the improper application of the said sum to the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

Fifth Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 13th day of December 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. connived in the withdrawal of the sum of £62.0.0 from the Regimental Funds of No. 1 Canadian Convalescent Depot R.C.A.M.C. and in the improper application of the said sum to the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

AHF

Sixth Charge
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 13th day of June 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. improperly withdrew the sum of £8.10.9 from the Regimental Funds of No. 1 Canadian Convalescent Depot, R.C.A.M.C. and applied the said sum to the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

Seventh Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 10th day of October 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. improperly withdrew the sum of £35.3.6½ from the Regimental Funds of No. 1 Canadian Convalescent Depot, RCAMC, and applied the said sum to the bank account of the Officers Mess, of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

Eighth Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 13th day of December 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. improperly withdrew the sum of £52.0.0 from the Regimental Funds of No. 1 Canadian Convalescent Depot, RCAMC, and applied the said sum to the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C.

Ninth Charge
Sec. 25(1)(a)
Army Act

IN A DOCUMENT MADE BY HIM KNOWINGLY MAKING A FALSE STATEMENT

in that he

in the field on or about the 30th day of November, 1940 in his capacity as Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. falsely entered in the personal mess account of Lt. Col. A.P.Plante a credit of £10 when in fact the sum of £10 was not so paid.

Tenth Charge
Sec. 25(1)(a)
Army Act

IN A DOCUMENT MADE BY HIM KNOWINGLY MAKING A FALSE STATEMENT

in that he

in the field on or about the 31st day of December, 1940 in his capacity as Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. falsely entered in the personal mess account of Lt. Col. A.P.Plante a credit of £30 when in fact the sum of £30 was not so paid.

Eleventh Charge
Sec. 20(1)(a)
Army Act

IN A DOCUMENT MADE BY HIM KNOWINGLY MAKING A FALSE STATEMENT

in that he

in the field on or about the 31st day of January 1941 in his capacity as Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. falsely entered in the personal mess account of Lt. Col. A.P.Plante a credit of £30 when in fact the sum of £30 was not so paid

Twelfth Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field during the period from May 1940 to March 1941 inclusive, while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. failed to enter in the accounts of the said Officers Mess or in the Abstract of Receipts and disbursements of the Officers Mess and Trading and Profit and Loss Statement a credit or credits in favour of the Regimental Funds of No. 1 Canadian Convalescent Depot, R.C.A.M.C. of the following sums on the following dates borrowed by the said Officers Mess from the Regimental Funds; £8.10.9 on the 13th day of June 1940 £35.3.6½ on the 10th day of October 1940 and £52.0.0 on the 13th day of December 1940

Thirteenth Charge
Sec. 40
Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field between the 11th day of February 1940 and the 17th day of August 1941 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. neglected to keep books of account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. showing receipts and dipenditures with vouchers contrary to the provisions of Para 648 K.R.(Can).

Fourteenth Charge
Sec. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field during the period from May 1940 to March 1941 inclusive while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. failed to enter in the abstract of Receipts and Disbursements of the Regimental Account of No. 1 Canadian Convalescent Depot, R.C.A.M.C. of the following sums borrowed by the said Officers Mess from the said Regimental Funds £8.10.9 on the 13th day of June 1940, £35.3.6½ on the 10th day of October 1940 and £52.0.0 on the 13th day of December 1940.

(Sgd) J. M. Calkin, Lt. Col.
Officer Commanding
No. 1 Canadian Convalescent Depot, RCAMC

In the Field
17 November 1942

To be tried by General Court Martial

(Sgd) P. J. Montague, Major-General
Senior Officer
Canadian Military Headquarters
Convening Officer

London
20 Nov 42

RHF

The accused is arraigned upon the first two charges in the above-mentioned charge sheet.

Q. 1 - Are you guilty or not guilty of the first charge against you which you have heard read?
A. 1 - Not Guilty, sir
Q. 2 - Are you guilty or not guilty of the second charge against you which you have heard read?
A. 2 - Not Guilty, sir

Defending Officer - Before the third, fourth, fifth, sixth, seventh and eighth charges are read I wish to put an objection. These six charges are duplications. The third and sixth, fourth and seventh, fifth and eighth are based on identical facts and they are in fact the same charges arising from the essential elements required to form an offence and I submit that the Prosecution should at this stage be requested to determine which of these charges it wishes the accused to plead in. I feel that should this court in, say the third charge find the accused guilty it would be impossible for it to find in charge six because of the principle of "autre fois acquite: autre foix convicte". I submit in view of this situation the court should ask the Prosecution to determine which charges it wishes the accused to plead to.

Prosecutor - We are relying upon the whole six charges. The Convening Officer in his wisdom has seen fit that these charges should be tried. Now, I wish to point out to you that the third, fourth and fifth deal with conniving. Now that means "and with another party" and I may say in this particular case it is with Lt. Col. Plante. The sixth, seventh and eighth you will note are just dealing with the individual, Capt. LeBrun; they are absolutely separate offences and for that reason we are relying upon all six as individual cases

Defending Officer - Mr. President, I think it is a well-known principle of Law that any person who aids, abets and connives in the commission of any offence is guilty of the offence himself and, therefore, it is impossible for the man to be guilty of the offence twice. He is either guilty of the offence as such or else he is not and aiding and abetting is a crime and he cannot be charged for example, of aiding, or helping, or abetting to murder and at the same time be charged with murder. He has to be charged with one or the other and it is a principle of law either you are guilty of one or the other. In this case I submit that these six charges should be reduced to three.

Prosecutor - Again I reiterate, Mr. President, that the third, fourth and fifth is "conniving" with the accused and Col. Plante working together, you see. All right. Those are specific charges. Then with reference to six, seven and eight, that is that Capt. LeBrun did this by himself and I still regard them as individual charges.

Court - Well, three, four and five are "conniving" and six, seven and eight are "improper withdrawal"

Prosecutor - Yes, sir

Court - Well, I appreciate your point on that (to Prosecutor) and I appreciate your point (to Defending Officer) but I hesitate very much to recommend that the charge-sheet should be changed as the charge-sheet has been approved by the Senior Officer of C.M.H.Q. who is also a learned judge so I feel that he sees fit to put this officer before this Court on those charges and that he has carefully considered them and I would hesitate very much to close the Court and recommend to him that they be changed in the way which would have to be done.

Defending Officer - Sir, I feel that this Court is far superior to any officer convening a court. You are here to determine whether or not what has been done with anybody has anything to do with doing it himself and I submit that it is a definite injustice to ask a man to plead to six charges when the elements in all facts are identical. There is not one element of fact, sir, different in five and six and there is no element different in five, six or seven nor is there any difference in six, seven or eight and I submit to you that under the principles of law you cannot find on charge three and find on charge six because you have already taken one group of facts which have been set before you which constitute

an indictable offence - you have determined whether that man has or has not committed the offence and then, a few minutes later, you are going to consider charge six and see if he has committed the single offence

Court - Yes, I agree that if he should be found guilty on - we shall say charge three that he would naturally be found guilty on charge six but I think he might be found Not Guilty on Charge three and still be found guilty on Charge six

Defending Officer - Then I submit that the charge sheet should be changed and put in the alternative. These are not alternatives

Court - I see your point that the charges are identical one of conniving and the sixth, seventh and eighth of improper withdrawal. If he connives he might be found guilty or not guilty of that but if he is found not guilty of that he might be guilty of withdrawal. If he is found guilty of conniving I agree with you that the other is almost automatic. He might be found guilty of one and not guilty of the other

Defending Officer - The question is - "What did he connive at?" He connived in the withdrawal. That is the point of it. In one case to "improperly withdraw" and in the other "to connive to withdraw". The principal elements in both cases are "to withdraw"

Judge-Advocate - Major Gunn, do you state that these charges are different and not the same charges?

Prosecutor - Yes, I claim that they are. As the President so aptly pointed out one is "conniving" and the other is "improper withdrawal" - two separate and distinct charges

Judge-Advocate - Now, "conniving at the improper withdrawal" is one offence and the other one is actually withdrawing?

Prosecutor - That is right

Judge-Advocate - Now, isn't it right that he who connives at the commission of an offence is guilty as if he had committed the offence himself?

Prosecutor - Well, that is true, but here under Section 40 - - You see, it has boiled down again to conduct in the fact that he connived with Col. Plante or somebody else. Now, that is one set of facts. Now, the other one then, disregarding Col. Plante or anybody else the accused improperly withdrew all by himself - "conduct". I claim it is two separate offences

Judge-Advocate - You say it has been carefully considered by the Convening Officer?

Court - Would the court like to discuss this thing before we make a ruling? Before we do that I would like to say that under R. P. 33 the court cannot make any change, that under Rule 33 when the accused is asked to plead he may object on the ground that it does not disclose an offence under the Army Act and unless there is some very strong reason for the court to refer it to the convening authority the court should ordinarily proceed with the trial of the charges and decide on the merits. That is the only ground for objection I see unless he brings himself within R. P. 33. We have no right to change the charge-sheet. That is, the only place with the consent of the Prosecution, subject to the J.A.G. C.M.H.Q. that the court can strike out charges before they are tried is where they are alternative charges and the Prosecutor agrees that they be stricken out. Therefore, this court must proceed with the trial on all the charges unless they wish to refer it to the Convening Officer

Court is closed for discussion
Court is re-opened

Court - The court have discussed your objection and it is ruled that we will proceed with the charges as laid on here.

The accused is arraigned upon the remaining charges in the above-mentioned charge-sheet

Q. 3 - Are you guilty or not guilty of the third charge against you which you have heard read?

A. 3 - Not Guilty, sir

O.K.

Q. 4 - Are you guilty or not guilty of the fourth charge against you which you have heard read?
A. 4 - Not Guilty, sir
Q. 5 - Are you guilty or not guilty of the fifth charge against you which you have heard read?
A. 5 - Not Guilty, sir
Q. 6 - Are you guilty or not guilty of the sixth charge against you which you have heard read?
A. 6 - Not Guilty, sir
Q. 7 - Are you guilty or not guilty of the seventh charge against you which you have heard read?
A. 7 - Not Guilty, sir
Q. 8 - Are you guilty or not guilty of the eighth charge against you which you have heard read?
A. 8 - Not Guilty, sir
Q. 9 - Are you guilty or not guilty of the ninth charge against you which you have heard read?
A. 9 - Not Guilty, sir
Q.10 - Are you guilty or not guilty of the tenth charge against you which you have heard read?
A.10 - Not Guilty, sir
Q.11 - Are you guilty or not guilty of the eleventh charge against you which you have heard read?
A.11 - Not Guilty, sir
Q.12 - Are you guilty or not guilty of the twelfth charge against you which you have heard read?
A.12 - Not Guilty, sir
Q.13 - Are you guilty or not guilty of the thirteenth charge against you which you have heard read?
A.13 - Not Guilty, sir
Q.14 - Are you guilty or not guilty of the fourteenth charge against you which you have heard read?
A.14 - Not Guilty, sir

Q.15 - Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?
A.15 - No, sir

THE PROSECUTOR MAKES THE FOLLOWING OPENING ADDRESS:

Mr. President, I think I will take a little of your time in explaining some of these charges so as to perhaps make it a little clearer at this particular moment. Now, the first charge is "Behaving in a scandalous manner - etc. etc in the field in or about the month of March 1941 when Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. requested Patrick Skellet, Manager of R. Grant & Son, to submit accounts to the Officers Mess of No. 1 Canadian Convalescent Depot for the months of December 1940 and January 1941 for lesser amounts than were actually due for said periods to R. Grant & Son with intent to mislead the unit audit board and the Regimental Funds Board". Now, I will be calling a number of witnesses, Patrick Skellet General Manager of R. Grant & Sons who will testify as to just what happened and how Skellet gave the reduced bills to Pte. Noel which Pte. Noel subsequently gave to Capt. LeBrun, also Pte. Noel who will testify as to what he knows about the particular matter. There is not a great deal more that I need say in connection with the first charge and the same thing applies to the second charge.

Now, with reference to the third, fourth and fifth charges "Conduct to the prejudice of good order and military discipline in that he in the field on the 13th day of June 1940 while Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot R.C.A.M.C. connived in the withdrawal of the sum of £8.10.9 from the Regimental Funds of No. 1 Canadian Convalescent Depot R.C.A.M.C. and in the improper application of the said sum to

the bank account of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C." - "£8.10.9 on 13 Jun 40 in the third charge, £35.3.6½ on 10 Oct 40 in the fourth charge, and £52.0.0 on 13 Dec 40 in the fifth charge". Now, we will be introducing evidence to show that the accused signed three cheques drawn on the Regimental Funds which were untimately placed to the credit of the Officers Mess and how the money was used for the payment of accounts of the officers mess.

Now, on the sixth, seventh and eighth charges, we have already had a little discussion on that so I need not say anything in connection with those three charges.

The ninth, tenth and eleventh charges "In a document made by him knowingly making a false statement, in that he, in the field on or about the 30th day of November 1940 in his capacity as Secretary of the Officers Mess of No. 1 Canadian Convalescent Depot, R.C.A.M.C. falsely entered in the personal mess account of Lt. Col. A.P.Plante a credit of £10 when in fact the sum of £10 was not so paid" - and similarly with reference to the other two charges. When we come to those particular charges I will be calling Sgt. Warren who took the evidence given by Capt. LeBrun in the Summary of Evidence in the Col. Plante case. That is about all I need have to say, sir.

Now, in connection with the twelfth charge "Conduct - etc. etc in the field during the period from May 1940 to March 1941 inclusive failing to enter in the accounts of the said Officers Mess the three amounts £8.10.9, £35.3.6½ and £52.0.0" I will be calling there Major Barton, a representative of the Regimental Funds Board who will explain to you the documents in connection with this particular case [redacted] show that the monies that were drawn from the Regimental Funds and deposited to the Officers' Mess were not entered on these particular statements.

On the thirteenth charge of "Neglecting to keep accounts and books, etc " that is very simple so I need not say anything about that

The fourteenth charge "Conduct to the prejudice etc etc again failing in his accounting" that is very similar to the twelfth charge in the fact that in a document required by the Regimental Audit Board he does not show these amounts of £8.10.9, £35.3.6½ and £52.0.0". Charge 14 deals with the Regimental Funds.

I don't think I need say any more and with your permission, Mr. President, I think I will carry on

1st Witness for the Prosecution, D.95184, Pte. Renouf NOEL, No. 1 Cdn Conv Depot, R.C.A.M.C., having been duly sworn is examined by the Prosecutor.

Q.16 - Pte. Noel, will you give us your number, full name, your unit and your rank please?
A.16 - D.95184 Pte. Renouf Noel, No. 1 Cdn Conv Depot
Q.17 - When did you join up with No. 1 Cdn Conv Depot?
A.17 - I joined them in 1940, sir - January
Q.18 - And where?
A.18 - At Montreal, sir
Q.19 - And have you been with them up to the present time?
A.19 - Yes, sir
Q.20 - Do you know Capt. LeBrun, the accused?
A.20 - Yes, sir
Q.21 - Is he present in court today?
A.21 - Yes, sir
Q.22 - Was Capt. LeBrun with No. 1 Cdn Conv Depot proceeding from Canada to England?
A.22 - Yes, sir

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Q.23 - Where did the Unit first land when it arrived in England?
A.23 - Bordon, sir
Q.24 - Remember the date, roughly?
A.24 - Roughly the early part of February, sir
Q.25 - Of 1940?
A.25 - Yes, sir
Q.26 - How long was the Unit in Bordon?
A.26 - About three months, sir, I think
Q.27 - And to where did the Unit proceed from Bordon?
A.27 - Brixham, sir
Q.28 - And where is the Unit now?
A.28 - At Brixham
Q.29 - What position did you occupy at No. 1 Cdn Conv Depot?
A.29 - Mess Steward, sir
Q.30 - With what rank?
A.30 - Rank of sergeant, sir
Q.31 - And how long were you Mess Steward?
A.31 - From then until Dec '41, sir
Q.32 - From when to when?
A.32 - Until Dec '41, sir
Q.33 - And you were sergeant of what mess?
A.33 - Of the Officers' Mess
Q.34 - Officers' Mess of No. 1 Cdn Conv Depot - right?
A.34 - Yes, sir
Q.35 - Will you take a look at this particular document which I have in my hand?
A.35 - Yes, sir
Q.36 - What is it?
A.36 - It is a document which was given to me by Capt. LeBrun, sir
Q.37 - And given to you when?
A.37 - It was given to me - - I delivered it to a certain place on the day it was given to me but the exact date I can't say
Q.38 - And to whom did you deliver it?
A.38 - I delivered it to Mr. Skellet of R. Grant & Sons, Torquay
Q.39 - Now, you say that you don't recall the exact date but keeping in mind when you received that particular document which is in your hand when did you give that document to Mr. Skellet?
A.39 - On the same day that I was sent down with it, sir. It was in an envelope. I presume that is what was in the envelope
Q.40 - Are you familiar with Capt. LeBrun's signature?
A.40 - Yes, sir
Q.41 - Will you take a look at the same document and tell me whose signature that is?
A.41 - The signature, I presume, of Capt. LeBrun
Q.42 - Is it Capt. LeBrun's or not?
A.42 - I would say it is, sir
Q.43 - And with reference to the reading in the body of the - -

Defending Officer - Mr. President, I don't believe that you are allowed to let witnesses play around with documentary evidence until it is produced in court
Court - I have had a feeling that way myself but I didn't want to lay it down
Prosecutor - Well, the thing is this, Mr. President. I certainly have to establish a document before it is produced in evidence

Letter dated 20 Aug 41, signed by Louis E. LeBrun, addressed to R. Grant & Son, Torquay is entered as Exhibit "A", signed by the President and attached to the proceedings.

Q.44 - Now, after you handed Exhibit "A" to Mr. Skellet of R. Grant & Sons what happened?
A.44 - I asked Mr. Skellet to telephone Capt. LeBrun
Q.45 - Now, I don't want any conversation which took place between you and Mr. Skellet because LeBrun was not present. Is that clear?
A.45 - Yes, sir
Q.46 - Just tell me what happened?
A.46 - Mr. Skellet went away to his office
Q.47 - Then what happened?

O.H.F.

A.47 - He came back a short time afterwards
Q.48 - Then what happened?
A.48 - He said "Stay there for about fifteen minutes" then he went out again and came back with some invoices

Bundle of invoices, seven in number, with statement attached, for month of Dec '40 are marked "B", signed by the President and attached to the proceedings.

Bundle of invoices, ten in number, with statement attached, for month of January, 1941, are marked "C", signed by the President and attached to the proceedings

Q.49 - Now, take a look at Exhibits "B" and "C". What are they, Pte. Noel?
A.49 - They are invoices from Grant & Son
Q.50 - And you say that Mr. Skellet gave you invoices - right?
A.50 - Yes, sir
Q.51 - What have you to say about "B" and "C"?
A.51 - Well, I would not say that these are the invoices which I took as given to me, sir. I didn't get any of these (figures).
Q.52 - What you say is that he gave you invoices. And what did you do with the invoices you got from Mr. Skellet?
A.52 - I brought them back and gave them to Capt. LeBrun
Q.53 - Do you remember the time and the date?
A.53 - I don't remember the date, sir, but it would be about towards noon that I would return
Q.54 - Now, then, did you know what the invoices from R. Grant & Son had to deal with that you brought back from Mr. Skellet and gave to Capt. LeBrun?
A.54 - Yes, it was to adjust an account
Q.55 - Adjust what account?
A.55 - Well, Capt. LeBrun told me that he had to fix something for the O.C.
Q.56 - Did he say anything else?
A.56 - He said he took off a certain amount off December and January account
Q.57 - Did he say anything else?
A.57 - I said something to him
Q.58 - That is all right - -

Defending Officer - Might I suggest at the present moment I don't know what moment or almost what year we are in. I was wondering whether it would be possible because the charge is definitely very specific and I think the Prosecution should prove it more clearly to the court

Q.59 - Do you remember what month and what year it was that you went to Mr. Skellet of R. Grant & Son?
A.59 - Well, it would be the day that I took that note down, sir
Q.60 - Quite true. Do you remember what month or what year that was?
A.60 - No, I can't remember that, sir
Q.61 - You can't recall that?
A.61 - No, sir
Q.62 - Now, then, you started to tell a conversation which you have had with Capt. LeBrun?
A.62 - Yes, sir
Q.63 - Go ahead
A.63 - He said he asked Mr. Skellet to take off the December and January account and I said "Why, sir?"
Q.64 - To whom?
A.64 - To Capt. LeBrun. December and January are usually two heavy months as far as liquor consumptions are concerned and he said "Go ahead and get that". I said "Has there been a complaint about too much liquor being drunk in the mess?" and he didn't give me any reply
Q.65 - Did you at any other time have any conversation with Capt. LeBrun, the accused, in connection with this matter?
A.65 - Yes, sir, I asked Capt. LeBrun to come down with me to R.Grant & Son. I think it was a Thursday as I had told Mr. Skellet

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myself that I would bring Capt. LeBrun down
Q.66 - As a result of that did the both of you go?
A.66 - Yes, sir
Q.67 - Where did you go?
A.67 - To Mr. Grant's office
Q.68 - Who was there?
A.68 - Mr. Skellet, sir
Q.69 - Can you tell us any conversation which took place while Capt. LeBrun was present?
A.69 - Yes, sir. Whilst Capt. LeBrun was present Capt. LeBrun spoke about the account and said that they were fixing the account because the O.C. had not paid his account

Defending Officer - I object to that
Court - Tell exactly what you know and what you have heard; anything else that you have notany knowledge of is hearsay and cannot be admitted

Q.70 - Don't say anything that deals with Col. Plante the O.C., because he was not there
A.70 - Well, that would be all that took place except that Capt. LeBrun said that he would hold himself responsible for the amount and I said that I would be willing to help out myself
Q.71 - Now, then, you were mentioning about these bills covering the months of December and January, Pte. Noel. For what years?
A.71 - For December 1940 and January 1941
Q.72 - Can you tell us the months that you were down and had all these conversations with Mr. Skellet while Capt. LeBrun was present? Do you recall that?
A.72 - It would be the same week as that note was taken down
Q.73 - The same week as the note was taken down?
A.73 - Yes, sir

CROSS-EXAMINATION BY DEPENDING OFFICER

Q.74 - Pte. Noel, were you present when this letter was written?
A.74 - No, sir, I was not present. I can't say that I was there. When I was called in by Capt. LeBrun I was over at St. Mary's when he sent a message that he wanted to see me and he was then, I think, working on some of his Mess Accounts belonging to the Mess. He was Messing Officer at the time
Q.75 - This letter was given to you in the summer or winter?
A.75 - In the summer, sir
Q.76 - You will note on this letter it says "20 Aug 41"?
A.76 - Yes, sir
Q.77 - Would that be about the time that you took this letter?
A.77 - I would say it would be, sir, about that time

QUESTION BY COURT

Q.78 - Can you say whether this is the note which was in the envelope that you took down?
A.78 - I can't say, sir, because I never read it, sir
R.P.83(B) was not complied with in respect of the above witness.

2nd Witness for the Prosecution, Patrick Skellet, General Manager, R. Grant & Son, Torquay, having been duly sworn is examined by the Prosecutor.

Q.78 - Will you give us your full name please?
A.78 - Patrick Skellet
Q.79 - What is your position, Mr. Skellet?
A.79 - General Manager for R. Grant & Son
Q.80 - And how long have you occupied the position of General Manager of R. Grant & Son?
A.80 - About twelve years I should think
Q.81 - And I presume you are acting as such at the present moment?
A.81 - Yes
Q.82 - Mr. Skellet, as General Manager of R. Grant & Son, you have access to all the ledgers, books etc of R. Grant & Son?
A.82 - Right

AHE

Q.83 - Now, do you know Pte. Noel?
A.83 - Yes
Q.84 - Do you know Capt. LeBrun?
A.84 - Yes
Q.85 - Will you look at Exhibit "A", Mr. Skellet and tell me if you have seen Exhibit "A" or at least did you receive Exhibit "A" from somebody?
A.85 - Yes
Q.86 - Who did you receive Exhibit "A" from?
A.86 - From then Sgt. Noel
Q.87 - And who is today Pte. Noel, is he not?
A.87 - Right
Q.88 - Now, after you received Exhibit "A" from Noel what did you do?
A.88 - Well, I don't know exactly what you mean by that. I don't quite follow your question
Q.89 - Take a look at Exhibits "B" and "C" and tell the court please what they are?
A.89 - Exhibits "B" and "C" are receipts for goods supplied to the No. 1 Officers Mess from R. Grant & Sons
Q.90 - For what dates or what months?
A.90 - For December and January of 1940 and 1941
Q.91 - Now, then, after you received Exhibit "A" from then Sgt. Noel what did you do?
A.91 - At his request I supplied them with these accounts
Q.92 - You supplied them with Exhibits "B" and "C"?
A.92 - Right
Q.93 - Pursuant to that letter which you received from Noel?
A.93 - Yes
Q.94 - All right, you gave Exhibits "B" and "C" to then Sgt. Noel?
A.94 - Yes
Q.95 - Did you have any conversation at any time with Capt. LeBrun?
A.95 - Oh, yes
Q.96 - In connection with the account at R.Grant & Son owed by the Officers' Mess of No. 1 Cdn Conv Depot?
A.96 - That is so
Q.97 - Would you just tell us what the conversation was?
A.97 - Well, as far as I can remember Capt. LeBrun accepted responsibility for a certain proportion - -
Q.98 - Tell us the conversation, Mr. Skellet please. The court will decide that. It is conversation which I would like
A.98 - I am afraid that is impossible. I can't remember the conversation after all this length of time. I couldn't remember it verbatim. I haven't the vaguest idea of what somebody said to me nearly two years ago
Q.99 - Now, will you look at this document which I have in my hand and tell me what it is?
A.99 - This is an authentic copy of the books of R.Grant & Son as goods supplied to the No. 1 Cdn Convalescent Depot for the period of Dec 1940
Q.100- That is an authentic copy?
A.100- Yes

Group of invoices thirteen in number, to which statement is attached from R.Grant & Son, for month of December, 1940 to Officers' Mess, No. 1 Conv Depot is marked "D", signed by the President and attached to the proceedings

Q.101- Have a look at this document which I am handing you please?
A.101- That is the same thing for January, 1941, an actual record of the total goods supplied

Group of invoices, ten in number, to which statement is attached, from R.Grant & Son, for month of January, 1941 to Officers' Mess, No. 1 Cdn Conv Depot is marked "E", signed by the President and attached to the proceedings.

Q.102- Now, you have told us that "D" and "E" were the authentic ac-

a NF

counts for the bills due and owing from the No. 1 Cdn Conv Depot Officers' Mess to R.Grant & Son. Now, just tell me what "B" is

A.102 - Well, "B" is the account which I gave to Sgt. Noel at that time at his request as being part of the original account

Q.103 - For which month?

A.103 - December, 1940

Q.104 - Now, what is Exhibit "C"?

A.104 - That is part of the January account, 1941

Q.105 - Account of what?

A.105 - Goods supplied to the Convalescent Depot Officers' Mess

Q.106 - Now, keeping in mind Exhibits "B" and "C" did you have any conversation with Capt. LeBrun with regard to them?

A.106 - Those are the smaller amounts aren't they?

Q.107 - That's right

A.107 - Well, whether I had the conversation actually with LeBrun himself or through his - shall I use the word "agent"? who brought the letter I couldn't say but the arrangement was that that was - -

Defending Officer - I object. He can't answer until he is absolutely certain that it was with Capt. LeBrun. He certainly has not any right to give any conversation with Pte. Noel if Capt. LeBrun was not present

Q.108 - Just give us the conversation which you had with Capt. LeBrun, not with Sgt. Noel at all

A.108 - Well, again I am terribly sorry but I can't remember. I mean it is almost fantastic to expect me to remember a conversation so long ago

Court - I think, Mr. Skellet, you must realize that you are on oath and that this Court is trying this officer on some very serious charges and where you may not remember the exact words the Court feels that you should be able to give the import of what you did at that period. You don't help us very much by saying "I don't remember". The court has the right to insist on your giving us the gist of what was said

Witness - I am very anxious to help you but I don't want to tell you something which was not right. I should say that as far as I can remember Capt. LeBrun assumed responsibility for the balance of those two accounts. I think that is the gist of any conversation we had

Defending Officer - Sir, it seems to me that still on that original objection the witness has not yet said whether his conversation was with the accused

Court - You can bring that out in your cross-examination. We will let the Prosecution bring his evidence out and if you have any objection you can ask for a ruling of the court but when the witness is finished by the Prosecution he is your witness and if we don't do it that way the poor witness don't know where he is at and neither does the poor court

Q.109 - Again I will ask you the question then, can you give us the purport of any conversation that you had with Capt. LeBrun dealing with Exhibits "B" and "C"?

A.109 - Well, the only conversation I had was the method by which the balance would be met. I think that is as clear as I can give it to you. I was only concerned, quite frankly, with the payment of the account and that was the only conversation I had with Capt. LeBrun to that effect I should say

Q.110 - What is this document I am handing you now, Mr. Skellet?

A.110 - This is the document which I checked some time ago as being a record of the transactions with the No. 1 Cdn Conv Depot Officers' Mess on the books of R. Grant & Son

Q.111 - And does the book which you now hold in your hand disclose the correct amount which was due and owing from the Officers' Mess of No. 1 Cdn Conv Depot to R. Grant & Son?

A.111 - Yes, with the exception of December, 1940 and January, 1941 - those two exceptions

AHF

Q.112 - Will you just tell us then what the exact amounts for the months of December, 1940 and January, 1941 were?
A.112 - The actual figures of December are £107.15.4 and of January £70.15.3

Statement of account, taken from books of R.Grant & Son showing account of No. 1 Cdn Conv Depot Officers' Mess is marked "P", signed by the President and attached to the proceedings.

CROSS-EXAMINATION BY DEFENDING OFFICER

Q.113 - Mr. Skellet, was this made up by yourself from your books?
A.113 - This was supplied to me by Major Gunn, I believe
Q.114 - It was supplied to you by Major Gunn?
A.114 - Yes

Prosecutor - May I make one observation with reference to this document sir?
Court - The reason for not accepting it is that it is not a true copy of something that Mr. Skellet made and you are asking him to prove a document the making of which he had nothing to do with. If you bring the person who made that true copy from the office and have them sworn then it is acceptable but surely you know you can't ask a man to swear to something he has no knowledge of

QUESTIONS BY THE COURT

Q.115 - You can't swear to those figures?
A.115 - I have checked these figures with my books
Q.116 - And you swear that those are true copies of the figures in your books?
A.116 - Yes, a true copy except in those two cases

Court - Then it can be accepted
Judge-Advocate - Are other figures apart from December and January relative to the case?
Prosecutor - Not in this particular charge
Judge-Advocate - I mean all charges?
Prosecutor - No, it is really the month of December and January we are concerned with but as Mr. Skellet has pointed out he has compared that with the books and - -
Judge-Advocate - But you have a lot of irrelevant figures
Prosecutor - They can be disregarded by the Court

QUESTIONS BY DEFENDING OFFICER

Q.117 - You say that this was not made up from your books?
A.117 - It was supplied to me to be checked
Q.118 - And in fact it is not according to your books?
A.118 - No

Defending Officer - He brings a document in here. We don't know where it is coming from. He says it was checked. The man says they don't check. We don't know what this document is. The witness says "I have checked my books with these and they don't agree"
Court - I feel there is a tremendous amount of batting back and forth so if you will confine yourself to bringing evidence - -
Defending Officer - Mr. President, I was basing myself on the remarks made by the Judge-Advocate which clearly pointed out that it was only those figures of December and January that were relevant. I have no further questions

QUESTIONS BY THE COURT

Q.119 - This letter which is dated Aug '41 and here is an actual receipt here which is dated Mar '41. How can one bear on the other?

a.w.k.

A.119 - These documents were not made out until after we had the conversation
Q.120 - With whom? You had a conversation with whom?
A.120 - Sgt. Noel
Q.121 - In other words you received this note on Aug 20th and then after the receipt of that note you submitted these bills?
A.121 - Yes
Q.122 - Now, this note is dated Aug 20th and yet this receipt on the 1st of March, 1941 so do you consider that that is wrong?
A.122 - Well, either this date or that date is definitely wrong because it is quite clear to me that these figures did not come into being until I was requested to put them into being. As to the dates I can't tell you whether that date is right or that date but quite definitely I think that is the point you want that these came into being at the request of Sgt. Noel
Q.123 - We want to tie this thing down as I say so that there is no doubt. At the request of the letter marked Exhibit "A" these bills were sent in?
A.123 - Yes
Q.124 - The second thing is that the amounts shown in that receipt, do they not agree with the books of the Company?
A.124 - With the exception of December and January but this only shows part of the transactions
Q.125 - May I ask again what part of the transaction it does show and what part is left out?
A.125 - The difference would be the difference of those two and whatever you call the first ones
Q.126 - You mean Exhibits "D" and "E"?
A.126 - Exhibits "D" and "E" are the full records and these are part of them and the difference - -
Q.127 - So that Exhibits "D" and "E" are the full records of what are supplied?
A.127 - Yes
Q.128 - And exhibits "B" and "C" are partial records?
A.128 - Part invoices of what we supplied
Q.129 - And the figures that appear on Exhibit "F" are?
A.129 - The same as "B" and "C" and not "D" and "E"

QUESTIONS BY JUDGE-ADVOCATE

Q.130 - Can you say when the reduced amount represented by "B" and "C" was actually paid? You may refer to your books if you wish
A.130 - The only books which I believed to be relevant was just those two months
Q.131 - Is this receipt signed by you, the one on Exhibit "C"?
A.131 - No, that is a receipt signed by the cashier
Q.132 - Did you receive the money from whoever was paying this bill on behalf of the Officers' Mess?
A.132 - I should think it extremely doubtful. I don't think I would
Q.133 - What then was to happen as to the balance, the difference between the true original account and the reduced account?
A.133 - Well, it was to be a private arrangement with Capt. LeBrun and I understood that Capt. LeBrun would see to its liquidation
Q.134 - What do you mean by "private arrangement"?
A.134 - Well, I was asked to supply those figures which I supplied them with and the remainder they were going to attend to at a later date. I understood that from Capt. LeBrun first and in fact I accepted Capt. LeBrun as responsible for the remainder of those two months' accounts

QUESTIONS BY COURT

Q.135 - Can you say definitely who this arrangement was made with?
A.135 - Well, I have spoken to Capt. LeBrun on the subject
Q.136 - On the subject of the reduction of these accounts for these months?
A.136 - Yes
Q.137 - Did you have a conversation with Capt. LeBrun in which he said that he himself would be responsible?

a.N.F.

A.137 - I believe after a telephone message (I am going to try and give you this as I remember it) after a telephone message from Capt. LeBrun that Sgt. Noel would come down and talk over certain matters and would have his full authority to do so and the letter was given to me to that effect and I agreed then to accept Capt. LeBrun's responsibility for the remainder of the account upon which I gave part of the account to him
Q.138 - Was this on the telephone?
A.138 - No, it was in my office
Q.139 - This was in your office with Capt. LeBrun?
A.139 - No, with Sgt. Noel
Q.140 - So that this arrangement was made with regard to reducing the amount of money by you with Sgt. Noel?
A.140 - With Sgt. Noel, with, I assumed, Capt. LeBrun's permission to speak
Q.141 - Based on this letter, Exhibit "A"?
A.141 - Exactly

FURTHER CROSS-EXAMINATION BY DEFENDING OFFICER

Q.142 - Was any request made at approximately the same time as you received this letter - - Am I correct in believing that your statement was to the effect that these revised bills were issued at the time that you receiveda letter which was brought to you by Pte. Noel?
A.142 - At the same time. In fact I had it done while he was still with me
Q.143 - And I understood you to make a declaration that the only conversation you had personally with Capt. LeBrun was concerning the method of payment of the balance?
A.143 - Exactly
R.P.83(2) was not complied with in respect of the above witness.

3rd Witness for the Prosecution, Capt. J. L. Collins, P.M.C.T. Office, RCAPC, having been duly sworn is examined by the Prosecutor.

Q.144 - Capt. Collins would you please give us your full name, rank and unit?
A.144 - Capt. J. L. Collins, P.M.C.T.Office
Q.145 - Now, at any time were you attached to No. 1 Cdn Conv Depot?
A.145 - Yes. I was Paymaster of No. 1 Cdn Conv Depot from Sep '40 to May '42
Q.146 - And do you know Capt. LeBrun, the accused?
A.146 - Yes
Q.147 - Would you take a look at this document which I am handing you now and tell us what it is please?
A.147 - This is the proceedings of the Regimental Audit Board of No. 1 Cdn Conv Depot for the period ended 31 Mar 41
Q.148 - And have you signed it?
A.148 - Yes, I have signed it
Q.149 - In what capacity?
A.149 - As a member of the Regimental Audit Board
Q.150 - For what period of time is that?
A.150 - It doesn't say on that

Court - Well, you are under oath. If you can't answer it it is not much use to us

Q.151 - Can you answer that?
A.151 - I can't say for sure the period without other information from the statement itself which shows the period

Judge-Advocate - I am just wondering here if the proceedings of a Board are acceptable as evidence
Court - Might I suggest that the proceedings of a court of inquiry cannot be brought into these proceedings
Judge-Advocate - The proceedings of this Board contain certain reports with their findings. The evidence might be admissible but the report of this Regimental Audit Board I am doubtful whether that is admissible
Court - What does the proceedings contain?

Judge-Advocate - Well, once it is received as an exhibit there it is in evidence

Prosecutor - The purpose of introducing this is to show that this Board which Capt. Collins was on investigated the financial arrangements for the period ending March 31st. All right. Now, then, pursuant to that this would have to go to the Regimental Funds Board. Now, Capt. Collins whatever he says about this we will take it as such. This was made from facts and figures submitted by Capt. LeBrun to the Regimental Audit Board

Court - May I take it then that he is going to swear that certain documents were produced by the accused and if those documents have become part of a court of inquiry I assume that that part of the court of inquiry , namely the documents pertaining to the accused in the matter can be accepted but the court of inquiry proceedings itself cannot be used to prove the truth of the facts contained in them

Prosecutor - Sir, it is not a court of inquiry; it is a board of officers

Court - I should not have said court of inquiry but it is the same thing. It is the proceedings of a board which is being handed to the court which if they are submitted to the court to prove the facts contained in them they are not admissible but if they are submitted so that part of that board's proceedings, namely the statement of accounts, if they were submitted by the accused to this witness and this documentis part of the evidence of the case they can be received but not the proceedings as a whole and the findings of the court as a whole

Prosecutor - May I then put in this document for what it is worth? This has been signed by Capt. Collins. That is the board proceedings. Well, then pursuant to that it must go to the Regimental Funds Board. Now, in this particular charge it is set forth "with intent to mislead the Regimental Audit Board and the Regimental Funds Board". Now, then, I hope to prove that this statement was made from facts and figures supplied by Capt. LeBrun, the accused. Then, if that was done the whole thing then was received by the Regimental Funds Board. We will also show, or attempt to show that this statement here does not contain the correct Grant account. It just shows the lesser bills which were submitted and from that our contention is that this was made with the intention of misleading the Regimental Audit Board

Court - Surely the President of the Board can give that evidence

Prosecutor - Well, I have him outside. But again we have to show that Capt. Collins had this prepared from the facts and figures supplied by Capt. LeBrun and once I establish that to your satisfaction then I would be in a position to call in the President of the Regimental Funds Board

Court - Well, then, why not allow the President to say what they are and stick with something that this witness knows something about

Q.152 - Now, take a look at that document. What is it?

A.152 - This is the abstract statement of receipts and disbursements of the Officers' Mess of the No. 1 Cdn Conv Depot

Q.153 - For what period?

A.153 - For the period ending 31 Mar 41

Q.154 - But can you tell us covering what period?

A.154 - This statement covers more than a one-month period and the date is incorrect I notice here. It may have been intended as the period from the 1 Jun 40 to 31 Mar 41 but I am not sure of that

Q.155 (Court) - Then you can't swear to this in any manner, form or means. You can't state whether the facts in there referring to this accused are facts or what period it covers. You are under oath. There is no use bringing papers here that have no meaning to them

A.155 - Sir, if you will notice on this statement there is a record stating that no record of cash book sales was kept. Therefore-

Q.156 (Court) - That is purely hearsay. Have you had any part in the production of this document?

ANF

A.156 - Yes, sir, I did
Q.157 (Court) - What part did you have?
A.157 - May I go back over it as best I can remember it?
Q.158 (Court) - Yes
A.158 - From time to time the Regimental Funds Board asked for audit statements from No. 1 Cdn Conv Depot and after a great deal of delay extending over many months the Audit Board was finally instructed by Col. Plante to go ahead and do an audit of the Officers' Mess and when we came to do that the statement that Capt. LeBrun submitted just didn't mean anything
Q.159 (Court) - Were you on that board?
A.159 - Yes, I was on that board. Therefore, I requested Capt. LeBrun to put what figures he had together on this statement form. The first attempt was simply to make a balance sheet as of Mar 31 where we felt we had reasonable information to give the present balance and that was done but it was not acceptable to Col. Plante who said that I could build up figures for the sales. We had some figures for expenditures. I would not say they were complete. So we went ahead with that and using the expenditure side which we got from vouchers etc., we built it up - -
Q.160 (Court) - Who is "we"?
A.160 - The Regimental Audit Board. I was the main mover on it and did most of the work. We put in a balancing figure for the sales and that is why this statement was marked the way it is
Q.161 (Court) - We are running rather far afield here. We want you to hold yourself down to the actual facts relating to the statement or figures given by Capt. LeBrun
A.161 - Yes, sir
Q.162 - That document that you have in your hand now, did you compile that?
A.162 - I assisted with it
Q.163 - Well, when you assisted in compiling that from whom did you get the facts and figures to compile the statement?
A.163 - The information obtained from Capt. LeBrun
Q.164 - And at that time what position was Capt. LeBrun holding in the Officers' Mess of No. 1 Cdn Conv Depot?
A.164 - He was the Treasurer of the Officers' Mess

Prosecutor - Now, Mr. President, I think with your permission that is acceptable now

Abstract of Receipts and Disbursements of No. 1 Cdn Conv Depot RCAMC together with sundry papers, is marked "G", signed by the President and attached to the proceedings

Q.165 - Now, then, when Exhibit "G" was compiled from facts and figures supplied by Capt. LeBrun did Capt. LeBrun discuss the R. Grant & Son bill with you?
A.165 - I can't remember now
Q.166 - You can't remember that?
A.166 - No, sir
Q.167 - Did Capt. LeBrun submit Exhibits "B" and "C" to you when you were helping to compile Exhibit "G"?
A.167 - I can't remember these bills
Q.168 - Well, can you tell us if Exhibit "G" contains the amounts as mentioned in Exhibits "B" and "C"? Can you tell us that?
A.168 - Those exhibits, sir, are not quite familiar
Q.169 - Does Exhibit "G", this document, contain just those amounts which are shown in Exhibits "B" and "C"?
A.169 - I don't remember these exhibits at all
Q.170 - Now, are you familiar with the handwriting of Capt. LeBrun?
A.170 - I believe I am
Q.171 - Take a look at the writing on page 121 of this book. Can you say whether the writing in black has been made by Capt. LeBrun?
A.171 - Well, I am not a handwriting expert but it appears to me to be quite similar to Capt. LeBrun's writing
Q.172 - Now, this book - have you seen that before?
A.172 - Yes, I have
Q.173 - And what is it?

A.173 - It is a ledger ain which Capt. LeBrun kept a record of accounts which were in his charge
Q.174 - Accounts of what nature? Just look at the book
A.174 - Well, he had accounts here for each officer of the No. 1 Conv Depot and accounts which were intended to show the amounts owing to the merchants for goods purchased
Q.175 - And amongst them is the R. Grant & Son account there?
A.175 - Yes, there is an account here for R.Grant & Son
Q.176 - What was it you said now about Capt. LeBrun's handwriting on page 121?
A.176 - I said that I was familiar with his handwriting but that I am not a handwriting expert but the writing on Grant's account bears a similarity with the other writing made by Capt. LeBrun
Q.177 - Can you swear that this is the official book showing the accounts of the Officers' Mess?
A.177 - Yes, I can swear that

Red Book marked on front "Regimental Funds" containing individual officers' accounts in No. 1 Cdn Conv Depot and also accounts with tradesmen is marked "H", signed by the President and attached to the proceedings.

Q.178 - Now, then, what does this book show the balance due and owing to R. Grant & Son as of Mar 31/41?
A.178 - The balance which this ledger account shows at Mar 31, 1941 is £178.8.6
Q.179 - And what does this Exhibit "H" show as being the amount owing to R. Grant & Son for December '40 and January '41?
A.179 - Dec. 31, 1940 the balance is £50 and Jan 31, 1941 the balance was £97.18.3
Q.180 - And what does it show as the amount for the month of January?
A.180 - Purchases?
Q.181 - Yes, purchases
A.181 - Purchases show £47.18.3

CROSS-EXAMINATION BY DEFENDING OFFICER

Q.182 - In the preparation of your document Exhibit "G" are you ready to state which of these documents you made use of? Here are "B", "C", "D" and "E"
A.182 - Well at this date (as the court knows it is a year and a half at least) at this date I can't say one way or the other whether those were part of the items making up the papers. There are check-marks on here which are not mine but they may be check-marks of some other member of the Regimental Audit Board. I am not prepared to say they are
Q.183 - So you don't know which ones of these were used?
A.183 - No, I don't

QUESTIONS BY THE COURT

Q.184 - There is one point upon which there appears to be some clarification required. Would you examine the statement marked Exhibit "G"?
A.184 - Yes, sir
Q.185 - Can you tell the court, Capt. Collins, whether the figures sho as accounts payable in that statement which I understand to be a statement which you prepared - - is that correct?
A.185 - Yes, I prepared it or assisted in the preparation of it
Q.186 - Can you tell the court whether the accounts shown as accounts payable in that statement take into account Exhibits "B" and "C" as correct or "D" and "E" as a group?
A.186 - I can't answer that, sir, because there are no details here showing what the various invoices were to make up the £178.8.6
Q.187 - In other words the particulars are not detailed enough to break it down to show these particular exhibits so far?
A.187 - No, sir and therefore I can't say whether they are or not
Q.188 - Now, does Exhibit "E" to your knowledge show anywhere the amounts indicated in Exhibits "B" and "C" or "D" and "E"? Does "E" show these other statements anywhere?

A.188 - Yes, Exhibit "C", the amount of £47.18.3 appears as the Jan '41 charges in the ledger and the other invoices, total for purchases in December - Exhibit "B" appears to be the December purchases. There is an 8/ difference
Q.189 - Now, are you looking at the general account or the Grant account in the ledger?
A.189 - I am looking at the Grant account
Q.190 - Is it the same firm that issues the invoices "B", "C", "D" and "E"?
A.190 - Yes, the R.Grant & Son ledger account is the same firm as the invoices "B", "C", "D", and "E"

R. P. 83 (B) is not complied with in respect of the above witness

Court is adjourned at 1230 hours until 1400 hours

At 1400 hours the court re-opens

4th Witness for the Prosecution, Major J. B. Morison, Q.O.C.H. of Canada, attached to No. 1 Cdn Conv Depot RCAMC having been duly sworn is examined by the Prosecutor.

Q.191 - Major Morison, give your full name, your rank and your unit, please
A.191 - Major J. B. Morison, Q.O.C.H. of Canada, attached to No1 Cdn Conv Depot
Q.192 - And what time did you join No. 1 Cdn Conv Depot Major?
A.192 - As far as my memory goes on 27 Nov 40 - very close to that. I think it was the 27th
Q.193 - And have you been there continuously up to the present time?
A.193 - I have been continuously with them since then
Q.194 - Major, what is this document which I am handing to you now?
A.194 - It is the audit statement of the Regimental Audit Board of the No. 1 Cdn Conv Depot as of 31 Mar 41
Q.195 - And what period does it cover?
A.195 - The period ending Mar 31, 1941
Q.196 - And what was the commencement of the period?
A.196 - I would not like to say when it commenced. It was right from the beginning as far as I know - the first one we had
Q.197 - And is that your signature on the document?
A.197 - Yes, sir
Q.198 - In what capacity?
A.198 - As President of the Regimental Audit Board

Proceedings of Regimental Audit Boards on form R.F.B.1 for period ended 31 March, 1941 is signed by the President, marked "I" and attached to the proceedings.

Q.199 - What do you call that document, Exhibit "I"?
A.199 - I call it a statement of the audit board on the Regimental Account. The audit of the Regimental Funds as of 31 Mar 41. It has receipts and disbursements and it has accounts receivable, accounts payable and a statement of assets and liabilities all done at once. It is a complete statement
Q.200 - And from what was Exhibit "I" made?
A.200 - From records given to us or supplied us by Capt. LeBrun who was Secretary
Q.201 - Now, look at Exhibit "G" please and tell me if your signature is on it?
A.201 - My signature is on it there
Q.202 - In what capacity?
A.202 - As President of the Regimental Audit Board
Q.203 - Now can you tell us - - This is also for the period ending 31 Mar 41. Can you tell us the date?
A.203 - My memory would be from the beginning
Q.204 - What do you mean "the beginning"?
A.204 - When the Unit came over here. That is the first audit I understand that was ever made. There might have been another one but I don't know anything about it
Q.205 - Now, Major, when Exhibit "I" was made did Capt. LeBrun disclose to you the sums of £8.10.9, £36.3.6½ and £52.0.0 as being bor-

rowed from the Regimental Funds and deposited to the credit of the Officers' Mess?
A.205 - No, sir, not that I know of
Q.206 - With reference to Exhibit "G" can you tell us what Exhibit "G" was compiled from?
A.206 - From records supplied us by Capt. LeBrun
Q.207 - And did Capt. LeBrun disclose to you that it didn't contain the correct amount of a bill due and owing from the Officers Mess of the No. 1 Cdn Conv Depot to R. Grant & Son?
A.207 - No, sir

CROSS-EXAMINATION BY DEPENDING OFFICER

Q.208 - Major Morison, when you prepared these reports did Capt. LeBrun give you access to the Regimental Funds checkbook?
A.208 - I don't remember. I can't answer that question. Is that the Regimental Funds you are talking about?
Q.209 - Yes
A.209 - Oh, yes, he must have. I would say so
Q.210 - And had he done so it was your duty to look at those checks and verify the payments made from that account?
A.210 - It would be, yes
Q.211 - Did you also look into the bank statement for the Officers' Mess?
A.211 - I presume we did
Q.212 - And if you had done so you would have checked the entries of monies deposited in that account?
A.212 - Yes
Q.213 - Did you notice in these two documents both the cheque book of the Regimental Funds that certain cheques had been made in the name of the Officers' Mess from that chequebook?
A.213 - I can't remember
Q.214 - If you can't remember that how can you remember whether or not Capt. LeBrun told you whether it existed or not
A.214 - I don't know anything about the thing at all
Q.215 - He didn't tell you anything about it?
A.215 - Oh, yes - I say he didn't tell me anything about it, yes
Q.216 - And you say you had possession of those documents?
A.216 - When we were auditing the books I had great trouble getting documents at all but at the present moment I can't remember what documents I saw or didn't see
Q.217 - Wouldn't a document which you could easily get from the Bank yourself as President of the Audit Board without going through Capt. LeBrun be easily available for you both for Regimental Funds and Officers' Mess?
A.217 - Oh, certainly it would be available
Q.218 - And therefore you as President of the Regimental Audit Board would certainly have made certain that you had those documents
A.218 - Yes, I would say so
Q.219 - So I can presume that you did have those documents then?
A.219 - I think we must have
Q.220 - Well, as President do you feel that it was your duty to have them?
A.220 - Yes
Q.221 - And I have a right to presume that you did your work as you should do?
A.221 - I tried to do so. I am not a Chartered Accountant at all and had to leave it to the Chartered Accountant on the Board because I am not a Chartered Accountant at all
Q.222 - Then if you had the bank statement of both the Regimental Funds and the Officers' Mess you would certainly have noticed in those bank statements that monies in the sums of $8.10.9, £35.3.6½ and £52.0.0 had been transferred from one account to the other?
A.222 - Well I must have mustn't I if I saw the thing?
Q.223 - And isn't it reasonable to believe that had you done so you would have discussed the matter with Capt. LeBrun?
A.223 - Certainly it is reasonable
Q.224 - Isn't it reasonable to believe that if you had not discussed it or if Capt. LeBrun had not answered your questions that

you would have discussed it with higher authority?
A.224 - Well, we had trouble in auditing our books and I always put in a qualification on our audits so that the Regimental Funds Board could always see that our audit was not worth the paper that it was written on because we always put merely balancing figures
Q.225 - But you have available to you the cancelled cheques of the Officer's Mess and the Regimental Funds?
A.225 - I can't remember now
Q.226 - Have you ever seen this before?
A.226 - I would not like to say. I can't remember at all if I saw this or not. I don't think so but I would not say one way or the other
Q.227 - The same with this one?
A.227 - The same with that one, yes
Q.228 - In the documents available, presuming naturally that you had at your disposal the bank certificates and the bank statement of both these accounts, the amounts in question were available for your inspection were they not?
A.228 - Amounts of £8, £35 and £52?
Q.229 - Yes
A.229 - You are asking me what question?
Q.230 - That the figures were available for your inspection?
A.230 - Well, I can't answer that. I can't remember
Q.231 - In fact you remember nothing?
A.231 - Very little except the trouble I had

RE-EXAMINATION BY PROSECUTOR

Q.232 - What do you mean "the trouble I had"?
A.232 - I could never get two of the Regimental Institutes, the Officers' Mess and the Regimental Institutes to audit at the same time. I had to wait and ask time after time after time after time to have the accounts put available for my audit week after week and it would not be for a week or more or ten days after I had one before I could get the other. The only records in my memory although I am no accountant were the Officers' individual accounts and they were absoutely all right as far as I could tell. They were kept in a ledger and I got them. Any of the receipts - of the revenue we had to take simply from bank deposits and no other records except bank deposits and therefore I couldn't make a proper audit ever
Q.233 (Court) - These monies which were supposed to be transferred from one to the other were they brought to your attention at any later time?
A.233- I don't think they were brought to my attention until Major Barton came down
Q.234 (Court) - When was Major Barton down?
A.234 - At the change of command whenever that was. I don't remember the date
Q.235 - Can you tell us what dates - -
A.235 - There is no use asking me dates. I can't remember away back then
Q.236 - Can you tell me the date that Exhibit "G" was ultimately signed?
A.236 - Yes, on the 31 Aug 41
Q.237 - Just think now - - just think
A.237 - At the 31 August - e No, that 31 March is the date of the end of the term. 31 Mar 41 is the date the accounts were audited up to but I can't remember when we did the actual audit. It certainly would not be the 31st of March
Q.238 - Can you tell me the approximate date that Exhibit "I" was finally signed?
A.238 - I am afraid I can't. I can't remember

R. P. 83(B) was not complied with in respect of the above witness

5th Witness for the Prosecution, Lieut. Col. W. G. Stillman, President, Regimental Funds Board, C.M.H.Q. having been duly sworn is examined by the Prosecutor.

Q.239 - Col. Stillman, would you give us your full name, rank and unit please?
A.239 - William George Stillman, Lieut.-Colonel, Cdn Mil Headquarters
Q.240 - And what position do you occupy at the present time at C.M.H.Q. sir?
A.240 - President of the Regimental Funds Board
Q.241 - And how long have you been President of the Regimental Funds Board?
A.241 - From 1 Sep 40
Q.242 - And you are as such up to the present time?
A.242 - Yes
Q.243 - Colonel, would you be good enough to look at Exhibits "G" and "I"? We will take "G" first. Did you receive Exhibit "G" from any particular Unit?
A.243 - From the No. 1 Cdn Conv Depot
Q.244 - And what does Exhibit "G" cover, sir?
A.244 - The Officers' Mess of the No, 1 Cdn Conv Depot
Q.245 - And the court knows it is for the period ending 31 Mar 41. Can you tell us the commencement of the period?
A.245 - The commencement of the period must be sometime - - I think the Unit arrived in England - - This covers the period - - This is the first statement received from the No. 1 Cdn Conv Depot and covers from the inception of that Unit overseas to the 31 Mar 41
Q.246 - Now, take a look at Exhibit "I" please. Did you receive Exhibit "I" from any Unit?
A.246 - No. 1 Cdn Conv Depot
Q.247 - And it covers what account?
A.247 - It covers the Regimental Account
Q.248 - For what period?
A.248 - For the period from the inception of the Unit to the 31 Mar 41. The inception of the Unit means when it arrived Overseas. It is the first statement of the Regimental Accounts received from the No. 1 Cdn Conv Depot

Defending Officer declines to cross-examine this witness

R. P. 83(B) was not complied with in respect of the above witness

6th Witness for the Prosecution, Major G. E. W. Barton, R.C.A.P.C., Member, Regimental Funds Board, C.M.H.Q. having been duly sworn is examined by the Prosecutor.

Q.249 - Major Barton, will you give your full name, rank and unit to the court please?
A.249 - George E. W. Barton, Major, R.C.A.P.C., seconded for duty with the Regimental Funds Board Overseas
Q.250 - And when did you first start duty with the Regimental Funds Board?
A.250 - Overseas I started about the 15th of Jan 41
Q.251 - And continued on to the present date?
A.251 - That is right
Q.252 - Now, Major Barton, did you in your capacity as a member of the Regimental Funds Board proceed to No. 1 Cdn Conv Depot for the purpose of auditing the accounts of that particular unit?
A.252 - I did
Q.253 - When was that?
A.253 - Either 20 or 21 Aug 41
Q.254 - Do you know Capt. LeBrun?
A.254 - I do
Q.255 - Are you familiar with his signature?
A.255 - I think so
Q.256 - Take a look at this cheque which I am handing you. Can you swear whether that is Capt. LeBrun's signature?
A.256 - Yes, I would say that was his signature

Cheque of £35.3.6½ on Lloyds Bank Limited, Brixham No. 32507, Messing a/c No. D.582117 to Officers Mess signed by Lt.Col.A.P.Plante and Capt. L.E.LeBrun is marked "J", signed by the President and attached to the proceedings.

Q.257 - What is Exhibit "J", Major Barton?
A.257 - Exhibit "J" is a cheque No. D.582117 dated 10 Oct 40 for £35.3.6½ signed by or rather drawn on the Messing Account and signed by Col. Plante, Officer Commanding No. 1 Cdn Conv Depot and Capt. L.E.LeBrun Messing Officer. This cheque is in favour of the Officers Mess
Q.258 - Are you familiar with Anatole P. Plante's signature?
A.258 - I believe so
Q.259 - Is that his signature?
A.259 - I would take it to be
Q.260 - Are you sure, Major Barton - that is the main thing?
A.260 - Well, I can only say this, that I have had eighteen years bank experience for the most part in checking signatures of customers who have come in to cash cheques. I have been paying teller of one of the largest branches of the Bank of Montreal where it is up to us if we cash which is incorrectly signed or bad they come right back to us and we have to make good for payment of the cheque. I have examined the signature of Col. Plante and in my opinion that is Col. Plante's signature
Q.261 - Well, would you have a look at this document which I am handing you now and tell me what this is please?
A.261 - This is cheque No. 318/1151 dated 13 Dec 40 drawn on Lloyds Bank, Ltd., Brixham, drawn on the Messing Account, signed by Lt. Col. A. P. Plante as Officer Commanding No. 1 Cdn Conv Depot and also by Capt. L.E. LeBrun Mess Secretary for £52.0.0 in favour of the Officers Mess
Q.262 - And could you swear as to whose signatures those are?
A.262 - I would say those were Col. Plante's signature and Capt. LeBrun's signature

Cheque No. 318/1151 of Lloyds Bank, Ltd., Brixham, drawn on Officers Mess from Messing acc for £52.0.0 signed by Lt.Col.A.P.Plante and Capt L.E.LeBrun dated 13 Dec 40 is entered as "K", signed by the President and attached to the proceedings.

Q.263 - Major, you have mentioned that Exhibits "J" and "K" are drawn on the Messing Account, payable to the Officers Mess. Will you just explain to the court what that Messing Account is please?
A.263 - On the dates when those cheques were drawn or the dates shown on those cheques I found when visiting Lloyds Bank, Ltd., of Brixham that the Messing Account was in reality a combined Messing Account and Regimental Funds Account. It was captioned "Messing Account" and I believe it was Col. Stillman who informed the Unit thatit was a misnomer and should have been captioned "Regimental Funds". That same account was changed later to "Regimental Funds" from "Messing Account"
Q.264 - Now, what monies went to make up this so-called Messing Account or Regimental Funds account?
A.264 - 6% rebate from N.A.A.F.I. for the period that the Unit was stationed, I believe, at Bordon and sundry other little credits such as revenue from telephones which was subsequently paid over to the Telephone Company. I would not say that but there were certain entries which showed that there were receipts for rentals and also receipts from the Telephone Company. From memory at this stage it is pretty difficult to remember if there were other items. If I could refresh my memory I might be able to add to it but this is over a year ago now. I would say that 90% of the funds that were in that account at that date represented N.A.A.F.I. rebates
Q.265 - And from your experience as a member of the Regimental Funds Board what would that type of account have to be used for?
A.265 - It would have to be used for the benefit of the men
Q.266 - Now, then, I believe you told us that on or about the 21st or 22nd of August 41 you conducted an audit of the books of No. 1 Cdn Conv Depot. Is that correct?
A.266 - On or about the 20 or 21 I believe I said. I believe those were my dates

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Q.267 - When you went there to conduct those audits from whom did you receive the various books and papers from which you conducted your audit?

A.267 - I would like to make one point clear that when I went down to the Convalescent Depot or or about the 21 August it was not for the purpose of effecting an audit; it was for the purpose of being present in an ex-officio or advisory capacity to the Hand-Over Board which had been convened upon change of command of that Unit from Lt. Col. Plante to Major (afterwards Lt.Col) Wight. However, as to the question of receiving orders to conduct an audit it was only subsequent, probably four or five days later when I observed from the condition of the books and records of the several institutes that it would be in the best interest to have as complete an audit as possible conducted. I believe I applied to Col. Stillman for authority to go ahead with that because under R.O.359 by which I was governed I had no authority on my own to go ahead with that and I believe he obtained such authority from either the D.A.G or A.A.G. I am not sure who but someone with power in the A.G. Department gave Col. Stillman authority to tell me to go ahead with it.

Q.268 - From whom then did you get the books, papers and documents to conduct your work?

A.268 - From the Regimental Funds I believe Capt. LeBrun was looking after that. That was the Messing Account which is synonymous with Regimental Funds, the canteen statement and books I believe I got from Major Sutton, the sergeants' Mess - I believe there was a Sgt. Bennett who was running those supervised also by Major Sutton. I don't believe there was a Barracks Damage Account at that time but I believe the remaining books there were were received from Capt. LeBrun

Q.269 - Would that include the Officers Mess Account?

A.269 - Yes

Q.270 - Can you tell us what books you received from him?

A.270 - To the best of my knowledge that would have been around Aug 26 and at that time I would have received a fairly complete set of books for the Officers Mess for a period starting either in April or May of 1941 but prior to that the only bound record that I remember having received was a Red-covered book or ledger or whatever you like to call it. It is hard to describe it. It contained Officers Accounts and in the back of that an incomplete record of purchases made with the various suppliers

Q.271 - Would Exhibit "H" be the Red Book you are talking about?

A.271 - Yes, that is the book, the book marked Exhibit "H"

Q.272 - Take a look at this document here, Major, and tell me what that is will you please?

A.272 - That is a statement of receipts and disbursements of the Regimental Funds of No. 1 Cdn Conv Depot starting with May 8, 1940 and to Aug 18, 1941

Q.273 - And who compiled it?

A.273 - I did

Q.274 - From what?

A.274 - From the only available records I could obtain which would be cancelled cheques, cheque stubs and deposit slips, I believe, and such information as was given to me by Capt. LeBrun. May I add something further, sir?

Q.275 (Court) - Yes

A.275 - I would like to say that the reason I compiled that statement was that when I went down to the Convalescent Depot I had been given instructions by Col. Stillman to particularly look into a cheque amounting to £52.0.0 which has already been produced as an Exhibit, paid over from Regimental Funds to the Officers Mess which didn't appear in the statements which the Unit had submitted for review to the Regimental Funds Board, London in accordance with R. O. 359. Therefore, I had to re-write the statement completely - -

Defending Officer - Sir, if the document is being presented merely for the purpose of discussing Regimental Funds I don't think the accused is charged with anything connected with Regimental

Funds. His charges relate to the Officers Mess
Court - These things here refer to the 8th, 9th and 10th and the others which come under "improper withdrawal"
Defending Officer - Very good, sir
Judge-Advocate - What is it you are seeking to prove?
Prosecutor - The withdrawal from the Regimental Funds and the deposit to the Officers Mess
Judge-Advocate - Can't you do that from the proper source?
Prosecutor - Well, now, I produced the original cheques. The first cheque, of course - -
Court - Let us get on with the thing

Recapitulation of the Regimental Funds of the No. 1 Cdn Conv Depot is marked "L", signed by the President and attached to the proceedings

Q.276 - Now, will you draw to the court's attention from Exhibit "L" anything with relation to the three amounts £8.10.9, £35.3.6½ and £52.0.0 please?
A.276 - On this Exhibit "L" there appears under date of May 27 or between May 27 and June 8 a withdrawal of £8.10.9 marked in favour of the Officers Mess. On Oct 10, 1940 there is a similar withdrawal in favour of the officers mess of £35.3.6, a difference of 1/2d. from the amount of the cheque which the Bank has crossed out (they don't pay halfpennies), on Dec 13, 1940 a cheque of £52.0.0 marked in favour of the Officers Mess
Q.277 - Does that particular Exhibit show to what account they were deposited?
A.277 - It is only shown in whose favour the cheque was made
Q.278 - Will you take a look at this particular document which I hand you now and tell me by whom it is signed?
A.278 - It is my opinion it is signed by Louis E. LeBrun
Q.279 - The accused?
A.279 - The accused
Q.280 - And I notice on that particular document which you are holding written in ink in longhand "Cash" and "Balance Due" and in figures in ink £10.0.0 and £10.7.5. Whose writing and figures would you say that is?
A.280 - I don't think I could really say. I was not present when it was written and furthermore - -

Prosecutor - All right, you just can't say it

QUESTIONS BY THE COURT

Q.281 - You actually took over these documents and had custody of them since you more or less seized them?
A.281 - Oh, definitely, sir. Those were part of an envelope containing vouchers and other duplicate statements such as those for the other officers of the Unit
Q.282 (Judge-Advocate) - Did you receive the envelope from anybody?
A.282 - Oh, certainly it was part of the vouchers handed to me with whatever documents Capt. LeBrun could prepare

Q.283 - By?
A.283 - Capt. LeBrun. I asked them to produce all documents relative to the operation of the Officers Mess and there was an envelope of this and an envelope of that, this red book and these cancelled cheques came along and then I accumulated what documents I could to prepare to the best of my ability a statement which would reflect the true position of the Mess on what information I was given
Q.284(Judge-Advocate) - Where have those documents been since? They were produced by the Unit to you and you accepted them
A.284 - I accepted them from Capt. LeBrun as being copies of the statement which he presented to Lt. Col. Plante as being his monthly mess account for the period stated on those statements, sir

Mess Account of Lt. Col. Plante in the sum of £10.7.5 dated 1 Dec 40 signed by Capt.L. E. LeBrun is marked "M", signed by the President and attached to the proceedings

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Mess Account of Lt. Col. A.P.Plante in the sum of £7.12.11½ dated 2 Jan 41 signed by Capt. L. E. LeBrun is marked "N", signed by the President and attached to the proceedings

Mess Account of Lt. Col. A. P. Plante in the sum of £1.16.6½ dated 1 Feb 41, signed by Capt. L. E. LeBrun is marked "O", signed by the President and attached to the proceedings

CONTINUATION OF EXAMINATION BY PROSECUTOR

Q.285 - Will you take a look at this document which I hand to you now, Major, and just tell the court what it is?
A.285 - These I believe to be the stubs of bank deposit slips of the Officers Mess of No. 1 Cdn Conv Depot from the 15 May 40 to 18 Jun 41
Q.286 - And from whom did you receive this particular document which you are discussing at the moment?
A.286 - I believe I can say truthfully that that would have been contained in either of the envelopes given to me by Capt. LeBrun or as he would be handing me the red book he would have handed me these too with cancelled cheques and whatever records he could give me. I can't swear it was in an envelope but it was handed by Capt. LeBrun to me to enable me to make up the statement
Q.287 - On the various pages does it contain any official stamp?
A.287 - Yes
Q.288 - Of what?
A.288 - It starts with the official stamp of Lloyds Bank, Ltd., of Bordon sub to Farnham, Surrey and the same deposit slip book was used when the account was transferred from Bordon to Brixham at the same bank

Deposit Slip Book of Lloyds Bank, Ltd., Bordon, Hants., and also Brixham, Devon of the No. 1 Cdn Conv Depot is marked "P", signed by the President and attached to the proceedings

Q.289 - Now, looking at Exhibit "P", major, will you tell us what it discloses with reference to three deposits of £8.10.9, £35.3.6½ and £52.0.0 please?
A.289 - On Jan 13, 1940 included in the deposit made on that date of £14.0.9 was a cheque of £8.10.9. On the deposit of Oct 10, 1940 included in a deposit of £158.15.0 is a cheque listed of £35.3.6½ and on Dec 13th, 1940 included in a deposit of £138.19.3 is a cheque of £52.0.0. In all that period, I may add, the details were not shown on these deposit slip stubs and the details with the assistance of Capt. LeBrun - what assistance he could give me and what I could find from the available records in some cases I pencilled in like in here "Received from Capt. Dery", "Received from Capt. Leigh". These monies from Regimental Funds I pencilled in to show the source of that revenue. I can confirm that by referring to the statement rendered by the Bank, the detailed bank statement
Q.290 - Looking at Exhibit "G" which is for the period ending 31 Mar 41 covering the Officers Mess of No. 1 Cdn Conv Depot does that disclose the true account that was due and owing from the Officers Mess of No. 1 Cdn Conv Depot to R. Grant & Son - does that contain the true account?
A.290 - To the best of my recollection it does not, sir but I would like to refer to my own papers to verify that if I may - My working sheets, sir. When I conducted this review of the statement I had my own personal working sheets with my figures on showing how they reflected on the disbursements and also on the accounts payable and to the best of my recollection there is a difference

Court - We have no objection to your referring to your notes to refresh your memory but they cannot be submitted as evidence
Judge-Advocate - I don't think he should refer to the work-sheets at all. He can refer to notes made at the time but in this case he is referring to actual amounts of money which are shown in

Exhibits which the court now has

Witness - I have no knowledge of what exhibits have been produced at all so that was my only recourse

Q.291 - Look at Exhibit "I" which is the Regimental Account for the period ending 31 Mar 41. Does that show any withdrawal of the three amounts mentioned?

Judge-Advocate - I think that document will speak for itself

Q.292 - Now with reference to Exhibit "G", does that contain Louis LeBrun's - the accused's signature?
A.292 - It does. Well, the Trading and Profit and Loss Statement which is an appendix to Exhibit "G" contains the signature of "Louis E. LeBrun"
Q.293 - Major Barton, did Capt. LeBrun keep books of account of the Officers Mess of No. 1 Cdn Conv Depot showing receipts and expenditures with vouchers for the period ending 31 Mar 41?
A.293 - Not that were produced to me

CROSS-EXAMINATION BY DEFENDING OFFICER

Q.294 - When you took over the audit of the Regimental Funds and all the Regimental Institutes of the No. 1 Cdn Conv Depot you had easy access to the Bank Certificates and the Bank Statement?
A.294 - Yes, I believe I did
Q.295 - Those Bank Statements showed both in the case of the Regimental Funds and the Officers Mess Account that transactions had taken place between one and the other?
A.295 - They did
Q.296 - In one case a withdrawal from the Regimental Funds and a deposit to the Officers Mess Account?
A.296 - They did
Q.297 - You said, Major Barton, that you understood that monies of the Regimental Funds were to be used for the benefit of the men. That in virtue of what?
A.297 - By virtue of Rules for the Management of Messes and Institutes
Q.298 - And anything else?
A.298 - Routine Orders
Q.299 - And K. R. (Can)?
A.299 - Possibly although I was thinking of those ones to which I can refer directly to paragraphs
Q.300 - These two cheques in question which you examined, were they given to you by Capt. LeBrun himself?
A.300 - That I find it rather difficult to remember as far back as that and I will tell you why. The third cheque of £8.10.9 is not available for the simple reason that the Bank Manager informed us that they had had some enemy action down there and that they had been told to parcel up some of their books and ship them away. Certain of their documents had been destroyed by enemy action and that cheque might have been with those documents or might have been with one shipped away for security to other parts of England and it would be physically impossible to search through bags and bags of cheques of their clients for one which we were in need of. I can't remember if those cheques were given to me by Capt. LeBrun or whether he went with me to the Bank and we obtained them after our demanding them and they were either handed to me by the Bank Manager in the presence of Capt. LeBrun or by Capt. LeBrun himself but I can't remember
Q.301 - But you were made cognizant of the cheques by Capt. LeBrun?
A.301 - Absolutely
Q.302 - With regard to these three accounts "M", "N" and "O" are you in a position to state when, if at any time, the portion written in ink was put on these accounts?
A.302 - Well, from an examination of these statements, this statement Exhibit "M" which covers the indebtedness of Col. Plante to the Officers Mess for the period of 1 Nov to 30 Nov 40, his total indebtedness was £20.7.5. A payment of £10.0.0 shows to have been deducted leaving a balance of £10.7.5 which balance

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was carried forward to a statement for the month of December. Now, while there is nothing in any available record of the Officers Mess of the No. 1 Cdn Conv Depot to show or to prove when that payment of £10.0.0 was made shown on this Exhibit "M" in view of the fact that this balance of £10.7.5 was carried forward to the subsequent month - the month of December it might be an assumption I might say that it must have been made within that period. Otherwise you couldn't have carried forward that balance without having made it at that time

Q.303 - When was the first time you had to see these accounts?

A.303 - I believe the first opportunity was when I went down on this audit in August '41

Q.304 - So personally you are not in a position to have any knowledge of when those documents there were prepared?

A.304 - Oh, I can't say that except for the date on the top of each one. One is dated Brixham, Devon, Dolphin Camp 1 Dec 40 for messing for the month of November and being the monthly mess account dated 1 Dec 40 one would normally assume that that account was presented to the officer concerned either on the 1st of December or shortly afterwards for payment

Q.305 - The Bank Deposit Slips Book was given to you by Capt. LeBrun was it not?

A.305 - Yes

QUESTIONS BY JUDGE-ADVOCATE

Q.306 - Would you take a look at that Exhibit "L". That, I take it, varies from the Regimental Audit Board report?

A.306 - It varies from the report that they submitted which was subsequently returned to the Unit for correction

Q.307 - And you followed with your own audit?

A.307 - Yes

Q.308 - Based on the books available?

A.308 - Based on the available records

Q.309 - And the variance between your statement in Exhibit "L" and the Regimental Audit Board report is in connection with the items which are the subject-matters of these charges?

A.309 - I believe that was the reason, sir

Q.310 - In fact you discovered this (correct me if I am wrong) you discovered from the available records the items that were missing from the Regimental Audit Board reports?

A.310 - I believe you are right. I can't remember what the contents of the original statement submitted by the Regimental Audit Board was

Q.311 - But they are here. Have you had an opportunity of seeing them?

A.311 - I don't think the original Regimental Funds statement as submitted by the Unit is here. This Exhibit "L" goes from May 9th to August 18th, 1941

Q.312 - Will you take a look at Exhibit "I"?

A.312 - Yes, this Exhibit "I" does not contain any evidence of those three cheques previously referred to paid over from the Regimental Funds to the Officers Mess

Q.313 - The information regarding those cheques could have been obtained by the Regimental Audit Board could it not from the cheque stubs or the Bank vouchers? Aren't there similar items appearing there?

A.313 - I think they should have been able to obtain them but from my recollection those statements like the Regimental Funds as of March 31st was not available for the Regimental Audit Board for several weeks after the end of that month. Similarly the Officers Mess Statement as at the 31 March was not available for audit to the Audit Board for several weeks afterwards and they were not audited at the same time and when you get these contra entries of transfers of funds from one fund to another it sometimes happens that such entries might be passed over if the two accounts are not presented for audit or audited at the same time. There might be cash on hand in one which could be used on the other which would be overlooked if they were not done together

Q.314 - This particular transfer was done by cheque?

a MF.

A.314 - Yes
Q.315 - And the cheque book should have been available. There are items out of the cheque stubs in that report aren't there - some of them?
A.315 - Out of the cheque book stubs yes sir in my report
Q.316 - No, in the Regimental Audit Board report. Is there any evidence that this cheque book was at the time available to them? Does not the disbursements show some bank vouchers available?
A.316 - That is very difficult for me to say because the only evidence that there is in this statement of what they might have had from the bank, of course, is this bank certificate as at 31st of March 41. Now, they would normally have to reconcile that balance with the balance of the Officers Mess Account by a check of that account. Now, in the absence of any dates or any individual amounts and the fact that they are not shown in detail it is very difficult for me to say that they did or didn't compile these from cheque stubs or in what manner

FURTHER CROSS-EXAMINATION BY DEFENDING OFFICER

Q.317 - These documents - this particular document which you have just saw, Exhibit "I", who was this prepared by?
A.317 - There is nothing on this document to state by whom it was prepared. It is signed only by the Audit Board and the Commanding Officer
Q.318 - Now, further to a question put by the Judge-Advocate about the knowledge that could have been obtained by the Audit Board of the cheques in question it seems to me that you did state that you had received instructions from Col. Stillman about one of those cheques of £52.0.0?
A 318 - That's right
Q.319 - Now, you knew of that previous to coming down?
A.319 - I knew of that one day before going down because I just came out of Hospital and I was handed a transport warrant and was told to go down there and officiate as an ex-officio member of the Hand-Over Board
Q.320 - But previous to that the Regimental Funds Board had knowledge of these transactions?
A.320 - I can truthfully state that Col. Stillman had knowledge of that transaction of £52.0.0. May I enlarge on that?
Q.321 - Yes
A.321 - Col. Stillman visited the Unit, I believe sometime in June - sometime around there to conduct an audit of the 2nd. cash ration allowance and I was given to understand - -

Court - Now, you may state in your evidence only what you know
Witness - It is not something that someone told me. It is on our files that he left London to visit the Convalescent Depot because there is a letter to the Convalescent Depot stating that he was to visit them sometime in June and I believe at that time Capt. LeBrun was absent on a course and it was only through an accident that he happened to be going over the cheque stub book and noticed these entries and he particularly asked me when I went down on this change-of-command if I would look into it because they were not reflected in the statement submitted by the Unit
Court - You don't know who found that cheque; it is purely something you have been told
Witness - Well, I know from reading our files, sir. That is the only way
Court - Yes, but you can't swear to that any more than to what you have read in some story-book so the evidence is improper. You only read about it and don't personally know about it?
Witness - No, sir

Q.322 - Can you tell us when the Rules and Regulations for Messes and Regimental Institutes came into force? Did they just carry on from peace-time?
A.322 - It was made applicable, sir, to all Units of the C.A.S.F. by Canadian Routine Order, I believe, No. 100 in 1939, long before I left Canada.

7th Witness for the Prosecution, Mr. W. H. Niddell, Bank Accountant, Lloyds Bank Ltd., Brixham, So. Devon, having been duly sworn is examined by the Prosecutor.

Q.323 - Mr. Niddell, will you give the court your full name and occupation please?
A.323 - William Henry Niddell, Bank Accountant, Brixham
Q.324 - What Bank do you work for?
A.324 - Lloyds Bank at Brixham
Q.325 - Will you take a look at this two-page document please and tell us what it is?
A.325 - This is a statement of the account with Lloyds Bank Ltd., Brixham of the No. 1 Cdn Conv Depot Regimental Funds Account
Q.326 - And the second page?
A.326 - The second page is the statement of the account with Lloyds Bank, Ltd., Brixham of No. 1 Cdn Conv Depot Officers Mess Account
Q.327 - Now you in your capacity as a Bank Official, did you compare this particular document with the bank books?
A.327 - With the actual ledger
Q.328 - With the actual ledger?
A.328 - Yes

Statement of Account with Lloyds Bank, Ltd., Brixham of No. 1 Cdn Conv Depot Regimental Funds Account and Officers Mess Account is marked "Q" signed by the President and attached to the proceedings

Q.329 - Does Exhibit "Q" show any - - What does it show with reference to three amounts £8.10.9, £35.3.6½ and £52.0.0, Mr. Niddell? What would one read from that?
A.329 - Payment of £8.10.9 to the Officers Mess Account (That is on 13 Jun 40), 10 Oct 40 another payment to the Officers Mess of £35.3.6½ and 13 Dec 40 payment to the Officers Mess of £52.0.0
Q.330 - From what account?
A.330 - From the Regimental Funds Account - cheques made payable to the Officers Mess
Q.331 - Exhibit "P" has been identified as the current account in Lloyds Bank Ltd., of No. 1 Cdn Conv Depot Officers Mess. Do you recognize the stamp which is on the different individual pages?
A.331 - Yes, it is a stamp usually used by the Receiving Cashier
Q.332 - Of what bank?
A.332 - Of Lloyds Bank, Brixham
Q.333 - Now, then, can you tell us on what date £8.10.9 was deposited to the credit of the Officers Mess - £8.10.9?
A.333 - £8.10.9 was received on the 13 Jun 40
Q.334 - Now, the sum of £35.3.6 please?
A.334 - £35.3.6 - - There is only one amount of £35 isn't there?
Q.335 - Yes
A.335 - Oct 10, 1940

CROSS-EXAMINATION BY DEFENDING OFFICER

Q.336 - To your knowledge have other copies of these documents, Exhibit "Q" been requested of your Bank by No. 1 Cdn Conv Depot Officers Mess?
A.336 - Yes. I understand when having that copy made out that previous copies had been issued
Q.337 - Do you know whether a copy of these accounts or this ledger sheet which was kept by No. 1 Cdn Conv Depot was forwarded to your Bank for preparation at the end of every month or for completion?
A.337 - The usual - - Well, I was not there at that time but the usual procedure up to quite recently is that those statements are given out and they are handed back and so on and so forth until the actual statement is completed and then, of course, it becomes the property of the actual account-holder. That would be the Regimental Account or the Officers Mess or whatever it is

R. P. 83 (B) was not complied with in respect of the above witness

NF

8th Witness for the Prosecution, B.93703 Sgt. Warren, J. F., J.A.G. Branch, C.M.H.Q., having been duly sworn is examined by the Prosecutor.

Q.338 - Sgt. Warren, will you give your full name, rank and unit to the court please?
A.338 - B.93703, Sgt. Warren, J.F., J.A.G. Branch, C.M.H.Q.
Q.339 - In what capacity are you employed at the J.A.G. Branch?
A.339 - Court Stenographer, sir
Q.340 - How long have you been acting as a Court Stenographer, sergeant?
A.340 - Since Oct. 7th, 1940, sir
Q.341 - And previous to that time had you had experience in shorthand?
A.341 - Not during this War in the Army, sir
Q.342 - But you had that experience in Peace-time?
A.342 - Yes, sir
Q.343 - Were you the shorthand writer who took the evidence of Capt. LeBrun when Capt. LeBrun was testifying in the case of Lt. Col. A. P. Plante?
A.343 - Yes, sir
Q.344 - Who took the Summary of evidence - who was the officer?
A.344 - You, sir
Q.345 - Were you sworn?
A.345 - Yes, sir
Q.346 - And did you take the evidence in shorthand?
A.346 - Yes, sir
Q.347 - When Capt. LeBrun was called upon the stand to testify against Col. Plante was Capt. LeBrun sworn?
A.347 - Yes, sir

Prosecutor - With your permission, sir, I would like you to allow him to check his shorthand notes so that he can check what took place at that court

Court - I don't quite get what is coming out of this

Prosecutor - With respect to Charges 9, 10 and 11 "In a document made by him knowingly making a false statement, in that he ---- falsely entered in the personal mess account of Lt. Col. A. P. Plante - - etc etc. Now, what I have established so far before you gentlemen are the three mess accounts of Col. Plante signed by Capt. LeBrun. Now, on those three documents there is handwriting and also figures in ink. Now, when Capt. LeBrun was testifying against Col. Plante he was cautioned by me which I will prove through the sergeant, and as a result he made statements. Now, after being cautioned in that particular case anything he says can be used against him at his own trial. Now, what have we before you gentlemen so far? We just have those three exhibits showing Capt. LeBrun's signature on them. Now, I want to show through the evidence that Capt. LeBrun made these entries on it. On top ofthat I am going to through Sgt. Warren that Capt. LeBrun made the credits when he received the sum of £96.0.0 from Col. Plante on or about the 10th of April '41. Then when you take these three mess accounts it shows that that is an impossibility on account of the balance being carried forward on those three exhibits plus another witness I am calling, Major Anderson, who was present when Capt. LeBrun made an admission to him that he didn't receive the sums of £10.0.0, £10.0.0 and £30.0.0 in cash at the time when these credits were made

Judge-Advocate - Do I understand you to say that the evidence of Sgt. Warren will prove this in the form of admission. It take it that it is the same kind of evidence that Major Anderson can give?

Prosecutor - Very much so, yes with some considerable difference in that all that Major Anderson can say is that "as a result --"

Court is closed for consideration

Court is re-opened

Court - The court are still not able to give an opinion. The court feel from their reading of the Manual that this evidence is

not admissible but we understand that you have made a study of this point and if you will give us your authorities to persuade us as to why this evidence should be made admissible we will be able to have it on record and then we can decide whether we can accept it or not.

Prosecutor - Well, I am going to start in first with what the law is in Canada. Now, in Canada a witness when called onto the stand can turn to the court and ask for the protection of the Canada Evidence Act. When the court agrees with this what the witness says cannot be used against him. Now, over here in England we are governed by the Manual of Military Law and the Manual of Military Law makes the rules of law in criminal procedure in England applicable to General Courts-Martial. Now then, under the English Law there is no such thing - there is no such thing as the Evidence Act in the sense that we have it in Canada. So over here under English Law when an accused or any person comes on the stand to testify and when a question is put to hom which in the opinion of the court calls for an answer which might tend to incriminate the witness the court then warns the witness to that effect. In other words, the court turns to the witness and says "You don't have to answer that question on the ground that the evidence may tend to incriminate you". Now, if the witness takes advantage of that he keeps his mouth shut and if he does he doesn't come into the category of a hostile witness but if he speaks it is in the nature of a voluntary statement and I think you will agree with me that voluntary statements are admissible in court. Now, in this particular case the caution was put to Capt. LeBrun "You don't have to answer the question unless you wish to on the ground that it will incriminate you". After he is given the protection he turns around and he speaks and that is in the nature then of a voluntary statement which I maintain can be admitted. I have not any cases or anything of that nature to back up that argument but it is from the general principle that I am arguing now. Sir, it is based on M.M.L. because M.M.L. makes the laws of England applicable in this country so that M.M.L. really is applicable

Judge-Advocate - I shall be having shortly the responsibility of advising you on the law and I am not sure that I have all I can have from the Prosecution. Is there a set form of warning to be given to the witness of the type that Capt. LeBrun was at the taking of this Summary on Col. Plante?

Prosecutor - No, sir, no formal warning

Judge-Advocate - Can you give us any authorities?

Prosecutor - May I read para 95 page 96 of M.M.L. "A witness (other than the accused himself when giving evidence on his own application, and as to the offence wherewith he is charged) cannot be compelled to answer a question if the answer would, in the opinion of the court, have a tendency to expose him to any criminal charge, penalty, or forfeiture, or to any military punishment. In practice the court should warn a witness that he cannot be compelled to answer any question tending to incriminate himself; but a witness himself is not the sole judge whether his evidence will bring him into danger; the court must be satisfied that there really is reasonable ground to apprehend any such danger, and any doubt upon the matter will be solved in favour of the witness". Then after that was put to Capt LeBrun he made a voluntary statement

Defending Officer - I submit that the argument presented by the prosecutor tends to exclude it from this case or applies when the person accused is a witness in a definite case. If Col.Plante were before you now and Capt. LeBrun were here as a witness the argument now presented by the Prosecutor would hold good but I suggest that in English law at the summary or inquiry before the Bench of Quarter Sessions the evidence given there by the accused in another case couldbe used against him in his own trial. There is a very great distinction and the principle is well laid down in law that courts of inquiry, boards of of-

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ficers and things of that nature cannot be presented before the court-martial and I submit that if the accused had been charged that way, that Capt. LeBrun was a witness or had been a witness in the case of Col. Plante and that a court had been there to see to his rights to determine whether he was going to incriminate himself or whether his judgment was not clouded and the court had decided if the question was legal and that if he wished to answer it he could do so then I agree that Article 95 stands but I don't think it does in the present case

Court - Can you prove that Capt. LeBrun was given this warning prior to taking his statement?

Prosecutor - Yes, sir

Court - You will prove that?

Prosecutor - Yes, through Sgt. Warren

Court - At wat proceedings were these statements made that you intend to put before the court?

Prosecutor - In the proceedings which we held - - the summary of evidence against Col. Plante

Court is closed for consideration

Court is re-opened

Court - Well, gentlemen, we have looked at this thing very very closely from nearly every angle and I am going to ask the Judge-Advocate to sum up the points of law on which are based the conclusions we have come to

Judge-Advocate - The court is not a little troubled over this situation that arises in connection with the admissibility of the evidence that the Prosecutor proposes to tender at this stage. It is absolutely a new point as far as I am concerned; I have never seen it arise in a court-martial before. The feeling of the court is that assuming that the admissions or statement made by Capt. LeBrun on the particular occasion of the taking of the Summary in the case of Col. Plante are to be treated the same as any other statements, admissions or confessions of an accused person it is the burden of the Prosecution to prove as a foundation of the admissibility of these statements, admissions or confessions that they were voluntary, that there were no threats or promises and in that connection I think there should be a trial within the trial in the course of which it might be brought out clearly just what was the situation with regard to Capt. LeBrun at the time these admissions were obtained and these statements were made. For instance whether he himself was under a charge at that time, whether in his case which might or might not have been pending then there had been a sumarry already taken and matters of that sort which will give the court some basis on which they can arrive at the conclusion that the statements were voluntary or otherwise. I think the rule of the Prosecution having to prove affirmatively the voluntary nature of the admissions or statements which they took holds in this situation as it does in the ordinary, normal situation where such confessions arise. Now, so far we have not got that basis. I think that is the ruling of the court as I have tried to summarize it

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TRIAL WITHIN THE TRIAL ON THE ADMISSIBILITY OF CERTAIN STATEMENTS AND ADMISSIONS MADE BY CAPT. L. E. LEBRUN IN THE SUMMARY OF EVIDENCE OF COL. A. P. PLANTE.

1st Witness for the Prosecution on the admissibility of the statements, B.9370 Sgt. Warren, J. P., J.A.G. Branch, C.M.H.Q. having been already sworn, is examined by the Prosecutor.

Q.348 - Do you of your own personal knowledge know whether charges had been laid against Capt. LeBrun at the time that Capt. LeBrun testified at the Summary of Evidence against Col. Plante?

A.348 - I don't know, sir

Defending Officer declines to cross-examine this witness

R. P. 83(B) was not complied with in respect of the above witness

2nd Witness for the Prosecution on the admissibility of the statements, the Prosecutor, Major W.A.D.Gunn, J.A.G. Branch, C.M.H.Q. having been duly sworn is examined by the Assistant Prosecutor

Q.349 - Would you give the court your full name, rank and unit please?
A.349 - W.A.D.Gunn, Major, J.A.G. Branch, C.M.H.Q.
Q.350 - And did you have occasion to conduct a summary of evidence into certain charges against Lt. Col. A. P. Plante?
A.350 - Yes, I did
Q.351 - Were you so instructed to conduct that summary of evidence?
A.351 - Yes, I was
Q.352 - And your authority was what, sir?
A.352 - At the instigation of the Acting Commanding Officer of No. 1 Cdn Gen Reinf Unit
Q.353 - And did the Commanding Officer or did he not direct that the evidence should be taken under oath?
A.353 - He directed that it should be taken under oath
Q.354 - At that summary of evidence did the accused, Capt. LeBrun, give evidence?
A.354 - Yes, Capt. LeBrun did
Q.355 - Prior to his giving evidence was he sworn?
A.355 - Yes, he was
Q.356 - Do you recall the nature of the oath that was given?
A.356 - Yes, the nature of the oath was that which is in the Green Book. I can't repeat it word for word
Q.357 - Was a bible or testament used?
A.357 - Yes a testament was used
Q.358 - And the oath was administered to Capt. LeBrun by yourself?
A.358 - Yes
Q.359 - Was the evidence taken down in shorthand?
A.359 - Yes
Q.360 - Do you know who took down the shorthand?
A.360 - Yes, Sgt. Warren of J.A.G. Branch, C.M.H.Q.
Q.361 - Prior to his taking down the evidence was he sworn as shorthand writer?
A.361 - Yes, and the oath as used was the same as in the Green Book to be used to a shorthand writer
Q.362 - Did you propound or ask questions of the accused, Capt. LeBrun?
A.362 - Yes
Q.363 - And certain questions, were they prefaced or were they not prefaced by any caution?
A.363 - Yes
Q.364 - Are you able to indicate to the court what that caution was?
A.364 - Yes, the caution was words to this effect: "You do not have to answer the question unless you wish to do so on the ground that it may tend to incriminate you"

Court - I don't quite understand what we are having all this rigmarole for. I thought you were going into the box and establish the fact whether the accused was charged before that summary or not. Why not make a straight statement?
Witness - I may say that at the time that Capt. LeBrun did testify in the summary of evidence of Lt. Col. A.P.Plante that charges had been preferred against him while he was at No. 1 Cdn Conv Depot

Q.365 (Court) - He was at that time under arrest?
A.365 - He was under open arrest, yes sir

QUESTIONS BY JUDGE-ADVOCATE

Q.366 - Had a summary of evidence been taken in his case?
A.366 - Practically completed, sir, and the balance was taken up here at No. 1 C.G.R.U.
Q.367 - After the summary of Col. A.P.Plante was finished?
A.367 - Correct, sir. It was either after or before. From my recollection, sir, I took the LeBrun case first and after completing that I swung into the Col. Plante summary of evidence.

a.M.P.

That is from the best of my recollection

Q.368 - Then, after the taking of the summary of evidence in the case of Capt. LeBrun did he make a statement as to the facts?

A.368 - Not in his own summary of evidence. He made no statement

Q.369 - Was he asked if he desired to make a statement?

A.369 - Yes

Q.370 - And given the usual warning under R.P.4(E)?

A.370 - Definitely, sir

Q.371 - And he declined to make a statement at that time?

A.371 - Yes, sir

Q.372 - Are the charges roughly out of which the charges in the case of Capt. LeBrun arose roughly the same as the circumstances of the Col. Plante case?

A.372 - Quite similar, quite similar, yes, quite similar. I can take the two charge sheets if you wish and show you the differences

Q.373 - Well, one charge-sheet is in and you know that the other charge sheet of Col. Plante is based somewhat on the same set of transactions?

A.373 - With the exception of the alleged non-payment of Col.Plante's mess account and the alleged approving of a statement of abstract and expenditures by Col. Plante showing the reduced Grant Account instead of the proper one. Outside of that they are very very similar

Q.374 - Do you know any reason why Capt. LeBrun, after receiving the warning at the taking of his own summary did not make a statement while subsequently at the taking of the summary in the case of Col. Plante having received the warning which you have just referred to in your evidence he proceeded to make certain statements?

A.374 - That is very, very difficult to answer, sir

Q.375 - Did you have any conversations with Capt. LeBrun between the finish of his summary and the conclusion of the evidence in the summary of Col. Plante?

A.375 - If I did it was only about matters which were not in connection with the case. I might have said "How is she going?" or "Do you want a smoke?" or anything like that

Q.376 - I mean relative to the charges?

A.376 - Oh, no - no - no

QUESTIONS BY ASSISTANT PROSECUTOR

Q.377 - Did you in taking the summary of evidence hold out any promise to Capt. LeBrun?

A.377 - Definitely not at any time

Q.378 - Any threat imposed by you?

A.378 - Definitely not at any time

Q.379 - Any suggestion as to whether or whether he was not compelled to answer any questions?

A.379n- Definitely not, no

Court - You have referred the court to page 96, para 95 in which the last sentence provides that "In practice a court should warn a witness that he cannot be compelled to answer any question tending to incriminate him" which follows immediately by saying that the witness himself is not the sole judge as to whether his evidence will bring him into danger and that the court will be satisfied (assuming that you were the court on this occasion of taking the summary) that there really was reasonable ground to apprehend such a danger which I take you did apprehend because he had already been charged. Then what you say regarding the warning you gave him, do you think it brought home to him the fact that he was in danger and that he should be particularly careful in answering your questions?

Witness - The question is very, very good. All I can say is that I just put the caution to him and I didn't tell him after that that he was not compelled to answer. I didn't tell him that he was compelled to answer. I just put the straight caution to him and he spoke after that.

Q.380 (Court) - But you didn't do more than caution him? You didn't

say "You are charged" or "You are an accused" and inform him that he should be particularly careful?

A.380 - No, I didn't do that

Defending Officer declines to cross-examine this witness

R.P.83(B) was not complied with in respect of the above witness

The court is closed to allow the Defending Officer to consult with the Judge-Advocate

Court is reopened

Defending Officer - Mr. President, after having discussed the matter with Major Friedgut I would ask not to have to bring witnesses but merely to object generally to the testimony given in this trial within a trial and state to the court that they must take into consideration the position of the accused himself having been called to give evidence, a junior officer, no doubt thinking he was compellable to military law and not quite knowing the full rights and privileges granted him (not being a lawyer himself) and that he felt that were he to keep silence that they would look upon him as further conniving with the person against whom he was called upon to testify

Court is adjourned until 1000 hrs 3 Dec 42

Court is re-opened at 1000 hrs 3 Dec 42 being constituted as enumerated on page 1

Court - Last night when we closed there was a question of law which was referred to the J.A.G. as to whether Sgt. Warren's evidence was admissible or not. The J.A.G. Branch wish to refer that to the Senior Officer and they will have a reply for us, we hope, before noon. In the meantime if you have any further witnesses that we could have now prior to finding out if we can accept Sgt. Warren's evidence or not we will take them

Prosecutor - At this stage then, I may say that with your permission I was going to call Major Anderson. Now Major Anderson will be testifying that he had conversation with Capt. LeBrun, the accused. At that particular time it was on a court of inquiry on Col. A. P. Plante. At that time there were no charges against Capt. LeBrun or any contemplated charges that I know of. When Major Anderson had conversation with Capt. LeBrun he was not cautioned as we know the caution in law and I therefore want to bring in the conversation that Major Anderson had with Capt. LeBrun

9th Witness for the Prosecution, Major J. M. Anderson, R.C.A., Member, Regimental Funds Board, C.M.H.Q. having been duly sworn is examined by the Prosecutor.

Q.381 - Major Anderson will you please tell the court your full name, rank and unit please?
A.381 - Major J. M. Anderson, R.C.A., Member of the Regimental Funds Board
Q.382 - Major Anderson were you down at No. 1 Cdn Conv Depot in connection with a court of inquiry that was held there?
A.382 - No
Q.383 - Were you down there after the court of inquiry was held?
A.383 - I went down in April, 1942
Q.384 - And do you know Capt. LeBrun, the accused?
A.384 - Yes
Q.385 - Did you have any conversation with Capt. LeBrun (May I suggest this to him, sir?) Did you have any conversation with Capt. LeBrun while down there?
A.385 - Yes
Q.386 - Can you tell the court the facts and attendant circumstances surrounding that conversation?

A.386 - Yes. There was an amount or amounts totalling £70.0.0 credited to the O. C. of the Unit and in order to make up my statement correctly and to know how he treated that amount I asked Capt. LeBrun - -

Judge-Advocate - Just one moment. I think it should be established what the relationship was between the witness and the accused, what was the capacity in which the witness was attending at No. 1 Cdn Conv Depot and for what purpose in order that we may see from the circumstances whether the statement was voluntary

Q.387 (Court) - Can you tell us, Major, what you were doing at No. 1 Cdn Conv Depot and what led up to this conversation which you had with Capt. LeBrun?

A.387 - Yes, sir. I was down there on the instructions of the President of the Regimental Funds Board to conduct a re-audit of the accounts in order to establish definitely the outstanding mess bill of the O. C. I was instructed to do a re-audit of the Officers Mess Account and in order to clear up certain points I had together with Major Barton to speak to Capt. LeBrun who kept the records during the period we were auditing

Q.388 (Court) - So it was in your official capacity that this conversation came up with Capt. LeBrun when he was presenting the records to you?

A.388 - Yes, sir

Q.389 (Judge-Advocate) - What was your rank at the time?

A.389 - Major

Q.390 (Judge-Advocate) - In April, 1942?

A.390 - Yes

Q.391 (Judge-Advocate) - And Capt. LeBrun's rank?

A.391 - Captain

Q.392 (Court) - Were you aware at that time whether there was any charge pending against Capt. LeBrun and whether he was implicated in any manner?

A.392 - No, sir, there was no suggestion of any charge against Capt. LeBrun; it was merely a matter of clearing up the outstanding bill against the O. C.

Q.393 - Will you tell the conversation please?

Defending Officer - It appears to me that Major Anderson was definitely a superior officer at the time and that he was there for the purpose of establishing or determining rather the financial situation of the Regimental Funds or Regimental Institutes of No. 1 Cdn Conv Depot. Now, as a result of this investigation these trials have been brought to you and there is a definite relationship and I think at that time Major Anderson must be considered a person in authority and having reached a certain point in these investigations must be suspected or must be thought to have realized that something was wrong because he was seeking information as to why it was wrong and if that is the case he must have known that this accused might have been implicated and if so I feel he should have given him a warning

Court - I don't feel that it was necessary for him to warn the officer. He was not laying any charges nor had he any intention of laying any charges and any statement that the accused made to him at that time could not be anything but free or voluntary information nor do I think that Major Anderson was in a position or could be called upon to have used any threats or promises to him to obtain that information. He was purely an officer in the execution of his duties inquiring from another officer who was also in the execution of his duty being in custody of the accounts and if he is not able to do that neither would be doing his duty. Therefore, I see no reason why it should not be accepted as evidence

A.393 - There were three amounts £10.0.0, £30.0.0 and £30.0.0 shown to the credit of the O. C. In the absence of any cash book showing receipts I asked Capt. LeBrun why he had made those entries and what was the origin of them. He told me that they had been credited to Col. Plante's account on the occasion of Col. Plante paying him £96.0.0 to refund to the Regimental Funds. We then pointed out to Capt. LeBrun - -

Q.394 - Who were "we"?
A.394 - Major Barton and I were both there. We pointed out to him that this didn't seem reasonable because both the ledger and the mess accounts that were presented to the officer in December, January and February showed balances brought forward after deducting these amounts whereas Col. Plante didn't repay the money until April and yet these mess bills which were dated December, January and February showed balances brought forward after giving effect to these credits. Whereupon Capt. LeBrun said "Yes, I must have given him these credits prior to the repayment of the £96.0.0 by Col. Plante for the Regimental Funds"

CROSS-EXAMINATION BY DEFENDING OFFICER

Q.395 - It was only after you had presented a case to Capt. LeBrun stating that you felt it was impossible for these entries to have been made other than at the time say at the end of November, December and January that he said "In view of those facts I must have made those entries prior to the payment by Col. Plante". Is that correct?
A.395 - Yes, that is right
Q.396 - You didn't foresee the possibility of the accounts having been written or prepared after April?
A.396 - I did and I asked Capt. LeBrun
Q.397 - And what did he say?
A.397 - He said that those were statements prepared by him and signed by him on the dates at the head of the statement
Q.398 - What part of the statement? Have you seen the statement?
A.398 - Yes
Q.399 - They are really in two parts are they not?
A.399 - It is on one sheet of paper
Q.400 - Yes, but part on the typewriter and the other in ink?
A.400 - Yes
Q.401 - Well what part of it was written at the time of the date mentioned?
A.401 - The typewritten part
Q.402 - Major Anderson, have you seen this Exhibit "I"? Have you ever seen this?
A.402 - I may have seen it down at the Unit or in our files but it is not one prepared by us
Q.403 - I don't say it is prepared by you. Can you tell us what it is Major Anderson?
A.403 - Yes, it is an abstract of receipts and disbursements and statement of liabilities prepared on one of our forms for the period ended 31 Mar 41. It does not say what period
Q.404 - Will you look on page 2 on the left hand column and tell me what amount you see marked there - the top left hand corner?
A.404 - "Cash from cash book - £95.15.8"
Q.405 - Does that figure of £95.15.8 mean anything to you in view of your inspection carried out on the Regimental Institutes of the No. 1 Cdn Conv Depot?
A.405 - No, it doesn't
Q.406 - Would the amounts of £8.10.9, £35.3.6½ and £52.0.0 total up to that amount?
A.406 - You mean the transfers of money from Regimental Funds?
Q.407 - Yes
A.407 - They didn't come to £95.15.8; they came to £95.14.3. This is another figure here shown as being on hand
Q.408 - I beg your pardon, that is the figure I really wished you to discuss £95.14.3 - cash on hand
A.408 - That is the amount which was transferred from Regimental Funds to Officers Mess
Q.409 - And that at the time the document was prepared shows that the money had been refunded?
A.409 - We didn't audit this statement. This was prepared by the Unit; it doesn't show anything to us
Q.410 - Are you a Chartered Accountant?
A.410 - Yes
Q.411 - As a Chartered Accountant would those figures being placed

there in the column of "cash on hand" and supposing that we presume that that £95.14.3 is in fact the sums of £8.10.9, £35.3.6½ and £52.0.0 would you then say as a Chartered Accountant that the money had been refunded at the time that document was prepared?

A.411 - Yes
Q.412 - Would you tell me who the document was prepared by?
A.412 - Major Morison, Capt. Lavallee and Capt. Collins
Q.413 - Now, Major Anderson, when you inspected the books of No. 1 Cdn Conv Depot you noticed or you had an opportunity to notice how the Mess Secretary kept his books?
A.413 - Yes
Q.414 - From your knowledge as a Chartered Accountant would you say that he had had any previous experience in accountancy?
A.414 - He would have had to have had some experience to operate the ledger
Q.415 - Did he show any great experience?
A.415 - No, they were pretty badly kept
Q.416 - He didn't show great experience?
A.416 - No
Q.417 - Major Anderson, in examining the books of the Officers Mess did you have occasion to notice that there were certain arrears in the Officers Mess Accounts?
A.417 - Yes, there were a lot of arrears
Q.418 - How did the accused treat these arrears when he was paid?
A.418 - He occasionally applied the money paid by the officers to previous accounts
Q.419 - You found instances where that practice was carried out, that he applied it to the oldest debt?
A.419 - That's right
Q.420 - Can you tell us how long the Regimental Funds Board has been in existence overseas?
A.420 - I believe they started in October, 1940
Q.421 - Previous to 16 May 41 what Rules and Regulations governed Institutes in the Canadian Army Overseas?
A.421 - Rules for Messes and Institutes, Canadian Militia 1938
Q.422 - Is it not a fact that by virtue of Cdn Army Routine Order 726 dated the 16 May 41 it was determined that effective that day Messes and Institutes would be subject to the document you have just enumerated as well as K. R. (Can)?
A.422 - That's right
Q.423 - Therefore, previous to that no order had ever determined that the document you have just quoted was to be followed for the Canadian Army Overseas?
A.423 - Yes, there was
Q.424 - What was it?
A.424 - R. O. 359
Q.425 - Of what date? That is Cdn Army Overseas Routine Order?
A.425 - Yes. It was sometime in October, 1940. It doesn't stipulate that those rules had to be applied but attention of all Officers Commanding was drawn to the Rules for the Management of Messes
Q.426 - Therefore, in fact it merely suggested to Commanding Officers that they be guided by this and not necessarily that they had to strictly adhere to it?
A.426 - Yes, but this Unit didn't leave Canada until January (I think) 1940. There was a Routine Order came out in Canada No. 200 before the Unit left Canada laying down the use of this Book
Q.427 - For the Canadian Army in Canada?
A.427 - Yes
Q.428 - But not for the Canadian Army Overseas?
A.428 - No

QUESTIONS BY THE COURT

Q.429 - There is just one point not quite clear to me which has not been brought out in the evidence although it was in the Summary, the question of your opinion as a member of the Audit Board of how these books were kept. There is no mention of the keeping of a cash book. Would you give your opinion of

a.H.F.

how these books were kept and in what condition?

A.429 - They were kept very poorly, sir. He had no cash book, no sales receipt book and he merely worked from deposit slips and a ledger. In the ledger he charged members of the mess with their total charges for the month and posted besides that any credit for whatever money they paid and then he had some accounts for merchants in his ledger but he had no cash book and no book recording receipts of sales in the bar

Q.430 - Do you know of any other books which were kept other than this Regimental Funds Book "H" or were there any other funds kept in the Bank Account, from what you have already told us?

A.430 - No, sir

Q.431 - Were there any other funds kept in this book other than the Officers' Mess Accounts?

A.431 - I believe towards the back of the book they have an odd account or two there

Q.432 - This Exhibit "H" given to the Regimental Funds Board contained all the accounts kept by the No. 1 Cdn Conv Depot to the best of your knowledge?

A.432 - To the best of my knowledge

R. P. 83(B) is not complied with in respect of the above witness

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Court - Well, I am not prepared to accept Sgt. Warren's evidence until such time as I have received a ruling from the Senior Officer of C.M.H.Q. so unless you wish to withdraw that witness we will have to adjourn the court until such time as we have it

Prosecutor - I am sorry to hold up the court, sir, but I feel that Sgt. Warren's evidence is very important to us, sir

Court is adjourned at 1045 hours until 1345 hours

At 1345 hours the court as enumerated on page 1 re-opens

Court - The court was adjourned until a ruling from the J.A.G. as to whether the evidence of Sgt. Warren could be accepted was obtained. (Judge-Advocate) - The question submitted to the J.A.G. was whether it was necessary to give any particular warning other than or in addition to the one which was given to the accused at the time he was a witness at the taking of the Summary on Col. Plante in order to make the statements made on that occasion admissible in evidence. The answer which has been given to me as a result of the deliberations by the J.A.G. is that there is no necessity for any additional warning than was given, namely that he need not answer the question unless he wishes on the ground that it may incriminate him, that in fact such warning as was given is only a matter of practice grown up out of an abundance of precaution that the accused do not incriminate himself when he doesn't want to. The ruling further went that the question, the general broad question as to whether the circumstances of the making of those statements were such as to indicate that they were voluntarily made is a matter of fact to be decided by the Court. The court has considered that aspect and the court rule that Capt. LeBrun made a voluntary statement without any threat or promise being made and therefore the evidence can be accepted

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8th Witness for the Prosecution, B.93703 Sgt. Warren, J.P., J.A.G. Branch, C.M.H.Q. having been recalled and advised that he is already sworn is further examined by the Prosecutor.

The previous evidence of this witness is read back by the stenographer

Q.433 - Sergeant was a caution administered to Capt. LeBrun, the witness by the officer taking the Summary of Evidence in the Col. Plante case?

AMF

A.433 - Yes, sir

Prosecutor - With your permission, sir, may he now look at his notes which were taken at that time?
Court - He can look at his notes but he can't read from them. He can use his notes to refresh his memory

Q.434 - Will you just refresh your memory from your notes with reference to the caution I gave to Question 819?
A.434 - Yes, sir
Q.435 - Will you just repeat the caution which I gave or can you tell now after refreshing your memory from your notes the caution I gave?
A.435 - Actually it was "On the next question, Capt. LeBrun, I must again caution you that you don't have to answer the question if you think it will tend to incriminate you"

Prosecutor - With your permission, sir, this is the type of question I am going to ask. I am going to ask Q.819 "I have in my hand etc. etc - - " and then "Did I ask that question in the Summary of Evidence on Col. A. P. Plante?"
Court - I would sooner that you asked the witness the straight question as to what happened at that period and have him reply in that manner rather than read from any Summary of Evidence which is not admissible as evidence. If you wish to put the questions do so and the Defending Officer can object if he wishes

Q.436 - Did I, as the officer taking the Summary of Col. A. P. Plante ask this question of Capt. LeBrun, the witness at that time "I have in my hand Exhibits "NO", "O" and "P" which are Col. Plante's mess accounts, "N" for November, "O" for December, 1940 and "P" for January, 1941. Did you deliver Exhibit "N" for the month of November, 1940 to Col. Plante at the end of November or the first part of December, 1940?"?
A.436 - You did, sir, because I have just revised my notes
Q.437 - Was this answer given by Capt. LeBrun:- "The date 1st. December, 1940, that is the date I made it"?
A.437 - Yes, sir
Q.438 - Did I ask this question - "What does it cover?"?
A.438 - Yes, sir
Q.439 - Was this answer given in reply to that - "1st to 30th November, 1940."?
A.439 - Yes, sir
Q.440 - Did I ask this question - "When d id you give Exhibit "N" to Col. Plante?"?
A.440 - Yes, sir
Q.441 - Was this the answer given to that question - "I usually delivered all the accounts after I had finished with them."?
A.441 - Yes, sir
Q.442 - Did I ask this question - "When would you finish with Exhibit "N"?"?
A.442 - Yes, sir
Q.443 - Was this reply made to that question - "About 1st of December, 1940."?
A.443 - Yes, sir
Q.444 - Did I ask this question - "So that you delivered Exhibit "N" to Col. Plante around the 1st of December, 1940?"?
A.444 - Yes, sir
Q.445 - Was this answer given - "About that."?
A.445 - Yes, sir
Q.446 - Was this question asked by me of Capt. LeBrun - "Now Exhibit "O", did you do the same with that and deliver that about when?"?
A.446 - Yes, sir
Q.447 - And was this answer given to that question - "About the 3rd of January, 1941 or the 4th of January, 1941."?
A.447 - Yes, sir
Q.448 - Did I ask this question of Capt. LeBrun - "And with Exhibit "P" the same thing applied?"?

AHF

A.448 - Yes, sir
Q.449 - And was the answer to that question - "Yes, sir."?
A.449 - Yes, sir
Q.450 - Did I ask this question of Capt. LeBrun - "On that statement, Exhibit "N", did you put in "Cash £10.0.0; balance due £10.7.5"?"?
A.450 - That offhand I can't remember, sir

Prosecutor - With permission of the court may he refresh his memory from his notes?
Judge-Advocate - He has already been given permission
Prosecutor - Thank you

A.450 (con) - Yes, sir
Q.451 - And was the answer - -
A.451 - Repeat the question please
Q.452 - Did I ask this question of Capt. LeBrun - "On that statement, Exhibit "N", did you put in "Cash £10.0.0; balance due £10.7.5"?"?
A.452 - Yes, sir
Q.453 - Did Capt. LeBrun make this answer to that question - "I would put that in when I received the money from Col. Plante - £96.0.0"?
A.453 - Yes, sir
Q.454 - Did I ask this question - "Which you received on April 10th, 1940?"?
A.454 - Yes, sir
Q.455 - And did Capt. LeBrun reply to that question by saying "Yes, around that time."?
A.455 - Yes, sir
Q.456 - Did I ask this question of Capt. LeBrun - -

Defending Officer - Sir, just one moment. I would like to refer the court to page 99, para 109 of M.M.L. The last portion of para 109 reads as follows: "But where a question relates to a contested point, which is either directly conclusive of the matter in issue, or directly and proximately connected with it, the rule should be strictly enforced, and no question should be allowed in a form which directly or indirectly suggests to the witness the answer desired, or which, embodying a material fact, admits of a conclusive answer by a simple "Yes" or "NO""
Court - I was wondering how long you would let that go on myself. I think myself you are entirely right
Judge-Advocate - There is a difficult situation arising there. I don't think the leading means much there because otherwise it would only take time. You can take the witness and he can look up his notes and make the same answer as it is a matter of record but the difficulty I experience is this, some of those questions at the time they were put were leading questions - at the time they were originally given at the summary. That last one is an example
Court - A leading question to Capt. LeBrun at the time he was making this summary - is it a leading question to this witness?
Defending Officer - In both cases, sir, because it is obvious that the present witness must say "Yes" or "No"
Judge-Advocate - Technically it is not so offensive but your objection really is to the form of the question originally
Defending Officer - Yes, that the accused could only say "Yes" or "No"
Court - Technically you are right and I think possibly that the accused has aired his objection but I am prepared to rule that we must stick to the technical end of it
Defending Officer - I am willing to let it go
Court - Please stick as close as possible - -

Q.457 - Did I ask the question - "Which you received on April 10th, 1940?"?
A.457 - Yes, sir
Q.458 - Did Capt. LeBrun make this reply to that question - "Yes, around that time."?

AHF

A.458 - Yes, sir
Q.459 - Did I ask this question of Capt. LeBrun - "And that also refers to Exhibit "O", "Received Cash £30.0.0, Balance due £7.12.11½" when did you put that in?"?
A.459 - Yes, sir

Court - That is very leading. I do feel that that is a very leading question that you are putting to the witness. You must not put leading questions
Judge-Advocate - Not at this time sir but the form of it at that time. How can you justify that at the time?
Prosecutor - He was my own witness then. As I understand it in a Summary of Evidence, sir, you don't have to stick to the strict rule of evidence startling as that proposition may sound
Court - We are getting ourselves very involved by discussing all these various points of law etc. We will have to assume that the court is unversed in questions of law and don't know much about them so we have to stick to what our knowledge is so if you go ahead the Defending Officer can object if he wishes
Defending Officer - Sir, I wish to point out that my position is very difficult at present. The J.A.G. of C.M.H.Q. Overseas has ruled that this evidence is admissible. I don't wish to delay this court by putting up technical objections at every question that is asked. I am willing to submit to the opinion of the J.A.G. that the evidence is admissible and I am willing to leave it at that subject to any higher authority
Court - We appreciate your attitude, Colonel

Q.460 - And did Capt. LeBrun make a reply to that question saying "At the same time."?
A.460 - Yes, sir
Q.461 - Did I ask this question of Capt. LeBrun - "And Exhibit "P" "Cash £30.0.0 Balance due £1.16.8½" when did you put that in"?
A.461 - Yes, sir
Q.462 - And did Capt. LeBrun reply to that question "At the same time."?
A.462 - Yes, sir
Q.463 - Did I put this question to Capt. LeBrun - "What you say then is that you made three entries when you received the £96.0.0 from Col. Plante on April 10th, 1940?"?
A.463 - Yes, sir
Q.464 - And did Capt. LeBrun reply to that - "Yes, sir. "N" "O" and "P" are my copies of bills of the Mess submitted to Col. Plante,"?
A.464 - Yes, sir. I might qualify that that on every one of those questions the caution was put. I have every question marked (I think) "Caution" where the caution was put

Defending Officer declines to cross-examine this witness

R. P. 83 (B) was not complied with in respect of the above witness

AHF

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. NO, SIR

Question. Do you intend to call any other witness in your defence?

Answer. NO, SIR

AHF ~~*Question.* Is he a witness as to character only? *Answer.*~~

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

~~(*Where any evidence is given for the defence.*)~~

~~The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see overleaf).~~

AHF

~~(*Where the accused does not give evidence upon oath.*)~~

~~Have you anything to say in your defence?~~

Question to the accused.

AHF *Answer.*

~~The accused in his defence says:†~~

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

AHF

Instructions.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

AHF

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

THE PROSECUTOR MAKES THE FOLLOWING CLOSING ADDRESS:

Mr. President and gentlemen, you all have before you the charge-sheets so I am not going to take up the time of the court by repeating the charges.

Now, with reference to the first charge, the particular charge is that the accused requested Patrick Skellet, Manager of R. Grant & Son to submit accounts to the Officers Mess for December and January for amounts less than what were due. Now, I think the evidence is quite clear that Exhibit "A" a letter delivered by Pte. Noel to Mr. Sklet, was signed by the accused and Mr. Skellet acts pursuant to that particular letter and refers back lesser bills than what were actually due for the months of December and January. The question then may arise as to whether such conduct was scandalous which is a matter for the court or, in the alternative, on the second charge whether it is just conduct. Now, going back to the first charge which reads also "With intent to mislead the Unit Audit Board and the Regimental Funds Board" - now, if the court comes to the conclusion that "intent" has not been spelled out I presume the Judge-Advocate will advise the court that a special finding can be brought in excluding those particular words

Now, then as far as the third charge is concerned - that is, "Conniving in the withdrawal of the sums of £8.10.9, £35.3.6½ and £52.0.0 - -

Judge-Advocate - Just one moment before you pass from the 1st and 2nd charges would you point to the evidence that fixes the act as having been committed in March?

Prosecutor - You will note there that the date is in or about the month of March. Now, it is not established definitely as to what particular month. It is established around the middle of August. Well, my conception of the law is that you are allowed to go before and after that particular date as specified in the charge; you are not limited to that particular date. So it is broad to that extent.

Now with reference to the third, fourth and fifth - "Conniving" - well the conniving has been adduced by the prosecution as having been with Col. Plante. Now the only evidence is the introduction of two cheques which have been proved to have been signed both by Col. Plante and the accused, Capt. LeBrun.

The sixth, seventh and eighth are similar charges with the exception that it just applies to the accused himself, that he improperly withdrew these various amounts and applied the said sums to the credit of the Officers Mess. Now we have evidence adduced before you gentlemen and we have particularly two cheques. We don't think there can be any doubt as to there not being these two cheques and as to their not having been signed by Col. Plante or by the accused. And we have evidence that these amounts were deposited to the credit of the officers' Mess. I would like to draw to your attention that that particular fund has been specified by Major Barton as being made up principally of the 6£ rebate from N.A.A.F.I. and those monies were to be used for the men. Now, in other words that account should be regarded as a Trust Fund and yet here we have a situation where monies are taken from what I would call a "Trust Fund" and applied to the credit of the Officers Mess.

Now, with reference to the ninth, tenth and eleventh charges - "In a document made by him knowingly making a false statement" on three dates the 30 November, 31 December and 31 January 41. The three documents that we are concerned with there are the three mess accounts for those various months of Col. Plante. The charges are that he falsely entered in the personal mess

AHF.

account of Lt. Col. A. P. Plante the sum of £10.0.0 when in fact the sum of £10.0 was not so paid. Similarly the other two charges of £30.0.0 each. Now, if we turn to the evidence then of Sgt. Warren given just a short time ago he has established that Capt. LeBrun has definitely signed those three monthly statements and also made the entries himself of the cash entries written in longhand and also the figures which were put in in ink and from Sgt. Warren's testimony you can gather then that these entries were made when the sum of £96 was paid by Col. Plante to Capt. LeBrun on or about April 10th, 1941. Now, if you scrutinize the three monthly mess accounts of Col. Plante you will see that typewritten there are balances carried forward. There are balances carried forward and, as Sgt. Warren has testified, Capt. LeBrun said that he gave the various statements to the Colonel at the end or the beginning of the months in question. Now, then, if that is so it was absolutely impossible that Capt. LeBrun could make those entries when he received the sum of £96.0.0 because he evidently didn't receive that amount until the 10th day of April so, therefore, keeping in mind when he got the £96.0.0 which was on or about the 10th of April he didn't receive cash when he made these various entries upon these three monthly accounts.

Now, with reference then to the twelfth charge - -

Judge-Advocate - Just one moment. I want to get it clear in my mind. Is there evidence as to whether these actual Exhibits "M", "N" and "O" were given to Col. Plante or are these copies of them?

Prosecutor - The evidence is that those - - There is no definite evidence so I assume I am not allowed to speak on that. It was copies that were given.

Now, with reference to the twelfth charge which is "Conduct etc - - failing to enter into the accounts of the said Officers Mess or of the Abstract of Receipts and Disbursements of the Officers Mess - - etc, etc" - our contention is that this document was compiled from facts and figures supplied by Capt. LeBrun. Capt. Collins, a witness, testified that he aided in the compilation of that particular statement relying upon information supplied to him by Capt. LeBrun and the information obtained by Capt. Collins was inaccurate in that it did not disclose these three amounts.

Now, with reference to the thirteenth charge - "Neglected to keep books of account of the Officers Mess of No. 1 Cdn Conv Depot, R.C.A.M.C. showing receipts and expenditures with vouchers contrary to the provisions of Para 648 K. R. (Can)" - well, Major Barton in his testimony testified that there were no such books of account kept.

With reference to the fourteenth charge which is similar to the twelfth with the exception that it covers the Abstract of Receipts and Disbursements of the Regimental Account - not of the Officers Mess Account but the Regimental Account - that document similarly was compiled from facts and figures supplied by Capt. LeBrun to Capt. Collins and it also did not disclose the various amounts of £8.10.9, £35.3.6½ and £52.0.0 which had been borrowed from the Regimental Funds and deposited in the Officers Mess.

Now, that is all I have to say, Mr. President and gentlemen, with reference to the various charges.

THE DEFENDING OFFICER MAKES THE FOLLOWING CLOSING ADDRESS:

Mr. President, in answer to the charges brought by the Prosecution against the accused I submit that the charges have not been proved. If we examine each charge separately we find in the case of the first charge that no proof was brought forward.

AHF

to the effect that the accused made, discussed or succeeded in receiving a reduced bill on behalf of the Officers Mess of No. 1 Cdn Conv Depot. The testimony of Mr. Skellet, the principal witness in this matter, is definitely to the effect that the only discussion held between he and the accused was held at some time after some arrangement was carried out whereby he discussed with the accused the method of payment and that I think, gentlemen, is all you will find in the evidence. Skellet says further that he didn't discuss the reduction of this account with the accused and that if any reduction took place we must conclude that if any discussion took place, the discussion took place with some third party. However, I ask myself if this act was scandalous who was scandalized by it and has the Prosecution provided proof that anybody was scandalized by it?

In answer to the second charge I state that first I reiterate rather that my client, the accused, did not participate in these conversations and therefore, if he did not do so his conduct is not to the prejudice of good order and military discipline. It is the duty of the Prosecution to prove beyond reasonable doubt - beyond any doubt that the accused did himself participate in these talks, that he himself saw the person responsible for the commission of these acts and that as a result of such conversations such an act was committed. Those are the essential elements to prove either the first or second charges and I submit to you gentlemen that these conditions have not been proved by the Prosecution.

The third, fourth and fifth charges are that the accused on various occasions, three in number, with Lt. Col. A. P. Plante, Commanding Officer of his Unit connived to transfer or to withdraw funds from one institute to another in amounts varying from £8.10.9 to £52.0.0. The name of Col. Plante was mentioned very sparingly here in this trial, no proof was brought that the question of withdrawal was ever discussed nor how the withdrawal came about. Noone said - - noone could s tate how it came about. Was the accused ordered to sign cheques and these later countersigned by someone else and the transfer occurred in that fashion? Was the cheque countersigned by Col. Plante, then countersigned by the accused because he was doing the job alone? No evidence was brought that there was any intention between the two to do that. What does the word "connive" mean? The word "connive" according to the Concise Oxford Dictionary means "To wink at something which ought not to be done". I would like to read verbatim so that you are not doubtful for a moment. "Connive" means "To wink at what one ought to oppose". Now, if we use the expression as the definition in the Oxford Dictionary "To wink at that which one ought to oppose" certainly a person cannot be said to be in a position to wink at something which he ought to oppose if he is actually participating in the act. I submit that "To connive" means "To omit to do an act knowing that somebody else is doing it and when it is your duty to prevent the commission of such an act". If my definition is correct, then these three charges necessarily must drop. It is impossible for the man to "Connive" to "Close his eyes" to something which is being done by somebody else when he himself should see to it that it should not be done when in fact, according to my friends, the Prosecution, the man did it himself.

Insofar as the sixth, seventh and eighth charges are concerned - "Improperly withdrew" - if the charge had been that the accused was concerned in the irregular transfer of monies from one fund to another fund I think it would have been very difficult for the Defence to answer the charge. But to "improperly withdraw", what do we mean by the words "improperly withdraw"? What is a proper method of withdrawing money from the Regimental Funds if not by cheques signed by two officers of a Unit who are duly authorized to do so? Did the accused withdraw the money himself? Did he take the cash contrary to

AHF

the Rules and Regulations and transfer it to another account? I submit that there is no "improper withdrawal" because the accused was acting in accordance with rules and regulations of the method of transferring money - the method, not the right to transfer money and I feel that the accused cannot be held to have improperly withdrew money because this is an accusation that strikes at the very office which he was holding. In virtue of his office he and another officer had the right at all times - two of them together - according to certain rules and regulations to withdraw money - the only method possible for that Unit to do so - he and one other officer to sign cheques. Has he done anything else? Has this withdrawal been hidden? I will definitely say to this court in answer to the latter accusation that far from hiding them they were there for everyone to see in various documents available to any person who had the right to audit, to look at the books on behalf of the Unit itself or on behalf of higher authority.

We now come to the three charges in virtue of 25 (1)(a) "In a document made by him knowingly making a false statement" - three charges, one in the amount of £10.0.0, two in the amount of £30.0.0 making a total of £70.0.0. The Prosecution, after much discussion legal and technical has succeeded in bringing into proof a portion of the testimony given by the accused at the Summary of Evidence of another officer and it is a fundamental rule of law that any admission must be accepted "in totem" - cannot be divided. No court must accept part of the admission and reject the balance; it must accept the entire admission and I submit for your consideration that the answers to Questions 826, 827, 828, 829 and 830 read as follows: - (Questions No. 450, 454, 459, 461, &463 in these proceedings) "On that statement "N" did you put "Cash £10.0.0 - -

Judge-Advocate - Just a moment, Col. Power. Those are statements you say are not in evidence?

Defending Officer - I say that after much legal technicalities these questions have been put into evidence by Sgt. Warren

Judge-Advocate - That is very good. What I was afraid of was that you were going to refer to some evidence not here

Defending Officer - No, if I am not mistaken, subject to correction by my learned friend Questions 818 to 830 (Questions 436 to 463 in these proceedings) are the questions brought into the evidence by Sgt. Warren and I will keep myself to those questions and nothing else. The questions says "On that statement Exhibit "N" did you put in "Cash £10.0.0 balance due £10.7.5?" and the answer "I would put that in when I received the money from Col. Plante, £96.0.0", Question "Which you received on April 10th, 1940?" Answer "Yes, around that time", question "And that also refers to Exhibit "O", "Received Cash £30.0.0, balance due £7.12.11½" when did you put that in?" answer "At the same time", question "What you say then is that you made three entries when you received the £96.0.0 from Col. Plante on April 10th, 1940?" answer "Yes sir "N", "O" and "P" are my copies of bills of the Mess submitted to Col. Plante" and I submit that if the court accepts these bills and accepts them as it must "in totem" therefore it must accept that these mess bills were merely duplicates which were kept by the Mess Secretary himself which in this case was the accused and which were given or forwarded to some authoritative group such as the Regimental Funds Board or somebody in charge of audits at a later date and that there is no proof whatsoever that the bills as presented to this court were ~~shown~~ laid on in identical form or that they were ever presented in such form to Col. Plante not at any time did anybody connected with this unit see those exhibits as they are before the court today previous to the day when £96.0.0 was paid by Col. Plante to the Mess Secretary for reimbursement of Regimental Funds. And it is the duty of the Prosecution to prove beyond doubt that those documents did

AHF

definitely exist at the time of the date marked on them. It is true speaking of dates that Major Anderson told us it was the custom of the accused to credit the outstanding account - the oldest account first, that if the £96.0.0 was paid the oldest statement would show that condition existing in the account of Col. Plante and as I say before nobody ever saw a statement issued on the dates as pretended by my learned friend and noone ever saw those documents previous to April 10th, 1941.

Now, gentlemen, we come to the twelfth charge. The twelfth charge says that "In the field during the period from May 1940 to March 1941 inclusive, while Secretary of the Officers Mess of No, 1 Cdn Conv Depot R.C.A.M.C. failed to enter in the accounts of the said Officers Mess or in the Abstract of receipts and disbursements of the Officers Mess and Trading and Profit and Loss Statement a credit or credits in favour of the Regimental Funds of No. 1 Cdn Conv Depot - - ". I don't want to belabour the court with a long dissertation on this but I just want to put out one point. No proof has been adduced whether the Regimental Funds or the Officers Mess accounts were audited first. We do know that there was certain delay. Major Morison said that it was hard to get the Audit Board together and that there were delays of ten days and fifteen days here and there but I think it is reasonable to assume that the Audit Board unless proof to the contrary is brought by the Prosecution and it is their duty to do so, were seized of all documents pertaining to Regimental Funds and Officers Mess at the same time and therefore, the Regimental Audit Board if so seized of all documents at the same time why is it then that we note a very substantial difference in the documents prepared by the Regimental Audit Board? If you look, as I had Major Anderson indicate this morning, in the Regimental Funds report which I think is Exhibit "I" (If I am not mistaken) on the second page in the left hand column, the three figures shown there are £94.14.3 and Major Anderson agreed and said that that was the sum represented as owing by the Officers Mess to the Regimental Funds as a result of the transaction previously discussed. That amount was agreed to by Major Anderson this morning as representing the total of £8.10.9, £35.3.6½ and £52.0.0. If the amount was cash on hand, that is to say it had been repaid and it appears in the Regimental Funds it can naturally and necessarily no longer appear as a debit in the Officers Mess Account. It was then, at that particular moment cash on hand. It had been paid and we have reason to believe that Major Morison and the two officers who signed that document knew about that amount because Major Anderson who reviewed the matter months later knew all about it and I submit that the twelfth charge, as a result, cannot hold.

In speaking of this the fourteenth charge can be brought into line. It says that no entry was made and yet you find in the document in question which is actually Exhibit "I" the amount of £94.14.3 actually there in black and white and therefore, if it is there I fail to see why the Prosecution could have charged my client with not having entered it.

Now, we come to charge thirteen, that the accused neglected to keep books and accounts of the Officers Mess of No. 1 Cdn Conv Depot. I submit, gentlemen, I would not like to say that my client had prepared a set of books that would have gladdened the eye of a Chartered Accountant but I will say this and no proof has been brought to the contrary, that as a result of his tenure of the books and statement was prepared and a statement which failed to show and which cannot show that there has been any fraud, that there has been any defuncation, that anybody has lost any money. I quite agree, gentlemen, the accused is not a Chartered Accountant. The accused cannot be expected to keep books which will gladden the eye of a man like Major Anderson or Major Barton and it is easy for men of that

AHF

nature to come and say that the books were not well-kept, that they didn't have this or they didn't have that, but in order tocommit an offence on the part of my client he had to go against Regulations. What regulations existed at that time? I quoted to you this morning Canadian Army Routine Orders which brought into effect K. R. (Can) insofar as it relates to Messes and Canteens and the document which I think is entitled "Rules and Regulations for the Management of Messes and Institutes" which only had effect in this country on the 16th of May, 1941. The court may say to itself that although the regulations didn't exist they had not been actually brought into force, it had been brought to the notice of the Commanding Officer and that this officer should have known about it. Is the court satisfied that the Prosecution has brought to its notice or has brought proof to the effect that the Mess Secretary of the No. 1 Cdn Conv Depot was given by his Commanding Officer the necessary documents which at that time, mind you, it was only necessary to guide oneself by? It was not an order to follow; that only came later. I feel, gentlemen, that until such time as the Prosecution can prove to your satisfaction that the Commanding Officer had shown the accused the proper way of keeping the books as per the documents quoted then the accused was not responsible. He was doing his best. He was carrying out his duties to the best of his ability and we are not here to discuss how good that ability was; we are here to determine whether this man committed an offence contrary to Rules and Regulations established.

I submit that for these reasons the accused should be found Not Guilty on all charges.

Court - The court is entitled to have the Judge-Advocate sum up the proceedings if they so desire but feel that after the summing up by the Prosecutor and the very able summing up by the Defence that we can dispense with the summing-up of the Judge-Advocate at this time and he can assist us in our deliberations.

Court is closed to consider the finding.

Court is re-opened

Court - The court find that the accused, Capt. Louis Eugene LeBrun, No. 1 Cdn Conv Depot is

Not Guilty of the 1st charge
Not Guilty of the 2nd charge
Not Guilty of the 12th charge
Not Guilty of the 14th charge

which finding is announced in open court

The Prosecutor, Major W.A.D.Gunn, J.A.G. Branch, C.M.H.Q. having been duly sworn is examined by the Court.

Q.465 - Have you any evidence to produce as to character and particulars of service of the accused?
A.465 - Yes, sir. I have here two A.F.B.296's one covering the period at No. 1 Cdn Conv Depot and the second while he was attached to No. 1 Cdn Gen Reinf Unit

Statements of character and particulars of service are read by the Prosecutor, marked "Y" and "Y-1", signed by the President and attached to the proceedings

Prosecutor - With permission of the court and with the permission also of the Defending Officer I now submit it to the court

Q.466 - Why are there two?
A.466 - One is covering the time with No. 1 Cdn Conv Depot and then he was attached up here for the purpose of this trial and the

AAF

second one covers his attachment up here, sir
Q.467 - What is wrong with the second one?
A.467 - Just that the typist put in No. 1 Conv Depot instead of No. 1 C. G. R.U. Subject to that change, sir, may I proceed to read this document?
A.468 - Yes

Prosecutor reads second A.F.B.296 (Exhibit Y-1)

Q.469 - Is the accused the person named in the statement which you have heard read?
A.469 - Yes, sir
Q.470 - Have you compared the contents of the above statement with the regimental books?
A.470 - No, sir
Q.471 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A.471 - As I am informed on very good authority, yes sir
Q.472 - You are on oath
A.472 - Yes, sir
Q.473 - Why are you sure if you have not compared them?
A.473 - I have been informed by the adjutant
Q.474 - But have you compared them yourself?
A.474 - I might say that the Defending Officer agrees that they can be accepted - -

Court - I don't care if the Defending Officers says anything or not. You are handling this thing in a very amateurish manner

Court to Defending Officer - Do you consent to their being accepted?
Defending Officer - Yes, sir

By consent of the Defending Officer formal proof of A.F.B.296 is waived.

Defending Officer declines to cross-examine this witness

R.P.83(B) was not complied with in respect of the above witness

PRESIDENT TO ACCUSED:

Q.475 - Do you wish to address the court?
A.475 - Sir, by proof the documents which you have in your possession have been held to the best of my knowledge. I had nothing to hide and I have nothing to say that I used money for my personal use. Nothing is missing. Nobody of my confrere officiers have suffered from any missing monies and I tried from the best of my knowledge to keep all those papers that were handed to me with all the other Regimental Institutes plus all my regimental duties and I am quite sure that I put all my best knowledge to keep those papers in good form without hiding anything. That is all I have to say.

Court is closed for consideration of the sentence

Certified to be a true transcript of
the shorthand notes taken by me at
the G.C.M. described on page 1 of AFA 9

(F. J. Nethercut) Sgt.
Court Reporter
C.M.H.Q.

AHF

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused Captain Louis Eugene LeBrun No. 1 Cdn Convalescent Depot, R.C.A.M.C.
is Not Guilty of the 1st, 2nd, 12th and 14th charges but is guilty of the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th and 13th charges

Signed at Aldershot this 3rd day of December, 1942

(Sgd) A. H. Friedgut(Major) Judge-Advocate

(Sgd) J. C. Stewart (Brig) President

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

Instruction.—If in respect of the nature of the service of the accused in a supernumerary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must enquire into the nature and amount of that additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused Captain Louis Eugene LeBrun *Sentence.*
No. 1 Cdn Convalescent Depot, R.C.A.M.C.

TO BE DISMISSED FROM HIS MAJESTY'S SERVICE *Dismissed*

Signed at Aldershot, Hants, this 3rd day of December, 1942

(Sgd) A. H. Friedgut (Major)
Judge-Advocate

(Sgd) J. C. Stewart (Brig)
President

I confirm the Finding and Sentence.

(Signed) P.J. Montague, Major-General
Senior Officer
Canadian Military Headquarters
28 Dec. 1942.

Promulgated on 23 Feb. 43.
(Signed) Louis Lecun Lt. Col.
Commanding
No 1. N.E.T.D.

COPY.

NO.1. CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

1 GRU 5-4-4
2 Dec 42.

Capt. L.E. LeBrun.

CERTIFIED that I have this day medically examined the m/n Officer and find him in a fit state of health to undergo trial by General Court martial.

(Signed) W.J. Warren, Capt.
Medical Officer
No.1. Cdn. Gen. Rein Unit.
Canadian Army Overseas.

A H F

No.1. Canadian General Reinforcement Unit
Canadian Army Overseas

1 CGRU/5-4-4
3 Dec 42.

Capt. L.E. LeBrun.

CERTIFIED THAT I HAVE THIS DAY MEDICALLY EXAMINED THE A/M OFFICER AND FIND HIM IN A FIT STATE OF HEALTH TO UNDERGO TRIAL BY GENERAL COURT MARTIAL.

(Signed) B. Browne Capt.
Medical Officer.
No.1.Cdn. Gen. Reinf. Unit.
Cdn. Army Overseas.

A.H.F.

C O P Y.

"X"
(Signed) J.C. Stewart, Brig.
President.

By the Convening Order issued by me at London on the 20th. day of November 1942, in the matter of a General Court martial for the trial of Captain L.E. Lebrun, No.1. Canadian Convalescent Depot, Brigadier H. Lefebvre, M.C. V.D., (Commander "D" Group, C.R.U.) was appointed a member of the said Court.

And also by said Convening Order the date of trial was fixed for the 30th. day of November 1942.

Such appointment of Brigadier H. Lefebvre as member of said Court is hereby cancelled and Brigadier J.P.U. Archambault, D.S.O. M.C. (Commander "P" Group C.R.U.) is hereby appointed member of said General Court martial in his place and stead.

And also said date of trial is hereby cancelled and the following date substituted therefor, namely, the 2nd. day of December 1942.

Dated at London this 28th. day of November 1942.

(Signed) P.J. Montague,

Senior Officer,
Canadian Military Headquarters
Convening Officer.

AHF.

"X"
(Signed) Army Form A 47
J.C. Stewart, Brig.
President

COURTS-MARTIAL

Form of Order for the assembly of a General ~~or District~~ Court Martial.

C.M.H.Q. ORDERS BY Major General P.J. Montague, C.M.G. D.S.O., M.C. V.D.

Commanding the Canadian Military Headquarters

(Place and Date) 20th. November 1942.

Captain Louis Eugene LeBrun
No.1. Canadian Convalescent Depot R.~~C.A.M.C.~~

The detail of officers as mentioned below will assemble at 1000 hrs

Barrosa Barracks 1 C.G.R.U. on the 30th. day of November 1942.
Aldershot

for the purpose of trying by a GENERAL court-martial the accused person [persons] named in the margin [and such other person or persons as may be brought before them].*

PRESIDENT.

Brigadier J.C. Stewart, D.S.O.
Commanding "C" Group C.R.U. is appointed president.†

MEMBERS.

Brigadier H. Lefebvre, M.C. V.D. — Commanding "D" Group C.R.U.

Colonel H.R. Tyner M.C. E.D. — Commanding 1 Cdn. Sigs. C.R.U.

Colonel C.H. Barrett — Commanding 1 Cdn. A.S.C., R.U.

Lieut. Colonel. J.G.G. Charlebois — Commanding 4 Wg. C.T.S. R. 22e R.

NOTE.—The president must be named. The number and the waiting members mentioned by name number and ranks and the unit to which they belong may also be named.

WAITING MEMBERS.

Lieut. Colonel. D.L. Redman, V.D. 2 Cdn. Div. Inf. Reinf. Unit.

Lieut. Colonel H.M. Sharp, E.D. Commanding 2 Trg. Wg. 3 C.A.C.R.U.

Lieut. Colonel W.E. Morgan M.C. Commanding 2 Trg. Wg. 3 C.D.I.R.U.

JUDGE-ADVOCATE.

Major A.H. Friedgut

~~[illegible]~~ is hereby] appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to Canadian Military Headquarters

Signed this 20th. day of November 19 42

J.J.K.
(JAG. Legal)
W.A.I.A.
(AJAG)

(Signed) P.J. Montague, Maj. General.
~~D.McD. (Ar.Cr.Cr)~~ Senior Officer, C.M.H.Q. Convening Officer.

* *Any opinion of the convening officer with respect to the composition of the Court (see Army Act, s. 46 (3)) and Rules of Procedure 20 and 21) should be added here: thus, where a Court-Martial is ordered to assemble, composed exclusively of officers of the same regiment of cavalry, or the same brigade of artillery, or the same battalion of infantry, the following should be added:—*

" In the opinion of the convening officer, other officers are not, having due regard to the public service, available," (or as the case may be).

† *Add here, in the case of either a General or District Court-Martial where a captain is appointed president and the officer convening the court is not under the rank of field officer, " In the opinion of the convening officer a field officer is not, having due regard to the public service, available." Where it is necessary for an officer under the rank of captain to be appointed president of a District Court-Martial, add, " In the opinion of the convening officer a field officer or captain is not, having due regard to the public service, available." (See Army Act, s. 46 (3)).*

‡ *The " unit," in the case of Royal Artillery, is a Brigade, where such organization exists.*

(21400) W.L.5208—1201 10,000 12/39 A.G.R.N.Ltd. Gp.470
(21400) W.L.6441—1701 65,000 1/40 " " Forms/C47/23

List of Witnesses.

TRIAL OF Captain Louis Eugene LeBrun.
No.1. Canadian Convalescent Depot. R.C.A.M.C.

For the Prosecution.

D.95184 Pte. Noel R.	No.1. Cdn. Convalescent Depot.
Mr. P. Skellett	R. Grant & Son. Torquay. Devon.
Major G.E.W. Barton	R.C.A.P.C. Regimental Funds Board.CMHQ
Major J.B. Morison	No. 1. Cdn. Conv. Depot. RCAMC
Mr. W.H. Niddell	Lloyds Bank Ltd. Brixham Devon.
Sgt. P.J. Nethercut	J.A.G. Bch. J.A.G. Bch. CMHQ.
Major J.N. Anderson	R.C.A. Regimental Funds Board CMHQ.
Capt. J.L. Collins.	Paymaster Cdn. Troops.
Colonel M.K. Greene	2 C.D.I.R.U.
Major W.A.D. Gunn	JAG Bch. CMHQ.
Colonel Stillman	Regimental Funds Board. CMHQ.
Sgt. J.F. Warren.	JAG. Bch. CMHQ.
Lt. Col. A.P. Plante,	1 C.G.R.U.

Exhibit "A"
W.A.D. Guinn Mgr
Officer Taking Summary
LeBrun Case

Exhibit "A"
W.A.D. Guinn Mgr
Officer taking summary
Plante case

COPY.

EXHIBIT "A" Capt. L.E.LeBrun case.

(Signed) J.B. Stewart
Brigadier, Pres.

"20 Aug/41.

R. Grant & Son
Torquay.

Dear Sir,

Sgt. Noel got my authority to speak on the matter discust over the phone yesterday.

I and the other officers concerned will owe you a lot if you can do something to adjust the matter to show right.

I remain thankfully,

Yours,

Louis E. Lebrun.
Capt.

P.S.
Will assumed the payment of the bill.
Louis E. Lebrun, Capt.

AHF.

C O P Y.

Certified true Copy

EXHIBIT "F" (Lt.Col. Plante Case)

Major. CMHQ.

"B"

DR. to R. GRANT & SON,
WINE MERCHANTS
90 Union Street, TORQUAY

Established 1840
Telephone No.2034

DEC.1940.

Officer Mess,
Dolphin Camp.

Terms Cash.

Dec.2.	~~Taxgoods~~	By rets.	
Dec.2.	To goods	8	13.15.5
	"		2.0.0
4	"		1.8.3
6	"		22. 8.10
13	"		2.0.0
14	"		8.15.6
		8	50.8.0
			8.0
	CK		£50.0.0

Exhibit B. W.A.D. Gunn Maj. Officer Taking Summary. Lt.Brown case

Exhibit B. W.A.D. Gunn Maj. Officer Taking Summary. Plante case

B. J.C. Stewart Brig. President

"F" (Plante) J.C. Stewart Brig. President

A.H.F.

Supporting Invoices and Delivery slips for the above.

R. GRANT & SON
WINE MERCHANTS
90 Union Street, Torquay.
2 December 1940

The Officers Mess
Dolphin Camp Brixham

1 Doz Bots Whiskey	175/6	8.15.6
3 Bots Rum	175/6	2.3.11
2 Doz ½ pt Barclays Lager	6/-	12.0
2 doz ½ pt Grahams Lager	6/3	12.6
10 Doz Dry Gr. Ale	1/9	17.6
14 doz bots	1/-	14.0
		£ 13.15.5

Telephone 2034
90 Union Street Torquay

Established 1840
Dec.2

The Officers Mess,
Dolphin Camp.

C.1495

To R. GRANT & SON.
Wine & Spirit Merchants

Agents
for IND COOPE & ALLSOPP
Burton Ales.

Terms Cash.

12 Bots Whiskey
(Proprietary)
3 Bot Rum.
4 Doz ½ Pt. Lager
10 Doz Dry Gr Ale

Doz	Odd	Returns	Remarks.
~~4~~ 4		Beer Bottles	
	4	Syphons	
		Wines	To day.
		Flagons	

Received by.....

Established 1840

INVOICE

Telephone No.2034

R. GRANT & SON
WINE MERCHANTS
90 Union Street Torquay

2 December 1940

The Officers Mess
Dolphin Camp. Brixham

Terms - Cash

10 doz Coca Cola	3/-	1.10.0
10 doz bots	1/-	10.0
		£2.0.0

Telephone No.2034
90 Union Street, Torquay

Delivery Slip.

Established 1840
.....19.....

C 1510 Officers Mess
Dolphin Camp.

To R. Grant & Son.
Wine & Spirit merchants

Agents For IND. Coope & Allsopp.
Burton Ales.

Terms Cash.

10 Doz Coca Cola.

Established 1840

INVOICE.

Telephone No.2034

R. Grant & Son.
Wine Merchants
90 Union Street Torquay.

4 December 1940

The Officers Mess
A Dolphin Camp Brixham.

2 Bots Coates Gin.	169/6	£1.8.3

Telephone No.2034
90 Union Street Torquay

Delivery slip

Established 1840

4.12.40

The Officers Mess
Dolphin Camp.

C.1544
To R. Grant & Son.
Wine & Spirit Merchants

Agents for IND Coope & Allsopp
Burton Ales.

2 Bots Coates Gin

Doz	Old	Returns	Remarks
			Gone.

Received by, R. Noel.

COPY.

INVOICE.

Established 1840

R Grant & Son.
Wine Merchants
90 Union Street, Torquay.

Telephone No.2034

The Officers Mess
Dolphin Camp.

6 December 1940.

Terms Cash.

2 doz Bots Assorted Whiskey	175/6	17.11.0
3 Bots Rum	175/6	2. 3.11
3 Bots F.O.Pale Sheery	61/-	15.3
2 Bots Hunts G.S.	67/-	11.2
10 doz Dry Gr Ale.	1/9	17.6
10 Doz Bots.		10.0
		£ 22. 8.10

Delivery Slip.

Telephone No.2034
90 Union Street Torquay

Established 1840
6.12.40

B.5473 Officers Mess,
Dolphin Camp.

Tp R. Grant & Son.
Wine and Spirit Merchants.

Terms Cash,

2 Doz Bots Assrtd. Scotch
3 Bot. Rum
3 Bot Fine Old Ale
2 Bots Hunts G.S.
10 Doz Dry Gr. Ale.

Received by.....

Invoice

Established 1840

R. Grant & Son.
Wine Merchants
90 Union Street, Torquay.

Telephone No.2034.

13 December 1940

The Officers Mess
Dolphin Camp.

10 Doz Coca Cola.		
10 Doz Bots	3/-	1.10.0
		10.0
		£2.0.0

Delivery Slip.

Telephone No.2034
90 Union Street Torquay.

Established 1840
13.12.40

B.5668 Officers Mess
Dolphin Camp.

To R. Grant & Son. Wine & Spirit Merchants.

Agents for. IND. COOPE & ALLSOPP
Burton Ales.

10 Doz Coca Cola.

INVOICE

Established 1840

R. Grant & Son.
Wine Merchants
90 Union Street Torquay.

Telephone No.2034

14 December 1940

The Officers Mess
Dolphin Camp Brixham.

1 doz bots Johnnie Walker	175/6	£8.15.6

Telephone No.2034
90 Union Street Torquay.

Delivery Slip.

Established 1840.

B.5715 Officers Mess Dolphin Camp To R. Grant & Son.

1 doz John Walker.

COPY.

CREDIT NOTE

Established 1840

R GRANT & SON.
Wine Merchants
90 Union Street Torquay.

Telephone No.2034

2nd. December 1940.

The Officers Mess
Dolphin Camp. Brixham.

Terms Cash.

4 Doz Beer Bots.	1/-	4.0
4/12 doz Syphons.	12/-	4.0
		8.0

Certified true Copy.

Major. CMHQ.

C.O.F.Y.

Ex. E.

DR. TO R. GRANT & SON.
WINE MERCHANTS
Established 1840 90 UNION STREET, TORQUAY.
Telephone No.2034

January 1941.

The Officers Mess,
No.1. Convalescent Depot.

Terms Cash.

Date		E.&.O.E.	By Rets.	to Goods.
Jan.1.	To Goods	Exhibit E. Maj. W.A.D. Symons taking Summary Officers Capt. LeBrun case	1.2.0	9.5.6
3	"		5.0	17.13.9
4	"			10.0
8	"			1.10.0
11	"		8.0	11.7. 0
17	"	Exhibit E. Maj. W.A.D. Symons taking Summary Officers plaints case	10.0	9.17.0
	"			1.4. 0
21	"		10.0	13.10.9
25	"			1.4. 0
28	"			4.13.3
			2.15.0	70.15.3
				2.15.0
				£ 68. 0.3

E J.C. Stewart Maj President

F3 (Exhibit) J.C. Stewart Maj President

A H F

Supporting invoices for the above. Originals on Capt. LeBrun Case.

INVOICE.

Established 1840 Telephone 2034.

R. Grant & Son.
Wine Merchants
90 Union Street, Torquay.

17 Jan. 41.

Officers Mess.
Dolphin Camp.

Terms Cash.

6 Doz Sch. Split Ginger Ale.	3/-	18/0
6 Doz bots.	1/-	6.0
		£1.4.0

INVOICE

Established 1840 Telephone 2034

R. Grant & Son.
Wine Merchants
90 Union Street, Torquay.

21 Jan. 41.

Officers Mess
Dolphin Camp.

12 Bots. Whiskey	175/6	8.15.6
2 Bots Rum.	175/6	1.9.3
6 Doz Coca Cola	3/-	18.0
6 Doz. Barclays	6/-	1.16.0
12 Doz Bots.	1/-	12.0
		£13.10.9

CREDIT NOTE.

R. Grant & Son.
Wine Merchants
90 Union Street Torquay.

21 Jan. 1941.

10 Doz Bots.	1/-	10.0

Established 1840 — COPY. INVOICE. — Telephone 2034.

R. Grant & Son.
Wine merchants
90 Union Street, Torquay.

26 Jan. 41.

Officers Mess.
Dolphin Camp.

Terms Cash,

½ Doz Sch. Split Ginger Ale.		3/-	18.0
6 Doz Bots.		1/-	6.0
			£ 1.4.0

INVOICE.

Established 1840. Telephone 2034

R. Grant & Son.
Wine Merchants
90 Union Street, Torquay.

28 January 1941

Officers Mess
Dolphin Camp.

2 Doz Ginger Ale.	1/9	3.6
6 Bots Whiskey	175/6	4.7.9
2 Doz. Bots.	1/-	2.0
		£ 4.13.3

Originals on Capt. LeBrun Case. Certified true copy

Major. C.M.H.Q.

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL WHICH IS ATTACHED TO PROCEEDINGS OF CAPT. L.E.LEBRUN

(W.P.Taylor) Major

STATEMENT

DR. TO R. GRANT & SON, WINE MERCHANTS, 90 UNION ST TORQUAY

E+D

December, 1940

The Officers' Mess,
No. 1 Convalescent Depot

				By Rets.	To goods
Dec 2	To Goods			.8.0	13.5.5
"	"	"			2.
4	"	"			1.8.3
6	"	"			22.9.10
13	"	"		1.14.0	19.17
"	"	"			2.
14	"	"	"P-2" Plante		8.15.6
19	"	"		1.2.0	3.6.5
"	"	"			4.7.9
20	"	"	(J.C.Stewart) Brig.		8.15.6
23	"	"	President		1.4
27	"	"			14.12.5
30	"	"	"D"	1.2.0	5.4.3
				4.6.0	107.15.4
					4.6
					103.9.4

(J.C.Stewart) Brig.
President

AHF

SUPPORTING INVOICES, DELIVERY SLIPS AND CREDIT NOTES FOR ABOVE STATEMENT.

INVOICE

R. GRANT & SON
90 Union St. Torquay — 13 December 40

Officers Mess,
Dolphin Camp

6 Bots N. R. Rum	175/6	4.7.9
6 Doz Schw. Split Gr. Ale	3/	.18.0
3 Doz 1/2 Pts Wrexham Lager	6/4	.19.0
6 Bots Teachers Whisky	175/6	4.7.9
12 " A. L. G. "	175/6	8.15.6
Bots	1/	.9
		19.17.6

CREDIT NOTE

The Officers Mess — R. GRANT & SON — 13 December 40
Dolphin Camp

30 Doz Bots	1/	1.10.0
4 Syphons	12/	.4
		1.14.0

INVOICE

Officers Mess — 19 Dec 40
Dolphin Camp

3 Bots Coates Gin	169/6	2.2.5
6 Doz Split Gr.Ale (Schw)	3/	.18.0
Bot	1/	.6
		3.6.5

CREDIT NOTE

Officers Mess — 19 Dec 40
Dolphin Camp

19 Doz Bots	1/	.19
3 Syphons	12/	.3
		1.2.0

INVOICE

Officers Mess,
Dolphin Camp

19 Dec 40

6 Bots Whiskey	175/6	4.7.8

INVOICE

Officers Mess
Dolphin Camp

20 Dec 40

12 Bots Whisky	175/6	8.15.6

INVOICE

Officers Mess
Dolphin Camp

23 Dec 40

6 Doz Schw. Split Gr. Ale	3/	.18.0
Bots	1/	.6
		1.4.0

INVOICE

Officers Mess
Dolphin Camp

27 Dec 40

1 Bot Rum	175/6	.14.8
12 x ½ Bots Whisky	47/5	2.7.5
12 " "	175/6	8.15.6
3 " Rum	175/6	2.3.10
3 Coca Cola	3/	.9
12 Bots Tomato Juice	10/	.10.0
Bots	3/	.3
		14.12.5

INVOICE

Officers Mess
Dolphin Camp

Dec 40

6 Doz Split Gr. Ale	1/9	.10.6
6 Bots Haig	175/6	4.7.9
Bot	1/	.6
		5.4.3

Officers Mess,
Dolphin Camp

CREDIT NOTE

30 Dec 40

22 Doz Bots	1/	1.2.0

Certified to be a true copy of statement and invoices for month of Jan 41 originals being on G.C.M. proceedings of Capt. L.E.LeBrun

"C" (W. P. Taylor) Major
C.M.H.Q.

Dr. to R. Grant & Son, Wine Merchants, 90 Union Street, Torquay Fol. B.3
Jan 1941

Officers Mess, Dolphin Camp

			By Rets	To Goods
Jan. 1	To goods		1.2	9.5.6
3	" "	Exhibit "F-1" Plante	.5	17.13.9
4	" "			.10.~~6~~
8	" "	J. C. Stewart (Brig)		1.10
11	" "	President	.8	11.7
17	" "		.10	9.17
		Exhibit "C"	2.5	50.3.3
				2.5
		(J.C.Stewart) Brig. President		47.18.3
		Received with thanks £97.18.3 R. Grant & Son		50.
				97.18.3

AH.F.

Supporting invoices and delivery slips for the above, are as follows:

INVOICE
R. GRANT & SON 9 Union St. Torquay

1 January, 1941

Officers Mess,
Dolphin Camp, Brixham

9 Bottles Haig)	175/6	
3 Bottles Black & White)	175/6	8.15.6
1 Doz. 16½ Oz. Tomato Juice		.10.0
		9.5.6

Officers Mess, INVOICE
Dolphin Camp, Brixham 3 January, 1941

6 Bots. N. R. Rum	175/6	4.7.9
12 Bots. Haig	175/6	8.15.6
10 doz Split Gr. Ale	11/9	.17.6
1 Doz. Syphons Soda	6/	.6
6 Doz. Lager	6/6	1.19
Bots	1/	.16
Syphons	12/	.12
		17.13.9

DELIVERY SLIP Torquay, Jan 1st, 1941

Officers Mess,
Dolphin Camp, Brixham R. Grant & Son

9 Haig, 3 B. & White, 1 doz 16½oz. Tomato Juice

DELIVERY SLIP Torquay, 3.1.40

Officers Mess
Dolphin Camp, Brixham B. Grant & Son

6 botts Naval Reserve, 12-1 J. Haig, 10 doz. 1/2 Pt Giner Ale
12 syphons soda, 6 doz. lager

INVOICE 4 January, 1941

Officers Mess,
Dolphin Camp, Brixham

12 x 16½ oz. Tomato Juice	.10	.10

Officers Mess,
Brixham, Dolphin Camp

DELIVERY SLIP TORQUAY 4 Jan 41

12 Bots (16½ oz) Tomato Juice

Officers Mess,
Dolphin Camp, Brixham

INVOICE 8 Jan 41

3 Cases, Bots Tomato Juice	10/	1.10.0

Officers Mess
Dolphin Camp, Brixham

DELIVERY SLIP Torquay 8 Jan 41

3 c/s Bots Tomato Juice

Officers Mess
Dolphin Camp, Brixham

INVOICE 11 Jan 41

12 Bots Whisky	175/6	8.15.6
10 doz Split Dry Gr. Ale	1/9	.17.6
6 doz Coca Cola	3/	.18
16 doz Bots	1/	.16
		11.7

DELIVERY SLIP Torquay 11 Jan 41

Officers Mess
Dolphin Camp, Brixham

12 Bots Why
10 Doz Split Dry Gr. Ale (Schweppes)
10 Doz Bots

DELIVERY SLIP Torquay 11 Jan 41

Officers Mess
Dolphin Camp, Brixham

6 doz Coca Cola

Officers Mess
Dolphin Camp, Brixham

INVOICE 17 Jan 41

12 Bots Whisky	175/6	8.15.6
2 Bots F. O. Pale Sherry	6~~1~~/	.10.2
1 Bot Dawes Lime	16/	.1.4
1 Doz Bots Tomato Juice	10/	.10
		9.17

Officers Mess
Dolphin Camp, Brixham

DELIVERY SLIP Torquay 17 Jan 41

12 Bots Whisky Scotch
2 Bots Fine Old Pale Sherry
1 Bot Dawes Lime
1 Doz Bots Tomato Juice

10 Doz Beer bottles (Best can do at present)

Officers Mess
Dolphin Camp, Brixham

CREDIT NOTE 1 Jan 41

22 Doz Beer Bots. 1.2.0

Officers Mess,
Dolphin Camp, Brixham

CREDIT NOTE 3 Jan 41

5 Doz Beer Bots	1/	.5.0

Officers Mess
Dolphin Camp, Brixham

CREDIT NOTE

11 Jan 42

8 Doz Beer Bots	1/	.8.0

Officers Mess
Dolphin Camp, Brixham

CREDIT NOTE

17 Jan 41

10 Doz Beer Bots	1/	.10.0

C O P Y.

EXHIBIT "F" Capt. L.E. LeBrun case.

Ex "F"

R. GRANT & SON.

June /40	Mdses.	£ 57.1.8	Aug.1	By Ck.	£57. 1. 8.
July		51.12.3	Sep. 1.		51. 12.3.
Aug.		87.2.9	" 30		87.2. 9.
Sept.		87.7.7	Nov. 1		87. 7. 7.
Oct.		100.15.2	Dec.6.		100.15.2
Nov.		95.15.5	Jan.30 41		95. 15.5.
Dec.		50.0.0	Feb.28		97. 18. 3.
Jan. 31/41		47.18.3	Apr.18		78. 6. 8.
Feb.		78.6.8.	May28		100. 1. 10
Mar.		100.1.10	June 17		96. 13. 3.
Apr.		96.13.3	Aug.8		66. 14. 10
May		66.14.10			
June		88.19.6.			
July		70.8.7			
To Aug 18.		38.13.10		Owing	198. 1. 11
		£ 1117. 11. 7.			£1117. 11. 7.

Exhibit F.
W.D. Gunn Maj.
Officer Taking Survey.
Lt Col Plante case

EXHIBIT "F"

(Signed) J.B. Stewart.
Brigadier
President.

~~F/ J.C. Stewart Brig. President~~

"G" (Plante) "G" E & G

(J. C. Stewart) Brig.
President

(J. C. Stewart) Brig.
President

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL WHICH IS ATTACHED TO G.C.M. PROCEEDINGS OF CAPT. L. E. LEBRUN

W. H. Waugh Capt. J.D. Clair
(W. P. Taylor) Major
C.M.H.Q.

ABSTRACT OF RECEIPTS AND DISBURSEMENTS OF

Month Ended 31st March, 1941 THE No. 1 Convalescent Depot RCAMC

Receipts	Amount	Disbursements	Amount
Credit bal. from pre a/c ------		R.Grant & Son Liquor cigarettes)	577.13.1
Bar Sales	264.10.4½	Skan Taylor & Co.	31.9.8
Lt.Col.A.P.Plante	158.16.5½	Saccone & Speed Liq.	26.17.0
Major J.E.A.Tessier	20.13.2½	S.G Good(Newspapers)	11.11.8
" D.E.Cannell	2.2.6	Batmen (per list)	61.3.4
" J.B.Morison	6.7.6	Vectis Laundry Ltd	14.5.9½
Capt. J. D. Mathieu	27.1.11	Messing (per list)	116.4.1½
" D. L. Darey	179.15.5	Mens Canteen Tickets	2.0.0
" R. Lavallee	56.2.6	Post Master General (Public phone)	9.14.7
" L.E.LeBrun	22.7.8½	Mens Canteen (Sport & Equip)	1.7.3
" P. Painter	1.19.8		
" I. Sutton	18.2.8		
" G.F.Leigh	54.17.4½		
" J.L.Collins	11.9.6		
" A.Walsh	13.19.3½		
Lieut R.MacDonald (Concert Sport & Equip)	5.17.9		
Mens Canteen	40.7.1		
Public Phone Revenue	9.14.7	Balance per cash book	41.9.0
	893.15.6		893.15.6

A.P.

No record was kept of Cash Bar Sales This therefore is a balancing figure

BANK RECONCILLIATION STATEMENT

Outstanding Cheques	None	Balance in Bank 31.3.41/7.10.2	
Balance per cash book	7.10.2	This is exhibit M1 filed in the Court of Inquiry No 1 Convalescent Depot A.E. Nash Brigadier President	7.10.2
	7.10.2		

See Form RFB-1A

FINANCIAL STATEMENT FOR THE PERIOD ENDED 31 March 1941

STATEMENT OF ASSETS & LIABILITIES TRADING & PROFIT & LOSS STATEMENT

Assets	Amount	Liabilities	Amount
Cash per C.Book	41.9.0	Accounts payable	188.9.9
In Bank	7.10.2		
On Hand	33.18.10		
Inventory Stock (at cost)	5.1.6		
Accounts R-cble	165.8.2½		
Arrears	106.17.8		
Current	58.10.6½		
Mgt or Mess property per list	2.14.1	Surplus	26.3.0½
	214.12.9½		214.12.9½

N I L

The above Statement has been audited and is, in the opinion of the undersigned correct and discloses a true state of finances as at 31st March 1941

J.B.Morison, Major Pres.
Rene Lavallee Capt. Member
J. L. Collins, Capt. "

APF.

DETAILED STATEMENTS OF ACCOUNTS RECEIVABLE AND ACCOUNTS PAYABLE FOR THE MONTH OR QUARTER ENDED

31st March, 1941

Accounts Receivable	Amount	Accounts Payable	Amount
Lt. Col. A. P. Plante	34.13.2½	R. Grant & Son	178.8.6
Capt. R;Lavallee	25.11.0½	Skan Taylor & Co	5.2.3
" L. E. LeBrun	8.3.4½	S.G.Goad	4.1.7
" I. Sutton	4.6.6	Vectis Ldry (Off only)	.17.5
" G. P. Leigh	17.9.11		188.8.9
Lieut. R. P. Scott	2.2.7		
Capt. D. Darey	26.6.1		
Cpl. P. Hebert	2.0.0		
Capt. J. L. Collins	2.3.11		
Col. MacCusker	1.11.0		
Major C.V.Mulligan	16.7.6		
" J.B.Mosiron	2.3.11		
Mens' Canteen Concert party	3.9.0½		
Capt. A.Walsh	18.10.1½		
Lt. R.R.MacDonald	.10.0		
	165.8.2½		

LLOYDS BANK LIMITED
BRIXHAM

25 Jun 1941

Dear

I beg to advise you that the amount standing to the credit of R.C.A.M.C. No. 1 Convalescent Depot, Officers Mess a/c in our books on 31st March, 1941 was Seven pounds, ten shillings and two pence £7.10.2

Yours faithfully,

H. C. Desmond, Manager

No. 1 Convalescent Depot, R.C.A.M.C.

Amounts paid to Batmen
From June 1st 1940 to March 31st 1941

Pte.	C. Blake	1.16.6
"	Cooper	1.11.6
"	P.Grontenrath	12.5.0
"	P. Lalonde	12.5.0
"	E. Scott	12.5.0
"	H. Lacroix	2.13.4
"	R. Grace	.6.6
"	T. Letourneau	1.4.9
"	J. Theaume	8.2.9
"	J. Doucet	8.0.1½
"	R. Belanger	.12.10
	Total	61.3.4

NO. I CONVALESCENT DEPOT R.C.A.M.C.
INVENTORY AT MARCH 31st 1941

Quantity	Particulars	Cost Prices	Total
2 Bots	Quarter Deck Rum	.18.6	1.17.0
3 "	Port	.6.6	.19.6
4 "	Sherry	.6.6	1.6.0
3 Doz	Sch.Ginger Ale	.3.0	.9.0
3 "	Empty Bots.	.200	.6.0
2 Bots	Roses Lime	.2.0	.4.0
			5.1.6

C.V.Mulligan, Pres. L. E.LeBrun Capt. Sec. R. Noel, Steward

OFFICERS MESS
No. 1 Cdn Convalescent Depot, R.C.A.M.C.
MESS PROPERTY 31st MARCH 1941 AT DEPRECIATED VALUE

1 Doz Cups & Saucers	5.9
1 Tray	1.11
1 Kettle	3.3
1 Fry Pan	2.8
1 Bread Bowl	2.8
4 Egg Cups	.8
1 Slicer	1.0
1 Water Jug	1.6
1 Tea Pot	1.11
12 White Plantes	3.3
1 Bread knife	3.0
Mixed Crockery	11.2
6 Salt & Peppers	4.2
1 Electric Iron	5.11
1 Door mat	3.0
1 Enamel Saucepan	1.6
1 Sugar Bowl	.9
	2.14.1

The above was bought from Solomon & Sons, Aldershot, Hants 12 Feb 1940 at a cost of £6.3.4

C. V. Mulligan, Major, President
Louis E. LeBrun Capt, Treasurer

R. Noel, Mess Steward

NO. I CONVALESCENT DEPOT R.C.A.M.C.
Messing (Food & Sundries)
Period 1-6-40 to 31.3.41

Brixham Fisheries	(fish)	21.10.5
E. R. James	(groceries)	23.13.11½
J. Jeffrey	(eggs)	24.5.5½
Woodfield	(groceries)	6.16.6
Howard & Johnson	(eggs)	3.13.9
J.Webster & Sons	(groceries)	.13.9
F.W Woolworth		.6½
A.Hockway	(bread & cakes)	8.3.4½
International Stores	(groceries)	1.16.7
E.Perreit & Sons	(groceries)	.16.0
Tymers	(groceries)	1.2.8
Pierre Magnan	(fish)	10.9.0½
Brixham Store	(meat)	1.2.0
E.S.Crote		3.6
H.E.Dey		7.6
Nicholls		2.3
W.J.Cairns & Sons	(groceries)	15.10
Pearks Store	"	16.9
Binfield & Sons	"	1.9.0
Grover's	"	6.0
CoOperative	"	2.4½
Broadway Store		2.1
Pope	(repairs)	1.12.10
Castor Farm	(eggs)	5.6
Sernions Ltd.	(sauces)	2.0.6
Blacker	(groceries)	12.5
Eastman	"	11.3
Wallis	"	10.0
Sgts Mess	(eggs)	12.0
L.Kaye	(repairs)	15.2½
The Creamery	(eggs)	15.0
		116.4.1½

(For use in the case of Officers' or Sergeants' Messes)

R.F.B.-1A
40/P & S/203

MONTH ENDED / QUARTER ENDED: 31st. March 1941

TRADING AND PROFIT AND LOSS STATEMENT

Bar

Bar Sales for the ~~month/or quarter~~ Period 1-6-41 to 31-3-41 (See foot note)		£845.19.2
Inventory stock at the end of last month/or quarter	£ None	
Add: Purchases for month/or quarter	819.10.6	
	£ 819.10.6	
Less: Inventory at close of current month/or quarter	5.1.6	
Cost of goods sold		814- 9- 0
Gross Profit for month/or quarter		~~31-10- 2~~
Bar expenses: Wages (show details on back)	£	
Other operating expenses (show details on back)	2-0-0	
Total expenses		2- 0- 0
Net profit on Bar for month/or quarter		~~29-10 -2~~

No record of cash Bar Sales was kept, therefore this is a balancing figure.

Messing

Messing charges for the ~~month/or quarter~~ period 1-6-40 to 31-3-41		£ 223-1-6½
Inventory stock at end of last month/or quarter 1-6-40	£ None	
Add: Purchases for month/or quarter	116.4.1½	
	£ 116-4-1½	
Less: Inventory at close of current month/or quarter	None	
Cost of Messing		116-4-1½
Gross Profit for month/or quarter		106-17-5
Mess expenses: Wages (show details on back)	£ 61.3.4	
Other operating expenses (show details on back)	30-16-5½	
Total expenses		91-19-9½
Net profit, or loss, on Mess only for month/or quarter		£ 14-17-7½
Net profit on Bar b/d		£ ~~29-10-2~~
Net profit, or loss, on Messing b/d		14-17-7½
Receipts from other sources (if any):—	£	
Total profits for month/or quarter		£ ~~44-7-9½~~
Surplus from previous months/or quarter		2-14-1
Total surplus available		~~47-1-10½~~

DISPOSITION OF PROFITS:—

Income expenditures	£	
Capital expenditures Officers Guests	20-18-10	
		20-18-10
Surplus per Balance Sheet		£ 26-3-0½

Number of Dining Members ..... Prevailing daily charge for messing 1/5

We hereby certify that in respect of the Bar we have ascertained that the total of the daily takings for the month/or ~~quarter~~ ended 31st. March 1941 *as shown in the Steward's Cash Book corresponds with the amount of Stock sold for that month/or quarter as it appears in the Canteen Stock and Sales Record: that the inventories of Bar and Messing as above shown are correct, and that in all other respects the above Statement is correct.*

Major — PRESIDENT
Louis E. LeBrun Capt. — MEMBER
J.D. Mathieu Capt. — MEMBER

Approved: Anatole P.Plante — Lieut-Col. RANK

Commanding No.1.Co valescent Depot, RCAMC.

DETAILED STATEMENTS OF EXPENSES FOR THE MONTH/OR QUARTER ENDED ..... 194.....

Bar

Wages, Canteen Steward	£	Nil	
Canteen Assistants ..... @ ..... each ...		Nil	
Total Wages			£ Nil
Other Expenses:—			
Bar Tickets		£2-0-0	
Total Other Expenses			2-0-0
TOTAL BAR EXPENSES			£

Messing

Wages, Chef Batmen	£	61-3-4	
Mess Assistants ..... @ ..... each ...			
Total Wages			£ 61-3-4
Other Expenses:—			
Laundry		15-3-2½	
Newspapers		15-13-3	
Total Other Expenses			30-16-5½
TOTAL MESSING EXPENSES			£ 91-19-9½

Ex 10 Red Book

CERTIFIED TRUE COPY of book referred to throughout evidence of Capt. L. E. LeBrun and Lt. Col. A. P. Plante as "The Red Book" the original of which, owing to its bulk, is retained by J.A.G. Branch, C.M.H.Q.

(A. H. Friedgut) Major
Judge-Advocate

REGIMENTAL FUNDS

"H"

(J. C. Stewart) Brig.
President

"B" Plante

(J. C. Stewart) Brig.
President

OFFICERS MESS LEDGER ACCOUNTS

NO. I CANADIAN CONVALESCENT DEPOT R.C.A.M.C.

PERIOD

JUNE I/40 to APRIL 30 1941

Lt. Col. A. B. Plante

June	Mess	1.10.0			
	Batman	12.6			
	Laundry	5.2			
	Consummation	7.19.10½		Cash	10.7.6½
		10. 7. 6½			10.7.6½
July	Mess	1.11.0			
	Batman	12.11			
	Cons-Laundry	14.9.9		Cash	16.13.8
		16.13.8			16.13.8
August	Mess	1.11.0			
	Batman	12.11			
	Laundry	13.			
	Consummation	17.13.10		Cash	20.10.9
		20.10.9			20.10.9
Sept.	Mess	1.10.0			
	Batman	12.6			
	Laundry	10.3			
	Consummation	19.7.2½		Cash	21.19.11½
		21.19.11½			21.19.11½
Oct	Mess	1,11.0			
	Batman	12.11			
	Laundry	8.5			
	Charges	16.12.2½		Cash	19.4.6½
		19.4.6½			19.4.6½
Nov	Mess	1.10.0			
	Batman	12.6			
	Laundry	6.11		Cash ?	10.0.0
	Charges	17.18.0		Balance due	10.7.5
		20.7.5			20.7.5
Dec	Balance	10.7.5			
	Mess	1.11.0			
	Batman	12.11			
	Laundry	7		Cash ?	30.0.0
	Charges	24.14.7½		Balance	7.12.11½
		37.12.11½			37.12.11½
Jan	Balance	7. 12.11½			
	Mess	1.11.0			
	Batman	12.11			
	Laundry	7.3½		Cash ?	30.0.0
	Charges	21.12.4½		Balance	1.16.6½
		31.16.6½			31.16.6½
Feb.	Balance due	1.16.6½			
	Mess	1.8.0			
	Batman	11.8			
	Laundry	7.2½			
	Charges	15.9.7½			
		19.13.0½			
Mar	Messing	1.11.0			
	Batman	12.11			
	Laundry	3.9			
	Extra	12.12.6			
		15.0.2	Bal. 34.13.2½		
			70.0.0		
			104.13.2½		
April	Messing	1.10.0			
	Batman	12.6			
	Laundry	9.7½			
	Extras	7.10.0			
		10.2.1½	44.15.4		

Lt. Col. A. P. Plante (Conc/

May	Balance fwd.	44.15.4	
	Messing	1.11.0	
	Batman	12.11	
	Laundry	5.4	
	Extras	21.0.0	
		23.9.3	Bal.68.4.7
June	Messing	1.10.0	
	Batmen	12.6	
	Laundry	6.0	
	Extras	12.10.0	
	Balance due	68.4.7	
		83.3.1	

Major J. E. A. Tessier

Juin	Mess	1.10.0			
	Batman	12.6		Cash	2.2.6
		2.2.6			2.2.6
Juillet	Mess	1.11.0			
	Batman	12.11		Cash	2.3.11
		2.3.11			2.3.11
Aoust	Mess	1.11.0			
	Batman	12.11		Cash	2.3.11
		2.3.11			2.3.11
Sept	Mess	1.10.0			
	Batman	12.6			
	Laundry	6.5			
	Consummation	12.1½		Cash	3,1.0½
		3.1.0½			3.1.0½
Oct	Mess	1.11.0			
	Batman	12.11			
	Extra	.3		Cash	2.4.2
		2.4.2			2.4.2
Nov	Mess	1.10.0			
	Batman	12.6			
	Extra	15.1			
		2.17.7	2.17.7		
		2.17.7			
Dec	Mess	1.11.0			
	Batman	12.11			
	Laundry & extra	18.0½	3.1.11½		
	Ldry 3/1½		5.19.6½		
	Extras 9/7	5.19.6½			
Jan	Mess	1.11.0			
	Batman	12.11			
	Ldry & Ex	14.2½	2.18.1½	Feb 10	
			8.7.8	By check	8.17.8

Capt. D. L. Darey

June	Mess	1.10.0	Bk. Jul 17		
	Batman	12.6	Jul 8 Ck. 5.10.0		
	Consummation	3.10.1½	Cash 9.1		
	Laundry	6.5½	5.19.1	Cash	5.19.1
		5.19.1			5.19.1
July	Mess	1.11.0	Aug.18		
	Batman	12.11	Aug.6 Ck.16.0.0		
	Loan	10.0	Cash 1.4½		
	Consummation &		16.1.4½		
	Laundry	13.7.5½		By check	16.1.4½
		16.1.4½			16.1.4½
August	Mess	1.11.0	Oct 10		
	Batman	12.11	Ck. 20.0.0		
	Laundry	11.4	Cash 15.1		
	Consummation	17.19.10	20.15.1	By check	20.15.1
		20.15.1			20.15.1
Sept.	Mess	1.10.0	Ck. Oct 10		
	Batman	12.6			
	Laundry	1.3.10		Oct 4 Check	10.0.0
	Consummation	17.10.4½		Balance due	10.16.8
		20.16.8			20.16.8
Oct	Mess	1.11.0			
	Batman	12.11			
	Laundry	8.11			
	Charges	12.16.8	Nov. 4	By check	20.0.0
	Balance	10.16.8		Balance due	6.6.2
		26.6.2			26.6.2
Nov	Mess	1.10.0	Dec. 13.		
	Batman	12.6	Ck. 21.0.0		
	Laundry	6.5½	20.14.11		
	Charges	11.19.9½	Cash 5.1		
	Balance due	6.6.2		By check	20.14.11
		20.14.11			20.14.11
Dec	Mess	1.11.0	Check given only for £15.0.0 Feb.6		
	Batman	12.11			
	Laundry	9.6		Balance due	6.17.5
	Extra	24.4.0		By check	20.0.0
		26.17.5			26.17.5
Jan	Mess	1.11.0	Feb. 8		
	Batman	12.11	Check 21.0.0		
	Laundry	8.9	Cash 4		
	Charges	11.10.3	21.0.4		
	Balance	6.17.5	Feb. 8 -	By check	21.0.4
		21.0.4			21.0.4
Fev	Mess	1.8.0	March 3.		
	Batman	11.8	Check 22.0.0		
	Laundry	7.2½	Less cash 15.7½		
	Charges	18.17.6	21.4.4½	By check	21.4.4½
		21.4.4½			21.4.4½
Mar	Messing	1.11.0			
	Batman	12.11			
	Laundry	4.2		Apr.26	
	Extras	13.18.0	Apr. 1	By check	16.6.1
		16.6.1			16.6.1 5.0.0
March	Loan	10.0.0	Apr 1 By Capt.LeBrun charged to LeBrun's a/c on 28 Mar 41		10.0.0

Capt. D. L. Darey (Conc)

April	Messing	15.0		
	Batman	6.3		
	Laundry	11.3		
	Postage	2.0		
	Extras	6.10.0		
		8.4.6		
	Loan	5.0.0	Loan-	5.0.0
		13.4.6	Jun 22 By check June 15	12.3.3
	Balance	1.1.3		
	Shortpaid in Dec 40	5.0.0		
		6.1.3 o/s		

Captain Arthur Walsh

	Balance	9-2-9		Pay ?	9-12-9
June	Mess	1.10.0			
	Batman	12.6			
	Balance May	11.5	2.13.11	Balance due	2.13.11
		2.13.11			2.13.11
July	Mess	1.11.0			
	Batman	12.11			
	Balance	2.13.11	4.17.10	By check Aug 10	4.17.10
		4.17.10			4.17.10
August	Mess	1.11.0			
	Batman	12.11	2.3.11	By check Oct 10	2.3.11
		2.3.11			2.3.11
Sept.	Mess	1.10.0		Oct 10	
	Batman	12.6		5.4.1½	
	Laundry &				5.4.1½
	Consummation	3.1.7½	5.4.1½	By check	5.8.7½
		5.8.7½			5.8.7½
Oct.	Mess	1.11.0			
	Batman	12.11			
	Charges	8.3.6	10.7.5	Balance due	10.7.5
		10.7.5			10.7.5
Nov.	Mess	1.10.0			
	Batman	12.6		8-8-8	
	Charges	6.6.2½			
	Balance due	10.7.5	18.16.1½	Balance due	18.16.1½
		18.16.1½			18.16.1½
		Balance due			
		18.16 1½		By check	18.16.1½
Add May balance		9.2.9			
		27.18.10½			

Capt. J. D. Mathieu

Juin	Mess	1.10.0			
	Batman	12.6	2.2.6	Balance due	2.2.6
		2.2.6			2.2.6
Juillet	Mess	1.11.0			
	Batman	12.11	2.3.11	By check	4.6.5
		4.6.5			4.6.5
Aoust	Mess	1.11.0		10 Oct	
	Batman	12.11		Ck.	6.0.0
	Pret (Loan)	2.0.0		Cash	1.0.10
	Laundry	1.5			
	Consummation	13.10		Cash	4.19.2
		4.19.2			4.19.2
Sept.	Mess	1.10.0			
	Batman	12.6			
	Laundry	3.0	2.5.6	Balance due	2.5.6
		2.5.6			2.5.6
Oct	Mess	1.11.0		13 Dec	
	Batman	12.11		Ck.	7.1.8
	Laundry & [illegible]			Cash	2.0.0 5.1.8
	Consum.	12.3	2.16.2	By check	5.1.8
		5.1.8			5.1.8
Nov	Mess	1.10.0			
	Batman	12.6			
	Extras	19.2	3.1.8	Balance due	3.1.8
		3.1.8			3.1.8
Dec	Mess	1.11.0			
	Batman	12.11	2.3.11	By check	5.5.7
		5.5.7			5.5.7
Jan	Mess	1.11.0			
	Batman	12.11			
	Extras	12.10	2.16.9	Balance due	2.16.9
		2.16.9			2.16.9
Fev	Balance due	2.16.9		Cash (?)	(2.16.9
	Mess	1.8.0		1 Mar check 5.5.2	
	Batman	11.8			
	Charges	8.9	5.5.2	By check	(2.8.5
		2.8.5			2.8.5
March	Messing	1.11.0			
	Batman	12.11			
	o/s 31 Mar	2.3.11	Mar 31	Cash (?)	2.3.11
			Apr 30	5.0.0 check	
April	Messing	1.10.0		2.17.6 cash - 2.2.6	
	Batman	12.6	April	By check	2.2.6
		2.2.6			2.2.6
May	Messing	1.11.0			
	Batman	12.0			
	Extras	2.0.0			
		4.3.0			
June	Messing	1.10.0			
	Batmen	12.6			
	Extras	4.6			
	Balance due	4.3.0	Jul 3	By check	6.10.0
		6.10.0			6.10.0

Major D. E. Cannell

June	Mess	1.10.0			
	Batman	12.6		By Cash	2.2.6
		2.2.6			2.2.6

Capt. Rene Lavallee

June	Mess	1.10.0			
	Batman	12.6		Cash	2.2.6
		2.2.6			2.2.6
Juillet	Mess	1.11.0			
	Batman	12.11			
	Ldry & Cons	2.17.9			
	Web Equip	1.13.8½	6.14.11½		
		6.14.11½			
Aoust	Mess	1.11.0			
	Batman	12.11		Account cash	5.0.0
	Laundry	6.6½		Balance	15.9.10½
	Consummation	11.4.5½	13.14.11		
		20.9.10½			20.9.10½
Sept	Mess	1.10.0			
	Batman	12.6			
	Laundry	9.10½			
	Consumm.	7,4.5½		Account cash	7.0.0
	Balance	15.9.10½	25.6.8½	Balance	17.6.8½
		25.6.8½			25.6.8½
Oct	Mess	1.11.0			
	Batman	12.11			
	Laundry	6.0½			
	Charges	3.6.10½		Nov 2 Account by ck	7.0.0
	Balance	18.6.8½	24.2.6½	Balance	17.2.6½
		24.2.6½			24.2.6½
Nov	Mess	1.10.0			
	Batman	12.6			
	Laundry	6.9			
	Charge	5.5.8		By check Feb 8	15.0.0
	Balance	17,2.6½	24.16.5½	Balance	9.16.5½
		24.16.5½			24.16.5½
Dec	Mess	1.11.0			
	Batman	12.11			
	Laundry	6.5½			
	Charges	3.11.4½	15.18.2½	Balance due	15.18.2½
		15.18.2½			15.18.2½
Jan	Mess	1.11.0			
	Batman	12.11			
	Laundry	5.8½		By check Feb.6	10.0.0
	Charges	3.10.5½	6.0.1	Balance due	9.18.0
		21.18.3½			21.18.3½
Fev	Balance due	11.18.3½			
	Mess	1.8.0			
	Batman	11.8			
	Laundry	5.11½		By check Mch 4	10.0.0
	Charges	5.14.1		Balance due	8.18.0
		19.18.0			19.18.0

Capt. Rene Lavallee (Conc)

March	Balance due	9.18.0	Apr 26	12.0.0	
	Messing	1.11.0	less	2.0.0	
	Batman	12.11		10.0.0	
	Laundry	3.1½		Balance due	15.11.0½
	Extras	13.6.0		By check	10.0.0
	o/s 31 Mar	25.11.0½			25.11.0½
April	Messing	1.10.0			
	Batmen	12.6			
	Laundry	5.4			
	Extras	10.0;0		By check	16.0.0
	Balance due	15.11.0½		Balance due	11.18.0½
		27.18.10½			27 18.10½
May	Balance	11.18.10½			
	Messing	1.11.0			
	Batmen	12.10½	Received Jun 4		15.0.0
	Extras	7.0.0	Balance		6.2.9
		21.2.9			21.2.9
June	Messing	1.10.0			
	Batmen	12.6			
	Extras	2.10.0			
	Balance due	6.2.9	By cheque July 15		10.0.0
		10.15.3			
July	Balance	15.3			

Capt. Louis E. LeBrun

15 Jul

Juin	Ilo.U.	6.10.0	Cheque	12.12.6	
	Mess	1.10.0	Cash	4.0.0	
	Batman	12.6		8.12.6	Cash 8.12.6
		8.12.6			8.12.6
Juillet	Mess	1.11.0			
	Batman	12.11			Cash 2.3.11
		2.3.11			2.3.11
Aoust	Mess	1.11.0			
	Batman	12.11			Cash ck. 2.3.11
		2.3.11			2.3.11
Sept	Extras	6.7½			
	Mess	1.10.0			
	Laundry	7.3½			
	Batman	12.6	By cheque Oct 10		2.15.5
		2.16.5	l/s short-paid		2.15.5
Oct	Mess	1.11.0			
	Batman	12.11			
	Ldry & charge	7.6½		Cash	2.11.5½
		2.11.5½			2.11.5½
Nov	Mess	1.10.0			
	Batman	12.6			
	Chg. & Ldry	4.7	Cash check Dec. 17		2.7.1
		2.7.11			
Dec	Mess	1.11.0			
	Batman	12.11			
	Cigarettes	3.1½			
	Charges	9.2½	Cash Feb 8 check		2.16.3
		2.16.3			2.16.3

Capt. L. E. LeBrun (Conc)

Jan	Mess	1.11.0		
	Batman	12.11		
	Cigarettes	9		
	Laundry	3.2	Cash Feb 17 check	2.16.1
		2.16.1		2.16.1
Feb	Mess	1.8.0	Cheque on Hand at 31 March 41	
	Batman	11.8		
	Cig & matches	1.4.4	Apl 26 By check Bk Apl 29	3.4.0
		3.4.0		3.4.0
March	Messing	1.11.0		
	Batman	12.11		
	Ref & Cig	12.3		
	Laundry	.8½		
		2.16.10½	2.16.10½	
	I.O.U.	5.6.6	1.0	
		8.3.4½	2.17.10½	
April	Messing	1.10.0	o/s 31 March	
	Batmen	12.6		
	Cigs	5.9½		
		2.8.3½	Bal. (5.5.2) 5-6-6 } 10-11-8	
May	Messing	1.11.0		
	Batmen	12.11		
	Cigarettes	1.2.7½	Bal (8.11.8½) 5-6-6 }	
		3.6.6½	13-18 2½	
June	Messing	1.10.0		
	Batmen	12.6		
	Cigs & Mat	1.1.0	Not Applicable	
	Balance due	3.3.6	Presumably cash taken £4-0-0	
		11.15.2½	11-1-8½	
		5-6-6		

Mess Bills

1940 I.O.U.	
June £6.10.0	8.12.6
July	2.3.11
Aug	2.3.11
Sept	2.16.5
Oct	2.11.5½
Nov	2.7.1
Dec	2.16.3
Jan 1941	2.16.1
Feb	3.4.0
Mar IOU 5.6.6	8.3.4½
Apr	2.8.3½
May	3.6.6½
June	3.3.6
	46.13.4

LeBrun cheques Deposited

1940		
	June 12	10.8.0
	Jul 15 net	8.12.6
	Oct 10	2.3.11
	"	2.15.5
	Dec 13	2.7.1
	Feb 6 1941	2.16.3
	" 10	2.16.1
	Apr 26	3.4.0
		35.3.3

Outstanding

Short paid	Sep 40	1.0
	Mar	8.3.4½
	Apr	2.8.3½
	May	3.6.6½
	June	3.3.6
		17.2.8½

Apparently paid in cash

Jul a/c	2.3.11
Oct a/c	2.11.51
	39.18.7½

Capt. P. Painter

July	Mess	1.8.0		
	Batman	11.8	Cash	1.19.8

Capt. I. Sutton

July	Mess	1.11.0		
	Batman	12.11	Cash	2.3.11
		2.3.11		2.3.11
Aug	Mess	1.11.0		
	Batman	12.11	Cash	2.3.11
		2.3.11		2.3.11
Sept	Mess	1.10.0		
	Batman	12.6	Cash	2.2.6
		2.2.6		2.2.6
Oct	Mess	1.11.0	Bk 13 Dec 3-2-1	
	Batman	12.11 Nov 9/40	Less Cash 19-0	
		2.3.11	Check Nov.	72.3.11
				2.3.11

Capt. I. Sutton (Conc)

Nov	Mess	1.10.0		
	Batman	12.8		
		2.2.6		
Dec	Mess	1.11.0		
	Batman	12.11		
	Charges	18.5		
		3.2.4		
Jan	Mess	1.11.0		
	Batman	12.11		
		2.3.11		
Feb	Mess	1.8.0		
	Batman	11.8		
		1.19.8		
Mar	Messing	1.11.0		
	Batman	12.11		
	Laundry	7.7		
	Extras	2.0.0		
	o/s 31 Mar	4.6.6		
April	Messing	1.10.0		
	Batman	12.6		
	Laundry	4.8½		
	Extras	7.0.0		
		9.7.2½		
		4.6.6		
		13.13.8½		
May	Balance	8.13.8½		
	Messing	1.11.0		
	Batman	12.11		
	Lau.& extras	4.10.0		
		15.7.7½		
June	Messing	1.10.0		
	Batmen	12.6		
	Extras	3.10.0		
		5.12.6		

Dec 13 By check 2.2.6 / 2.2.6

By check 3.2.4 / 3.2.4

Check 2.6.3
Cash 3.0.0
5.6.3

By check 2.3.11 / 2.3.11

By cash 1.19.8 / 1.19.8

7-5-11

May 12

May 26

Cheque 5.0.0
Balance 4.7.2½
9.7.2½

Balance March 4.6.6

June 4 By check June 18 15.7.7 / 15.7.7

July 8 By cheque July 12 5.12.6 / 5.12.6

Lieut. R. R. MacDonald

August	Mess	1.11.0		
	Batman	12.11		
		2.3.11		
Sept	Mess	1.10.0		
	Batman	12.6		
	Laundry	3.3½		
	Consummat.	1.8.0½		
		313.10		
Oct	Book 1904 o/s	.10		

Oct 4 Cash 2.3.11 / 2.3.11

Cash 313.10 / 3.13.10

Balance due .10

Capt. G. F. Leigh

August	Messing	.18.0		
	Batman	7.6		
	Laundry	6.2		
	Consummation	2.15.0½		
		4.6.8½		
Sept.	Mess	1.10.0		
	Batman	12.6		
	Laundry	1.1.1½		
	Consummat.	[illegible]		

By

Capt. I. Sutton (Conc)

Nov	Mess	1.10.0			
	Batman	12.6	Dec 13	By check	2.2.6
		2.2.6			2.2.6
Dec	Mess	1.11.0			
	Batman	12.11			
	Charges	18.5		By check	3.2.4
		3.2.4			3.2.4
				Check 2.6.3	
				Cash 3.0.0	
				5.6.3	
Jan	Mess	1.11.0			
	Batman	12.11		By check	2.3.11
		2.3.11			2.3.11
Feb	Mess	1.8.0			
	Batman	11.8		By cash	1.19.8
		1.19.8			1.19.8
Mar	Messing	1.11.0		7-5-11	
	Batman	12.11			
	Laundry	7.7			
	Extras	2.0.0			
	o/s 31 Mar	4.6.6			
April	Messing	1.10.0		May 26	
	Batman	12.6			
	Laundry	4.8½	May 12	Cheque	5.0.0
	Extras	7.0.0		Balance	4.7.2½
		9.7.2½			9.7.2½
		4.6.6			
		13.13.8½		Balance March	4.6.6
May	Balance	8.13.8½			
	Messing	1.11.0			
	Batman	12.11		June 18	
	Lau.& extras	4.10.0	June 4	By check	15.7.7
		15.7.7½			15.7.7
June	Messing	1.10.0			
	Batmen	12.6		July 12	
	Extras	3.10.0	July 8	By cheque	5.12.6
		5.12.6			5.12.6

Lieut. R. R. MacDonald

August	Mess	1.11.0			
	Batman	12.11		Cash	2.3.11
		2.3.11			2.3.11
Sept	Mess	1.10.0			
	Batman	12.6		Cash 6-13-10 Oct 10	
	Laundry	3.3½		Cash 3-0-0	
	Consummat.	1.8.0½	Oct 4	Cash 3-13-10	313.10
		313.10			3.13.10
Oct	Book 1904 o/s	.10		Balance due	.10

Capt. G. F. Leigh

August	Messing	.18.0			
	Batman	7.6			
	Laundry	6.2			
	Consummation	2.15.0½	Oct-14 Bk A/c	By check 4-6-9	4.6.8½
		4.6.8½			4.6.8½
Sept.	Mess	1.10.0			
	Batman	12.6			
	Laundry	1.1.1½			
	Consummat.	4.6.10½	Oct-14 Bk	By check	7.10.6
		7.10.6			7.10.6

Capt. G. F. Leigh (Conc)

Oct	Messing	1.11.0			
	Batman	12.11			
	Charges	2.14.9	Dec 7 12	By check	4.18.8
		4.18.8			4.18.8
Nov	Mess	1.10.0			
	Batman	12.6			
	Charges	6.10.2	Dec 7 12	By check	8.12.8
		8.12.8			8.12.8
Dec	Mess	1.11.0			
	Batman	12.11		10-17-0	
	Charges	8.8.0	Feb 8 12	By check	10.11.11
		10.11.11			10.11.11
Jan	Mess	1.11.0		Feb 7-10-0	
	Batman	12.11		1-9-11	
	Charges	6.16.0	Feb 8	By check	8.19.11
		8.19.11			8.19.11
Feb	Mess	1.8.0			
	Batman	.11.0		Mar 4	
	Charges	7.18.0	Mar 1	By check	9.17.0
		9.17.0			9.17.0
Mar	Messing	1.11.0		Apl 26	
	Batman	12.11	Apl 7	By check	10.0.0 4-0-0
	Extras 1 DH 4-0-0	11.6.0		Balance due	3.9.11
	31 Mar o/s	13.9.11			13.9.11
	I.O.U.	4.0.0			
		17.9.11			
April	Messing	1.10.0			
	Batmen	12.6		May 26	
	Laundry	4.7		By check	10.0.0
	Extras	10.0.0	May 10	Balance	5.17.0
	Balance March	3.9.11			15.17.0
		15.17.0			
May	Balance	5.17.0 (4.0.0)			
	Messing	1.11.0		June 18	
	Batman	12.11	June 18	By check	7.0.0
	Extras	6.0.0		Balance	7.0.11 (4.0.0
		14.0.11			14.0.11
June	Messing	1.10.0			
	Batmen	12.6			
	Extras	7.10.0		July 17	
	Balance due	7.0.11 (4.0.0)	July 9	By check	5.0.0
		15.13.5 (4.0.0)			
July	Balance	11.13.5			
	I.O.U.	4.0.0		By check	9.13.5
		15.13.5			

Capt. J. L. Collins

Sept	Mess	0.11.0		
	Batman	4.7	Cash	15.7
		.15.7		15.7
Oct	Mess	1.11.0		
	Batman	12.11	Cash	2.3.11
		2.3.11		2.3.11
Nov	Mess	1.10.0		
	Batman	12.6	Cash	2.2.6
		2.2.6		2.2.6

Capt. J. L. Collins (Conc)

Dec	Mess	1.11.0			
	Batman	12.11			
		2.3.11		Cash	2.3.11
					2.3.11
Jan	Mess	1.11.0			
	Batman	12.11			
		2.3.11		Cash	2.3.11
					2.3.11
Feb	Mess	1.8.0			
	Batman	11.8			
		1.19.8	Mar 3	Cash	1.19.8
					1.19.8
Mar	Messing	1.11.0			
	Batman	12.11		Difference Apl 24	
	o/s 31 Mar	2.3.11	Apr 9	Check	2.3.11
					2.3.11
April	Messing	1.10.0			
	Batman	12.6			
	Laundry	4.10			
		2.7.4			
May	Messing	1.11.0			
	Batman	12.11			
	Laundry	3.4			
	Extras	2.0.0		Dft. 19-6-41	
		6.14.7	June 4	Check	6.14.7
					6.14.7
June	Messing	1.10.0			
	Batmen	12.6			
		2.2.6	Jul 3	Dft. July 13 Check	2.2.6
					2.2.6

Major J. B. Morison

Dec	Mess	1.11.0			
	Batman	12.11			
		2.3.11	Jan 10	Dft Jul 4 Check	2.3.11
					2.3.11
Jan	Mess	1.11.0			
	Batman	12.11			
		2.3.11	Feb 7	Dft. Feb 13 Check	2.3.11
					2.3.11
Fev	Mess	1.8.0			
	Batman	11.8			
		1.19.8	Mar 1	Dft Mar 8 Check	1.19.8
					1.19.8
Mar	Messing	1.11.0			
	Batman	12.11			
		2.3.11	Apr 7	Dft Apl 24 Check	2.3.11
					2.3.11
Apr	Messing	1.10.0			
	Batman	12.6			
	Laundry	4.5½			
	Extras	10.3		Dft. May 29	
		2.17.2	May 7	Check	2.17.2
					2.17.2
May	Messing	1.11.0			
	Batman	12.11			
	Extras	1.0.0		Dft June 21	
		3.3.11	Jun 4	Check	3.3.11
					3.3.11
June	Messing	1.10.0			
	Batmen	12.6			
	Extras	2.0.0		Dft July 15	
		4.2.6	Jul 2	Check	4.2.6
					4.2.6

Lieut. R. P. Scott

Lieut. R. P. Scott (Conc)

Mar 41	Messing	1.3.0		June 18	
	Batman	9.7			
	Charge	10.0	18 Jun	By check	2.2.7
	c/s Mar 31	2.2.7		2 June	2.2.7
	A/c rendered				

Colonel McCusker

	c/s 31 March			26 Apl	
Mar 41	Charge	1.11.0	26 Apr	By check	1.11.0

Brig. R. M. Luton

Apr 41	Charge	9.6

Major C.V.Mulligan M.B.E., V.D.

Mar	Messing	1.8.0			
	Batman	11.8			
	Laundry	3.1		26 Apl	
	Extras	14.4.9	26 Apr	By check	16.7.6
	c/s 31 Mar	16.7.6			16.7.6
Apr	Messing	1.10.0			
	Batman	12.6			
	Laundry	4.1½		26 May	
	Extras	19.10.0	26 May	By check	21.16.8
		21.16.8			21.16.8
May	Messing	1.11.0			
	Batman	12.11		18 June	
	Extras	15.0.0	18 Jun	By check	17.3.5
				Balance	.6
		17.3.11			17.3.11
June	Messing	1.10.0			
	Batman	12.6			
	Extras	20.10.0	9 Jul	By check	22.12.6
		22.12.6			22.12.6
July	Balance	.6 c/s			

Lieut. R. J. Sealy

April	Messing	1.3.0			
	Batman	9.7			
	Extras	7.0.0			
		8.12.7			
May	Messing	1.11.0			
	Batman	12.11		18 June	
	Extras	1.0.0	18 Jun	By check	11.16.6
		11.16.6			11.16.6
June	Messing	1.10.0			
	Batmen	12.6			
	Extras	4.10.0			
		6.12.6			

Date	Particulars	Miscellaneous Dr.	Miscellaneous Cr	Bank Deposits	Checks	Cash Rec.	Cash Paid o
1941	Balance from March		95.15.8	.1.5		95.14.3	
	Revenue fro Public Phone		7.17.0			7.17.0	
Apr 10	Deposit			96.0.0			96.0.0
May 26	Received General Reinb.L.Kay a/c	5.13.6		5.13.6			
May 2	" sale of by-products	14.111			14.1.1		
" 10	Postmaster Pub Phone	7.16.5			7.16.5		
" 30	L Kaye Barr.Maintenance	17.12.10)			17.12.10		
" 30	J.E.Masking for road	.10.0)			.10.0		
" 30	T.J.Crossman sawing	.17.2)			.17.2		
" 30	Reed & Co car repairs	2.11.5)	To be reimbursed		2.11.5		
" 30	Shell-Mex floor oil	3.11.3)	by Govt.		3.11.3		
" 30	W.Dutton & son tools	1.12.6)			1.12.6		
" 30	S.H.Partridge -car repairs	.4.2)			.4.2		
"	Longhead Bros sand	13.3)			13.3		
" 30	G.Bird repairs to tarpaulin	2.17.0)			2.17.0		
Jun 28	Banking charges	1.5.0			1.5.0		
" 19	Deposit		~~1x1x2~~	18.0.2			
" 19	received reimburs.L.Kay a/c		17.12.10				
" 19	J.L.Thomas by-products sale		7.4				
	Totals	53.14.1	127.6.4	119.15.1	53.12.1	103.11.3.	£9
	Balances 30 Jun 41				66.3.0		7.11

Audited and found correct (Sgd) J. B. Morison, Major, Rene Lavallee Capt, J.L. Collins, Capt.

All expenditures from this account are to be made by cheque. Positively No cash payments.

sgd. G.E.W.Barton, Major
Reg. Funds Bd.,
C.M.H.Q.

REGIMENTAL FUNDS

1941	Receipts			Disbursements	
June 30	Blce Fwd (Bank)	66.3.0	Sep 3	Ck.Imprest a/c	.4.6
Dep sep 3	" " (cash)	7.11.3	3	Loan to imprest a/c	20.0.0
" 3	Phone tolls (cash)	2.3.7		P.O.Tel Coy	9.14.10
"	Phone tolls cash) Imprest a/c) Phon tools rec,	3.0.0 3.10.0		Cheque book	5.0
		82.7.10	Deb.	52.3.6	30.7.4

REGIMENTAL FUNDS

Receipts

Date 1941		From whom received or nature of receipt	Telephone	Swill	Misc
June	30	Bank Balance			7.11.3
Sep	4	Cash on hand June 30/41	2.3.7		
	4	Pay phone			3.0.0
	4	Imprest a/c			3.10.0
	4	Imprest a/c			
	6	Pay phone	3.16.0		
	7	Capt. LeBrun		1.0.0	
	12	Pay phone	1.10.0		
				3.4	
Oct	10	J.L.Thomas By-Products	4.10.0		
	15	Pay phone			
				1.0.0	
	24	Capt. LeBrun			
	31	Pay phone	1.12.6		
				1.0.0	
Nov	25	Capt. LeBrun	3.10.0		
	26	Pay phone			
				1.0.0	
Dec	3	Capt LeBrun	4.0.0		
	27	Pay phone	87.16.7		
	29	Imprest acct			
				1.0.0	
Jan	6	Capt. LeBrun			
	26	Pay phone	5.10.0		

Audited and found correct J.B.Morison, Major, Rene Lavalee Capt, J.C.Collins Capt.

				1.0.0	
Feb.	6	Capt. LeBrun			
	13	Pay phone	4.0.0		
	25	Pay phone	1.10.0		
	27	Imprest account			20.0.0
Mar	25	Pay phone	8.0.0		
	26	Cap LeBrun		1.0.0	

Audited and found correct J.B.Morison Major, Rene Lavalle Capt and J. C. Collins Capt.

Disbursements

Date1941		Cheque No. To whom paid	Tel	Swill	Mis B
					66.3.0
Aug	18	Cheque book		5.0	65.18.0
					73.9.3
					75.12.10
					78.12.10
					82.2.10
Sep	4	Imprest a/c W.C.Martin		4.8	81.18.4
	4	Loan to imprest a/c		20.0.0	61.18.4
	4	Adjusting entry	9.14.0		52.3.6
					55.19.6
					56.19.6
					58.9.6
					58.12.10
					63.2.10
Oct	18	Paymaster General	17.7.0		45.5.10
					46.5.10
					47.18.4
					48.18.4
					52.8.4
					53.8.4
					57.8.4
Dec	29	Imprest a/c reimbur.	8.13.6		136.11.5
					137.11.5
Jan	10	Loan to Imprest a/c		20.0.0	117.11.5
				1.19.6	123.1.5
	27	Immediate trans coy			121.1.11
					122.1.11
Feb	6	Postmaster General	12.13.4		109.8.7
					113.8.7
	17	Loan to Imprest a/c		20.0.0	93.8.7
					94.18.7
					114.18.7
					122.18.7
					123.18.7

REGIMENTAL FUNDS (CON)

Receipts					Disbursements					
Date 1942	From whom received & nature of receipt	Telephone	Swill	Misc	Date 1942	Cheq No.	To whom paid	Tele.	Mis.	Bank balance
Balance forward										
April 17	Pay phone									
24	Cpl. Clarke	5.0.0								
			1.0.0							133.18.7
May 6	Pay phone									
6	Cpl Clarke	4.16.0								
12	J.L.Thomas Bones		1.0.0							
16	Pay phone	3.1.6		3.3.4						
June 12	Pay phone									
12	Cpl Clarke	6.10.0								
			1.0.0							
26	Pay phone	3.0.0			June 23		Postmaster General	1.5.0		
										130.4.8

Audited and found correct 15/7/42 signed J. B. Morison, Major, Rene Lavallee, Capt., J. C. Collins, Capt.

Jascone & Seed, Ltd., London

June 40	Report	26.17	July 26	By check	26.17

Concert Party - charge to canteen fund (men)

June 30	Goods Officers Mess	2.10.0		Cheque deposited 10 Oct		£40.7.1
Jul 31	Goods " "	4.14.5		Sport equipment		
				June	2.10.0	14.0.0
				Jul	4.14.5	
				Aug	4.17.3	
				Sep	8.9.6½	
				Oct	3.3.2	
					1.5.5	38.19.10
				Amount overcharge reimbursed		1.7.3
				By cheque		40.7.1
Aug 31	Goods " "					20.10.10
Sep 30	Goods	4.17.3½				
Oct 31	Goods	8.9.1½				
Nov 30	Goods	4.6.11½		By cheque 18 Dec	9.10.5	4.6.11½
Dec 31	Goods	5.3.6		By cheque 18 Dec		5.3.6
Jan. 31	Goods	2.15.5½		By cheque 6 Feb	2.15.5	2.15.5½
		3.18.1½		By cheque 10 Feb	3.18.1	3.18.1½
		36.14.10½				36.14.10½

Concert Party (Conc)

On Forward 31 Tarsh

Feb. 28	Goods	3.12.5	Check 26 Apr	3.12.5
Mar 31	Goods	3.9.0½	Check 26 Apr	3.9.0
Apr 30	Goods	5.15.8½	Check 26 May	5.15.8
May	Goods	3.1.7	Check 18 Jun	3.1.7

Batman Fee

1940			
June	5.0.0	Cash	5.0.0
July	5.15.0	"	5.15.0
Aug	6.3.9		6.3.9
Sep	6.9.7		6.9.7
Oct	6.9.2		6.9.2
Nov	6.5.0		6.5.0
Dec	6.9.2		6.9.2
Jan	6.9.2		6.9.2
	49.0.10		49.0.10
Feb	5.5.0		5.5.0
Mar	6.19.2		6.19.2
Apr	6.8.4		6.8.4
May	6.9.4		5.9.4

Officers Mess Accounts (Guest)

June	1.19.10½		
July	2.4.2		
August	2.13.5		
Sept	1.7.4½		
Oct	1.5.3		
Nov	1.7.10		
Dec	1.3.2		
Jan Gift Sergeants Mess	1.12.0		
Jan	18.6		
	14.11.7½		
July Wine (Kitchen)	.7.0		
Aug	18.6		
Sept	9.6		
Oct	2.0		
	1.17.0	Included in food & Sundries P129	
	16.8.7½		
Nov 11 2 wreaths	1.0.0	Nov 11 Cash	1.0.0
Feb	2.16.9		
Mar.	1.13.6		
April	2.5.7		
" Guest Dinnfer	2.11.0		
May	1.0.3		
" 20 Guest dinner	3.1.6		
	4.1.9		

R. Grant & Son

June Mdes	57.1.8	August 1	By check	57,1.8
July Mdes	51.12.3	Sep 1	By check	51.12.3
August Mdes	87.2.9	Sep 30	By check	87.2.9
Sept Mdes	87.7.7	Sep 30	Balance due	87,7.7
Oct 1st Balance due	87,7.7	Nov 1	By check	87.7.7
Oct 31 Mdes	100.15.2	Nov 6	By check	100.15.2
Nov 30 Mdes	95.15.5	Jan 30	By check	95.15.5
Dec 31 Mdes	50.0.0			
Jan 31 Mdes	47.18.3	Jan 31 Balance due		97.18.3
Feb 1 Balance due	97.18.3	Feb 28	By check	97.18.3
Feb 28 Mdes	78.6.8	Feb 28	Balance	78.6.8
Mar Balance	78.6.8			
Mar 31 Mdes	100.1.10	Mar 31	Balance	178.8.6
April balance	178.8.6		By check	78.8.6
Apr 30 Mdes	96.13.3	Apr 30	Balance	196.15.1
May 1 Balance	196.15.1	May 28	By check	100.1.10
May 31	68	Jun 17	By check	96.13.3

Skan, Taylor & Col Ltd.

Sep.	Mdse	2.17.6	Oct 16	Cash	2.17.6
Oct	Mdse	6.3.6	Nov 6	Cash	6.3.6
Nov	"	6.10.3½			
Dec 31	"	3.5.9½	Jan 1	Cash	9.16.1
Jan 31	"	7.13.8	Jan 31	Balance	7.13.8
Feb 1	Balance due	7.13.8	Feb 5	By cash	7.13.8
28	Mdse	4.18.11		Balance	4.18.11
Mar 1	Balance	4.18.11	Mar 5	By cash	4.18.11
31	Mdse	5.2.3	31	Balance	5.2.3
Apr 1	Balance	5.2.3	Apr 17	By cash	5.2.3
Apr 30	Mdse	10.15.2	" 30	Balance	10.15.2
May 1	Balance	10.15.2	May 8	By cash	7.4.6
31	Mdse	4.12.8	May 29	By cash	3.10.8
			" 27	By check	4.12.8

DAILY PAPERS (STUART G. GOAD)

June	2 wks 3 days 4 dailies	5.0		
	1 wk 3 days 3 dailies	2.3		
	To June 15th	7.3	Cash	7.3
July	3 wks, 7 dailies	10.6		
	To July 6	10.6	Cash	10.6
July	3 wks, 7 dailies	10.6		
	2 wks 2 days, 2 extra dail.	1.4		
	2 weeks Everbodys	.4		
	To July 27	12.2	Cash	12.2
Aug	1 wk.3 days 9 dailies	6.9		
	1 wks. 11 dailies	5.6		
	2 wks 3 days 12 dailies	16.0		
	To Aug 31	1.7.3	Cash	1.7.3
Sept	Papers to Sep 28th	1.5.6	Cash	1.5.6
Oct	3 weeks 3 days 12 dailies			
	To 23rd	1.10.0	Cash	1.10.0
Nov	4 wks 3 days Nov 30th	1.17.6		
	3 wks everybodys	1.6		
		1.19.0	Cash	1.19.0
Dec	3 wks 11 dailies	1.2.6		
	1 wk 8 dailies	3.0		
		1.5.6	Cash	1.5.6
		8.8.2		8.8.2
Jan	3 wks 2 Mails 1 Ex, 1			
	mirrow 4 Chron.1 Times	1.5.0		
	11 days from Jan 22	.11		
	5 Everybodys	.10		
	Calendar	1.6		
	To Feb 1	1.8.3		
Mar 1	to Mar 1	1.4.8		
Mar	Mar 29	1.8.8	Balance	4.1.7
		4.1.7		4.1.7
Apr 3			Apr 19 cash	4.1.7

Sunday Papers

June	Sunday papers 4 wks	5.2	Cash	5.2	July	Sunday papers 4 wks	6.0		6.0
Aug.	" "	7.0	Cash	7.0	Sept.	Sunday papers 4 wks	6.8	cash	6.8
Oct	"	6.2	"	6.2	Nov	" "	9.2	"	9.2
Dec	" "	8.4	"	8.4	Jan	" "	8.4	"	8.4
Feb	" "	7.8	"	7.8	Mar	" "	9.6	"	9.6

FOOD & SUNDRIES

June	Food and sundries	8.9.4
July		11.17.11
Aug		15.14.9
Sept		13.3.9
Oct		10.4.2
Nov		7.11.5
Dec		14.7.6
Jan		9.5.9½
		88.19.5½
	Canteen Books	5.0
		89.19.7½
	Wreath	1.0.0
		91.19.7½
		10;7.5
Feb		13.17.3
March		115.19.3½

C O P Y.

LLOYDS BANK LIMITED.

BRIXHAM.

8 JUL 1941

Dear Sir,

I beg to advise you that the amount standing to the credit of R.C.A.M.C. No.1. Convalescent Depot Regimental Funds a/c in our books on 31st. March 41 was One Shilling & five pence. (1/5).
s d

Yours faithfully,

(Signed) M. Desmond

Manager.

EX. I.

ABSTRACT OF RECEIPTS AND DISBURSEMENTS OF

THE No.1. Convalescent Depot. RCAMC.
(Formation, Unit or Detachment.)

Period ended ~~xxxxxxxxx~~ QUARTER ENDED 31st. March 194 1

Regimental Account.
(Name of Fund or Account.)

DETAILED STATEMENTS OF ACCOUNTS RECEIVABLE & ACCOUNTS PAYABLE FOR THE MONTH OR QUARTER ENDED

31st. March 194 1

(If space provided insufficient attach supplementary schedule)

(1) Accounts Receivable	Amount £	s.	d.
Amounts to be claimed from the Government			
P. Walsh (Hand Saw)		8	6
J.C. Bernard (Marble Slab)		7	0
L. Kaye (Barrack repair & Material)	17	16	0
Chs. Martin (Faucet)		6	9
The Hobart Mfg. Co.(Repairs elect.	1	4	7
Bells Garage (Car Repairs & Service	2	8	10
Pope Electric (Wiring & Switches	9	7	7
E.S. Crowte (Rubber Stamp)	2	3	6
Reed & Co. Ltd. (Car Repairs & Service	6	16	11
Timothy Whites & Taylors Elastic Bandage		3	6
Countess Weir Service Station Car Service.			6
Horsham Printing works. Typewriter repairs		8	6
Reed & Co. Ltd. Repairs	1	0	0
Great Western Rly. Freight		1	2
E.S. Crowte (Rubber Stamp)		2	8
A.J.Pope (Electric Repairs)		7	8
A.H.Bond. " "		2	0
F. Pearce & Son (Paint)			9
T.D.Hockings & Son Ltd. Paint		6	3
H. Lawry Ltd. (Keys)		2	3
Shell Mex & B.&.P.Ltd. ~~Floor Oil~~		10	10
	44	5	9

These accounts have been paid out of Regimental Funds to the parties shown and in our opinion are a proper charge to Public Funds.

(2) Accounts Payable	Amount £	s.	d.
Sale of Fat & By Products Receiver General	15	1	0

Date 194	Receipts (Show source of receipts)	Amount £	s.	d.
	Credit Balance from Prev. A/c.	Nil.		
	NAAFI (percentage of Profits)	49	17	1
	" "	35	0	3
	" "	47	0	11
	" "	62	17	3
	T.J.Tester Sales of By products	1	0	0
	National by Products	14	1	0
	Dist.of D.C.T. FUNDS Receiver General	3	1	7
	Imprest Fund Reimbursement Receiver General	3	0	0
	Public Phone (Revenue)	18	7	1
		234	5	2

Date 194	Disbursements (Show name of firm and purpose)	Amount £	s.	d.
	NAAFI (Misc) Profits Debit Bal. (if any) from Prev. A/c.	3	7	2
	15th. Gen. Hospital	47	5	6
	4th. C.C.S.	7	10	1
	5th.Gen. Hospital	5	5	0
	D. Noades (aerial)		2	9
	G.Waller(Photographs	6	3	10
	Fox Photos "	2	13	0
	London Solvents(Soap	4	16	0
	G.Normandin (Misc)		3	7
	W.Otton(Soap & Caustic	1	19	2
	Postmaster General Public Phone	14	17	8
	Amounts to be reclaimed from the Govt.	44	5	9
	(as per list (1) Accts Rec.)			
	Balance (per Cash Book)	95	15	6
		234	5	2

J. L. Stewart Brig
President

BANK RECONCILIATION STATEMENT (Attach Bank certificate)

Outstanding Cheques.			Balance in Bank		1 5
Balance per Cash Book.	1	5			
	1	5			1 5

A.M.F.

(Note :— Use form R.F.B.-1A in the case of Officers' and Sergeants' Messes only in substitution for this page.)

R.F.B.-1
40/P & S/261

FINANCIAL STATEMENT FOR THE MONTH ENDED / QUARTER ENDED ..... 194....

STATEMENT OF ASSETS AND LIABILITIES

Assets	Amount £	s.	d.	Liabilities	Amount £	s.	d.
Cash (per Cash Book)	95	15	8	(2) Accounts Payable	15	1	0
In Bank 1-5							
On hand 95-14-3							
Inventory Stock (at cost)							
(1) Accounts Receivable: from Govt. Subject to claim	44	5	9				
Arrears being accepted.							
Current							
Regimental or Mess Property (See Arts. 186 and 188)							
				(3) Surplus	125	0	5
	140	1	5		140	1	5

(1) Show details on reverse side in space provided. (2) Show details on reverse side in space provided.

(3) Surplus should agree with "Balance available for Distribution" next page.

The above Statement has been audited and is, in the opinion of the undersigned, correct and discloses a true state of finances as at 31st. March 1941
(Date of Balance Sheet)

J.B, Morison Major. Rank (Pres.)

H. Lavallee, Capt. Rank } Members

J.L. Collins, Capt. Rank }

AUDIT BOARD

TRADING AND PROFIT AND LOSS STATEMENT

Sales for month/or quarter ..... £ .....

Inventory Stock at end of last month/or quarter ..... £ .....

Add: Purchases for month/or quarter ..... £ .....

£ .....

Less: Inventory at end of current month/or quarter .....

Cost of goods sold ..... £ .....

Gross Profits .....

Canteen Expenses: Wages, Canteen Steward ..... £ .....

Canteen Assistants ..... @ ..... each .....

Other operating Expenses (in detail):—

Total Expenses .....

Net Profits ..... £ .....

Receipts from other sources (give details):—

£ .....

Total net Profits for month/or quarter .....

Surplus from previous months/or quarters ..... £ .....

Total surplus available .....

DISPOSITION OF PROFITS:—

Disbursements Men's Account (give details) ..... £ .....

Capital Expenditure, Men's Account (give details) .....

Canteen Equipment and Fixtures (give details) .....

(3) Balance available for distribution ..... £ .....

We hereby certify that we have ascertained that the total of the daily takings for the month/or quarter ended ..... 194..... as shown in the Steward's Cash Book corresponds with the amount of stock sold for that month or quarter as it appears in the Canteen Stock and Sales Record (Stock Sheet) and that the above statement is correct. The assets of the Fund or Canteen are insured in ..... for £ .....
(State name of Company)

Accountant

President
Regimental Institute

Approved.

Anatole P. Plante, *Lt.-Colonel.*

Commanding No.1.Convalescent Depot. RCAMC.

Exhibit "J"

E x E J

(J.C.Stewart) Brig.
President

ON HIS MAJESTY'S SERVICE

N 32507
~~31084~~

Messing a/c
D. No. 562117

10/10 1940

LLOYDS BANK LIMITED

~~Farnham-Surrey~~
BRIXHAM

PAY TO OFFICERS MESS OR ORDER

Thirty-Five Pounds Three Shillings Six Pences ½

This is exhibit "N" filed in the case of Inquiry re Lt. Convalescent Depot. A.C. Ward. Brigadier President.

£35.3.6½

(sgd) Anatole P. Plante
Lieut.Col.A.P.Plante O.C.
No. 1 Convalescent Depot RCAMC

(sgd) Louis E. LeBrun
Louis E.LeBrun,Capt.Mess.Off.

Certified to be a true copy. Original exhibit on G.C.M.proceedings of Capt. L.E.LeBrun.

(W.P.Taylor) Major
C.M.H.Q.

A.H.F.

Exhibit "~~A~~ K-1" Ex ~~A~~ K

(J. C. Stewart) Brig.
President

ON HIS MAJESTY'S SERVICE

Messing a/c
No.318/1151

13 Dec 1940

LLOYDS BANK LIMITED
BRIXHAM

PAY OFFICERS' MESS OR ORDER

Fifty-two pounds.....

This is exhibit No 2 filed in Court of Inquiry No 1 Convalescent Depot.
A. C. Nash
Brigadier
President.

£52.0.0

Anatole P. Plante
Lieut.-Colonel A.P.Plante O.c.
No. 1 Convalescent Depot

Louis E. LeBrun
Capt. L.E.LeBrun, Mess. Sect.

Ex "L" Sheet 1

REGIMENTAL FUNDS NO.1. CONVALESCENT DEPOT RCAMC.

Date	Source of Receipt.	Amount.	Total Deposit.
May 9/40	NAAFI	37. 0. 7.	
	NAAFI	11. 0. 4.	
	NAAFI	1.16. 2	£ 49. 17. 1.
May 15/40	By Products		1. 0. 0.
22/40	NAAFI		35. 0. 3
Jul 25/40	NAAFI	47. 0. 11.	
	Petty Cash	3. 0. 0.	50. 0. 11.
Oct 17/40	Cash Phone calls		15. 3. 0
Oct.26/41	Rebate NAAFI.		62. 17. 3.
Dec.18/41	Div.Com.Trust Fd.	3. 1. 7.	
	By Products	14. 1. 0	17. 2. 7.
Apl.10/41	Cash		96. 0. 0.
May 26/41	Reim: Imprest a/c		5. 13. 6.
Jun 19/41	J.L.Thomas By-Product	7. 4.	
	Kayes (Rec.Gen) Claim	17.12. 10.	18. 0. 2.
			£350. 14. 9.

"L" J. L. Stewart Brig President

REGIMENTAL FUNDS A/C.

RECONCILIATION.

Aug.18/41	Surplus as per Statement	66. 3. 0.
	Claims Submitted to C.T.O.	67.16. 7
		133.19. 7.
	Less A/Cs Payable	1. 7. 3.
	Surplus before all adjusting entries are made.	132.12. 4.

£350. 14. 9.

Aug. 18/41. Balance fwd. £ 66. 3. 0.

Ex H Shub 2.

REGIMENTAL FUNDS

Appendix A.

Date.	Number	Favour of	Amount		Bank Drawn. on.
May 9/40	582079	15 Gen. Hospital	£10.0.0		Lloyds Bank Farnham
	80	Cancelled			do
	81	4 C.C.S.	4.0.0		Farnham.
	82	5 Gen. Hosp.	5.0.0.		Brixham
	83	NAAFI	14.8		Farnham
May 22/40	84	4 C.C.S.	3.10.1.		Brixham
	85	5 Gen. Hosp	5. 5.0		Brixham
	86	15 Gen. Hosp.	8.15.1		Farnham
	7	Cancelled			
27	8	No Stubs			
	9	No Stubs			
	90	Officers Mess	8.10.9	Reimbursed	Brixham
June 8/40	1	A.G.Pope (Aerial)	2.9	Apl.10	"
" 8/40	5	NAAFI	2.12.6		"
" 18/40	6	Sgt.Bemard(Narble Slab)	7.0		"
July 12/40	7	R.J.Walsh(Handsaw)	8.6		"
" 22/40	583101	Hobart Mfg.(Motor Brs)	11.3		"
" 22/40	2	15 Gen. Hosp	23.10.5		"
" 29/40	3	P.O. Telephones	3.14.0		"
" 30/40	5	Kaye.(Bks.Reprs)	17.16.0		"
" 30/40	6	Weller (Studio)	6. 3.10		"
Aug. 1/40	7	Fox Photos	2.13.0		"
" 10/40	10	London Solvent (Soap)	2. 8.0		"
" 13/40	11	C. Martin (Tap)	6.9		"
" 19/40	12	Normandin (Soda)	3.7		"
" 19/40	13	Cotter & Son(Oxydol)	12.0		"
" 30/40	14	Corn P/M	2.0		"
Oct.10/40	17	Officers Mess	35. 3.6	Reimbursed	"
" 17/40	18	P.M.G. Phones	11. 3.8	Apl. 10	"
	19	No details on stub			
Nov.12/40	318/1144	W.Otton & Son Chipso	1. 7.2		"
" 12/40	5	Hobart Mfg.Co.(Brushes	13.4		"
" 12/40	6	Bells Garage (Reps)	2.8.10		"
" 12/40	7	London Solvents.Chipso	2.8.0		"
" 12/40	8	A.J.Pope. Elect)	9.7.7.		"
Dec. 6/40	9	Croute.(Rubber Stmp	2.3.6		"
" 15/40	318/1151	Offers Mess	52.0.0	Reimbursed Apr.10	
Mar.27/41	1156	Reed & Co. Auto.Reps	6.16.11		
May 2/41	1159	Rec. Gen. (Swill)	14.1.1		"
May 10/41	1161	P.M.G.	7.16.5		"
May 30/41	1165	L. Kaye	17.1210	Recredited June 19/41	"
	6	Cancelled			
May 30/41	7	Hosking (Plowfield)	10.0		"
" 30/41	8	Crossman (Timber)	17.2		"
" 30/41	9	Reed & Co(Reps.)	2.11.5		"
" 30/41	1170	Shell Mex (Lub.Oil)	3.11.3		"
" 30/41	1	Otton & Sons (Kitch)	1.12.6		"
" 30/41	2	Partridge & Co. (Car)	4.2		"
" 30/41	3	Longmeed (Sand)	13.3		"
" 30/41	4	Bird (Lorry Reps)	2.17.0		"
June 30/41		Bank Charges	1.5.0.		£66.3.0
Aug.18/41		Balance	66.3.0		
			350.14.9		

COPY

Ex M.

Brixham, Devon.
Dolphin Camp.
1st. December 1940.

In accounts with Officers' Mess.

To Lieut-Col. A.P.Plante, O.C.

		£ s. d.
To Messing	1st. November to 30 November 1940	
	30 days @ 1/ per diem	1.10. 0
Batman	30 days @ 5d per diem	12. 6
Laundry		6.11
Extras		17.18. 0
		£ 20. 7. 5
	(Written in Ink) Cash	10. 0. 0
	do Balance Due	10. 7. 5

"M"
(Signed)
J.C. Stewart, Brig.
President.

(Signed) Louis E. LeBrun
Mess Secretary.

Ex N.

Brixham, Devon
Dolphin Camp.
2-1-41

In account with Officers' Mess

To:- Lieut.Col. A.P.Plante, O.C.

		£. s. d.
Balance November		10. 7. 5.
To Messing	1st. December to 31st. December 1940	
	31 days @ 1/ per diem	1.11. 0
Batman	31 days @ 5d per diem	12.11
Laundry		7. 0
Extras		24.14. 7½
		37.12. 11½
	(Written in ink) Received cash	30. 0. 0
	do Balance Due	7.12. 11½

"N"
(Signed)
J.C. Stewart. Brig.
President.

(Signed) Louis E. LeBrun Capt.
Mess Secretary.

Ex. "O"

Brixham, Devon.
Dolphin Camp.
1.2-41

In account with Officers' Mess

To:- Lieut. Col. A.P. Plante, O.C.

		£. s. d.
Balance December		7. 12. 11½
To Messing	1st. January to 31st. January 1941	
	31 days @ 1/ per diem	1. 11. 0
Batman	31 days @ 5d per diem	12. 11
Laundry		7. 3½
Extras		21. 12. 4½
		31. 16 6½
	(Written in ink) Cash	30. 0.0.
	do Balance due	£ 1. 16.6½

"O"
(Signed) J.C. Stewart, Brig.
President.

(Signed) Louis E. LeBrun. Capt.
Mess Secretary.

Certified to be a true copy of the original which is attached to G.C.M. proceedings of Capt, LeBrun. BANK DEPOSIT BOOK

"P" OFFICERS MESS ACCOUNT "E" Plante

E + P

(J. C. Stewart) Brig.
President

(J. C. Stewart) Brig.
President

Current Account

Lloyds Bank, Limited

15 May 40

Credit No. 1 Convalescent Depot Officers Mess

Notes (one pounds & 10 shilling)	.50.0
Total cash	2.10.0
Cheques, bills, P.O's etc.	5.
	5.
	5.
(Stamp) Lloyds Bank Ltd., Bordon 15 May 40	3.
	20.10.0

Credit No. 1 Convalescent Depot Officers Mess 25 May 40

Notes £1	40.
Notes 10/	.50
Silver	.26.6
Total cash	43.16.6
Bills, cheques, P.O's etc.	10.
	9.13
(Stamp) Lloyds Bank Ltd., Bordon 25 May 40	63.9.6

Credit No. 1 Convalescent Depot Officers Mess 12 Jun 40

Notes £1	1.0.0
Total cash	1.0.0
Cheques, bills, P.O's etc Mathieu Bordon a/c	5.6.11
LeBrun	10.8.0
(Stamp) Lloyds Bank, Brixham 12 Jun 40	1.18.3
	18.13.2

Credit No. 1 Convalescent Depot Officers Mess 13 Jun 40

Notes 10/	.10.0
Total cash	.10.0
Cheques Bills, P.O's etc	5.0.0
Regimental Funds	8.10.9
	14.0.9
(Stamp) Lloyds Bank, Brixham 13 Jun 40	

Credit No. 1 Cnvalescent Depot Officers Mess 15 Jul 40

Silver	.14.0
Notes 10/	16.10.0
Total cash	17.4.3
Cheques Bills P.O's etc	5.0.0
	5.0.0
Darey	5.10.0
(Stamp) Lloyds Bank, Brixham LeBrun	12.12.6
15 Jul 40	1.2.4
	46.9.1

Credit No. 1 Convalescent Dep t Officers Mess 7 Aug 40

Notes £1 and 10/		12.10.0
Total cash		12.10.0
Cheques, Bills, P.O's etc	Darey	16.0.0
	Capt.LeBrun	3.0
(Stamp) Lloyds Bank, Brixham 7 Aug 40		28.13.0

Credit No. 1 Convalescent Depot Officers Mess 10 Aug 40

Notes £1 and 10/		3.0.0
Silver		1.6
Copper		.8
Total cash		3.2.2
Cheques, Bills, P.O's etc		4.0.0
	Mathieu	4.6.5
(Stamp) Lloyds Bank, Brixham 10 Aug 40	Walsh	4.17.10
		15.5.5

Credit No. 1 Convalescent Depot OfficersMess 10 Oct 40

Silver		1.9.6
Copper		.16.5
Notes £1 and 10/		9.0.0
Total cash		11.5.11
Cheques, Bills, P10's, etc.	Mens Canteen	40.7.1
	Darey	10.010
	McDonald	6.13.10
	Leigh	7.10.6
	Walsh	2.3.11
	Mathieu	6.0.0
	Leigh	4.6.9
	Darey	20.0.0
	LeBrun	2.3.11
		5.0.0
(Stamp) Lloyds Bank, Brixham 10 Oct 40	Walsh	5.4.1½
	LeBrun	2.15.5
	Regtl Funds	35.3.6½
Sgd. L. E. LeBrun, Messing Off.		158.15.0

Credit No. 1 Convalescent Depot Officers Mess 13 Dec 40

Silver		3.2.0
Copper		5.1.9
Notes £1 and 10/		9.10.0
Total cash		17.13.9
Cheques, Bills, P.O's etc	Sutton	2.2.6
	Darey	21.0.0
	Leigh	8.12.8
	Darey	20.0.0
	Leigh	4.18.8
	Mathieu	7.1.8
	Sutton	3.2.11
(Stamp) Lloyds Bank, Brixham 13 Dec 1940	Regtl Funds	52.0.0
	LeBrun	2.7.1
		138.19.3

Credit No. 1 Convalescent Depot Officers Mess 18 Dec 40

Cheques, Bills, P.O's etc.	Canteen Oct	4.6.11½
(Stamp) Lloyds Bank Brixham 17 Dec 40	Nov	5.3.6 9.10.5
		9.10.5

Credit No. 1 Convalescent Depot Officers Mess			**6 Feb 41**
Notes £1 and 10/			31.0.0
Total cash			31.0.0
Cheques, Bills, P.O's etc		Canteen	2.15.5
		LeBrun (?)	6.0.0
			.15.7
		LeBrun	2.16.3
		Lavallee	15.0.0
		Morison	2.3.11
(Stamp) Lloyds Bank, Brixham		Leigh	10.12.0
6 Feb 41		Darey	15.0.0
			86.3.2

Credit No. 1 Convalescent Depot Officers Mess			8 Fev 41
Cheques, Bills, P.O's etc		Darey	21.0.0
		Morison	2.3.11
(Stamp) Lloyds Bank, Brixham		Leigh	7.10.0
8 Feb 41		Lavallee	12.0.0
			42.13.11

Credit No. 1 Convalescent Depot Officers Mess			13 Fev 41
Silver			2.0.0
Copper			4.0.0
Total cash			6.0.0
Cheques, Bills, P.O's etc.		Sutton	2.6.3
		Tessier	8.17.8
			1.1.6
(Stamp) Lloyds Bank, Brixham		Canteen	3.18.1
13 Feb 41		LeBrun	2.16.1
			24.19.7

Credit No. 1 Convalescent Depot Officers Mess			3 Mar 41
Silver			.15.6
Copper			1.4.0
Notes £1 and 10/			26.0.0
Total cash			27.19.6
Cheques, Bills, P.O's etc.		Mathieu	5.5.2
		Leigh	9.17.0
		Morison	1.19.8
		Lavallee	10.0.0
(Stamp) Lloyds Bank, Brixham			1.18.6
4 Mar 41		Darey	22.0.0
			78.19.10

Credit No. 1 Convalescent Depot Officers Mess			26 April 41
Notes £1 and 10/			3.0.0
Total cash			3.0.0
Cheques, Bills, P.O's etc		Mathieu	10.0.0
		Lavallee	12.0.0
		Mulligan	16.7.6
		P.O.Money Order	.11.2
		LeBrun	3.4.0
		Morison	2.3.11
		Collins	2.3.11
		Leigh	10.0.0
		Lavallee (?)	10.0.0
		Darey	16.6.1
		Sgts Mess	.11.0
		Canteen	3.12.6
		Canteen	3.9.0
(Stamp) Lloyds Bank, Brixham		MacCusker	1.11.0
26 Apr 41			95.0.0

Credit No. 1 Convalescent Depot Officers Mess 26 May 41

Cheques, Bills, P.O's etc	Major Mulligan	21.16.8	
	Capt.Lavallee	16.0.0	
	Major Morison	2.17.2	
	Capt. Leigh	10.0.0	
	Capt.Sutton	5.0.0	
(Stamp) Lloyds Bank, Brixham 26 May 41	Canteen	5.15.8	
		61.9.6	

Credit No. 1 Convalescent Depot Officers Mess 30 May 41

Cheques, Bills, P.O's etc	Lavallee	15.0.0	
(Stamp) Lloyds Bank, Brixham 30 May 41		15.0.0	

Credit No. 1 Convalescent Depot Officers Mess 17 June 41

Cheques, Bills, P.O's etc	Darey	12.3.3	
	Scott	2.2.7	
	Sutton	15.7.7	
	Morison	3.3.11	
	Collins	6.14.7	
(Stamp) Lloyds Bank, Brixham 17 Jun 41	Mulligan	17.3.5	
		56.15.4	Cancelled

Credit No. 1 Convalescent Depot Officers Mess 18 June 41

Notes £1 and 10/		19.10.0	
Total cash		19.10.0	
Cheques, Bills, P.O's etc.	Darey	12.3.3	
	Sutton	15.7.7	
	Mulligan	17.3.5	
	Scott	2.2.7	
	Collins	6.14.7	
	Morison	3.3.11	
	Canteen mens	3.1.7	
	Leigh	7.0.0	
(Stamp) Lloyds Bank, Ltd., Brixham, 19 Jun 41	Darey	11.16.6	
		98.13.5	

COPY. Certified True Copy.

Major.
Judge Advocate

LLOYDS BANK LEDGER SHEET.

EXHIBIT "H" (Lieut.Col.A.P.Plante Case) Ex Q

R.C.A.M.C. No.1. Convalescent Depot - Regimental Fund A/c.

Statement of Account with LLOYDS BANK LIMITED BRIXHAM.

Date	Particulars	Payments	Receipts	Balance.
1940				
June 13	Officers Mess	£ 8.10.9		
14	Balance from Fanham		£ 62.7.7	
	Noades	2.9		
26	Bernard	7.0		
28	N.A.A.F.I.	2.12.6		
June 30	Balance	11.13.0	£ 50.14.7	£ 50.14.7
July 17	Walsh	8.6		50. 6.1
29	Cheques		50. 0.11	100.7. 0
31	Hobart Manuf	11.3		99.15.9
Aug. 2	Laye	17.16.0		81.19.9
	P.M.Gen'l	3.14.0		78. 5.9
5	Waller	6. 3.10		72. 1.11
8	Fox Photos	2.13.0		69. 8.11
10	Messing Officer 5th.G.Hosp	5. 0.0		64. 8.11
	5th.Gen.Hosp. RCAMC	5. 5.0		59. 3.11
12	4th.Casualty Clearing Stn.	3.10.1		55.13.10
14.	R.A.C.15th.Gen. Hosp.	23.10.5		32. 3.5
19	London Solvents	2. 8.		29.15.5
24	Olton	12.		29. 3.5
30	Normandie	3.7		28.19.10
Sep. 5	Martin	6.9		28.13.1
Oct. 10	Officers Mess	35. 3.6		6.10.5
18	P.M.G.	11. 3.8		17.14.1
26	Cheques		62.17.3	45. 3.2
Nov. 1	Cash		15. 3.0	60. 6.2
13	Canada C. Paymaster	2.		60. 4.2
	Pope	9. 7.7		50.15.7
15	Bell	2. 8.10		48. 7.9
		130. 8.0	178.15.9 Cr	48. 7.9
1940	Forward	130. 8.0	178.15.9 Cr.	48. 7.9
Nov. 20	Hobart Manf.	13.4		47.14.5
18	Olton	1. 7.2		46. 7.3
20	London Solvents	2. 8.0		43.19.3
Dec. 7	Crowte E.S.	2. 3.6		41.15.9
13	Officers Mess	52. 0.0		10. 4.3 Dr
18	Cheques		17. 2.7	
		189.0.0	195.18.4	
Dec. 31	Balance		6.14.8 Cr.	6.14.8
Mar. 31.	Reed	6.16.11		
Apl. 10	Cash		96.0.0	
May. 15	Pay M.Genl.	7.16.5		
17	Receiver Genl.	14. 1.1		
26	Cheques		5.13.6	
Jun2 4	Partridge & Co.	4.2		
	Reed	2.17.0		
5	Kaye	17.12.10		
7	Sheal Max - B.P.	3.11.3		
	Crossman	17.2		
	Reed Co.	2.11.5		
9	Olton	1.12.6		
11	Lang M.C.A.D.	13.3		
19	Cheques		18. 0.2	
28	Charges	1. 3.8		
30	Hoskings	10.0		
		60. 9.0	126.12.0	
June 30	Balance		66. 3.0 Cr.	66.3.0
Aug.18	Cheques	5.0		
		5.0	66.3.0 Cr.	65.18.0

Certied true copy per pro Lloyds Bank Limited, Brixham.
Signed Sgd. W.H.Hiddell. Manager.

Certified true Copy

Major
Judge Advocate

COPY.

LLOYDS BANK LIMITED LEDGER SHEET.

EXHIBIT "H" (Lieut. Colonel A.P.Plante Case)

R.C.A.M.C. No.1. Convalescent Depot. - Officers Mess A/c.

Statement of account with LLOYDS BANK LIMITED
BRIXHAM.

Date		Particulars	Payments	Receipts		Balance.
1940						
June	12	Sunds		18.13.2	Cr.	18.13.2
	13	Sunds		14. 0.9		
	14	Balance per Parnham		83.19.6		
	17	Forngor S.	21.1.6			
	22	Saccombe & Speed	66.14.0			
	28	N.A.A.F.I.	33.9.1			
			121.4.7	116.13.5		
June	30	Balance	4.11.2		Dr.	4.11.2
July	15	Sunds		46.9.1		41.17.11
	31	Saccombe S.	26.17.0			15. 0.11
Aug.	7	Grant	57. 1.8			42. 0.9
		Sunds		28.13.0		13. 7.9
	10	do		16. 6.5		2.18.8
	16	Command Paymaster	3.16.5			17.9
Sept.	13	Grant	51.12.3			52.10.0
Oct.	9	Grant	87.2.9			139.12.9
	10	Sunds		158.15.0		19.2.3
Nov.	6	Grant	87.7.7			66.5.4
Dec.	11	Grant	100.15.2			169.0.6
	13	Sunds		138.19.3		30.1.3
	18	Cheque		9.10.5		20.10.10
			419.4.0	398.13.2		
Dec.	31	Balance	20.10.10		Dr.	20.10.10
1941						
Jan.	31	Officer i/c Canteen	1.7.3			21.18.1
Feb.	5	R.Grant	96.15.5			119.13.6
	6	Sunds		36.3.2		31.10.4
	10	Cheque		42.13.11		11.3.7
	13	Sunds		24.19.7		36.3.2
	24	P.M. Genl.	9.14.7			26.8.7
Mar.		Forward	127.8.1	153.16.8	Cr.	26.8.7
	4	Sunds		78.19.10		
	7	Grant & Son	97.18.3			
Apl.	25	do	78.6.8			
	26	Sunds		95.0.0		
May	26	Cheques		61.9.6		
	30	Cheques		15.0.0		
	31	Skan Taylor	4.12.8			
June	3	Grant	100.1.10			
	19	Sunds		98.3.5.		
	23	Grant	96.13.3			
	24	Sealy's Cheque unpaid	11.16.6			
	27	Sealy's Ck.represented		11.16.6		
	28	Charges	1.11.1			
			518 .8.4	514.5.11		
Jun.	30	Balance	4.2.5		Dr.	4.2.5.
Jul.	7	Males	5.0.0			
	11	Cheques		56.0.0		
	17	Skan Taylor	14.4.2			
	26	Sunds		11.0.3		
	31	Cheques		16.5.11		
Aug.	7	do		13.11.3		
	13	Grant	66.14.10			
	18	Cheques		5.15.5		
			90.1.5	102.12.10	Cr.	12.11.5
	18	Cheque Book	5.0			
			90.6.5		Cr.	£12.6.5.

Certified true copy.
Per Pro Lloyds Bank Limited
Brixham.
Sgn. W.H. Riddell, Manager.

EX Y. J.C. Stewart Brig President

M.F.R. 555
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
	Captain	Louis E. LeBrun	Cadet Services, att to No.1.Cdn. Conv.Depot. R.C.A.M.C.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 47~~ ~~Section 47 of the "Army Act" and dispensations for trial under A.A. 49 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ----- beginning on the ------- day of -------

4. The accused has been in confinement awaiting trial on the present charges, for ------ days in civil custody, and ------- days in military custody, making a total of ------- days in custody, ~~of which ---------- days were spent in hospital.~~

5. The present age of the accused according to his record of service is 34 years 11 mos. 24 days attestation paper

6. The date of his ~~commission~~ specified in his ~~record of service~~ is 10 Jan 40 attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is 35 mos 10 dys.

8. The accused is entitled to reckon 35M10 d service for the purpose of determining his pension, etc.

9. The accused is in possession ~~of or entitled to an air force decoration, or air force reward~~ (or is in possession of or entitled to). State any air force decoration or reward. military military King George VI Coronation Medal.

10. ~~(If the accused is a warrant officer.)~~ ~~The accused before he was made a warrant officer had held the regimental rank of ----------~~

AHF

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

Captain dated , and in his regiment (or corps), the rank of

Captain dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Capt.

Name Louis E. LeBrun of Cadet Services, att No.1.C.C.D. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th. day of November 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(Signed) S. King Captain,
Adjutant. No.1. Cdn. Conv. Depot RCAMC

COPY.

No. Name LrBrun L.E. Sqn., Battery, or Company Corps Cadet Services att.No.1.Cdn.Conv. Depot Date of enlistment 10 Jan 40 G.C. Badges

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Service or Proficiency Pay Character

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1219-20) H.Q. 1772-39-1032

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	--	Capt	--	-- No Entries					

Certified true extract from Regimental Books in my custody.
(Signed) S. King, Captain-Adjutant
No.1. Cdn. Conv. Depot RCAMC.

20 Nov. 42.

(P.T.O.)

Ex Y 1

"Y" (Signed) J.C. Stewart, Brig.
President.

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
	Captain	Louis E. LeBrun	Cadet Services att. to No.1.Cdn. Conv. Depot.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 78 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------

4. ~~The accused has been in confinement awaiting trial on the present charges, for~~ ---------- days in civil custody, and ---------- days in military custody, making a total of ---------- days in custody, of which ---------- days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 35 years 6 days

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 10 Jan 40

7. The service which the accused is allowed to reckon towards discharge is 35 Mos. 22 days

8. The accused is entitled to reckon 35M. 22 Days service for the purpose of determining his pension, etc.

9. The accused is in possession of ~~or entitled to an air force decoration, or air force reward~~ (or is / military in possession of ~~or entitled to~~). State any air force decoration or reward. / military King George VI Coronation Medal.

10. ~~(If the accused is a warrant officer) The accused before he was made a warrant officer held the regimental rank of ----------~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

Captain dated , and in his regiment (or corps), the rank of

Captain. dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Capt.

Name Louis E. LeBrun of Cadet Services, HQ. No.1. C.C.D. RCAMC. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd. day of December

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(Signed) P.M. Pardee, Capt.
Adjutant & Officer i/c Records
No.1.Cdn.Gen. Rein. Unit.

No. Name LeBrun L.E. Sqn., Battery, or Company Corps Cadet Services Att.No.1.Cdn.Convl. Depot. Date of enlistment 10 Jan.40 G.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.H. 127
175M—7-41 (1219-20)
H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham		Capt.		--- No Entries					

Certified true extract from Regimental Books in my Custody.

(Signed.) F.M. Pardee, Capt.
Adjt. No.1. Cdn. Gen Rein Unit & Officer i/c Records
Canadian Army Overseas.

(P.T.O.)

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

4V.137

PTE LECERF HG

RECORDED AT CMHQ IN AB 160 - 4V-137

CPA96 (In lieu of AFAB)
40/P & B/1698 (6144)
4/388

FIELD GENERAL COURT-MARTIAL

RECEIVED 20 MAR 1945 JAG BRANCH C.M.H.Q.

Convening Officer Brig H M Elder dated DDMS First Cdn Army 16 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-103306	Pte		Henry Gustave	LE CERF	35 Cdn Army Tps Comp Coy RCASC

PROCEEDINGS REVIEWED 27 MAR 45 Quarter Left

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the field (country) HOLLAND on (date(s)) 19 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/61-

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused objects to be tried by court-martial and elects to be dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to the Interpreter (a sworn~~ ~~interpreter~~ ~~as shorthand writer~~ ~~Ans~~ ~~The Interpreter is sworn~~ Do you object to ~~The shorthand writer is sworn~~ as shorthand writer ? Ans ~~No~~.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J D LEARMENT	Nth N S Highrs
Member	Capt	H T HARGRAVE MBE	2 Cdn Tk Tps Wksp RCEME
Member	Capt	R R PINDER	9 Cdn FDS RCAMC
Judge-Advocate	Lt-Col	G E TRITSCHLER	AJAG First Cdn Army
Prosecutor	Capt	E B BULL	ADJA First Cdn Army
Defending Offr	Lieut	R A BRIGGS	47 Cdn A Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer ? Ans Yes. Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused M-103306 Pte LE CERF H.G., before arraignment make(s) (no) ~~no~~ plea.(1)

ADJOURNMENT (See minute of Adjournment)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP closd. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~did~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form A or E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol. F-122

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or~~ The JA, ~~if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. M-103306 Pte LE CERF Henry Gustave, 35 Cdn Army Tps Comp Coy, RCASC, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916.

in that he

In the Field, on a day between the 9th and 18th Dec 44 stole 10 cases of cheese, 20 cases of margarine and 20 cases of bully beef, being Army rations, public property, from 58 BSD.

SECOND CHARGE
(Alternative)
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT 1916.

in that he

In the Field, on a day between the 9th and 18 Dec 44, did receive 10 cases of cheese, 20 cases of margarine and 20 cases of bully beef, being Army rations, public property, knowing the same to have been stolen.

THIRD CHARGE
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916

in that he

In the Field, on a day between the 9th and 18th Dec 44 stole 8 cases of cheese, being Army rations, public property from 58 BSD.

FOURTH CHARGE
(Alternative)
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT, 1916.

in that he

In the Field, on a day between the 9th and 18th Dec 44 did receive 8 cases of cheese, being Army rations, public property, knowing the same to have been stolen.

FIFTH CHARGE
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, LARCENY, CONTRARY TO SECTION 2 OF THE LARCENY ACT, 1916.

in that he

In the Field, on a day between 13th and 25th Dec 44 stole 9 cases of cheese, 1 bag of sugar, 1 case of coffee, 1 case of jam and 1 case of chocolate, being Army rations, public property, from BSD.

SIXTH CHARGE
(Alternative)
Sec 41 Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE THAT IS TO SAY, RECEIVING STOLEN GOODS, CONTRARY TO SECTION 33(1) OF THE LARCENY ACT, 1916.

in that he

In the Field, on a day between 13th and 25th Dec 44, did receive 9 cases of cheese, 1 bag of sugar, 1 case of coffee 1 case of jam, and 1 case of chocolate, being Army rations, public property, knowing the same to have been stolen.

(Cont'd)

CHARGE SHEET in the case of M-103306 Pte LE CERF H.G. (Cont'd)

JoL

SEVENTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, between 1 Nov 44 and 15 Jan 45, when acting as a driver in 35 Cdn Army Tps Comp Coy, RCASC was concerned in improper dealings in connection with Army rations, other than the rations referred to in the first, second, third, fourth, fifth and sixth charges.

In the Field

16 Feb 45.

D. B. Morrison
Major
Officer Commanding
35 Cdn Army Tps Comp Coy
RCASC.

Opp'd under K.R. Can 540
E.V. Bruce Capt
ADJ ANQ 1 Cdn Army
16 Feb 45

To be tried by FGCM

In the Field

16 Feb 45

H. W. Elder Brig.
DDMS FIRST CDN ARMY

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M103306	Pte		Henry Gustave	LeCERF	35 Cdn A Tps Comp Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, ~~xxxx

MEDICAL OFFICER'S CERTIFICATE
(K.R. (CAN) para 577)

I certify that I have this morning examined No. M.103306
Pte LeCERF, H.G. of 35 Cdn A Tpe Comp Coy, RCASC, and in my
opinion he is fit to undergo trial by Court-Martial.

FIELD
19 Feb 45

(Medical Officer)

The Court satisfy themselves that Capt D J McAllister 36 Cdn Army Tps Comp Coy RCASC, is not available to serve owing to the exigencies of the service. Capt RR Pinder 9 Cdn FDS, RCAMC, waiting member, takes his place as a member of the Court.

447

ADJOURNMENT.

"AT 1000 hrs ON 19 Jan 45 THE COURT ADJOURNED UNTIL 1150 hrs ON THE 19 Jan 45 ON THE 19 Jan 45 AT 1150 hrs. THE COURT REASSEMBLE PURSUANT TO ADJOURNMENT, PRESENT THE SAME MEMBERS AS WHEN ADJOURNED".

Exhibit "A"

SUMMARY OF EVIDENCE

in the case of M-103306 PTE/LE CERF Henry Gustave ... 35 Cdn Army Tps Comp Coy RCASC, Cdn Army Overseas,

BY DIRECTION OF THE COMMANDING OFFICER THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS

M-53329, Sgt Hancock, H.R., No. 1 SIS, First Cdn Army, having been duly sworn, states:

I am Regimental No. M-53329, Sgt Hancock, H.R., No. 1 Special Investigation Section, First Cdn Army. I know the accused as Pte Le Cerf.

While making inquiries at HQ "B" Platoon 35 Comp Coy RCASC I interviewed the accused on the 15 Jan 45. This was as a result of information received. The accused made a voluntary statement after being cautioned that he was not obliged to say anything unless he wished to do so but anything he did say would be taken down in writing and might be given in evidence. The warning was given verbally and also written and signed by the accused. The statement is in my handwriting at the dictation of the accused and the accused read the statement over and did not wish to add or delete anything from it and signed it. The signature was witnessed by me and Sgt J.A.R.Carriere. I produce this statement signed by the accused.

To the best of my knowledge the accused was not under arrest at the time he made this statement but it is possible he may have been.

THE ACCUSED DECLINED TO CROSS-EXAMINE THIS WITNESS.

H.R. Hancock Sgt
M53329

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

SECOND WITNESS

No.H-17749 Sgt MacDonald, N., No. 1 SIS, First Cdn Army, having been duly sworn, states:

I am No. H-17749, Sgt MacDonald, N., No. 1 SIS, First Cdn Army.

During the week of the 15-22 Jan 45 I was engaged with other members of my section on investigating into alleged illegal dealing in War Department rations. While this investigation was going on Pte Le Cerf, the accused, came to us in the room where we were working at St Leonards at his Platoon HQ and stated to Sgt Hancock, Sgt Carriere and I that there were some things in a statement he had previously made that he wished to explain. He was cautioned then by me and he made a statement. I cautioned him verbally, saying that he need not make a statement unless he wished to do so but that anything he did say would be taken down in writing and might be used as evidence. He then made a statement with reference to his previous statement. He read over and signed the statement in my presence and I witnessed it. As he gave the statement to me I wrote it down.

I know the accused as Pte Le Cerf, "B" Platoon, 35 Cdn Army Tps Comp Coy RCASC.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

N. MacDonald Sgt.

H. 17749

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "B".

THIRD WITNESS

No. B-80900, Cpl Jarvis, W.G., 35 Cdn Army Tps Comp Coy RCASC, having been duly sworn, states:-

I know the accused, Pte Le Cerf. On a Sunday in December 1944, either the 10th or 17th, the accused, Pte Le Cerf, asked me if I would like to go to Wetteren with him. I said "Yes", and got ready and went out to the truck of the accused. Sgt Hyde was in the cab. I was helped into the back of the lorry because I had an injured leg. When I got in I noticed there were government rations in the lorry. We drove to Wetteren and Sgt Hyde got out and the accused and I proceeded to Massemen. After arriving in Massemen we went to Alost and from there back to Wetteren and then back to Massemen. We had supper there. In the cafe where we had supper the accused had a conversation with a civilian. At approx 2100 hours the civilian, Le Cerf and I proceeded to the civilian's home. The rations were sold there to the civilian, Richard De Moor. The accused, Pte Le Cerf, was paid 125,000 Belgian francs in my presence.

About 1500 hours the next day Pte Le Cerf was called from my bed by Sgt Hyde. When he came back he told me he had paid the money to Sgt Hyde as the rations belonged to him. He also gave me 4000 Belgian francs for helping unload the rations. They were government rations.

CROSS-EXAMINED BY THE ACCUSED:

Q Did you or did you not know I had the money on my person when I left with Sgt Hyde?

A Yes, I did know that you had the money. I could see it sticking out from your tunic.

B80900 Cpl Jarvis W.G.

FOURTH WITNESS

No. B-84495, Sgt Lawson, E.J., 35 Cdn Army Tps Comp Coy RCASC, having been duly sworn, states:-

I know the accused, Pte Le Cerf, who is a member of "B" Platoon 35 Cdn Army Tps Comp Coy RCASC.

Pte Le Cerf and I agreed to purchase some rations from a checker at 58 BSD. I believe it was in December 1944. I saw the checker and he agreed to give us 8 cases. I told the accused that the checker would give us 8 cases. The accused gave me 2,000 or 3,000 Belgian francs, I believe it was. I paid the checker the sum required. The accused took the cheese on the truck. He was going to dispose of them and we were going to split the proceeds.

I saw Pte Le Cerf, the accused, the following morning when he came into my bedroom. I was in bed at the time. I sat up on the side of my bed and Pte Le Cerf counted out the sum of money on the chair beside my bed. I cannot remember just how much there was but we had agreed that after the amount he had given me to pay for the cheese at the BSD was taken out the balance would be split even between us. To my knowledge the cheese in question was public property.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

B-84495 Sgt E.J. Lawson

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I will leave it until I see my defence.

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down in my presence and in the presence of the accused and that RP 4 (C), (D), (E) and (F) have been complied with.

In the Field
6 & 8 Feb 45

(E.B.Bull) Capt
The Seaforth Highrs
Officer detailed to take the
Summary of Evidence.

STATEMENT of M-103306 Pte LeCerf, H.G.
35 Cdn Army Tps Comp Coy RCASC.
Driver - "B" Platoon.

Exhibit "A" in the Case of
M-103306 Pte LeCerf H.G.

"E.B. Bull" Capt
Offr det to take the Summary
of Evidence.

I have been cautioned by Sgt Hancock H.R., that I am not obliged to say anything unless I wish to do so, but that anything I do say may be taken down inwriting and may be given in evidence.

Signed:- H.G. Le Cef

I have been a member of 35 Comp Coy since August 1943 and came to France with this Coy on the 11 Aug 44 and have since been been employed as a driver.

Until the month of November 1944 I had never sold any Army Property. Sometime during the month of November 44 I became short of money and as I knew that members of my Unit had, and were, disposing of food, which was obtained from No.62 B.S.D., one day I asked a checker at 62 B.S.D. if he could give me anything buckshee and he gave me an 80 lb. bag of sugar (buckshee). As near as I can remember I sold this sugar to a civilian living in BOVIGNE, Belgium, close to MASSMAN. I know this man as "Richard". I do not know his family name, nor can I give you his exact address but could identify him. I received 2500 Belgian Francs for the sugar.

On another occasion I obtained another two buckshee cases of "Bully Beef" from another checker at 62 B.S.D. and also sold this to "Richard" for 1500 B.F. per case.

I could not identify the checkers at 62 B.S.D. who gave me the sugar and "Bully Beef" but it was common knowledge in our unit that the checkers at 62 B.S.D. would give you buckshee rations for the asking. These two incidents happened while I was stationed with my Coy at WETTEREN.

About the beginning of December 44 my Platoon moved to St LEONARDS from WETTEREN, where we are now stationed, and started hauling from 58 B.S.D. A short time after this I became aware that in our convoys there was a buckshee truck and that some of the boys were obtaining extra cases of rations, on payment of money to the RASC checkers at 58 B.S.D. and after leaving the RSD would transfer the buckshee rations to the extra venicle, which would leave the convoy and proceed to the WETTEREN district, where the rations would be disposed of to civilians. The driver of this venicle always got a share of the money realized through the sale of the rations.

At the beginning of the second week in December 44, whilst on duty at 58 B.S.D. with my truck, I bought two (80 lb.) bags of sugar for 500 B.F. each. I bought this from an RASC soldier(checker) and could identify this soldier. I later transferred these two bags of sugar to the buckshee truck, which was being driven by Dvr MORROW that day. When MORROW returned, he gave me 5000 B.F. and I gave him 500 B.F. I knew that this money had been obtained throught the sale of the two bags of sugar.

On one other occasion I obtained a couple cases of rations, I don't remember exactly what they were, from a checker at 58 B.S.D. I don't remember who this checker was. I disposed of these two cases by placing them on the buckshee truck and received money from the driver of this truck on his return. I don't remember who the driver was nor how much money I received on this occasion.

To my knowledge all the boys in my Platoon knew that rations were being obtained and disposed of by means of a buckshee truck.

As I had a girl friend in MASSMAN I expressed the wish among the boys that I would like to get down there to see her. Around the 10th Dec 44 Sgt HILL approached me and asked if I would like to drive the buckshee truck, as I could have the opportunity of seeing my girl friend. I agreed to this suggestion. The next day, I drove the buckshee truck to 58 B.S.D. and after the boys had loaded their trucks, we assembled on the road about a quarter of a mile from the B.S.D. and loaded up my truck. I had previously gone into the depot with the convoy, and Sgt HILL had the following goods placed on my truck:- 10 cases of cheese, 20 cases of margerine, and 20 cases

of bully beef. When the convy assembled outside the depot, members of No. 10 Section placed other goods on the truck. Some of these goods were spam and coffee. I don't remember who the boys were that put these rations on the truck to be disposed of. I then left for MASSMAN with the truck, accompanied by Sgt HYDE. On the way I stopped at the Platoon and Picked up Cpl JARVIS, as I knew hewanted tovisit his girl friend in MASSMAN. Sgt HYDE got out of the truck at WETTEREN, JARVIS and I continued on to MASSMAN and I proceeded to the home of my girl friend (Marie Louise De GEEST) in MASSMAN. This was in the afternoon. We stayed in the vicinity until dark when the civilian I know as "Richard" came to the Cafe, next door to my girl friend's home. I told "Richard" about the load and I sold it to him for 125000 B.F. At about 9.30 p.m., accompanied by Cpl JARVIS and "Richard" I drive the truck to BOVIGNY, where "Richard" lives, and the three of us unloaded the truck and placed the rations in his home. He then paid me the 125000 B.F. in the presence of his wife and family and Cpl JARVIS. The following day we returned to our Platoon. Upon arrival there I gave 21000 B.F. to Pte Morrow of No. 10 Section, for the stuff they had on the truck, and I gave 104000 B.F. to Sgt HYDE. Sgt HYDE then gave me 20000 B.F. for myself and 4000 B.F. for Cpl JARVIS, which I gave to him. This sale took place on a Sunday and must have been the 10 Dec 44.

The following Friday or Saturday, 14 or 15 Dec 44, Sgt LAWSON asked me if I wanted to drive the buckshee vehicel again and I agreed. As well as I can remember, the following buckshee rations were loaded on my truck, 17 cases cheese, 1 bag sugar (80 lbs) 1 case coffee, 1 case jam, 1 case chocolate. Sgt LAWSON and I had purchased 8 cases of cheese out of the 17 cases; Pte Edgeworth (Edworthy) had 9 cases of cheese, 1 case of jam and 1 case of coffee. Pte LAROND had the case of chocolate. I don't remember who had the bag of sugar. Itook this load to MASSMAN and there met a civilian whom I had seen before and knew that hewas safe to sellrations to. I knew him by the name of "August" and could identify him again. I believe I could find his house in MASSMAN, where we unloaded the rations. He paid me 65100 B.F. for thisload. When I returned to the Platoon I gave Pte Edgeworthy (Edworthy) 36000 B.F. for the rations he had on the truck Pte LAROND received 3,500 B.F. for his share and Sgt LAWSON and myself shared the remainder equally. When I gave Sgt LAWSON his money, Sgt HYDE was present.

This is all the dealings I have had concerning the disposal of rations or any other Government property. I have spent the money I received in these transactions by gambling and in Cafes.

I have read the above statement and do not wish to add or delete anything from it.

Signed H.G. Le Cerf.

15 Jan 45.

Witness: J.R. Carriere, Sgt.
No. 1 SIB 1 Can Army

H.R. Hancock, Sgt
No. 1 SIB 1 Can Army.

STATEMENT of M-103306 Pte LeCerf H.G.
35 Can Army Tps Comp Coy RCASC.
Driver "B" Platoon.

Exhibit "B" in the case of
M-103306 Pte LeCerf H.G.

"E.B. Bull" Capt.
Offr det to take the Summary
of Evidence.

I have been cautioned that I am not obliged to make any statement unless I wish to do so but anything I dosay will be taken down in writing and may be given in evidence.

Signed "H.G. Le Cerf".

"On Sunday I think the 10 Dec 44, in the morning before going out on details, Sgt HYDE came to me in the Courtyard at our quarters andasked me if I wanted to drive the Buckshee Lorry that dat. He told me that he had arranged to take out a buckshee load; I wanted to go to see my girlfriend anyway and I agreed. Sgt HYDE rode with me, as near as Ican remember.

On arrival at [illegible] Sgt HYDE got out and a little later came to me and instructed me to back in to a certain shed. I remained in the cab. I knew there was stuff being loaded on the truck, and then a checker came up and guided me to anotner shed. Then Sgt HYDE told me to go out and join the convoy and any others who had stuff to put on ly load could do so. Sgt HYDE rode with me in the cab as far as WETTEREN where he got off at a house there which I know. Before he left Cpl JARVIS, who we had picked up at billets, got into the cab with me. Sgt HYDE told us to pick him up there at 0400 hrs, next morning, we continued to MALSEMEN, stopped at Cafe Strop and while I was in the Cafe, Lieut Nelligan came up and was speaking to Cpl JARVIS when I came out. We went to ALOST to look for a couple of men who were AWL. Then we returned to WETTEREN where Cpl JARVIS went into the house where Sgt HYDE had first got out of the lorry. That night Cpl JARVIS and I slept at Cafe Strop and next morning at about 0400 hrs we stopped in WETTEREN to pick up Sgt HYDE.

When he came out to the lorry he asked us how we had made out and we said "OK". He got into the cab and we returned to Platoon billets. After returning from details that afternoon, I was talking in his room with Cpl JARVIS, and had the money received for the load of rations in the inside of my tunic. Sgt HYDE came in and said he wanted to see me and I went with him, across the road to his billet, where I paid him the money for the load of his goods we had disposed of the day before. Most of the money, 104000 francs was in bundles. I was with him quite some time, and then at once returned to the room with Cpl JARVIS where I gave him the 4000 francs Sgt HYDE had given me for him.

I have read this statement and it is true.

"H.G. Le Cerf"

Witness: N. Macdonald Sgt.
No. 1 SIS 1 Can Army
19 Jan 1945.

Ex "A" in case of M103306 Pte Le Cerf H.G. 15 Jan 45

E.W. Bell Capt
Offr detailed to Cdn. Scenario of Evidence

Statement of:

Reg. No. M-103306 PTE. LECERF, H.J.
35 CDN. ARMY TROOPS COMP. COY. RCASC
DRIVER "B" PLATOON

I have been cautioned by Sgt. Hancock, HR. that I am not obliged to say anything unless I wish to do so, but that anything I do say may be taken down in writing, and may be given in evidence.

W.G. Lecerf.

I have been a member of 35 Comp. Coy. since August, 43. and came to France with this Coy. on the 11 Aug 44, and have since been employed as a Driver.

Until the month of November, 1944 I had never sold any Army property. Sometime during the month of November, 44 I became short of money and as I knew that members of my unit had, and were disposing of food, which was obtained from No. 62 B.S.D., one day I asked a checker at 62 B.S.D. if he could give me anything buckshee, and he gave me an 80 lb. bag of sugar (buckshee) As near as I can remember, I sold this sugar to a civilian, living in BOVIGEM, Belgium close to MASSMAN. I know this man as "RICHARD". I do not know his family name, nor can I give you his exact address but could identify him. I received 2500 Belgian Francs for the sugar.

On another occasion, I obtained another two buckshee cases of "Bully Beef" from another checker at 62 B.S.D., and also sold this to "RICHARD" for 1500 B.F. per case.

I could not identify the two checkers at 62 B.S.D., who gave me the sugar and

W.G.L.

"Bully Beef" but it was common knowledge in our unit that the checkers at 62 B.S.D. would give you buckshee rations for the asking. These two incidents happened while I was stationed with my boy at WETTEREN.

About the beginning of December, 44 my Platoon moved to ST. LEONARDS from WETTEREN, where we are now stationed, and started hauling from 58 B.S.D. A short time after this I became aware that in our convoys there was a buckshee truck and that some of the boys were obtaining extra cases of rations, on payment of money to the R.A.S.C. checkers at 58 B.S.D., and after leaving the B.S.D., would transfer the buckshee rations to the extra vehicle, which would leave the convoy and proceed to the WETTEREN district where the rations would be disposed of to civilians. The driver of this vehicle always got a share of the money realized through the sale of the rations.

At the beginning of the second week in December, 44 whilst on duty at 58 B.S.D. with my truck, I bought two (100 lb) bags of sugar for 500 B.F. each. I bought this from an R.A.S.C. checker and could identify this soldier. I later transferred these two bags of sugar to the buckshee truck which was being driven by DVR. MORROW that day. When MORROW returned, he gave me

M.S.C.

5000 B.F. and I gave him 500 B.F. I knew that this money had been obtained through the sale of the two bags of sugar.

On one other occasion, I obtained a couple of cases of rations, I don't remember exactly what they were, from a checker at 58 B.S.D. I don't remember who this checker was. I disposed of these two cases, by placing them on the buckshee truck and received money from the driver of this truck on his return. I don't remember who the driver was, nor how much money I received on this occasion.

To my knowledge, all the boys in my Platoon knew that rations were being obtained and disposed of by means of a buckshee truck.

As I had a girl friend in MASSMAN, I spreaded the word among the boys that I would like to get down there to see her. Around the 10th Dec 44, Sgt. HYDE approached me and asked if I would like to drive the buckshee truck, as I could have the opportunity of seeing my girl friend. I agreed to this suggestion. The next day, I drove the buckshee truck to 58 B.S.D. and after the boys had loaded their trucks, we assembled on the road about a quarter of a mile from the B.S.D. and loaded up my truck.

I had previously gone into the depot, with the convoy, and Sgt. HYDE had the following goods placed on my truck: 10 cases of cheese, 20 cases of margarine, and 120 cases of bully beef. When the convoy assembled outside the depot, members of No. 10 section placed other goods on the truck. Some of these goods were spam and coffee. I don't remember who the boys were, that put these rations on the truck, to be disposed of. I then left for MASSMAN with the truck, accompanied by Sgt. HYDE. On the way, I stopped at the platoon and picked up CPL. JARVIS, as I knew he wanted to visit his girl friend in MASSMAN. Sgt. HYDE got out of the truck at WETTEREN. JARVIS and I continued on to MASSMAN, and I proceeded to the home of my girl friend (MARIE LOUISE DE BEEST) in MASSMAN. This was in the afternoon. We stayed in the vicinity until dark, when the civilian I know as "RICHARD" came to the Cafe, next door to my girl friend's home. I told "RICHARD" about the load, and I sold it to him for 125,000 B.F. At about 9.30 pm, accompanied by CPL. JARVIS and "RICHARD" I drove the truck to ZOTTEGEM, where "RICHARD" lives, and the three of us unloaded the truck and placed the rations in his home. He then paid me the 125,000 B.F.,

H.S.L.

in the presence of his wife and family and CPL. JARVIS. The following day, we returned to our Platoon. Upon arrival there I gave 21,000 B.F. to ~~Cpl. KAW~~ Pte. Morrow. N.G.L. of No. 10 Section, for the stuff they had on the truck, and I gave 104,000 B.F. to Sgt. HYDE. Sgt. HYDE then gave me 20,000 B.F. for myself and 4,000 B.F. for CPL. JARVIS, which I gave to him. This sale took place on a Sunday and must have been the 10th Dec 44.

The following Friday or Saturday, 14th or 15th Dec 44, Sgt. LAWSON asked me if I wanted to drive the buckshee vehicle again and I agreed. As well as I can remember, the following buckshee rations were loaded on my truck: 17 cases cheese, 1 bag sugar (80 lbs) 1 case coffee, 1 case jam, 1 case chocolate. Sgt. LAWSON and I had purchased 8 cases of cheese, out of the 17 cases; PTE. EDGEWORTHY had 9 cases of cheese, 1 case of jam and 1 case of coffee. PTE. LAFOND had the case of chocolate. I don't remember who had the bag of sugar. I took this load to MASSMAN and there met a civilian, whom I had seen before and knew that he was safe to sell rations to. I knew him by the name of "AUGUST" and could identify him again. I believe I could find his house in MASSMAN, where we unloaded the rations.

N. G. L.

He paid me 69,100 B.F. for this load. When I returned to the Platoon, I gave PTE. EDGEWORTHY 36,000 B.F., for the rations he had on the truck, PTE. LAFOND received 3,500 B.F. for his share, and SgT. LAWSON and myself shared the remainder equally. When I gave SgT. LAWSON his money, SgT. HYDE was present.

This is all the dealings I have had concerning the disposal of rations or any other Government property. I have spent the money I received in these transactions by gambling, and in Cafes.

H.G.L.

I have read the above statement and do not wish to add or ~~delect~~ delete anything from it.

15 Jan 45 Pte H.G. Leclerc

Witness: J.R. Carrere Sgt.
No 1 S.I.S. 1 Cdn. Army

WITNESS: H.R. Hancock, Sgt.
No. 1 S.I.S. 1 CDN. ARMY.

in case of M103306 Pte Le Cerf HQ
[illegible] Capt
Offr of Lawrence & Later Summary of Evidence

19 Jan. 45

Statement of: M103306, Pte. Le Cerf, H.G.-
"B" Plat: 38 Comp. Coy., R.C.A.S.C.

"I have been cautioned that I am not obliged to make any statement unless I wish to do so but anything I do say will be taken down in writing and may be given in evidence.

Signed: H. G. Le Cerf.

"On Sunday, I think the 10 Dec. 44, in the morning before going out on details, Sgt. Hyde came to me in the Courtyard at our Quarters and asked me if I wanted to drive the Buckshee Lorry that day. He told me that he had arranged to take out a buckshee load; I wanted to go to see my girl-friend anyway and I agreed. Sgt. Hyde rode with me, as near as I can remember.

On arrival at B.S.D., Sgt. Hyde got out and a little later came to me and instructed me to back in to a certain shed. I remained in the cab. I knew there was stuff being loaded on the truck, and then a checker came up and guided me to another shed. Then Sgt. Hyde told me to go out and join the convoy and any others who had stuff to put on my load could do so. Sgt. Hyde rode with me in the cab as far as Watterem, where he got off at a house there which I know. Before he left Cpl. Jarvis, who we had picked up at billets, got into the cab with me. Sgt. Hyde told us to pick him up there at 0400 hrs., next morning. We continued to Massemen, stopped at Cafe Strop and

Statement of: Pte. Le Cerf, H.G. Continued –

While I was in the Cafe, Lieut. Nelligan came up and was speaking to Cpl. Jarvis when I came out. We went to Alost to look for a couple of men who were A.W.L. Then we returned to Wetterem where Cpl. Jarvis went into the house where Sgt. Hyde had first got out of the lorry. That night Cpl. Jarvis and I slept at Cafe Strop and next morning at about 0400 hrs., we stopped in Wetterem to pick up Sgt. Hyde.

When he came out to the lorry he asked us how we had made out and we said "O.K." He got into the cab and we returned to Platoon billets. After returning from details that afternoon, I was talking in his room with Cpl. Jarvis, and had the money received for the load of rations in the inside of my tunic. Sgt. Hyde came in and said he wanted to see me and I went with him, across the road to his billet, where I paid him the money for the load of his goods we had disposed of the day before. Most of the money, 104,000 francs, was in bundles. I was with him quite some time, and then at once returned to the room with Cpl. Jarvis, where I gave him the 4000 francs Sgt. Hyde had given me for him.

I have read this statement and it is true.

Witness: A. Macdonald
Sgt.
No. 1 S.I.S., 1st C.A.
19 Jan. 45.

H. G. Le Cerf. M05506

M.103306 Private LeCERF, H.G.

N/A N/A

N/A

N/A

32

nil

nil

nil

32

23 - [illegible].

6 Aug 42

2 yrs 194 days

Canadian Volunteer
Service Medal & Clasp

Description of Court by which tried	Date and Place of Trial	Charge upon which [illegible]	Sentence of the Court	Punishment remitted or sentence [illegible]

I HEREBY CERTIFY that the [illegible] custody, are correct to the best of my knowledge and belief.

Signed this FEB 16 1945

D H Eckold Capt
AJAG
35 Cdn Army Tps Comp Coy RCASC

No M.103306 Name LeCERF, H.G. Sqn. Battery or Company 14 Cdn. Fd. Amb., Corps R.C.A.S.C. Date of enlistment 6-8-42 GC Badges Service or Proficiency Pay $1.50 MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet Nil No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet renewed 20 Jun 43. No previous entries. Signed.....									
Field	-	AWARDED THE CANADIAN VOLUNTARY SERVICE MEDAL AND CLASP w.e.f. 7 Feb 44							
Field	-	AWARDED FIRST GOOD CONDUCT BADGE w.e.f. 6 Aug 44							

Exhibit "Z"
Job

CERTIFIED TRUE COPY
.....[signature] Capt.....
Adt
35 Cdn Army Tps Comp Coy RCASC

(PTO)

E - 3 STATEMENT IN MITIGATION in the Case of M-103306
Pte H.G. Le Cerf 35 Cdn Army Tps Comp Coy RCASC

We have before us a charge sheet that looks mighty bad but when you analyze it you see that it breaks down into 4 charges, 3 of them theft and 1 of them for improper dealings with rations.

I would like to say that throughout the entire history of this platoon that up to until approximately November 44 it was no crime prevalent among the personnel of any account. There was the ordinary scrounging of rations but only in isolated cases. After the turn-over of officer and NCOs a wholesale flogging of rations commenced. This was done I suggest by the sgts who were in control of these men. They did it, they arranged for and laid on a buckshee lorry and had various cases transferred from the loads to this buckshee lorry and taken to places of disposal. You have heard in the evidence that the accused LeCerf was asked on 2 occasions if he would drive the buckshee lorry. The reason given was that he could go down and see his girl friend, who was at Wetteren, and in that lorry the Sgt and other privates under the instructions of the sgt put certain stolen rations, knowing them to have been stolen--certainly with the sure knowledge of the sgt at any rate as he received the greater portion of the money.

This young fellow, 23 years of age, has a clean record and was on Aug 6 given his first good conduct stripe. Yet he appears before you on some serious, very serious charges. I seriously suggest to you that the good conduct of the accused up to November last year and then from November to January of this year his going to pieces so badly is quite consistent with the character of the soldier before you. It is not in him to go to pieces to this extent himself but he was driven by someone else and the only one who could do this is some superior rank. I suggest that in this failing of his there was the tacit consent of the officer and the direct order of the sgt of the platoon. There is no other way to get rations except in very small quantities, asking for a tin here or a tin there. He could not get the amount he was charged with. While at law he is guilty of the offences of which he pleaded guilty as he knew what was on his lorry still in fairness to himself, in fairness to the accused and his good conduct I suggest he should be dealt with leniently and not given a heavy sentence. It is his first offence and I would ask you seriously to consider giving him as light a sentence as possible. We do not want to make a criminal out of him. He has seen the error of his ways and I do not think you will ever get him into the position again where he would touch one can of milk.

451

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....

Ans..... Do you intend to call witnesses on your behalf? Ans.....

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 6, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-103306 Pte Le Cerf H.G. 35 CdnArmy Tps Comp Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd (Alternative)			Withdrawn by Prosecutor RP 35 (C)
3rd	Guilty	Guilty	
4th (Alternative)			Withdrawn by Prosecutor RP 35(C)
5th	Guilty	Guilty	
6th (Alternative)			Withdrawn by Prosecutor RP 35(C)
7th	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years.

(Sgd) [signature] Tritscaller Lt-Col — Judge-Advocate, if any.

19 Feb 45 — Date awarded.

(Sgd) [signature] — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1) H.W.L.

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig.

Date 4 Mar 45

Commanding DDMS FIRST CDN ARMY

Confirming Officer.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings. [signature] DJAG, Cdn. Sec. [illegible] 21 A Gp.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M-103306 Pte Le Cerf H.G. 35 Cdn Army Tps Comp Coy RCASC	7 Mar 45	[signature] Morrison Maj OC 35 Cdn Army Tps Comp Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4V.8

PTE LECHOW J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H617737 Pte John LECHOW — 6 Cdn Inf Bde Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	NOT Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... 16 Feb 45 (Sgd) John. Meeson
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date ..... Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

CPA96 (In lieu of AFA81) 40/P & B/1698 (6144) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED EDITOR OIC JAG BRANCH

Convened by Order of Brig E W Haldenby, OBE, MC, VD Comd 14 CIT B de dated 14 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H617737 H617377	Pte	John	LECHOW	6 CITR

PROCEEDINGS REVIEWED

Maj

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 16 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and ~~Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to~~ ..... as interpreter ? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to C/Sgt Boadrower as shorthand writer ? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and ~~Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E.W. Meeson EDRE.	HQ CAN
Member	Capt	D.R. Keegan	7 C I R
Member	Lieut	J.F. Earl	6 C I R
Judge-Advocate			
Prosecutor	Lieut	A. Fenton	6 C I R
Defending Offr	Lieut	D.A. Thorkelson	6 C I R

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....
..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is (~~are~~) no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. as to No. 1 accused.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form(s) B D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s), ~~and~~ allowed on the ..... ~~charge(s), and~~ that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Myself on oath. Do you intend to call witnesses on your behalf?
Ans. No. Are they witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
~~Or~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. On oath myself only, after which under RP 37 D the Court entered a Plea of Not Guilty
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

THE ACCUSED ELECTS TRIAL BY F.G.C.M.

CHARGE SHEET

Amended by Court RP 33 A
E.W. M

SEC 15(1)
ARMY ACT

- H 617737 -

The accused, ~~H617377~~ Private John LECHOW, 6 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas, when on active service is charged with:

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp No 3 Petworth, absented himself without leave from Church Parade at 1030 hrs 4th February 1945 until 1120 hrs 4th February 1945.

TOTAL TIME ABSENT: 50 minutes.

In the field
14 Feb 45

(F M Matheson) Col,
Comd,
6 Cdn Inf Trg Regt.

To be Tried by Field Genral Court Martial

In the field
15 Feb 45

E W Haldenby

(E W Haldenby) Brig
Comd
14 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H617377	Pte		John	LECHOW	6 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Feb 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[redacted] GWH

[redacted] GWH

[redacted] GWH

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	E M MILLER	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	as detailed by O.C.	7 CITR
Lieut	as detailed by O.C.	6 CITR
[redacted] GWH		
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
[redacted] GWH		
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — GWHaddon (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Dat 15 Feb 45 — Commanding HQ 14 Cdn Inf Trg Bde — Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 30, (In lieu of AFA 3) 40-7-6 E.1867 (8143)

(See overleaf for notes and notes for use on trial.)

MEDICAL CERTIFICATE

THIS IS TO CERTIFY THAT H.617737 Pte LECHOW, John OF 11 TRG BN, 6 CDN INF TRG REGT HAS THIS DATE BEEN EXAMINED BY ME AND FOUND FIT TO UNDERGO TRIAL BY FIELD GENERAL COURT MARTIAL

16 Jan 45
DATE

J. M. Hall Capt
MEDICAL OFFICER

CASE OF

S-1 W.C17737 Private LECHOW, J. No. 6 CITR

The accused, sworn, states:-

On Sun morning, Feb 4 45, I went to the toilet at approximately 1000 and came back at approximately 1020. I sat down by the fire and the CSM walked in and asked me why I was not on church parade. I replied, "I don't know". Really I was waiting for the NCO to call the parade.

Q. Did you know about the church parade?
A. Yes, SIR.

Q. Did you know at what time the church parade was?
A. No, Sir.

Q. Was it posted on orders?
A. Yes, Sir, but the order said that the time would be posted later. I never saw this order.

Q. When you were in the ablution room, did you hear a parade being called.
A. No, Sir.

Q. At any time?
A. No Sir.

Q. When you came backin the hut, who was in the hut?
A. Ten men.

Q. Were they RCs or Protestants?
A. I cannot tell you that.

Q. Why did you tell the CSM you did not know why you were not on parade?
A. Because I figured the church parade was not called yet.

Q. Were you properly dressed at that time?
A. I had my tunic off.

Q. What about your boots and anklets?
A. I had them on.

Q. Did you intend to go on church parade?
A. Yes, Sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. At what time did you come back from the ablution rm to your hut?
A. It must have been 1020.

Q. At what time did the CSM come in?
A. A few minutes later.

Q. Had you seen this Pt 1 Order?
A. No, Sir. (Showing him the order)

Q. Did you make a habit at looking at your coy orders-every day?
A. Not necessarily but I looked most of the time, Sir.

QUESTIONS BY THE COURT

Q. When did you see the order saying that time would be posted later?
A. Yes, Sat around noon.

Q. Did you look at the notice-board again?
A. No Sir.

Q. Did you know there was a church parade on Sun morning?
A. Yes, Sir.

Q. At what time?
A. AROUND 1030.

Q. Did the other men talk about the church parade.
A. Not that time.

Q. Are you an RC?
A. Yes, Sir.

Q. Were there other RCs in the hut?
A. I don't know.

Q. How long have you been living in this hut?
A. A week or so. Now. I moved in on Saturday before.

Q. Had you been on church parade in this camp?
A. No, Sir.

Q. Was an order posted for your coy church parade?
A. The fellows said it was. I didn't look as I was in town that afternoon.

Q. You said something about the NCO's telling you about the church parade, why did you say that?
A. Well, any parade that is called so far, the NCO calls the fellows out.

Q. What were you doing in the ablution rm?
A. I was taking a "shit".

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

COURT TO THE DEF OFFR

Q. Have you any further questions?
A. No, Sir.

QUESTIONS BY THE PROSECUTING OFFR

Q. Did you come into the camp with the Oxford Riflas?
A. I came in a couple of weeks later. I arrived in "C" Coy on Sat morning and this church parade was the next day.

UNDER 37(d) the Court advised the accused that he should plead "not guilty".

COURT (ADDRESSING THE PROSECUTOR)

Q. Have you anything to say?
A. No, Sir.

D3 Prosecution in CASE OF

H 617737-

D-3 H.~~617377~~ Private LECHOW, J. No. 6 CITR

FIRST WITNESS

A.82122 CSM WARD, R.W., "C" Coy, 11 Trg Bn, 6 CITR, sworn, states:-

On this day, 4 Feb 45, as SM "C" Coy, 11 Bn, 6 CITR, I called out the Protestant Church Parade; on returning from there, before dismissal of that parade, I called the roll of that parade; and by the time I had finished that, the RC Parade was being formed up, as their time was later than the Protestant Church Parade. I called out the RCs on completion of the Protestant parade, which was at approximately 1030. I had a roll call of that parade. Having a roll-call of the two parades, I checked it with the nominal rolls in the coy office and found the accused absent along with some others. After checking the nominal rolls that I had in the coy office, I proceeded to the huts to see if I could find these missing personnel. I found the accused in his hut, sitting beside the fire. I asked him his name and he told me. I asked him why he was not on church parade and the only answer I got was that he did not know.

Q. Was the time of the church parade published in orders?
A. Yes, Sir.

Q. How?

A. Bn Pt I Orders were posted in the coy, dated Feb 3.

Q. Is this the order? (Showing the order)(Marked EX "A")
A. Yes, Sir.

Q. Where was that posted in relation to the location of your coy?
A. That was posted on "C" Coy orderly board, outside the "C" COY Orderly Bn.

Q. At what time was that order posted there?
A. It was posted in the afternoon, Sir. I had made out Coy Orders to the effect of the church parade and, not knowing the times on account of Bn Orders not being out, I made Coy Orders and stated that the times would be announced later but that both parades would be compulsory. The Bn Orders were posted later in the afternoon.

CROSS-EXAMINED

Q. Did an NCO call the parade in the hut?
A. I went around each hut, self, Sir.

Q. When?
A. I went with the Protestant Church Parade which was at approximately 0835 hrs and after my return from there, Cpl Potvin and I rounded up the RC Parade at approximately 1020. I called out the Protestant Parade but I did not call out the RC Parade, Cpl Potvin did.

Q. Do you know if Cpl Potvin went to the hut of the accused?
A. I cannot swear to that, Sir. Personnel from the same hut who were RCs were out on that parade.

QUESTIONS BY THE PROSECUTOR

Q. At what time did the RC personnel go on that parade?
A. About 1030, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

SECOND WITNESS

Lt J.D. DUERR, "C" COY, 11 TRG BN, 6 CITR, sworn, states:-

On the 4 Feb 45, the Sun in question, I was Offr IC RC Parade for "C" Coy, and the NCO IC Parade turned over the parade to me. It was approximately 1035, the parade moved off and at approximately 1120 the church parade was dismissed.

CROSS-EXAMINED

Q. How long did it take the parade to form up?
A. I cannot exactly say, Sir. The NCO was starting to call the roll when I got there at 1030.

Q. You were there at1030 and the NCO was calling the roll at 1030?
A. Yes Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP83(B).

D-4

DEF OFFR

According to the Pt I Order, the parade was called for 1045. The evidence given by Lt Duerr is that the parade moved off at 1035. Therefore, even if the accused had been on parade in accordance with the order, he still would have been late. The charge is AWL from 1030 hrs. The Pt I Order is for 1045. The accused was put under charge at 1035. He was not AWL as charged. He was ready and wanting to go on Parade in accordance with the order.

PROSECUTOR

The accused has stated that he did not go back to the orderboard to find out the time and the order states that the parade will be at 1040 and he, having been in the camp the day before, should have realized the fact that personnel warned for a parade should go out on parade in good time before the parade is called out and he made no effort to find out the time of the parade. He should have known that he had to fall on the coy parade before the parade "steady". He expected this parade to be at 1030 hrs. If he had been sitting in his hut, he would have known that most of the personnel from that huthad gone on parade. We have evidence that a parade was formed up on the parade ground and that the roll was being called and he would be quite able to hear that through the walls of his Nissen hut.

D-5 The accused, sworn, states:-

After ten o'clock, I went to the toilet. I came back around 1020 to the hut and I sat by the fire. There was about ten men around the stove and I was waiting for this NCO to call the church parade, and instead of that, the SM came in and asked me why I was not on church parade. I told him "I didn't know".

Q. Why did you say that?
A. He caught me by surprise and I just told him "I didn't know". He turned around, walked away and said, "You'll be up on orders.

Q. Were the other personnel in the hut Protestants? or R.C.s?
A. I don't know.

Q. Was the Protestant parade back?
A. I don't know, it could have been.

Q. Did you think that all these men in the hut were waiting for the RC Parade?
A. That's right.

Q. What were you waiting for?
A. For the NCO to call up the boys to go on my RC Parade.

Q. Did you intend to go on the RC Parade?
A. Yes, Sir.

Q. How were you dressed?
A. I had my anklets and boots on but no tunic.

Q. Why was your tunic off?
A. I was sitting by the fire, Sir.

CROSS-EXAMINED

Q. When you came back from the latrine did you speak to the other men in the hut?
A. We were just talking around. We were talking about the war news and all that.

Q. Did you know if those men intended to go on church parade?
A. Most of them had their tunics on and some didn't.

Q. Did the CSM speak to any of them?
A. He asked everybody their names.

Q. WHAT happened to theothers?
A. One or two missed the Protestant Church Parade.

CROSS-EXAMINED BY THE COURT

Q. How long had you been in this hut?
A. We moved in there the day before, Sir.

Q. When did you come to this camp?
A. I came to this camp in "D" Coy, two weeks before.

Q. Had you been on church parade in this coy before?
A. No, SIR.

Q. How many were sleeping in your hut?
A. About 18.

Q. How many were in the hut?
A. Around ten.

Q. At what time did you get back from the toilet?
A. 1030, pardon, 1080.

Q. ARE there any place where you can read the orders at night?
A. Yes, SIR.

Q. Whereabout did you live from the "C" Coy.Orderly Rm?
A. About fifty yards, Sir.

Q. There would be no other reason to go there but to see the orders?
A. That's right, SIR. — (can contd next sheet)

It's muddy around there.

Q. Did you know there was a church parade on Sun morning?
A. The first order said that the time would be posted later and I figured it would be around 1030 and I was waiting for the NCO to call the boys on parade.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP83(B).

STATEMENT BY THE PROSECUTOR ON THE FINDINGS

All I have to say is that this man knew there was a church parade and he did not make any effort to find out the time. The SM has stated that parade was called out at approximately 1030 hrs and after this the SM found him at 1055 hrs. It would seem that the accused was not in hut between 1020 and 1030 hrs and that's the time that the parade was called out. If he was not in his hut between the hrs of 1020 and 1030, he would have to walk from the ablution rm to his hut and at that time the parade was on the parade ground and would be quite capable of seeing there was a parade and would know he was late.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

Sir, there is no evidence as to when that parade was called in the hut or that he called it at all. We are just assuming that the parade was called in the hut and the accused was waiting in the hut for the parade to be called.

A.[illegible] WARD, R.W., "C" Coy, 11 Trg Bn, 6 CITR, recalled for further evidence, by the prosecutor, and states:-

Prosecutor having asked Leave of the Court.

Q. You stated that when you went to the hut where the accused was that there were some RC personnel around the stove.
A. I stated that there were personnel but I didn't know if there were RCs there.

Q. How many RCs were there quartered in this hut?
A. I couldn't say, Sir, I know there were some. I didn't check the men as to what religion they belonged. These men in this hut were all new, having come to us from another coy the day before. On Sat morning some of them came to "C" Coy; they were all new and I didn't know what religion they were, Protestant or RC, so when I went to call them out for church parade, this one and that one would tell me they were RC. I said nothing to that as their parade was later. THAT is the reason for the two rolls, Sir.

Q. Were there RC Personnel from this hut on parade?
A. I couldn't say, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SUMMARY OF EVIDENCE

in the case of

H.617737 Private John LECHOW, 6 Cdn Inf Trg Regt, a soldier of the Canadian Army on Active Service.

FIRST CHARGE

ABSENTING HIMSELF WITHOUT LEAVE

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

A.82122 CSM WARD, R. W., "C" Coy, 11 Trg Bn, 6 Cdn Inf Trg Regt, having been duly sworn, states:

"I am, A.82122 CSM WARD, R.W., CSM of "C" Coy, 11 Trg Bn, 6 Cdn Inf Trg Regt. After Protestant Church Parade's roll call at approximately 1030 hrs on Sunday 4th February 1945, the R.C. Church Parade was formed up and I went to check that roll call and found this man absent from the parade. After checking the R.C. nominal roll, I checked both parade nominal rolls with nominal roll in Coy office to find the missing personnel. After having found names of personnel, I went to the huts to locate the people themselves and I found Private Lechow in his hut, sitting around the fire at approximately 1055 hrs. The R.C. Church Parade had moved off before I checked. I asked him his name first and he told me his name was Pte. Lechow. Then I asked him why he was not on church parade and he said he did not know why he was not on Church Parade. I submit Bn Part I Order #13 dated 3 Feb 45 marked as Exhibit "A".

The accused declined to cross-examine the witness.

R.W. Ward CSM
(A.82122 CSM WARD, R. W.)

SECOND WITNESS

Lieut. J. D. Duerr, "C" Coy, 11 Trg Bn, 6 Cdn Inf Trg Regt, having been duly sworn, states:

"I am, Lieut. J. D. Duerr, 11 Trg Bn, 6 Cdn Inf Trg Regt. On Sunday 4th February 1945, I was the officer in charge of the R.C. Church Parade for "C" Coy. At approximately 1035 hrs the NCO in charge of the parade turned the parade over to me, the roll having been called in the presence of CSM Ward, I moved the parade off to church. At approximately 1120 hrs, service being over, I broke the parade off.

The accused declined to cross-examine the witness.

J. D. Duerr Lieut.
(J. D. Duerr) Lieut.

PAGE TWO

QUESTION TO THE ACCUSED

Do you wish to make any statemtn or to give evidence upon oath?
You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED

No, sir.

I certify the Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the present of the accused at Camp #3 Petworth this 9th day of February 1945.

N. L. Kutney .....Lieut.
(N. L. Kutney) Lieut.

Exhibit "A"

PART I ORDERS
Issued by

LT.COL. T.P. WHITLEY
Officer Commanding

7 FEB 45 — 11 TRG BN — NO. 13 / NO. 6 CITR(CAS)

NO. 1 DUTY OFFICER — 4 Feb 45 — Capt. A.E. Davis
Next for Duty — 5 Feb 45 — Major W.E. Kime
Warned for Duty — 6 Feb 45 — Capt. J.E.L. Warren

NO. 2 ORDERLY OFFICER — 4 Feb 45 — Lieut G.A.L. THOMPSON
Next for Duty — 5 Feb 45 — Lieut A. Wasse.
Warned for Duty — 6 Feb 45 — Lieut C.E. Chisholm

NO. 3 BN OrDERLY SGT. — 4 Feb 45 — Sgt. Williams, L.G.
Next for Duty — 5 Feb 45 — Sgt. Chapman, S.
Warned for Duty — 6 Feb 45 — Sgt. Milne, L.F.

NO. 4 DUTY OFFICER — 4 Feb 45 — Lieut R.L. Jones
R. M. C. — 4 Feb 45 — Lieut A.F.W. Hall
C.O.T.S.A. — 4 Feb 45 — Lieut S.A.L. Thorndike

NO. 5 DAILY ROUTINE - SUNDAY 4 FEB 45

Reveille	0700 hrs	Supper	1715 hrs
Sick Parade	0715 hrs	Retreat	1730 hrs
Breakfast	0730 hrs	First Post	2215 hrs
Church Parades	Para 7	Lights Out	2245 hrs
Dinner	1200 hrs		

NO. 6 POSTING

The u/m personnel are posted from "D" COY to "HQ" COY eff 3 Feb 45

Lieut. W.M. Land
A.C134 8 Pte. MCWSON, J.J.
A.[illegible] Pte. SMITH, J.E.

The u/m personnel are posted from "C" COY to "D" COY eff 3 Feb 45

R.[illegible] Pte. AUGUSTUS, G.
D.[illegible] Pte. BAKEMAN, I.
L.[illegible] Pte. LAKE, L.
D.[illegible] Pte. OSBORN, A.L.
A.[illegible] Pte. RUSLING, G.F.
E.[illegible] Pte. SCHULTZ, T.A.
B.[illegible] Pte. VIETA, A.W.

Personnel from "C" & "D" COY. are posted to R. & D. Wing, 6 C.I.T.S., eff. 3 Feb 45. Nominal roll attached as Appendix "A" to this order.

Personnel from "A" & "B" COY. are posted to R. & D. Wing, 6 C.I.T.S., eff. 3 Feb 45. Nominal roll attached as Appendix "B" to this order.

A.[illegible] Sgt. MacCUNNIEN, J.C. Posted to "HQ" COY. eff. 3 Feb 45.

NO. 7 PROTESTANT CHURCH PARADE
Petawpth Church 0915 hrs

Markers - 0840 hrs
Advance - 0845 hrs
Steady - 0850 hrs

Officers will fall in with their Coys on Coy Parade and move with Coy on Coy Marker. Markers will be placed under direction of the R. S. M.
Bn Parade will form up under direction of the Adjutant. P.T.O.

NO. 7 H. C. CHURCH PARADE
N.A.A.F.I. Theatre 1045 hrs

Parade Steady - 1040 hrs
Officer i/c Parade - Lieut C. H. Chisholm.
N.C.O. i/c Parade - C.S.M.S. Girard, R.C.
Parade will form up in front of S.M. Stores on the main road.

.....Lt.Col.
(T. F. WHITLEY) Capt Lt.Col.
C.O., 11 Trg Bn & C.I.C.M.

NOTICES

CONCERT - There will be an ENSA SHOW in N.A.A.F.I. Theatre at 1900 hrs on Monday evening, 5 Feb 45.
"HIT'S THE BERRIES"

14 Feb 45.

CERTIFIED TRUE COPY:

.....Capt.
(D. S. Grant) Adjutant
11 Cdn Inf Trg Bn (A)
Officer Having Custody
of Original.

LIST OF WITNESSES FOR THE PROSECUTION

Lt J D Duerr of 11 Cdn Inf Trg Bn, 6 Cdn Inf Trg Regt.

A82122 CSM Ward R W of 11 Cdn Inf Trg Bn, 6 Cdn Inf Trg Regt.

LIST OF WITNESSES FOR THE DEFENCE

NIL

REQUIRED BY A CUSED AS TO WHETHER OR NOT HE DESIRES TO HAVE AN OFFICER ASSIGNED BY THE CONVENING OFFICER TO REPRESENT HIM AT THE TRIAL, (R. , 14(2 (a)

Comd,
6 Cdn Inf Trg Regt.

Sir;

I wish to have an officer assigned by the convening officer to represent me at my trial.

J Lechow

LIST OF WITNESSES FOR THE PROSECUTION

Lt J D Duerr of 11 Cdn Inf Trg Bn, 6 Cdn Inf Trg Regt.

A82122 CSM Ward R W of 11 Cdn Inf Trg Bn, 6 Cdn Inf Trg Regt.

LIST OF WITNESSES FOR THE DEFENCE

NIL

STATEMENT BY ACCUSED AS TO WHETHER OR NOT HE DESIRES TO HAVE AN OFFICER ASSIGNED BY THE CONVENING OFFICER TO REPRESENT HIM AT THE TRIAL. (R.P. 14(B)(h)

Comd,
6 Cdn Inf Trg Regt.

Sir:

I wish to have an officer assigned by the convening officer to represent me at my trial.

J. Fechow

AAA-126

BFN LECLAIR J.

AAA-126

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 61/P & S/1698 (2864)

Convened by Order of Brig C. C. Mann Comd 7 Chn Inf Bde dated 4 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-40939	Rfn (a/L cpl)	John	Le Clair	R Wpg Rif

PROCEEDINGS REVIEWED

[signature] Capt. 8 Feb 44

REVIEWING OFFICER, JAG BRANCH O.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ [illegible]

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~ [illegible]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No [illegible] (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 6B(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D. V. Love	Regina Rif
Member	Capt	H. C. Gordon	7 Chn Inf Bde Sp Gp
Member	Capt	L. H. Hanson	R Wpg Rif
Judge-Advocate	n/a	n/a	n/a
Prosecutor	Lt	O. R. Donogh	R Wpg Rif
Defending Offr	Capt	P. E. Grass	R Wpg Rif

Questions by President: Is the Prosecutor a lawyer? Ans No [illegible] Is the Defending Offr a lawyer? Ans No [illegible] (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 3.)

A8. The accused H-40939 Rfn (a/L cpl) John Le Clair before arraignment make(s) (no) ~~(a)~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PROCEEDINGS REVIEWED

Date 5 Jan 44

FIRST CLASS ARRAIGNMENT

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35 R(fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H40939 Rfn (A/L/Cpl) John LeClair, 1st Battalion, Royal Winnipeg Rifles, a soldier of the Canadian Army, placed on Active Service, in England, is charged with:-

First Charge Sec 40 Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

on the 23 of December, 1943, was improperly in possession of four pair of khaki socks (three dark pair and one light) the property of L103685 Rfn Wilbert John McCallum a person subject to Military Law.

In the Field

30 December 1943

(JOHN MELDRAM) Lt-Col,
OC THE ROYAL WINNIPEG RIFLES

To be tried by Field General Court Martial

Date:

4 Jan 44

Brigadier
Comd 7 Cdn Inf Bde

.....
Convening Officer

A.L.

MEDICAL OFFICERS CERTIFICATE

5 Jan 44

I certify that H40939 A/L/Cpl LeClair J., The Royal Winnipeg Rifles is fit to undergo trial by Court Martial, having been examined by me on this date.

.....
(Signature of Medical Officer)

D.V.L.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
40/PAS/1697 (2688)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fn; KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H40939	Rfn	(A/L/Cpl)	John	LeClair	R Wpg Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 3 Jan 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable owing to the need for secrecy that a court should sit.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Those noted as absent (A) have others detailed for the Court in a Fd Offr as President for the purposes of above~~ ~~ORDER NOTED.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Below appear as Judge Advocate (and) (and) the Officer detailed hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.V. Love	Regina Rif

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H.B. Gonder	7 Cdn Inf Bde Sp Gp
Capt	L.H. Denison	R Wpg Rif

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	G.P.P. Chant	R Wpg Rif

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 4 Jan 44

(Signed personally. RP 105 fn 2.)

(C.C. Mann)

Brigadier, (Rank.)

Commanding 7 Canadian Infantry Brigade Group

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Opening address by Prosecuting Offr

D 2

I wish to point out to the court that the evidence brought out by the prosecution is NOT to prove theft but to prove improper possession of articles belonging to another soldier. I propose to place before the court one Exhibit i.e. four (4) pairs of socks* — three of which are khaki colored and one pair light colored. I intend to bring forward six (6) witnesses to prove that the accused H 40939 A/Lcpl John Le Clair was in improper possession of the socks aforementioned.

* Here, prosecuting offr hands president 4 pairs socks, tagged as Exhibit A. Three pairs are dark khaki, and one pair light, with a green label.

D.H.

D.H.

First Witness for the Prosecution

Pte 103688 Rfn Wilbert & John McCallum, R Wpg Rif, sworn, states: I am a batman in 'D' Coy R Wpg Rif and am in the same pl as the accused. The accused in court is Rfn Le Clair. On the 22nd of Dec 1943, I returned from Leave at about 1148 hrs. I called for my mail at the coy orderly room and received four parcels. I then returned to 'D' Coy billets for 17 and 18 pls. where I opened the parcels. I then repacked the parcels after examining the contents and left them in the room. I then went to the offrs mess where I work. At approximately 1330 hrs on the 22 Dec 43, I returned to the place where I had left the parcels and found one parcel missing. I examined the other parcels and found in addition to the parcel that was completely missing, that four pairs of socks and a box of chocolates were missing. I stayed in the billet until the boys came off bath parade at approximately 1350 hrs. I asked several if they had anything missing. At about 1630 hrs I moved my eqpt to the offrs mess where I work. I reported all losses to Sgt Hackett at 1330 hrs on the 23 Dec 43. The socks were three pairs dark brown in color and one pair light which I can recognize by the green label.

Q – Do you recognize the socks shown the Court as Exhibit A?

A – Yes sir

Q – Who were the in the room when you first opened your parcels?

A – Rfn Roy and Rfn Belliveau. They came back off Leave the same time I did.

Q – Did you have any contact with the accused during the afternoon of the 22 Dec 43?

[illegible]

D-3 (cont'd)

A. – Yes sir, he spoke to me on his way through to the lavatory and then came in a few minutes later to ask me if I had any cheese to sell to make sandwiches with. I said "no." I mentioned to him the loss of the parcel.

Q – Did you see the accused inside the room in which you kept your parcels at any time during the afternoon?

A. Only on the time mentioned when he asked about the cheese.

Cross-Exam:

Q – Was the accused present when you opened the parcels?

A. Not to my knowledge sir.

Q – Were any others present besides Rfn Ray and Rfn Sullivan?

A – After dinner there were others in the room and I passed some candies around.

Q – You did not notice who these others were?

A – Some of 17 pl.

Q – When you returned and found one parcel missing, were the others open?

A. No, sir, they were still tied up.

Q – Were there any other men sleeping in that room at the time.

A – No, the room was vacant, and there was no bedding there.

Q – Did you report them to any other NCO before Sgt Hackett?

A – Yes, to Sgt McCarriston on the afternoon of the 22 Dec 41

Exam by Court.

Q – Are the socks shown the court as Exhibit A the socks you found missing from ~~A~~ your parcel

A. Yes, sir.

Q – How can you recognize them?

A. I recognize one pair by the green advertising label and, the son here are the same color as the ones that I had.

R.P. 83(b) complied with.

[illegible]

D-3 (cont'd)

Second Witness for the Prosecution

H-87328 Cpl McCorriston P.R., R Wpg Rif, sworn, states:

I am a Cpl in 17 pl 'D' Coy, the same pl in which the accused is. The accused in court I recognize as L/cpl Le Clair. ~~Sam~~ On the afternoon ~~of the 23 Dec~~ they were lost, Pfr McCallum reported to me the loss of a box of chocolates, a fruit cake and some socks, from a parcel. I reported this to Sgt Hackett the following morning. I sleep in the same room as L/cpl Le Clair. On the night of the 23 Dec I saw L/cpl Le Clair at approx 2330 hrs with some socks.

Q - Have you seen the socks that I show now to you as Exhibit 'A' previously?

A - I saw the accused with three pair of dark socks and one pair of light socks that night. ~~[illegible]~~

Cross-Exam.

Q What was L/cpl Le Clair doing with the socks when you saw him the night of 23 Dec?

A. He was sticking them in his pailliasse.

Q - Was he going to bed, or making his bed?

A - His bed was made and he was kneeling on his pailliasse

Q - Do you identify these socks, Exhibit 'A', as the socks held by L/cpl Le Clair on the night of 23 Dec at 2330 hrs?

A - Yes, sir.

Exam by the Court.

Q - What day of the week did you see the accused with the socks.

A - I don't remember, sir.

R.B. 83(b) complied with. [illegible]

Third Witness for the Prosecution (4). D—3 (cont'd)

H-70143 Sgt Hackett J.A. R Wpg Rif, sworn, states:
I am pl sgt of 16 pl 'D' Coy but from about 22 Dec 43, I am not sure of the exact date, I was acting as CSM 'D' Coy. On 23 Dec 1943 Cpl Le Lorde reported to me at approximately 1345 hrs that a number of thefts had occurred in 17 and 18 pl billets, including quite a number of cigarettes. At the same time Rfn St Callum reported to me that he had opened Xmas parcels on the afternoon of the 22 Dec 43 and that he had gone over to the offer quarters then, to find out where he was going to sleep — as he is a batman and had just come back off leave. He told me that a fruit cake, a half pound box of chocolates with a picture on the lid of a lady, and four pairs of khaki socks were missing. He described the socks to me as being one lighter pair with a green label and the other three pair being darker. I reported the matter to my coy comd who instructed Lt Kirkpatrick and myself to hold an inspection of 17 pl and 18 pl where the loss of the articles had occurred. At approx 1630 hrs we went down to the billets in question and inspected the room first where we were told where the articles might possibly be. On ~~the~~ inspecting the kits of the men in the room there were two men we had missed who were on duty at ~~the~~ tpt at the time — and being about supper time we decided to continue inspecting after supper. At 1730 hrs the same date, 23 Dec 43, we inspected the two men we had missed i.e. the two on duty at the tpt, and at the same time decided to look through the bed rolls of the men. On coming to the accused, whom I recognize as L/Cpl Le Clair's, bed roll Lt Kirkpatrick pulled back Le Clair's pailliasse and some four (4) pairs of khaki socks which I recognized as the socks that

D-3 contd

(5)

Rfn Sgt Callum had described to me. I asked L/cpl Le Clair's permission to take these socks to the Orderly Room which he granted. On returning to the Orderly Room I sent for Rfn Sgt Callum and asked him if these were his socks. He said they were. I reported this to the coy comd and ~~after~~ he instructed me to place the accused under close arrest.

Q. These socks shown to you as Exhibit "A" – do you recognize them?

A – Yes, sir

Q – Did the accused say anything ~~[illegible]~~ when the socks were discovered in his bed roll?

A – "I received these socks about Monday or Tue, wasn't it, Sgt Dowell?" was the statement the accused made. That was all – and it was not addressed to me.

Cross Exam.

Q. – Are those definitely the socks you took to 'D' Coy Orderly Room.

A – Yes, sir.

Q – At approximately what time?

A – 1745 hrs, sir and they were kept there.

Q – Did the accused make any statement to Lt Kirkpatrick or yourself?

A – No, sir.

Q – Did he deny ownership of the socks?

A – No, sir.

Q – Were there men in the room on 22 Dec 43 when Sgt Callum left his parcels there?

A – Yes, sir.

Exam by Court

Q – Is there a record in Coy Orderly Room of all parcels received by coy?

A – No sir, just cigarettes

R.P. 83(b) complied with

[illegible]

Fourth Witness for the Prosecution

H-102803 Rfn Roy W.R., R Wpg Rifles, sworn, states,
I am in 17 pl 'D' Coy. I was in the same room as Rfn McCallum when he opened his X mas parcels on the 22 Dec 43. I then went on both parade and when we came back Rfn McCallum asked me if I was missing any articles from my parcels, as he was missing a box of chocolates and a fruit cake. Later on he mentioned he was missing four pairs of socks.

Q - Had you seen the socks when he originally opened his parcel

A - Yes sir. There were three dark pair and one light

Q - The socks shown to you now as Exhibit 'A'. Are they the socks that Rfn McCallum had in his parcel?

A - I wouldn't swear they are the same ones.

Cross Exam

None

R.P. 83(b) complied with

Fifth Witness for the Prosecution

H-104216 Rfn Belleveau F.G. R Wpg Rif, sworn, states:
I am in 17 pl 'D' Coy. When Rfn McCallum opened his X mas parcels on the 22 Dec 43 I was present. He showed us some of the stuff in the parcel which included a fruit cake, a box of chocolates, and four pair of socks. ~~and a box of chocolates~~

Q - Do you recognize the socks shown to you now as Exhibit 'A'?

A - They are the same colour as the ones Rfn McCallum had.

Cross Exam

None!

R.P. 83(b) complied with

(7) [illegible]

D – 3 (Cont'd)

Length Witness for the Prosecution.

Lt. Col J. A. Meldram O.C. & Wpy Rif was to give [illegible] evidence for the prosecution in the nature of a statement made to him by the accused at his hearing of the case. On questioning by the Court, it was determined that Lt. Col Meldram had NOT warned the accused that the statement might be used later as evidence against him before the accused made the statement, and therefore the Court ruled Lt. Col Meldram's evidence inadmissible.

[illegible]

[illegible]

D-6

First Witness for the Defence

H-40939 D/Lt Cpl Le Clair J. R Wpg Rif, sworn, states:

I am a Lt Cpl in 17 pl 'D' Coy. R Wpg Rif. On the night of the 22 1943, a bunch of us boys went down to the pub. We came back later in the evening at approximately 2230 hrs and we all had a bunch. Just after we finished the lunch I hung my jacket up on the wall with the funds in the inside pocket of my tunic. On the morning of the 23 I got up and found my tunic missing. I asked one of the boys in the room where my tunic was and no one knew — and then Lt PLAXTON walked in the door as I was talking to the boys with regard to the disappearance of my tunic. Lt PLAXTON said "there a tunic hanging downstairs in the hallway that looks like yours because there is a ribbon on it". I went downstairs and the tunic was mine, with the pockets turned inside out, and the money stolen (all) and an extra ribbon that I had on my left breast pocket, was on the floor. I didn't say anything about it because I wanted identify the money — until the morning of the 23 also at 1630 hrs approx when I reported the occurrence to Lt Kirkpatrick. She was just starting to search the room. At the ordered [redacted] to turn out we had boys and everything including large packs. I was inspected first and nothing was found. Later, after supper, Lt Kirkpatrick came back and inspected the mattresses and found the note under my mattress. I was talking to a Lt McDONELL at the time and Lt Kirkpatrick picked up the note and asked my permission to take the note to the Coy Orderly Room and I said "Go ahead, they are not mine". They walked out. Sgt Hackett and Lt Kirkpatrick and nothing else was said.

Still

Q. Were you told by Lt Kirkpatrick what articles were missing, and if so, when were you told?

Q. We were told shortly after the first inspection which was before supper. – about 1640 hrs.

Q. Did Lt Kirkpatrick inspect your blankets or your mattress on the first inspection? before supper?

A. Yes, sir, he inspected both the blankets and the mattress.

Cross Exam

Q. Were you on the coy room meal parade on the 22 Dec 43?

A. No sir. I was not.

Q. Were you on the coy bath parade that same afternoon?

A. No, sir.

~~Q. Why were you~~

Q. Were you in the room where Rfn McCallum was opening his parcels at any time during the actual opening of the parcels

A. No, sir

Q. Were your blankets and mattress inspected twice on the evening of the 23 Dec

A. Yes, sir, they were

Q. When Lt Kirkpatrick found the socks in the second inspection had you seen them before?

A. No, sir

Q. Did you make any comment to Rfn McDowell with reference to these socks?

A. No, sir

Exam by Court:

Q. Have you any idea of how the socks got under the mattress?

A. No, sir

Q. Were you out of the room between the first and second inspection?

A. Just for about five minutes to go to the lavatory. I didn't go to supper.

Q. ~~between~~ Dining the time you were in the lavatory were there other soldiers in the room?

A. Yes, sir.

R.P. 83 (b) complied with.

First Witness for the Prosecution is recalled by Court

L 703688 Rfn Wilbert John McCallum, R Wpg Rif, having been warned that he is still under oath, was examined by Court as follows

Q – Did you give any socks to the accused?

A – No, sir.

R.P. 83(b) complied with.

Third Witness for the Prosecution is recalled by Court

H. 70143 Sgt Hackett J.A. R. Wpg Rif, having been warned that he is still under oath, was examined by the Court as follows

Q – Did you inspect the accused's mattress before supper?

A – No, sir.

Q – Did Lt. Kirkpatrick inspect the accused's mattress before supper?

A – No, sir.

R.P. 83(b) complied with.

D.J.L.

D.J.L.

Closing Address - Prosecution D-6 (-4)

The evidence that has been submitted is tended to prove nothing more nor less than improper possession.

The missing articles produced as Exhibit "A" ~~have been~~ disappeared from the parcel of the owner at a time when the billet was empty - the Coy being on bath parade ~~and~~ and the owner himself being away at the Officer's Mess (~~Evidence produced by the prosecution witnesses and evidence given by the accused show him to be the only one in the billet during the interval between the Coy leaving for bath parade and the returning of Pfn. McCallum to the room where he left his parcels.~~) - i.e. [illegible]

Further evidence produced by Cpl. McCorriston states that he saw the accused with the socks, and remember that this witness identified, under oath, Exhibit "A" as being the same socks.

~~Lastly~~ Finally, during the actual

13 ② Dec 6 (1911)

inspection of the bed-roll of the accused the socks were found by an inspecting officer and serjeant. The serjeant claims only one inspection of the bed-roll of the accused, at which time the socks were found.

The accused does not claim ownership, but the socks were discovered in his bedroll. Rfn. McCallum does claim ownership of these socks. Therefore the accused must have been in improper possession of these socks. Such is the charge, and I am convinced the evidence proves it.

A. B. Donovan Lt
Prosecutor

Except bracketed and underlined NOT allowed, or taken into consideration by Court. D.H.

Closing address for the Defence: (14) D-6 (cont'd)

"The case for the prosecution is based on the statement of the 2nd witness that he saw the accused actually with Exhibit "A" in his hands, and supported by the fact that Exhibit A was found under the palliasse of the accused.

The evidence of the second witness is not in any way reliable, because it is at variance with other evidence before the Court, and if the witness did make a mistake in the date, why did he state that he reported the matter to Sgt Hackett in the morning, while Sgt Hackett definitely states that it was in the afternoon. If a witness cannot even remember the time of day how can he definitely identify socks; which, if his evidence has any truth in it, he could have only had a short glimpse of

The fact that the socks were found in the bedding of the accused shows possession, but certainly does not imply ~~illegal~~ improper possession, particularly when they were not found on the first search. Is it logical to assume that, after being told that the socks were the object of the search, the accused would hide them under his mattress.

D.B.

(15)

D-6 (cont'd)

The prosecution has not been able to prove that the accused had any knowledge of the socks before they were found and I therefore ask that he be acquitted

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The first witness states that he was at the Officers mess 3/4 of an hour, returning at 1330 hrs 22 Dec 43 therefore he left his quarters before 1300 when the Coy went on bath parade. In this case more person than the accused had access to the parcels

Statement in mitigation of punishment (16) E 3

The accused has been serving in the Army since 28 June 1940, and during that time has only committed two offences which are shown on his Conduct Sheet; one for a short period absent Without Leave, and the other a charge under A.A. Sec 40 which was not in any way similar to the ~~charge~~ offence he is now charged with.

There are two other entries on his conduct sheet - gallant conduct on 24 Sep 42 and award of B.E.M. on 1 Jan 43. I ask the court take this N.C.O's record into consideration when awarding punishment.

H.E. Crowe Capt
R Wpg Rif

H.H.

APPLICATION FOR FIELD GENERAL COURT MARTIAL

I, H40939 A/L/Cpl LeClair J., Royal Winnipeg Rifles, request an officer to conduct my defence at Field General Court Martial in connection with Charge Sheet dated 30 December, 1943.

If possible, I should like this officer to be Capt. P.E. Gower of the ~~1 Canadian Scottish Regiment.~~ Royal Winnipeg Rifles

Signed.. L. Cpl. LeClair J.

Witnessed.. C.K. Donald Lt

Witnesses for the Prosecution:

H70143 Sgt Hackett J.A., Royal Winnipeg Rifles.
L103685 Rfn McCallum W.J., Royal Winnipeg Rifles
H87328 Cpl McCorriston P.R., Royal Winnipeg Rifles
H103803 Rfn Roy W.R., Royal Winnipeg Rifles
L104216 Rfn Belliveau F.G., Royal Winnipeg Rifles

Witnesses for the Defence:

The accused declines to summon witnesses in his defence.

List of Exhibits

Exhibit "A" - Four pair of khaki socks (three dark pair, one light pair).

A.J.L.

Summary of evidence in the case of H40939 A/L/Cpl LeClair J., 1st Battalion, Royal Winnipeg Rifles, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st Witness for the Prosecution

H70143 Sgt Hackett J.A., Royal Winnipeg Rifles, having been duly sworn, states:

"On the 23 Dec 43 a number of thefts were reported to me by Cpl Lelonde of 18 Platoon. Immediately after that, Rfn McCallum W.J., came to see me about a Christmas parcel he possessed and which he had opened in Ancona billet which is 17 and 18 Platoon billet. He reported to me that he was missing four pair of socks, one pair being a much lighter colour than the others. He was also missing a parcel containing a fruit cake in a blue coffee can and a half pound box of chocolates, with a picture on the lid of the box showing a lady with a big red hat. I immediately reported this to Capt Fulton, my Company Commander, who instructed Lt Kirkpatrick and myself to inspect the kits of 17 Platoon where Rfn McCallum was sleeping. We found nothing in the actual kits, but on inspecting the bed rolls, we discovered four pair of socks in A/L/Cpl LeClair's bed roll. On seeing the socks, I noticed one light coloured pair in particular that Rfn McCallum had described to me as one of the pairs that was missing. I asked A/L/Cpl LeClair if I could have his permission to take the socks to the Orderly Room, which he granted. Immediately after that, I sent for Rfn MCCallum who identified the socks as being his. When we inspected the room in which Rfn McCallum slept, two of the men were on duty, so we came back at 1730 hrs to inspect their kits in which we found nothing. I received orders at approximately 1330 hrs to put the accused, whom I recognize, under close arrest." 25 Dec 43

Ques: "At what time did the inspection commence and how was it conducted?"

Ans: "At approximately 1630 hrs, Sir. First the men were instructed to turn out their kit bags, large and small packs, and also inspected personal parcels of the men who were there. We then came back at 1730 hrs to check the men who had not been there previously, and we also inspected everyone's bed roll, and at approximately 1740 hrs we came across the socks in the bed roll of the accused."

Cross-examined by the accused:

Ques: "On your first inspection of my bed, did you find anything?"

Ans: "Yes, the four pair of socks."

Ques: "Did Rfn McCallum sleep in the same room as myself at the time of the inspection?"

Ans: "No."

Ques: "Did the two Company Transport men who were on duty during the first inspection sleep in the same room as Rfn McCallum?"

Ans: "These two men sleep in the room where Rfn McCallum opened and left his parcels and equipment immediately after coming back from leave. Later on in the afternoon, Rfn McCallum moved over to the Officers' Mess.

J.A. Hackett
Signature of Witness

2nd Witness for the Prosecution

L103685 Rfn McCallum W.J., Royal Winnipeg Rifles, having been duly sworn, states:

"I am in 17 Platoon of "D" Company. I returned from leave at about 1145 hrs 22 Dec 43. I received my mail as soon as I arrived. This mail consisted of four parcels and some letters. I took the parcels up to the room in 17 Platoon billet where I had taken my equipment. I opened the parcels, then re-packed them and left them on the floor of the room. Then I went to the Officers' Mess. Three-quarters of an hour later, I returned to the billet and noticed one complete parcel missing. I checked the remaining parcels and discovered that four pair of socks and a box of chocolates were missing. Then I awaited the arrival of the remainder of the platoon who were on bath parade as two men who had returned off leave with me had also received parcels. I asked them if they were missing anything. They replied, "No." I reported my loss to Sgt Hackett. At approximately 1630 hrs I moved all my kit over to the Officers' Mess where I work."

Ques: "Who were these two men who came back off leave with you?"
Ans: "Rfn Roy and Rfn Belliveau, Sir."

Ques: "Did they sleep in the room where you deposited your parcels?"
Ans: "Yes, Sir. They moved into that room after coming off leave."

Cross-examined by the accused:

Ques: "When you returned from leave, did you sleep in the billet that night?"
Ans: "No."

Ques: "Did you at any time put your parcels or kit in the room where I sleep?"
Ans: "No."

Ques: "To your knowledge, do two Company Transport sleep in the room where you left your parcels?"
Ans: "To my knowledge, No."

Ques: "When you first saw me come in, what happened?"
Ans: "We said 'hello', and you went into the lavatory. You came back two or three minutes later and asked me if I had any cheese or anything else, with which to make a sandwich."

Ques: "Did you report your loss to me at any time?"
Ans: "Yes, when you asked me about the cheese, I reported the loss of one parcel, four pair of socks and a box of chocolates."

Ques: "Did I advise you to report this loss to the Company Orderly Room?"
Ans: "I don't remember."

W.J. McCallum.....
Signature of Witness

3rd Witness for the Prosecution

H#7328 Cpl McCorriston P.R., Royal Winnipeg Rifles, having been duly sworn, states:

"Sir, on the night of the 22 Dec 43 some of the men had been missing various articles and they reported it to me. I was told that there were some socks missing, one light pair and three dark pair. I was the Corporal in charge of the room where the accused, whom I recognize, sleeps. I saw the accused with some socks at approximately 1130 hrs 23 Dec 43. I reported this to Sgt Hackett."

Ques: "Why did you report to Sgt Hackett, the fact that the accused had some socks in his possession?"
Ans: "Sir, I had reason to believe that these might be the socks that had previously been reported to me as missing."

Ques: "What was the nature of other losses reported to you?"
Ans: "A box of chocolates, a fruit cake in a coffee can, and four pair of socks. The box of chocolates had a lid on which was a picture of a lady with a big red hat."

Ques: "Who reported this loss to you?"
Ans: "Rfn McCallum, Sir."

Ques: "Were any other losses reported to you by any other man?"
Ans: "Yes, Sir, Rfn McDowell reported missing cigarettes. No one else reported anything."

The accused declines to cross-examine this witness.

Cpl P.R. McCorriston
Signature of Witness

4th Witness for the Prosecution

H103603 Rfn Roy W.R., Royal Winnipeg Rifles, having been duly sworn, states:

"Sir, I returned off leave the same time as Rfn McCallum and Rfn Belliveau, and received parcels and mail the same time as they did. We all returned to 17 Platoon billet and examined our parcels together, while the rest of the men in the billet were at dinner. We did not have any dinner. Rfn Belliveau and myself went on bath parade with the Company at 1300 hrs. Rfn McCallum stayed behind. Later I discovered t at he had gone over to the Officers' Mess. When we returned from the bath parade, Rfn McCallum was at the billet and informed me that a box of chocolates and a parcel containing a cake was missing. He asked me if I were missing anything and on checking I discovered I was not. Later on, in the early part of the evening he told me he was also missing four pair of socks."

Ques: "Had you ever slept in this particular room before going on leave."
Ans: "No Sir, we moved in on the day I came back. This is also true of Rfn Belliveau."

Cross-examined by the accused:

Ques: "Did Rfn McCallum leave any of his kit in my room as soon as he came back?"
Ans: "No, we all took our kit directly to the room in which we are sleeping now."

Ques: "Did you see the colour of the socks?"
Ans: "Yes, three dark pair and one light pair."

J.R. Roy.
.....
Signature of Witness

5th Witness for the Prosecution

L104216 Rfn Belliveau F.G., Royal Winnipeg Rifles, having been duly sworn, states:

"Sir, I returned off leave with Rfn McCallum and Rfn Roy and on arrival received my mail. I returned to 17 Platoon billet and opened my parcels as they opened theirs. This was while the rest of the men in the billet were away at dinner. After dinner, Rfn Roy and myself went on bath parade with the Company. Rfn McCallum stayed behind - I believe he went to the Officers' Mess. On returning from the bath parade, Rfn McCallum was waiting in the room and told Rfn Roy and myself that a fruit cake, chocolates, were missing. Later, he told me that four pair of socks were missing. He said they were three pair of dark socks and one pair of light socks."

Ques: "When did you first sleep in this particular room?"
Ans: "After coming back off leave, Sir."

Ques: "Did you have any contact with the accused at that time?"
Ans: "Yes, Sir. After supper he came to the entrance of my room and asked me if I had something to put in a sandwich. I lent him some sardines which he took to his room."

Ques: "Was your kit and bed roll inspected on the 23 Dec 43?"
Ans: "I don't believe so, Sir, as I was working in the kitchen."

Ques: "Who was in the room when you opened your parcels?"
Ans: "Sir, when we started to open them only Rfn McCallum, Rfn Roy and myself were in the room. Then some of the men returned from dinner while we were still looking at our parcels and Rfn McCallum passed some candy around."

The accused declines to cross-examine this witness.

F.G. Belliveau.....
Signature of Witness

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 30th day of December 1943 in the Field.

.....
Officer taking Summary

No NX40939 Name LeClair J. | Sqn, Battery, or Company | Corps Infantry | Date of enlistment 21 Jun 40 | GC Badges | Service or Proficiency Pay "C" | MFM 6 (AFB 122) 40/PAS/136 (3488) E-2

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		A/Cpl		Distinguished Conduct - R.O. 2545 d/ 24 Sep 42 The Senior Officer CMH is pleased to commend the distinguished conduct of this NCO.					
In The Field	1-12-42	A/Cpl		AA Sec 15 (1) AWL 3 days, 5 hrs 30 mins.	CSM Roshick	Reduced to permanent Grade	11-12-42	Lt-Col J.M. Meldrum	
In The Field	1-1-43	A/Cpl		Awarded B.E.M. Overseas R.O. 2953 d/4 Jan 43					
In The Field	22-9-43	A/Sgt		AA Sec 40 Conduct	Documentary	Reduced to permanent grade	29-9-43	Brigadier C.C. Mann	

Certified True Copy K.E. Brenton Capt Adjt

4 Jan 44 Officer having custody of Regimental documents

(PTO)

Ex "B" L-2

M.F.B. 356
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H40939	A/L/Cpl	LECLAIR J.	ROYAL WINNIPEG RIFLES

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Service and General Conduct sheets or ~~Company Conduct sheets~~ Field of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AA Sec 40	1 times	AA Sec 40	1 times
For		times	AA Sec 15 (1)	1 times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct One

~~or, There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Army Act~~ Air Force Act Section 47 of the ~~A.A. 73~~ A.F.A. 73 and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 yrs, 8 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 21 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 6 months

8. The accused is entitled to reckon 42 months service for the purpose of determining his pension, etc.

9. The accused is in possession of ~~or entitled to~~ no air force decoration, ~~or air force reward~~ military ~~(or is in possession of or entitled to)~~. State any air force decoration or reward. military British Empire Medal

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

A.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ..... and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

1 Nov 43 Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Army

Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 day of January 1944 [illegible] Capt & Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Ex "B" signed by the president, and annexed to the proceedings.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) ~~(his)~~ opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~(The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I prefer to give evidence under oath, sir. Do you intend to call witnesses on your behalf? Ans Yes, sir. Are they witnesses as to character only? Ans N/a
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or; ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No, sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, sir.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see ~~RP 36~~. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3091, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 40939. A/L/Cpl John Le Clair R Wpg Rif

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA HD	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as regards AA see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.294.)

Time in confinement awaiting present trial—a total of 9 days, of which nil days were spent in hospital.

(I. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.294 submitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the rank and to undergo 14 days detention for a period of sixty (60) days

(Sgd) ..... Judge-Advocate, if any. 5 Jan 44 Date awarded. (Sgd) John V. Le Moy Lt Col President. (RP 45, 111.)

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2)(b) to 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 (4).)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court, but remit (20) twenty days detention, and commute the remaining forty (40) days detention to forty (40) days field punishment, in recognition of previous gallant conduct.

I direct that the accused be released in ~~Home Command~~ ~~custody~~ ~~until further orders~~ on 9 Jan 44

(Sgd) ..... A Mann Brigadier

Date 6 Jan 44 Commanding 7 Can Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H40939 Pte John Le Clair	8 Jan 44	J. Mullholland Lt. Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

COUNTER NUMBER 19827

HOUR 11.10

OPERATOR'S INITIALS E.M.

RELIEVING OPERATOR P.L.

5A-26

Cfn. Leclair J W

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-46714 Cfn LECLAIR J N

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 18(2)	NOT GUILTY	GUILTY	
2nd	Alternative AA Sec 40	NOT GUILTY	Court advises accused to change plea to NOT GUILTY	Charge withdrawn by Prosecution
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To be imprisoned for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, ~~of which ..... days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS
AND TO BE DISCHARGED WITH IGNOMINY FROM HIS MAJESTY'S SERVICE.

(Sgd) ..... 3 May 45 (Sgd) "J W G Thompson" Lt-Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is :

I CONFIRM THE FINDING AND SENTENCE OF THE COURT

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 6 Apr 45 (Sgd) "G R D Farmer"
(G R D Farmer) Brig
Commanding DDMS 2 CDN CORPS
BGAAC 2 CDN CORPS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
D-46714 Cfn LECLAIR J N	9 Apr 45	"W A Proctor" Major BGAAC 11 Cdn FDS

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AR 169 51-26

FIELD GENERAL COURT-MARTIAL

CFAAB (In lieu of AFA8) 40/P & B/16th (6744) 3/38B

Convened by Order of Brig G R D Farmer Comd BGAAC 2 Cdn Corps dated [illegible]

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46714	Cfn	Certified True Copy of Field Court Martial Proceedings in the case of Joseph Noel LECLAIR	Joseph Noel	LECLAIR	att 6 Cdn FDS att 6 Cdn FDS

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 31 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the C.O.~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	J W G THOMPSON, MM, ED,	RCA att 6 Cdn CCS
Member	Major	M L TROY, ED	Alq R att 6 Cdn CCS
Member	Capt	K P GARDEN	CAC att 6 Cdn CCS
Judge-Advocate			
Prosecutor	Capt	R S GRAHAM	ROCS 2 Cdn Corps Sigs
Defending Offr	Capt	W K CLAY	ROCS 2 Cdn Corps Sigs

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

A8. ~~The accused ..... before arraignment make(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form RsP

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Cdn C Bk IV p.75

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to ensure see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A)(B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President (~~a copy thereof was handed to accused~~). (1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making the appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(~~s~~ Loose Sheets of Record)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A)(B), 90, 92(C)(D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D)(E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1ST charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the 1ST charge(s), ~~and allowed on the charge(s), and that~~, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. NEITHER. Do you intend to call witnesses on your behalf ? Ans. YES. Are they witnesses as to character only ? Ans. YES.

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1ST charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.)~~

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. NO

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1060.

CHARGE SHEET

The accused, D-46714 Cfn J N LECLAIR, 9/ LAD att Sigs 2 Cdn Corps attached to 11 Cdn FDS, a soldier of the Canadian Army overseas, is charged with:-

FIRST CHARGE
AA Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the field, on 11 Feb 45, by discharging a Sten gun wilfully injured himself by shooting himself in the left knee and rendered himself unfit for service.

SECOND CHARGE
(Alternate)
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 11 Feb 45 so negligently handled a Sten Gun as to cause it to be discharged and thereby injured himself in the left knee and rendered himself unfit for service.

"H A Proctor" Major RCANC
15 Mar 45 Offr Comd - 11 CDN FDS

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field "G R D Farmer" Brigadier
22 Mar 45 DDMS 2 Cdn Corps

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-46714	Cfn		J N	LECLAIR	Sigs 2 Cdn Corps att 11 Cdn FDS RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col	J W G THOMPSON MM, ED	RCA att 6 Cdn CCS

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M L TROY, ED	Alq R att 6 Cdn CCS
Captain	K F GAREN	CAC att 6 Cdn CCS

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY (Country.) "G R D Farmer" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G R D Farmer)

Dat 22 Mar 45 Commanding RCAMC 2 Cdn Corps

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (KR (Can) Para 567)

I certify that I have this day medically examined D-46714 Cfn

LECLAIR J N and in my opinion he is fit/unfit to under

trial by Court Martial.

Station

Date 31 Mar 45

"J A MacFarlane" Capt RCA
Medical Officer
11 Cdn Fd Dressing Stn
Unit

RECORDED EVIDENCE OF PROCEEDINGS

FIRST WITNESS FOR PROSECUTION

Capt J.L. Straith OC 94 LAD sworn states:

At 2020 hrs of 11 Feb 45 I was working in the LAD office when I heard a sharp sound outside the office door. I sent the two men who were present with me to investigate and I followed them, outside I found the accused whom I recognize, sprawled on the cement driveway app 20' from the office door, the accused mumbled something about being shot so he was taken into the office where Cpl Butler and I exposed his wound, Signn Dumont was desp to the MO for assistance and Cpl Butler was sent for hot water. The MO arrived a short time later and after dressing the wound had the accused removed to the CCS for attention. I did not hear any shots before the bang on the office door. I am the accused sec officer. The accused had mentioned to me that he had troubles at home. The difficulties of the accused were mentioned to our padre for action.

Cross examined.

So far as I know no action was taken by the padre. The accused reported his troubles to me in Jan 45

The Court

I questioned the accused after his injury but I could not get any information.

RP 83(b) complied with.

SECOND WITNESS FOR THE PROSECUTION

B-394 Signn Dumont, M.L. att 94 LAD sworn states:-

On 11 Feb I was on guard duty with the accused whom I recognise and the accused went out to make a tour of duty and I stayed in the office writing a letter, and some time after I heard a noise and on investigation I found the accused lying on the cement outside and his first words to me were "someone took a shot at me", by that time Capt Straith and Cpl Butler were there. I was sent for the MO Ireturned to the office and then went for an ambulance. The accused was carrying a rifle when he went on duty. When I found him on the cement outsidethe office the rifle was on the ground in front of him. I do not know whose rifle it was.

No Cross Examination

The Court

The accused had a flash lite also. The accused was carrying the flashlite in his hand. I took the flashlite from the accused and used it to see where the blood was and the lite was working alright. I did not examine the rifle. The guard duty was a roving piquette. Only one was on duty at a time. It was sometime before 2000 hrs when the accused went on duty. The accused words were "Someone took a shot at me".

THIRD WITNESS FOR THE PROSECUTION

L-53106 Cpl BUTLER, T.E. 94 LAD sworn states:-

On 11 Feb 45 I was i/c of the guard and shortly before 2000 hrs the accused went out on his tour of duty leaving Capt Straith, Signn Dumont and myself in the ~~office~~ office. I recognise the accused, at app 2020 hrs I heard a noise I rushed outside with Capt Straith and Dumont and I found the accused lying on the cement half way between the office and the entrance to the shop. The accused was carried into the office, Capt Straith phoned for the MO while I looked at the accused leg. I found the wound on the underside of the left leg. It was not bleeding to much I got some hot water, I ordered a check of the area, the accused wound was washed and dressed.

D.3 The MO arrived. The accused left in an ambulance. I personally checked the area. I found a pool of blood where I had found the accused outside the office door. I saw another pool of blood outside the Wkshop, and a third pool inside of wkshop. App 2 hrs later an investigator from the Provost arrived. I checked with other guards in the immediate vicinity as to whether shots had been fired that night.

Cross examined

I have known the accused over a year. At no time has the accused said anything to me to show that he was fed up and wanted to get home.

The Court

The accused had a rifle on guard that night. I examined the rifle after the incident, the rifle was brought into the office immediately after me - found him outside the office, I assumed that the rifle I examined was the rifle carried by the accused, the rifle had not been fired, the barrel was clean, there was one round in the mag and none in the breach. I did not examine the mechanism of the rifle. Some of the men are issued with stens. The accused is armed with a rifle.

RP 83(b) complied with.

FOURTH WITNESS FOR THE PROSECUTION

Capt T P LEADMAN, MO Main HQ 2 Cdn Corps sworn states:-

At app 2030 hrs 11 Feb 45 I was called to 94 LAD to see a man, the accused whom I recognize, who was wounded, on the posterior surface of his left leg. The wound was small, appeared to be a graze or slight cut and there was no evidence of any bleeding at the time of my examination, the accused's gen condition was good physically, but it was difficult to communicate with him. I am unable to explain his mental condition by the seriousness of the wound, good strong steady pulse and good colour. I put a fresh dressing on the wound and sent the man to 6 Cdn CCS. I did not see any powder burns or blast marks on the wound. The accused was lying down and when shaken he would groan. His eyes were closed and he would not answer any questions.

Cross examined

I do not know if morphine had been adm to the accused before my exam or not.

The Court.

I did not get a statement from the accused. The wound could have been made by a bullet.

RP 83(b) complied with.

FIFTH WITNESS FOR PROSECUTION

B-21172 Sgt FROST, J.R. No.1 SIS 1st Cdn Army att 2 Cdn Corps sworn states:/

On 11 Feb 45 I was called to 94 LAD to make inquiries with ref to a shooting which had taken place there a short time previous. The victim had been removed to the hospital. A search at the scene where the shooting had obviously taken place revealed a large pool of blood beside a right front wheel of a 60 cwt, a spot of blood in front of the veh in a shed, a spent 9mm cartridge, on a pile of lumber in front of the veh and a sten gun #1790010 behind a pile of lumber about 10' from the same veh. At app 0100, 12 Feb 45 I interviewed the accused whom I recognize with ref to his being shot at which time he made and signed a voluntary statement after being duly cautioned.

I cautioned the accused that he need not say anything unless he wished to but whatever he said would be taken down in writing and may be used against him.

The accused signed the caution in 6 Cdn CCS when I interviewed him.

The accused appeared to understand the caution.

With permission of the Ward MO at 6 CCS, I interviewed the accused and he appeared to me to be mentally fit to make a statement.

There were no threats or inducements before the accused make his statement. The accused was not under arrest at the time. I produce the original statement mentioned in my evidence and I recognise the accuseds signature and the statement is in my hand writing. I read the statement to the accused before it was signed. Other than the top corners of the sheets being torn when I removed the sheets from my note book the statement consisting of two sheets are in the same condition as when signed by the accused.

I produce the torn corners for att to the statements.

The Ward MO was present for the early part of my interview with the accused and the Ward NCO was present thu-out the interview.

They werepresent in the course of their ordinary duties with the accused and other patients in the room.

The Defence declines to cross-examine the witness on the taking of the statement. I conversed with the accused before the statement was made.

Before the statement was made I identified myself to the accused and asked him if he could tell me in detail what had happened when he was shot, the accused explained his movements but as they did not coincide with the evidence that I found at the scene I immediately cautioned him and he then made the produced statement.

* Statement is read to the Court.

* I produce to the Court a sten gun #1700l0 which is the sten I found and mentioned previously in my evidence. I examined the sten and from my examination I would say the weapon had been recently fired. I did not find a mag. The weapon was in my possession up until the time of investigation and taking of statements by the accuseds unit.

No Cross examination.

RP 83(b) complied with.

Statement produced marked Ex "A" and initialled by Pres. Sten Gun produced Marked Ex "B" and initialled by Pres.

D.6 Capt J.T Strudwick 94 LAD sworn states:-

I have known the accused since 21 Dec 44. In the time that I have known him I found his work extremely good his bearing and manner that of a good soldier and I have been reasonable pleased with his efforts I have however found that the accused is of a nervous temperment and made a note to that effect in the War Diary of my Det in Jan 45. His nervousness did not effect his work in any way and I credited him with good sence in being able to over come that condition. The accused is single and the accused told me in Jan that he was in some difficulties with a girl at home, in Canada, He was endeavouring to make an assignment of money but the mother of the girl or his mother wanted the assignment payable to her whereas the accused wanted the assignment payable to the child. The accused was sep as the LAD M/C Mechanic.

RP 83(b) complied with.

D.6 Summing up By Prosecution att.

Summing up By Defence att.

FORM "B"

Court advises accused to change plea on second charge from GUILTY to NOT GUILTY.

Prosecutor addresses Court and withdraws second charge.

E.3 Plea in Mitigation att.

"J W G Thompson" Lt-Col
31 Mar 45
President.

Sten Gun, regular Gun Army issue and Marked Ex "B" is returned to the unit for re-issue.

Received by "J W G Thompson" Lt-Col
31 Mar 45
"E S Graham" President.

D.6 SUMMING UP BY PROSECUTION

To sum up, I believe that the accused is guilty of the Charge he is being tried on. The defence has been based on whether or not the shot was accidental, done willfully and if done with intent. I believe the prosecution has proved these points. By his own statement, the accused has said that he did himself pull the t trigger. He has said that he wilfully put a bullet in the gun and subsequently shot himself. I believe that intent to inflict a wound upon himself may be inferred from the accused's actions immediately prior to the shooting. Therefore the prosecution claims that the accused did, in fact, inflict a wound upon Himself.

"E S Graham" Capt

SUMMING UP BY THE DEFENCE

In the face of the statement made by the accused there is no doubt that the accused actually did pick up and load a sten gun and wound himself. The Prosecution has presented no evidence in proof of a wilful premeditation or planning of this act. I submit that the act was committed on the spur of the moment as a direct result of the opportune time and place co-inciding with a peak of mental disturbance resulting from a rather serious problem. The accused's sec offr has stated that the accused has been a well behaved and hard working soldier. On these grounds I ask that the more serious charge should not be considered.

"H K Clay" Capt
Sigs 2 Cdn Corps

STATEMENT IN MITIGATION OF PUNISHMENT

On mitigation of punishment I wish to point out some of the circumstances of the accused(s personal difficulties.

In 1940 accused joined the Army and about the same started going with a girl. He went with the same girl for about two yrs. During this time he had only two minor punishments recorded on his AFW 6.

On Aug 43 accused was warned for draft overseas at this time the girl was just about to have a baby and accused went absent to see her through that period.

Shortly after the baby was born accused re-enlisted under an assumed name and proceeded overseas havin promised to marry the girl on his return and in the meantime promised to make an assignment of pay to cafe for the child. He also asked the girl not to tell his step-mother about the child.

Shortly afte arriving overseas accused paraded to his CO and told him about his signing on under an assumed name. He was charged for fraudulent enlistment and punishment was awarded.

This was the last entry on his AFW 6 which has not been clear for over a yr and a half.

Recently accused has been dogged by word of his step-mother causing trouble back home and trying to get the money which he has assigned for the care of the child.

Accused's sec offr has stated that accused has been a very good conscientious soldier during the time he has known him.

It is requested that these factors be given consideration in the punishment to be awarded by the Court.

"E X Clay" Capt

STATEMENT BY D-46[illegible] Cfn Leclair, J.N., 94 CDN L.A.B. REF WOUND SUSTAINED BY HIM THE NIGHT 11th FEB 45, DULY SWORN, STATES:

I have been warned that I am not obliged to say anything unless I wish to do so but that whatever I say will be taken down in writing and may be given in evidence.

"Noel Leclair"

I am D-46[illegible] Cfn Leclair, J.N. of 94 LAD. I was on guard duty at 1800 hrs on 11 Feb 45. I have had personal trouble at home. This has been bothering me for the last three days. I was outside doing my patrol of LAD area. I went out to the back gate opposite the windmill and from there into the shop and went in front of my vehicle. I picked up a Sten gun and held it in my right hand. I was thinking for a couple of minutes all about my personal trouble. I was kind of fed up. I was sitting on the bumper of my truck and the muzzle of the gun was pointing towards my left knee. I didn't want to pull the trigger because my mind was so busy, and that the trigger was pulled so fast by my right hand that I didn't know it had happened. I climbed the woodpile and I threw the gun behind the woodpile against the wall. And then I walked about five feet. Then I sat on the cement for about half a minute and from there I got up and using my rifle as a crutch and befor coming out of the shop I picked up an iron bar so I could use it as a signal by throwing it at the door of the office because I knew I was too weak to be able to walk right up to the office. About five yards from the office door I fell on the ground and threw the bar at the door of the office and Cfn Dumont came out and I told him to come out as I was wounded. He went in and got Capt Straith and Cpl Butler. They came out and picked me up and brought me inside the office. From there I went to sleep and the only time I woke up was in the ambulance. The Cpl from the RAP was with me, the next thing I knew I was in the hospital.

"Noel Leclair"

Exhibit "C"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may
D-46714	Cfn	LeClair J N	Sigs 2 Cdn Corps

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For ...AA 15(1)..... ...four... times

For ...AA 13(1)..... ...one... times

For ...AA 24(2)..... ...one... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for ...Nil... days in civil custody; and for ...16... days in military custody (open arrest), making a total of ...16... days of which ...16... days were spent in hosp.

5. The present age of the accused is ...33 yrs 6 months...

6. The date of his attestation is ...13 Sep 40...

7. The service which the accused is allowed to reckon is ...4 yrs 6 months...

8. The accused is in possession of # CVSM & Clasp

\# State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

Date of Promotion

In the substantive rank of ...N/A... .....

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended



I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 31st day of MARCH 1915.

"H.S Graham" Capt

.....

Exhibit "[illegible]"

No D-46714 Name LECLAIR J N Sqn, Battery, or Company Corps RCOC Date of enlistment 13 Sep 40 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet Nil No and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Old Sheet destroyed on completion of 6 months service 12 Mar 41

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Feb 41	Pte		AWL from 0800 hrs 17 Feb 41 until 1245 hrs 21 Feb 41 (Absent 4 days 4 hrs 45 mins) open arrest Sec 15(1)AA	CSM Wolfe E	7 days CB	21 Feb 41	Maj W Tomkins	Forf 5 days pay FR&I
Field	16 Jun 41	Pte		AWL from 0 800 hrs 16 Jun 41 until 2000 hrs 16 Jun 41. Open arrest Absent 12 hrs Sec 15(1) AA	CSM Wolfe E	7 days CB	17 Jun 41	Maj W Tomkins	Forf 1 days pay FR&I
Field	1 Aug 41	Pte		AWL from 0600 hrs 1 Aug 41 until 0130 hrs 3 Aug 41. Absent 2 days 19 hrs 30 min Close arrest.	CSM Burke E	21 Days detn	5 Aug 41	Maj DB Lyon	Forf 27 days pay FR&I
Field	21 May 43	Pte		(1) AWL from 2359 hrs 12 Sep 42 until re-enlisting (2) Fraudulent enlistment Sec 13(1) AA into RCOC when thereby obtaining a free kit of necessaried, value of $95.19 (PTO)	Documentary				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(3) Losing by neglect - Sec 24(2) AA was deficient necessaries valued at $3.52	MFB 375 CQMS Milligan N.	14 days detn	21 May 43	Lt-Col AS McArthur	Forf 14 days pay FR&I. Stoppages of pay amounting to $3.52
Field 6	Aug 43	Pte		Donated 5/7 pints of blood to Red Cross Blood Bank Awarded CVSM & Clasp wef 15 Jan 44 DO 2 d/28 Jan 44	W.L. Leach Lt	E.W.	[illegible]		

Certified true copy of original in my possession 11 Mar 45.

"W E Williams" Capt & Adjt
Sigs 2 Cdn Corps.

GGG66

GNR LECLAIR L.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-909 Gnr LeCLAIR, Leo Joseph - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Ax Sec 15(1)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Nil~~ ~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for ninety (90) days.

24 Mar 44. (Sgd) F D Lucedale Lt Col

(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Nil

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 26 Mar 44 Commanding ..... Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C 909 Gnr Le Clair Leo Joseph	27 Mar 44	Clideux Capt

DO # 70 of 28 Mar 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGG 62

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40/P & R/1698 (2864)

Convened by Order of Brig J.C. Stewart, CBE, DSO Comd "C" Gp, CRU dated 22 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-909	Gnr		Leo Joseph	LeCLAIR	2 CARU

PROCEEDINGS REVIEWED W.C. Dick Lieut Regt 5 Apr 44 REVIEWING OFFICER, JUDGE ADVOCATE GENERAL'S BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 24 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

~~P.D.~~ A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

~~P.D.~~ A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1430 hours trial commences.

~~P.D.~~ A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ..... ~~as interpreter? Ans~~ .....

The Interpreter is sworn.(1) Do you object to ~~P.D.~~ ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

~~P.D.~~ A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	F D Lucedale	149 CRU.
Member	Capt.	E. D. Campbell	2 CARU
Member	Lieut	H. T. Talbot.	2 CARU.
Judge-Advocate			
Prosecutor	Lieut	R.C. Amos	2 CARU.
Defending Offr	Lieut	A.D. Quigley	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~ plea ~~P.D.~~)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

~~P.D.~~ A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~don~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~P.D.~~ A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 89, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ 7 charge(s).
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are ~~read to him~~ (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 71 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 885. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~entries~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 94(a). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 98, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C 909 Gnr LeCLAIR, Leo Joseph, "A" Bty, No 2 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 0800 hours 17 Jan 44 until apprehended by the Cdn Provost Corps at 1000 hours on 10 Mar 44. Absent 53 days and 2 hours.

(Mackenzie Waters) Colonel,
Commanding,
No 2 Cdn Arty Rft Unit.

Huron Camp
Bramshott, Hants.,
20 Mar 44.

To be tried by Field General Court Martial,

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Order)

Bordon, Hants.
22 Mar 44

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/Path/1097 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-909	Gnr		Leo Joseph	LeCLAIR	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 22 Mar 44 endorsed by me, (~~which charge sheet(s) is (are)~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial because]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[The following is/are the particulars of any additional charge(s) to be laid against the accused:]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[The following officer is appointed to act as prosecutor:]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LIEUT-COLONEL	F.D. TWEEDIE	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPTAIN	detailed by CO	2 CARU
LIEUTENANT	detailed by CO	2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 22 Mar 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding "C" Group, Cdn Aft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

Medical Officers Certificate
K.R. (Can) para 557

I certify that I have this morning examined No C 909 Gunner Leclair, L.J. of No 2 C.A.R.U. and in my opinion he is fit to undergo trial by Court Martial.

No 2 C.A.R.U.

24 Mar 44

Sgd. ..... R.C.A.M.C.
(Medical Officer)

PLEA OF MITIGATION

Sir:

May I respectively submit a few underlying facts leading up to and surrounding the case of the accused C 909 Gnr LeClair L.J.

Gnr LeClair having been with a unit in the field since his arrival in England in 1941, naturally through working with the same men for so long in getting to know them made numerous friends, was very content and doing a good job and his MFM 6 proves him to be of good character, then due to a bombing incident where he was on pass he was forced to overstay his leave for a few hours, while assisting, as any one would under the circumstances, those that were more unfortunate than he; on arrival back to his unit he was brought up on charge and due to the circumstances was unable to find witnesses to substantiate these facts; he was awarded, in his estimation, a most unfare and harsh punishment resulting in gunner LeClair being transferred to a reinforcement unit thereby leaving his friends and giving him a hopeless lookout on life.

He completed his basic training and passed his TOETs with a good report when life in general got the better of him and he felt something had to be done to rectify the hopeless situation. He now fully realizes the error of his ways and is willing to pay the penalty the court considers just under the circumstances so that he can get on with the job and make amends for his rash misdemeanour.

Thank you.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at 2 CARU on the 9th day of February 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-909 Gnr LeClair, L.J.

DECLARATION.

The Court declare, that C-909 Gnr LeClair, L.J., has absented himself without leave from 0800 hrs 17 Jan 44, continuously and is still so absent. Deficiencies in kit are as follows:-

Deficiencies of kit of C-909 Gne LeClair, L.J.

Article	Quantity	Vocab Price	Worn Price
Badges, cap	1	0-0-5	0-0-4
Boots, ankle	1	1-4-5	0-18-4
Combs, hair	1	0-0-2	0-0-1½
Drawers, wln prs	2	0-10-9	0-8-1
Forks, table	1	0-0-4	0-0-3
Gloves, wln prs	1	0-2-7½	0-2-0
Jersey, pullover	1	0-8-0	0-6-0
Knife, table	1	0-0-8	0-0-6
Vests, wln	2	0-10-2	0-7-8
Spoons, table	1	0-0-4	0-0-3
	Total	£2-17-4½	£2-3-6½

CERTIFIED TRUE COPY

Vocab Price
£2-17-4½

Worn Price
£2-3-6½

Names of President and Members

President: Capt R.T. Merchant

Members : Lieut J.M. Young
Lieut G.L. Waters

Signature of Commanding Officer (Mackenzie Waters) Colonel,

CERTIFIED TRUE COPY.

W H Green Lieut

Signature of Officer having custody of the Original Record.

(24200) Wt.10085/791 130,000 4/42 A.S.E.W.Ltd. Gp.698
(22195) Wt.29652/1800 100,000 10/42 " " Forms/B.115/58

Appendix "B"

CERTIFICATE IN ACCORDANCE WITH P.C.8797 of 10 A r.42.

I Certify that No. C 909 Rank Gnr. Name LeClair.L.J.

Unit No.2.C.A.R.U. was arrested at Kingston (Place)

at 1000hrs (hour) on 10 Mar 44 (date) and that at the time of his arrest he was wearing (Military Uniform) or (XXXXXXXXXXXXXXXXX). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

LONDON
10 Mar 44.

R.R.Holmes
.....Capt.
(R.R.R.J. Holmes) D.A.P.M.
Cdn. Military Headquarters.

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
20 Mar 44

Commanding Officer,
No 2 C.A.R.U.

F.G.C.M. - C 909 Gnr. LeCLAIR, L.J.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

C 909 Gnr. LeClair, L.J.

LIST OF WITNESSES

FOR PROSECUTION

Capt. C. Pidoux, No 2 C.A.R.U.

FOR DEFENCE

---------- NIL ----------

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
20 Mar 44

Commanding Officer,
No 2 C.A.R.U.

F.G.C.M. - C 909 Gnr. LeCLAIR, L.J.

1. I acknowledge having received this date 20 Mar 44 a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

C 909 Gnr. LeClair, L.J.

SUMMARY OF EVIDENCE IN THE CASE OF
C 909 Gnr LeCLAIR, Leo Joseph, of
No 2 Cdn Arty Rft Unit, a soldier
of the Canadian Army Overseas:

By direction of the Commanding Officer
the Summary of Evidence is taken on oath.

FIRST WITNESS
for the
prosecution

Capt. C. Pidoux, Administrative Officer, "P" Wing, No 2 C.A.R.U., an officer of the Canadian Army Overseas:

"I produce:

(a) CERTIFIED TRUE COPY of the Declaration of a Court of Inquiry, purporting to be signed by Lieut. W.H. Green, No 2 C.A.R.U., officer having custody of original document, relating to the accused whom I now recognize. This Certified True Copy of the Declaration of the Court of Inquiry is marked appendix "A" and annexed to the Summary of Evidence.

(b) P.O.2797 purporting to be signed by Capt. R.R.R.J. Holmes, D.A.P.M. Cdn Military Headquarters, relating to the accused whom I now recognize. This P.O.2797 is marked appendix "B" and annexed to the Summary of Evidence."

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one-half page was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

Huron Camp,
Bramshott, Hants.,
20 Mar 44.

(C. Pidoux) Capt, R.C.A.
Administrative Officer,
"P" Wing, No 2 C.A.R.U.
Officer detailed to take the Summary of
Evidence.

A

Old sheet destroyed at end of two years 13-1-43 (JHRP) Capt.

No C-909 Name LECLAIR, L.J. Sqn, Battery, or Company Corps RCA Date of enlistment 13-1-41 GC Badges Service or Proficiency Pay N/A

MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc (Sgd) JHR Character Parent .Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28-2-43	Gnr		A.A.Sec 9(2) WOAS disobeying a lawful command in that he did not perform maintenance task on his vehicle when ordered to do so.	L/Sgt Jones Pte Ross Gnr.Hesser	10 days pay FR&I 149(2)	2-3-43	Lt.col E.R.Sutter	Forfeits one good conduct badge
Field	28-11 43	Gnr		A.A.Sec (15(1) WOAS AWL from 2359 hrs 28-11-43 until 0730 hrs 29-11-43 (absent 7 hrs, 31 mins)	Bdr.Watson L/Bdr. Morris	7 days C.B. 7 days pay FR&I 149(2)	29-11-43	Lt-col W.H.Taylor	1 days pay FR&I 149 (1)(a)

CERTIFIED A TRUE COPY MFM6) 24 Mar 44

R.L. Allely Capt

(R.L. Allely) Capt. RCA

No.2 C.A.R.U. Records Officer, officer having custody of original document

(PTO)

M.F.B. 355
22M—5-41 (272-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 909	Gunner	LeCLAIR Leo Joseph	No 2 C.A.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Service and General Conduct sheets or Company and Squadron, Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since completion of six months service from enlistment or appointment
For A.A.Sec.15(1)	One (1) times	One (1) times
For A.A.Sec.9(2)	Nil times	One (1) times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused.

Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or

previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and Air Force Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence of beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 22 years 249 days

6. The date of his attestation specified in his record of service attestation paper is 13 Jan 41

7. The service which the accused is allowed to reckon towards discharge is 2 years, 71 days

8. The accused is entitled to reckon 2 years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military orders decoration, or has no military reward

10. [illegible]

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of RCA
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through. Alle

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number C 909 Rank Gunner
Unit
Name LeCLAIR Leo Joseph of No 2 C.A.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
- - - - - - - - - - - - - - -	- - - - - - -	N I L - - - - -	- - - - - - - - - -	- - - - -

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24d 24 day of March 44 (R.L. Allely) Capt., RCA
R L Allely Capt
Records Officer, No 2 CARU.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

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Correspondence to be PINNED here.

Army Form A. 3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twentythird day of October, 1940.

Whereas it appears to me, the undersigned, an officer, ~~in Command of~~ Chief Engineer 7 Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified Officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*Omit if not applicable.

~~*(I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—)~~

President.

Rank.	Name.	Regiment.
Lieut-Colonel	F.R. HENSHAW, M.C.	R.C.E.

Members.

Rank.	Name.	Regiment.
Captain	C. FRASER.	R.C.E.
~~Captain~~	~~[illegible]~~	~~R.C.E.~~
Captain	A.D.MANN.	R.C.E.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier.

~~Commanding~~ Chief Engineer, 7 Corps.

Convening Officer.

[illegible]

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No. C.25803 Sapper LECLAIR. L.R. [illegible] Fd. Svy Coy. R.C.E.	A.A. 18 (4) When on active service stealing goods the property of a person subject to military law (see Charge Sheet attached)	Not guilty	Guilty To undergo detention for ninety days	Confirmed [signature]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39(a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary) :— No

(Signed) [signature] Brig. (Signed) [signature]

CE. 7 Corps. Lieut. Col. RCE.

Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of October 1940, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that

1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 25th day of October 1940

[signature] Lieut. Col. RCE

President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of Nov 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

*To be omitted unless, penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 28th day of October 1940.

[signature] Brig.

Confirming Officer.

Chief Engineer 7 Corps

Promulgated and extracts taken in the case of No. C 25803 SPR. LECLAIR, L.R.

(a) (Dated) 28 Oct 40 (Signed) [signature] Major SORE 7 Corps

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

The accused No. C. 25803 Sapper L.R. LECLAIR, 1st Canadian Corps Field Survey Company, Royal Canadian Engineers, a soldier of the Canadian Active Service Force, is charged with :

First Charge
Sec. 18 (4)
Army Act

When on active service stealing goods the property of a person subject to military law in that he, between LEATHERHEAD and COBHAM on 9 Oct. 40 did open a parcel of cigarettes addressed to No. C. 25837 Sapper J. A. Borland, a person subject to military law, and did use the cigarettes for his own purposes.

(J.M. ROBINSON) CAPT.
23 Oct. 40. A/O.C. 1 Cdn. Corps Fd. Survey Coy.

To be tried by Field-General Court Martial.

(C.S.L. Bertzberg) Brigadier,
23 Oct. 40. Chief Engineer 7 Corps.

E V I D E N C E.

The Prosecutor proceeds to call witnesses.

1st WITNESS.

C-25837, Spr. Borland, J. A., 1st Corps Field Survey Coy., R.C.E., being duly sworn is examined by the Prosecutor.

(Q) Did you receive any parcels from Miss Nettie Tait between the period October 1st to 9th?

(A) No.

(Q) Was October 1st the day you returned to the Unit from hospital?

(A) Yes.

The Prosecutor produces two portions of the wrappings of a cigarette parcel addressed to Spr. J. A. Borland, 1st Corps Field Survey Coy., R.C.E., and showing that the parcel had been forwarded to No. 5 General Hospital on 24th September, and later readdressed to 1st Corps Field Survey Coy., R.C.E. Also a card showing that the sender had been Miss Nettie Tait.

Exhibits marked "A", signed by the President, and attached to the Proceedings.

The Defending Officer declines to cross examine the witness.

Questions by the Court -

(Q) Did you receive the parcel of which the portions of wrapping have been produced before the Court?

(A) No.

(Q) Did you receive any parcel of cigarettes between the 21 September and 9th October?

(A) No.

Rule 83(B) has been complied with. Witness withdraws.

2nd WITNESS.

H-19035, C.S.M. Bink, S., 1st Corps Field Survey Coy., R.C.E., being duly sworn is examined by the Prosecutor.

(Q) When did you first hear that cigarettes had been taken from parcels in the mail?

(A) At about 1800 hours, 11 October 40.

(Q) Who gave this information?

(A) Sapper Lapointe.

(Q) How was the information given?

(A) Sapper Lapointe said that he had not received mail and parcels he had expected and had evidence to show that mail was being tampered with. He told me that on 9th October he had been given a package of cigarettes by Sapper Dupuis, who had been driving the ration truck that day. I found that Sapper Dupuis had been detailed to drive the ration truck on the 9th October. On Saturday, the 12th October, Spr. Dupuis, after coming off guard, came to me and said that while he was driving the

ration truck on the 9th October, the accused asked him to stop, went to the back of the truck and brought back a parcel of cigarettes. He said that the accused gave him 150 cigarettes, advising him to keep his mouth shut and everything would be all right. I reported this to the Company Commander. On the 14th October I told the C.Q.M.S., who was proceeding with the ration truck, to take Spr. Dupuis with him and show him the place where he had stopped the truck and received 150 cigarettes on the 9th October. He did so and brought back portions of wrappings of a cigarette parcel, showing it to be addressed to Spr. Borland.

(Q) Do you identify the wrappings here produced before the Court as the ones brought back by the C.Q.M.S. on the 14th October?
(A) No.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

(Q) What was the address on the wrapping brought back by the C.Q.M.S.?
(A) Sapper Borland, 1st Corps Field Survey Coy., Royal Canadian Engineers.

Rule 83(B) has been complied with. Witness withdrawn.

3rd WITNESS.

C-25725, Sapper Lapointe, M. P., being duly sworn, is examined by the Prosecutor.

The Prosecutor produces a signed statement by Sapper Lapointe which is read, marked "B", signed by the President, and attached to the Proceedings.

(Q) Do you recognise this statement as having been signed by you?
(A) Yes.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

(Q) Is this signed statement correct?
(A) Yes.

Rule 83(B) has been complied with. Witness withdrawn.

4th WITNESS.

C-25762, Sapper Dupuis, J.C.M.R., being duly sworn in is examined by the Prosecutor.

(Q) Were you detailed to drive the ration truck between the ration dumps at Leatherhead and the barracks of 1st Corps Field Survey Coy., on 9th October?
(A) Yes.

(Q) Did you and the accused pick up mail for the 1st Corps Field Survey Coy. at the ration dumps?
(A) Yes.

(Q) Will you explain what happened during the journey back to the Barracks of 1st Corps Field Survey Coy.?
(A) After we left the ration dumps the accused told me that I could get 150 cigarettes if I kept my mouth shut. I stopped the truck between Leatherhead and Cobham, and the accused got out and went to the back of the truck. I also got out and went to the back of the truck, where the accused was standing with a parcel in his hands. He opened the parcel and gave me the cigarettes, which it contained, to put in the side compartment of the truck. After delivery of the rations I parked the truck in the usual place. The accused then divided the cigarettes between us. Two days later I reported this to the C.S.M.

(Q) Did you drive the ration truck on the 14th October with C.Q.M.S. Bartlett?
(A) Yes.

(Q) Were you asked to search for the wrappings of a parcel opened by the accused on the Leatherhead road on the 9th October?
(A) Yes.

(Q) Did you find the wrappings?
(A) Yes.

(Q) Do you recognize these wrappings (Exhibit "A") as the ones picked up by yourself and handed to C.Q.M.S. Bartlett on the 14th October 1940?
(A) Yes.

(Q) Do you recognize these wrappings as the ones opened by the accused on the 9th October?
(A) No.

(Q) Were these wrappings picked up on the 14th October in the immediate vicinity of the place where the accused opened the parcel on the 9th October?
(A) Yes.

Cross-examined by the Defending Officer.

(Q) Did the accused, as ration orderly, carry a revolver?
(A) No; not that I know of.

(Q) Did the accused make any threat when he offered you the cigarettes?
(A) No.

(Q) Just where between Leatherhead and Cobham was the truck stopped?
(A) About half way between Leatherhead and Cobham.

The Prosecutor declines to re-examine.

Questions by the Court.

(Q) When you saw the package in the hands of the accused could you see the address at all?
(A) No.

(Q) You say that the truck was stopped - who suggested stopping the truck?
(A) Nobody. I just stopped it.

(Q) About what time was this?
(A) About 1030 hours.

Rule 83(B) has been complied with. Witness withdraws.

5th WITNESS.

B-83790, C.Q.M.S. Bartlett, L. T., having been duly sworn, is examined by the Prosecutor.

(Q) Were you ordered by C.S.M. Bink to go with the ration truck on 14th October in order to locate some wrappings off a cigarette parcel said to have been dropped on the road between Leatherhead and Cobham?
(A) Yes.

(Q) Will you explain to the Court what you did and what you found.
(A) I proceeded in a truck driven by Spr. Dupuis and found at the side of the road between Leatherhead and Cobham, over the hedge, the remains of a parcel of the kind that contains 300 cigarettes.

(Q) What was done with the wrappings which you found?
(A) They were handed over by me to the C.S.M.

(Q) Do you recognize these wrappings?here produced (Exhibit "A") as the ones you found on the 14th October.
(A) Yes.

(Q) Did Sapper Dupuis seem to know exactly where to stop.
(A) Yes.

Cross-examined by the Defending Officer.

(Q) Just where on the Leatherhead-Cobham road did you find the wrappings.
(A) Just on the Cobham side of Oxshott.

The Prosecutor declines to re-examine.

Rule 83(B) has been complied with. The witness withdraws.

D E F E N C E

Questions to the accused.

(Q) Do you apply to give evidence yourself as a witness?
(A) No.

(Q) Do you intend to call any other witnesses in your defence?
(A) No.

(Q) Have you anything to say in your defence?
(A) No.

The Court is closed for the consideration of the finding.

The Court is reopened and the Accused is again brought before it.

Capt. J. M. Robinson, 1st Corps Field Survey Coy., R.C.E., is duly sworn.

(Q) (By the President) Have you any evidence to produce as to the character and particulars of service of the accused?

(A) I produce this statement.(Marked "C", signed by the President, and attached to the Proceedings.)

(Q) Is the accused the person named in the statement which you have heard read?

(A) Yes.

(Q) Have you compared the contents of the above statement with the regimental books?

(A) Yes.

(Q) Are they true extracts from the regimental books, and is the statement of entries in the conduct sheet a fair and true summary of those entries?

(A) Yes.

The Accused declines to cross-examine this witness.

The Court is closed for the consideration of the Sentence.

- - - - - -

Maurice Lapointe
Royal Canadian Engineers

Wood Manor
Friday October the 11th

On Wednesday the 9th of October Spr Dupuis give me twenty Sweet Caporal cigarrettes, saying that they were from the mail of that day and that Spr Leclair had shared 300 cigarrettes with him, which were not adressed to either of them.

On Friday the 11th I reported the same to C.S.M. Pink

Exhibit "B"

Spr Lapointe

[illegible]
Joseph
President

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

1. The following is a fair and true summary of the entries in the Company Conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For: Drunkenness,	One Time (Mar.11th/40)	One Time.(11/3/40)

2. The accused has not been previously convicted for any other charges.

3. The accused is not under sentence at the present time.

4. The accused was under close arrest October 15/40 to Oct. 17/40 (Inclusive), and since that time has been under open arrest awaiting trial.

5. The present age of the accused is (Attestation papers with Officer i/c Records (Cdn)).

6. The date of his attestation specified on his attestation paper is Jan. 2, 1940.

7. The Service which the accused is allowed to reckon toward discharge or transfer to the reserve is 298 (two hundred and ninety-eight) days.

8. The accused is not entitled to deferred pay in respect to his 298 days service because he is giving assigned pay to his wife.

9. The accused is entitled to reckon 298 days of service for the purpose of determining his pension.

10. The accused is not in possession of any military decoration or military reward.

11. The accused has held no rank since joining this Unit, other than Sapper.

J M Robinson

(J.M. ROBINSON), Capt.,
A/O.C.,
1st Cdn. Cps. Fd. Svy. Coy.,
R.C.E.

"C"

[illegible]
President

Ref:- 5/4/1/C.E.

Subject:- Field-General Court Martial.
No. C-25803, Spr. Leclair, L.R.

C.R.E.,
7 Corps Troops.

1. A Field-General Court Martial, composed as follows, is convened for the purpose of trying the above sapper for an alleged offence under A.A. 18 (4) :

President :

Lt. Col. F.R. Henshaw, M.C. - 1 Cdn. Pioneer Bn.

Members :

Capt. C. Fraser. - 2 Cdn. Rd. Con. Coy.
Capt. A.D. Mann. - 1 Cdn. Pioneer Bn.

2. The following officers will attend for instruction :

Lieut. W.B. Nelson. - 12 Cdn. Fd. Coy.
Lieut. H. Watson. - 1 Cdn. Tun. Coy.
2/Lieut. E.H. Price. - 1 Cdn. Corps Fd. Pk. Coy.

3. Capt. J.M. Robinson will be Prosecuting Officer.

4. Capt. J.E. Brown, 13 Cdn. Fd. Coy. will act as Defending Officer if it is the wish of the accused to be so represented.

5. The Court will assemble at 1000 hours 25 Oct. 40 at H.Q., 1 Cdn. Corps Fd. Svy. Coy. O.C., 1 Cdn. Corps Fd. Svy. Coy. will be responsible for the provision of necessary rooms, tables, chairs, stationery and orderlies.

23 Oct. 40.

(G.S.L. Hertzberg) Brigadier,
Chief Engineer 7 Corps.

4F-10

Pte Leclair R.

Lac III-20

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 77211 Private RAYMOND LECLAIR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 24(2)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

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And [illegible] under sentence for _____ beginning on (date) _____ (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Imprisonment for a period of Five (5) months without Hard Labour and to be kept under Stoppages of pay to the amount of $47.54.

6 Oct 44. (Sgd) [illegible] President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I vary the Sentence to read as follows. To be imprisoned without hard labour for [illegible] months and to be put under Stoppages of pay until he has made good the Sum of $47.54 re deficiencies of kit also Recommend the Findings & Sentence as so Varied [illegible] months imprisonment

I direct that the accused be [illegible] pending further orders. (1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 11 Oct 44 Commanding [illegible] Officer.

(See CASE RFT)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 578, 577.)

Accused.	Date.	Signature of Offr.
H77211 PTE LECLAIR, R.	21 Oct 44	[illegible] Adjutant 2 Can Para Bde Fd Coy RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 27 NOV 1944 JAG Branch C.M.H.Q.

RECORDED AT CMHQ IN AB 160, 4F-10

CPA86 (In lieu of AFA3) 40/P At S/1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of LT COL L.J. FLYNN Comd 1 C.B.R. Sqn dated 6 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H 77211	Private	RAYMOND	LECLAIR	1 C.B.R.

PROCEEDINGS REVIEWED 28 Nov 44 [illegible] Capt

L24 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

JCAC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 6 Oct 44.

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RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2D 52

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP Sec. 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1440 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to _____ as interpreter? Ans _____~~

~~The Interpreter is sworn.(1) Do you object to _____ as shorthand writer? Ans _____~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any, are sworn.~~(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Captain	S.H. Clarke	6 C.H.R.
Member	Captain	H.S. Hopper	1 Const R.S.R.
Member	Lieutenant	J.L.O. Hogan	1 Const PER.
Judge-Advocate		NIL	
Prosecutor	Captain	C.C. Brown	4 Can Armd Div Tps RCCS
Defending Offr	Lieutenant	D.H. LaRose	PPCLI

Questions by President: Is the Prosecutor a lawyer? Ans YES SIR Is the Defending Offr a lawyer? Ans No Sir.

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

A8. The accused H77211 Private LECLAIR R before arraignment make(s) (no) objection to the convening order and charge sheet(s), and plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is then arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) ~~The President records the plea in Part I of the Schedule.~~

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~in open and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, sm, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly. 1+3 1+3 1+3
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty 1+3 (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF Alls. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(1. *MFB 355 or AFB 295.* 2. *MFH 6.* 3. *RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement[redacted] and Conduct Sheet[redacted] and in mitigation of punishment?(1) Ans. YES SIR (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-57, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 88, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, No H 77211 PRIVATE Raymond LeCLAIR OF THE LOYAL EDMN REGT, ON STRENGTH OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0900 hrs 16 Sep 44 until surrendering himself to the Military Police at Foggia at approximately 1215 hrs 24 Sep 44. (Total time absent: 8 days 3 hrs 15 mins).

2nd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT, HIS EQUIPMENTS
CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, in Italy, on 4 Oct 44, was deficient of equipment, clothing and regimental necessaries as set out hereunder amounting to $47.54

ITEM	100%	75%
Anklets Web	$ 0.99	$ 0.75
Boots Ankle w/laces	5.46	4.10
Drawers Cellular Short	0.43	0.32
Greatcoats Dismounted '39 Patt	11.31	8.45
Socks Worsted	0.37	0.28
Bags Kit Universal	1.02	0.77
Braces	0.28	0.21
Brushes Clothes	0.48	0.36
Brushes Hair	0.34	0.26
Brushes Shoe Polishing	0.28	0.21
Brushes Tooth	0.11	0.08
Caps Comforter	0.34	0.26
Discs Identity	0.01	0.00
Dressing Field	0.24	0.18
Forks NS Table Small	0.07	0.05
Holdalls	0.19	0.14
Housewives	0.17	0.13
Knives Clasp	0.86	0.65
Knives Table GS	0.15	0.11
Towels Hand	0.32	0.24
Overalls Blouses Denim	2.64	1.98
Hosetops Drab	0.43	0.32
Bottle Water MK VII	0.82	0.62
Braces WE Patt '37 Left	0.30	0.23
Braces WE Patt '37 Right	0.30	0.23
Carriers Water Bottle WE Patt '37	0.37	0.28
Carriers Water Bottle WE Patt '37	0.37	0.28
Spoon Desert	0.07	0.05
Frogs Bayonet WE Patt '37	0.19	0.14
Haversacks WE Patt '37	1.79	1.34
Helmets Steel MK III	2.39	1.79
Packs W.E. Patt '37	1.84	1.38
Pouches Basic WE Patt '37 Mk III	1.19	0.89
Straps Shoulder Haversack	0.32	0.24
Straps Shoulder Haversack	0.32	0.24
Straps Web Supporting	0.13	0.10
Straps Web Supporting	0.13	0.10
Tins Mess Rectangular	0.35	0.26

Sheets Ground MK VIII	2.94	2.31
Blankets Brown Single	3.07	2.30
Blankets Brown Single	3.07	2.30
Capes Anti-Gas No 1 Camouflaged	2.76	2.07
Respirator Haversack	1.42	1.07
Respirator Facepiece Mk IV Normal	2.33	1.75
Scabbards Bayonet No 4 Mk I	0.61	0.61 -
Bayonets No 4 Mk L.	2.46	2.46
Trousers KD	1.51	1.13
Trousers KD	1.51	1.13
Shirts Bush	1.00	0.75
Shirts Bush	1.00	0.75
	$ 62.24	$ 47.54

L. J. Flynn

(L J Flynn) Lt.-col
Commanding

In the Field
5 Oct 44

4 Cdn Rft Bn, 1 Cdn Base Rft Group, CMF.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L. J. Flynn

(L J Flynn) Lt.-col

In the Field
5 Oct 44

4 Cdn Rft Bn, 1 Cdn Base Rft Group, CMF.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 77211	Private		Raymond	LeClair	L Edm R on strength 4 Cdn Rft Bn 1 C B R Gp.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~). "To be tried by Field General Court-Martial". LJF

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) LJF
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) ~~three Offrs to form the Court~~, (b) a Fd Offr as President, for the reasons I have attached hereto: NO FD OFFRS ARE AVAILABLE LJF
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ LJF
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Captain	S H Blake	RCA "A"

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	H S Hopper	West NSR
Lieutenant	J L O'Hagan	Hast & PER

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	NIL	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	NIL	

On Active Service in the Fd

in ITALY (Country.)

(L J Flynn) (Signed personally. RP 105 fn 2.) — L J Flynn

Lt.-col. (Rank.)

Date 6 Oct 44

Commanding 4 Cdn Rft Bn, 1 Cdn Base Rft Group.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

6 Oct 194

I hereby certify that I have this morning examined No H 77211 Pt. Leclair R. on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

H. Eshoo Capt
Medical Officer 4 Cdn Rft Bn.

543
Oct 44

Plea in Mitigation of Sentence of
H 77211, Pte. Leclair, R.

I submit to the Court the following information concerning the circumstances surrounding Pte. Leclair, R's absence.

At the time immediately preceding the beginning of his absence, the draft, en route to #4 Bn, of which draft the accused was a member, was in the staging area near Barletta. The evening following the arrival of the draft at the staging area, permission was granted for a visit to the town of Barletta. There were the inevitable elevations. Pte. Leclair elevated a bit more boisterously than the others and did not get back to the staging area until the following morning.

So much then for the actions of the accused at this time. On his subsequent actions, however, is based this plea for the Court's leniency in deciding the sentence to be imposed.

Pte. Leclair, then, returned to the staging area and found it deserted. He then went to the dock area and discovered that the ship which the draft had boarded had sailed. He inquired about the possibility of getting another ship likely to go to Ancona. There were none and no reasonable expectation that there would be one in the immediate future. He then turned to the Highway and proceeded to hitch-hike his way northward. May I call attention to the direction of the accused's movements. Northward. Always northward. Toward the Front. Toward his Regiment. Toward the destination of the draft he had inadvertently lost.

The attention of the Court is respectfully directed to the final action of the accused in the case under consideration. He voluntarily surrendered himself at Foggia, a city well to the north of the

LHS

place where he had lost contact with his draft.

I am honestly convinced that these facts are of great importance in this case. So many charges of absence without leave are mere compromises on solid suspicion of desertion. Every action of the accused in this case is directly contradictory to any such suspicion. By carelessness - culpable carelessness, if the Court so please to find it - he lost his contact with his draft. But I submit that his evident effort to rejoin the draft indicate that he is deserving of leniency in the punishment decided for him.

Relative to one item on the Conduct Sheet of the accused I should like to point out that the manner in which he was treated following the commission of the offence indicates the opinion of his commanding officer concerning the reliability of the accused. The accused was not placed in custody, although he had been warned that he was to be court-martialed. Under the circumstances in that instance the accused I carrying on in a soldierly manner throughout the entire period of preceding the F.G.C.M. - must have had numerous opportunities to absent himself. But the obvious confidence of his commanding officer was not misplaced. Despite opportunity, certainly in the face of provocations not easily ignored, the accused made no mine to evade his duty.

With these facts for its consideration, the Court is respectfully requested to be lenient in deciding the punishment to be awarded to Pte Leclair.

EXHIBIT "A" 113 SNS

SUMMARY OF EVIDENCE in the case of H 77211 Pte Raymond LECLAIR of the Loyal Edmn Regt on strength 4 Cdn Rft Bn, 1 C B R Gp who is charged with WOAS, Absenting Himself Without Leave AA Sec 15 (1) and Losing by Neglect, AA Sec 24 (2).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: Capt C D Beatty, of the Sask L I Regt:

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, and marked Exhibit "A".

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

(R R Brown) Capt
Officer Taking Summary.

2nd Witness: A22296 Sgt White J P of 4 Cdn Rft Bn having been duly sworn, states:

"I am A22296 Sgt White J P Orderly Room Sgt 4 Cdn Rft Bn, 1 C B RGp. I produce a certificate under Sec.163 (i) (j) Army Act, showing the accused Pte Leclair R as having surrendered himself at Foggia on 24 Sep 44, at about 1215 hrs. (Produced, shown to the accused, marked Exhibit "B"and attached hereto)."

(J P White) Sgt

The accused declines to cross-examine this witness.

3rd Witness: B112342 CQMS Prior, N of "C" Coy, 4 Cdn Rft Bn, 1 C B RGp, having been duly sworn, states:

"I am B112342 CQMS Prior N of "C" Coy 4 Cdn Rft Bn, 1 C B RGp. On 4 Oct 44, acting on orders, I checked the kit of the accused, Pte LeClair and found him to be deficient the articles set out in the kit deficiency list, in the amount of $62.24, 100% value and $47.54, 75% value. (List produced, shown to the accused, marked Exhibit "C" and attached hereto)

I am conversant with the 100% and 75% values of these articles listed, and I have checked the list and totals."

(N Prior) CQMS

The accused declines to corss-examine this witness.

QUESTION TO THE ACCUSED:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED:

I have nothing to say at this time.

I certify that RP 4 (c) (d) (e) (f) and (g) have been complied with.

I certify that this summary was taken down by me in the presence of the accused.

(R R Brown) Capt
Officer Taking Summary

Exhibit "H" Summary of Evidence S.113

STATEMENT OF EVIDENCE in the case of H 77211 PTE LECLAIR, R.H.

I am ~~No.~~ CAPT. C.D. BEATTY (SASK L.I.) OFFR i/c 2 BN DRAFT COY X-BASE-163 ~~4 CBR Bn~~, 1 CBR Gp, C.A., C.M.F.

On the 16th day of SEP 44, the a/m H 77211 PTE LECLAIR R.H. was on strength of the said Coy (ROYAL EDMONTON REGIMENT DRAFT X-BASE-163) and his name and number were on the DRAFT NOMINAL rolls.

At about 0900 hrs on the 16 SEP 44, in performance of my duty, as O.C. 2 BN DRAFT, I called the MUSTER roll, including the number and name of the a/m H 77211 PTE LECLAIR R.H. He did not answer nor was he present on parade. I thereupon searched the BIVOUAC AREA calling his name, and inquiring as to his whereabouts, but was unable to locate him or to obtain any information concerning him. I thereupon reported him absent without leave from 0900 hrs, 16 SEP 44.

Date 18 SEP 44. Signature C.D. Beatty, Capt

(# or in Gd Room, or as the case may)

Certificate under Section 163 (i) (j) Army Act

I Lieut J. Neal Certify that No H77211 Rank Pte.

Name LECLAIR. R. of the LOYAL EDMONTON REGT. 5 BN. No1. C.B.R.D.

surrendered himself to No 814/31 Rank CPL. Name HOLMES. F.H.

at FOGGIA on the 24th SEPT. 44 at about 1215 hrs as a

deserter/absentee without leave.

J. Neal. Lt Staff Lieut.

Commanding Provost HQ 69 Garrison

(Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made).

Summary of Evidence
SHB

PS82 907B 5M 7-44

Exhibit 'B'
R.R. Brown Capt

Exhibit "C" R.R. Brown, Capt.
Officer Holding summary.
Summary of Evidence.
S.H.S.

KIT DEFICIENCIES OF H 77211 Pte Leclair RH of L.E.R.

as of 4th. October 1944

PRICED SCALES OF ISSUE.

Description of Article		100% Cdn Currency	75% Cdn Currency
Anklets Web	prs	$0.99	0.75
Battle Dress Blouses Serge		$5.25	3.94
Battle Dress Trousers Serge		$5.39	4.04
Boots Ankle w/laces	prs	$5.46	4.10
Boots Ankle w/laces	prs	$5.46	4.10
Caps, Field Service		$0.56	0.42
Drawers Cellular Short		$0.43	0.32
Drawers Cellular Short		$0.43	0.32
Greatcoats Dismounted 1939 Parr, or		$11.31	8.45
Jerseys Pullover		$1.79	1.34
Shoes Canvas, Rubber soled(Br)	prs	$0.65	0.49
Socks worsted	prs	$0.37	0.28
Socks worsted	prs	$0.37	0.28
Socks worsted	prs	$0.37	0.28
Bags Kit Universal		$1.02	0.77
Braces	prs	$0.28	0.21
Brasses cleaning		$0.04	0.03
Brushes Button Brass		$0.26	0.20
Brushes Clothes		$0.48	0.36
Brushes Hair		$0.34	0.26
Brushes Shaving		$0.37	0.28
Brushes Shoe Polishing		$0.28	0.21
Brushes Tooth		$0.11	0.08
Caps Comforter		$0.34	0.26
Combs Hair		$0.04	0.03
Discs Identity		$0.01	
Dressing Field		$0.24	0.18
Forks MS Table Small		$0.07	0.05
Holdalls		$0.19	0.14
Housewives		$0.17	0.13
Knives Clasp		$0.86	0.65
Knives Table GS		$0.15	0.11
Razors Safety w/blade		$0.06	0.05
Vests Cotton		$0.36	0.27
Towels Hand		$0.32	0.24
Towels Hand		$0.32	0.24
Overalls Blouses Denim		$2.64	1.98
Overalls Trousers Denim		$2.51	1.88
Hosetops Drab	prs	$0.43	0.32
Belt Assist W.E. Patt '37 Small		$0.67	0.50
Bottle Water MK VII		$0.82	0.62
Braces W.E. Patt '37 Left		$0.30	0.23
Braces W.E. Patt '37 Right		$0.30	0.23
Carriers Water Bottle WE Patt '37		$0.37	0.28
Carriers Water Bottle		$0.37	0.28
Spoon Desert		$0.07	0.05

Frogs Bayonet W.E. Patt '37	$ 0.19	0.14
Haversacks W.E. Patt '37	$ 1.79	1.34
Helmets Steel MK III	$ 2.39	1.79
Packs W.E. Patt '37	$ 1.84	1.38
Pouches Basic W.E. Patt '37 Mk III	$ 1.19	0.89
Pouches Basic W.E. Patt '37 Mk III	$ 1.19	0.89
Straps Shoulder Haversack	$ 0.32	0.24
Straps Shoulder Haversack	$ 0.32	0.24
Straps Web Supporting	$ 0.13	0.10
Straps Web Supporting	$ 0.13	0.10
Tins Mess Rectangular	$0.35	0.26
Sheets Ground Mk VIII	$ 2.94	2.31
Blankets Brown Single	$ 3.07	2.30
Blankets Brown Single	$ 3.07	2.30
Capes Anti-Gas No.1 Camouflaged	$ 2.76	2.07
Respirator Haversack Mk VII	$ 1.42	1.07
Respirator Facepiece Mk IV Normal	$ 2.33	1.75
Rifle No. 4 Mk I	$45.48	
Scabbards Bayonet No 4 Mk I	$ 0.61	0.61
Bayonets No. 4 Mk I	$ 2.46	2.46
Bottle Oil Lakelight Mk V	$ 0.06	
Trousers K.D.	$ 1.51	1.13
Trousers K.D.	$ 1.51	1.13
[illegible]	$ [illegible]	[illegible]
Shirts Bush	$ 1.00	0.75
Shirts Bush	$ 1.00	0.75
Total	$ 62.24	$ ~~44.47~~ 41
		$ 42.54

(Sgd).....[illegible].....CQMS.

Exhibit "E" P 143

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
H77211	Private	LeClair R	LER on str 4 Cdn Rft Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA 6 (2) - One AA 24 (2) two times.
For AA 10 - One AA 33 one times.
For AA 11 - One AA 40 seven times.
For ~~AA 12 (a) - One~~ AA 15 - Eight times.

Date of first entry in Field Conduct Sheet 1 Jan 42

Date of last entry in Field Conduct Sheet 31 Aug 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ beginning on the N/A day of

4. The accused has been awaiting trial on the present charges for from 1215 24.9.44 nil days in civil custody; and for 12 days in military custody, *i.e.*, nil days in open arrest, 12 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 19 yrs 11½ Mos

6. The date of his attestation / calling up for military service is 5. 6. 41

7. ~~The service which the accused is allowed to reckon is~~

8. ~~The accused is in possession of~~

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). ~~The accused has served continuously, without reduction, to the present date.~~

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F G C M	Date ? Field AAI	AA Sec 6 (2) WCAS Acting as a sentinel leaving his post before he was regularly relieved.	180 days Detention	60 days Remission of sentence earned

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 6th day of October 1944

(A E Davidson) Capt and Adjt
4 Cdn Rft Bn, 1 C B R Gp.

MFM 6 (AFB 122) 40/P&S/136 (3438)

No H77211 Name Leclair R.H. Sqn, Battery or Company | Corps 49th Fd Battery R.C.A. | Date of enlistment 14-5-42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet HENRY Ra... | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	29 May 42	Pte	Nil	(1) Conduct to the Prejudice etc. Sec. 40 A.A.	Documentary	168 hrs Detn	2 Jun 42	Ltcol Neish.	
			Nil	(2) Being absent from Duty. Sec 6 (2) (h) A.A.	Documentary	Forfeits 1 days pay	"		
			1	(3) Drunkenness. Sec 19 A.A.	Lt. Malkin RCAMC	Admonished 1st offence			
103rd CABTC	12-7-42	Gnr		Sec 15 (1) A.A. AWL from 0200 hrs 12-7-42 to 2359 hrs 12-7-42 Total absence 21 hrs 59 mins.	L/Cpl LAHAIE. Documentary	5 days C.B.	14-7-42	(R.A. Starke) Major	Forfeits 1 days pay PR.AI.
103rd CA(B)TC Fort Garry, Man No. 4 Coy				Sec. 15(1) A.A. AWL from 0615 3-8-42 to 1115 hrs 3-8-42. Total absence 5 hrs.	Cpl. BROOKS Documentary	3 days C.B.	4-8-42	(R.A. STARKE) Major.	

MFM 6 (AFB 122) 40/P&S/136 (3438)

No H77211 Name Leclair Raymond Henry | Sqn, Battery or Company A | Corps 18th (Man) Armoured Car Regt | Date of enlistment 5-6-41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc H.L. Taylor Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 6-12-41					
Work Point Camp Victoria B.C.	1-1-42	Pte		Conduct to the Prejudice etc. Unfit for Duty owing to previous indulgence in alcoholic stm. And improperly in possession of Public property, and property belonging to an Officer.	[illegible]	10 days Detn.	3-1-42	P.N.K. Coupland Lt.col	Forfeits 12 days pay. PRAI.
Work Point Camp, Victoria, B.C.	27-1-42	Pte		Failing to appear at the place of parade 0815 hrs 27-1-42.	Sgt Begley Sgt Deakin.	5 days C.B.	28-1-42	Major H.L. Taylor	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon	3-1-43	Pte		AWOL From 2200 hrs 3-1-43 to 2215 hrs 3-1-43. Absent 15 minutes. Se c 15 (1) A.A.	Cpl Knox	2 days C.B.	4-1-43	C.L. Wilson Capt	
Calgary, Alta.	27-2-43	Pte	1st	Sec 19. A.A. Drunkenness. In that he at Calgary, Alberta 27th Feb. 1943 was drunk.	DOCUMENTARY	ADMONISHED	2-3-43	Lt.col J.O.R. Evans	Fined $5.00
				Issued Special Trans Warrant #A360088 11-3-43 18-3-43 Certified no further entries to date:		W.L. Oliver Major.			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Work Point Camp.	31-1-42	Tpr		Whilst a defaulter breaking out of Barracks. Sec 10 (4) Absence: In that he at Work Point Camp, did absent himself without Leave from approx 1800 hrs 31-1-42 until apprehended by the C.N.R. Police at Port Mann, B.C. on an East bound train at approx, 0330 hrs 1-2-42. Time under Close Arrest Sec 15 (1) Attempted Desertion: in that he when apprehended by Military Police at Port Mann, B.C, was wearing Civilian clothing, and was on board an East Bound train. Sec 12 (a) Conduct to the prejudice etc. In that he possessed a Pass with a forged signature.	Documentary	12 days Detn	12-2-42	R.H.K. Coupland Lt.col	

No B77211 Name Leclair Raymond Henry | Sqn, Battery or Company: L Edmn Corps | Date of enlistment: 5-6-41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Otter Point	26-3-42	Tpr		Conduct to the prejudice etc. did appear on parade late and improperly dressed.	Lieut Beck	3 days C.B.	26-3-42	(C.E.S Wallis) Capt	
Otter Point	27-3-42	Tpr		Conduct to the prejudice etc., did absent himself without permission from kitchen duties.	L/Cpl Frost	72 hrs detn	30-3-42	(P.H.K Coupland) Lt,-col.	
Little Mt. Camp	6.11.42	Pte		(a) False enlistment while still a member of the C.A. (A). (b) A.W.L. from Camp Shilo from 0630 hrs. 2-9-42 to 1530 hrs 21 Sep 42. (time 19 days 9 hrs) (c) Losing by neglect his clothing and regimental necessaries in the amount of $46.27.	Documentary	28 days Detn	6-11-42	?????? Lt.col	Forfeits 28 days pay under FR&I 149 (1) b Forfeits 20 da days pay under FR&I 149(1)(a)

(PTO)

No H77211 Name Leclair R H | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment: 5-6-41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13-9-43	Pte		Provisional Sheet A.A. Sec 11: Contrary to Camp Orders, neglected to roll sleeves down. A.A. Sec 40. conduct to the prejudice - attempting to strike an N.C.O. A.A. Sec 40. Conduct to the prejudice - negligent use of a rifle so as to endanger an N.C.O of the R.P.	L/Cpl LeClerc A Cnr Reed R.C. Pte. Stephenson E.	20 days F.F. 20 days Forf of pay	14-9-43	R.S. Hallett Lt.col	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lt. Mt. Camp	6-11-42	Pte		(d) Losing by neglect his clothing and regimental necessaries in amount of $20.55.	(Continued from over page)				To make good the sums of $20.55 and $46.27, and further the sum of $32.67 the cost of apprehension.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		WCAS - Acting as a sentinel leaving his post before he was regularly relieved. Sec 6. (2) A.A.	F.G.C.M.	180 days Detention	10th	FGCM	
						Released from 25 Field Punishment Centre			7.7.44
						Sentence expired whilst in hospital			7.7.44
						Remission earned under Rules for Detention Barracks and Military Prisons			60 days
						Commandant's Initials			
Field	17 Aug 44	Pte		A.A. Sec 15 (1) AWL from 1800 hrs until 1450 hrs 22 Aug 44. (Abs 4 days 20 hrs 50 mins)	M12174 A/Sgt Rooney E	15 days pay FR&I 149 (2)	23-8-44	F.W. Stehelin Major	5 days pay FR&I 149 (1) (a)
Field	31-8-44	Pte		AA Sec 15 (1) AWL 5 days 20 hrs 30 mins.	A/Cpl Peters	6 days auto pay. 28 days pay AI 46. 14 days CB	7-9-44	R.W. Lent Lt.col	FR&I 149 (1) 6 days pay (a)

CERTIFIED TRUE COPY OF AFM 6 FROM REGIMENTAL BOOKS IN MY CUSTODY
5 Oct 44.

.....
(A.E. Davidson) Capt.
Adj. 4 Cdn Rft Bn 1 C R R Gp

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 6 Oct 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL 15(1) and Leaving by neglect 24(2) for which I was remanded for Court Martial.

(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut D H McRae if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 8 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Sig of Accused)

3 of 3

III-20

PTE LECLAIR RH

C H A R G E S H E E T

H77211 Pte LECLAIR Raymond Henry of The Loyal Edmonton Regiment, a soldier of The Cdn Army Overseas, On Active Service is charged with:-

First Charge
See 6(2)(h)
Army Act

When On Active Service:-

ACTING AS A SENTINEL, LEAVING HIS POST BEFORE HE WAS REGULARLY RELIEVED

in that he

In the Field at 2340 hrs on 15 Dec 43 after being posted as a sentry on Coy HQ left his post without being regularly relieved.

In the Field

Date. 8 Mar 1944

E W Day

(E.W. Day) Lt-col
Comd The Loyal Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field

Date. 8 Mar 44

B M Hoffmeister

(B.M. Hoffmeister) Brig
Commanding 2 Cdn Inf Bde.

MEDICAL CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined H77211 Pte LECLAIR, Raymond Henry of The Loyal Edmn R. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

In the Field
10 Mar 44

T.R. Grainger
(T.R. Grainger) Capt-RCAMC
Medical Officer i/c L. Edmn R

Accused H 77211 Pte. RAYMOND HENRY LECLAIR. L EDMNR
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ITALY on 10 May 44.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Maj	D H ROSSER	PPCLI.
MEMBERS:	LT	F H HARFIELD	SEAFORTH OF C.
	LT	N E TUCKER	" "
JUDGE ADVOCATE: (if any)			
OFFICERS UNDER INSTRUCTION:	LT	J. V. SPURR	PPCLI
	LT	E P LANGE	L EDMNR.

PROSECUTING OFFICER: CAPT E.H. PRITCHARD Lawyer? Ans No.

DEFENDING OFFICER: CAPT A M JOHNSON Lawyer? Ans No.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is ~~(are)~~ amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 0935 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to _____ as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to _____ as Shorthand Writer? Ans _____

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President, Members, ~~Judge Advocate~~ and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is ~~(are)~~ initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge GUILTY

Second Charge_____

Third Charge_____

Fourth Charge_____

Fifth Charge_____

Sixth Charge_____

Seventh Charge_____

Eighth Charge_____

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans No

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans Yes

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans Yes

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and ~~Field Conduct Sheet (MFM.6)~~ signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "B", and " ", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans No (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

(Signature of President) Maj

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans_____

2. The Prosecutor's open ing address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans_____
Q. Do you intend to call any other witnesses in your defence? Ans_____
Q. Is he a witness as to character only? (RP 40(B)) Ans_____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (AFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans_____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

L. Clair

1st Witness for the Defense:

M 16473 C & M S Craven R N, Loyal Edmonton Regt., having been duly sworn states:

I am M16473 C & M S Craven R N. Loyal Edmonton Regiment. The accused was a member of my Platoon H.Q. when I was a sergeant and landed in Sicily with me. Pte L. Clair remained in the platoon during the campaign up to Miletelo when I left the platoon. Up to that time I had no trouble with the accused and he carried out every task he was ordered to.

Le Clair.

Statement by Defending Officer, Capt A.M. Johnson, Loyal Edmonton Regiment.

I ask the courts leniency for three reasons. First the accused's record as a fighting man. For this reason he would be a valuable man to his company. Secondly the accused is very young. Thirdly the accused has been under close arrest since the 15th December 1943.

L. Blair.

Statement by Prosecuting Officer Capt. E.H. Pritchard, Loyal Edmonton Regt. having been duly sworn states:

I am Capt E.H. Pritchard, Adjutant Loyal Edmonton Regt. I submit statement as to character of accused together with certified true copy of accused's M.F.M. 6. I have compared these documents with Battalion records.

Documents presented to Court

SUMMARY OF EVIDENCE in the case of H77211 Private LECLAIRE Raymond Henry of The Loyal Edmonton Regiment a soldier of The Cdn Army Overseas CMF.

By order of the commanding officer the evidence is taken on oath.

1st witness Prosecution

Capt G.T. Blair of The Loyal Edmn R having been duly sworn states:-

I am Capt G.T. Blair OC 'A' Coy The Loyal Edmn R. On 15 Dec 43 at about 2340 hrs I was returning to 'A' Coy lines with a fighting patrol. When arriving at coy HQ I discovered that there was no one awake or no guard. Lieut Pybus was with me. I asked him where our guard was. He said, "I don't know, but I thought I saw Pte LeClaire sitting inside a barn about 30 yds from 'A' Coy HQ. I asked him if he was on guard for 'A' Coy HQ, he said, "Yes". I brought him back to 'A' Coy, woke up the CSM and told him that Pte LeClaire was under arrest.

The accused declines to cross examine this witness.

signed (G.T. Blair) Capt

2nd Witness Prosecution

M16193 Pte Gardiner, E.J. of The Loyal Edmn R having been duly sworn states:-

I am M16193 Pte Gardiner, E.J. of 'A' Coy The Loyal Edmn R. On the night of 15 Dec 43 I was in charge of 'A' Coy HQ guard. I ordered Pte LeClaire, R.H. the accused, to take a shift on guard at 'A' Coy HQ from 2255 hrs to 0020 hrs. Pte Akinam, W. was to take the first shift at 2130 hrs and to stand guard until 2255 hrs when he was to waken Pte LeClaire for him to stand his shift from 2255 hrs until 0020 hrs. My orders from Capt Blair were that the guard was to stand guard right at Coy HQ. To my knowledge Pte LeClaire had stood guard on 'A' Coy HQ before and knew that the guard was to stay at 'A' Coy HQ.

The accused declines to cross examine this witness.

signed (M16193 Pte Gardiner, E.J.)

3rd Witness Prosecution

M65587 Pte Akinam, W. of The Loyal Edmn R having been duly sworn states:-

I am M65587 Pte Akinam, W. of 'A' Coy The Loyal Edmn R. I was on guard at 'A' Coy HQ on the night of 15 Dec 43. Pte Gardiner was in charge of the guard. At about 2225 hrs I finished my shift and I woke Pte LeClaire up, whom I was told by Pte Gardiner was to stand guard next. I told Pte LeClaire that his shift was from 2225 until 2350 hrs.

The accused declines to cross examine this witness.

signed (M65587 Pte Akinam, W.)

4th Witness Prosecution

Lieut G.H. Pybus of The Loyal Edmn R having been duly sworn states:-

I am Lieut G.H. Pybus OC 9 Pl 'A' Coy The Loyal Edmn R. I returned from patrol about 2330 hrs night of 15 Dec 43. As I came past 'C' Coy HQ I noticed Pte LeClaire the accused standing there. I mentioned this to Capt Blair because there should be no 'A' Coy guard at 'C' Coy HQ. When I came over to 'A' Coy HQ I could see no one on guard.

The accused declines to cross examine this witness.

The accused was cautioned as follows:-

"Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement.

I certify that the foregoing Summary of Evidence consisting of six pages was taken down by me in the presence of the accused on 19 Dec 43 and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Date :- 19 Dec 43
In the Field

signed (W.G. Roxburgh) Capt
Officer Taking Summary

W.R.

2

He said "I don't know but I thought I saw Pte. LeClaire over at the door of "C" Coy. H.Q." There was some shelling going on at the time. I went to "C" Coy. H.Q. and found Pte. LeClaire sitting inside a barn about 30 yds. from A Coy. H.Q. I asked him if he was on guard for A Coy. H.Q. He said "Yes" I brought him back to A Coy. woke up the Coy. Sergeant Major, and told him that Pte. LeClaire was under arrest. ~~The~~

G T Blair Capt.

The accused declines to cross-examine the witness.

W.R.

1

Summary of Evidence

In the case of H 7721 Pte. LeClaire ~~[illegible]~~ Henry Edmonton Regt. a soldier of the Canadian Army Overseas C.M.P. By order of the commanding officer the summary is taken on oath.

1st witness ~~H.Q.~~ Capt. G. T. Blair, Loyal Edmonton Regt. having been duly sworn states.

I am Capt. G. T. Blair, OC. "A" Coy. Loyal Edmonton Regt.

On the 15th of Dec. 1943 at about 2340 hrs. I was returning to A Coy. lines with a fighting patrol. When arriving at A Coy. H.Q. I discovered that there was no one awake or no guard. Lieut. Pybus was with me. I asked him where our guard was.

4 15

A Coy. HQ. To my knowledge Pte LeClaire had stood guard on A Coy HQ before and knew that the guard was to stay at A Coy. HQ.

[illegible]

The accused declines to cross. Warning the witness

3rd Witness :- M65587 Pte. Akinam W. J. Royal Edmonton Regt. being duly sworn states :-

I am M65587 Pte Akinam W. J. of A Coy. I was on guard at A Coy. HQ on the night of Dec. 15th. Pte Gardiner was in charge of the guard. At about 2225 hrs. I finished my shift and I woke Pte LeClaire up whom I was told by Pte. Gardiner was to stand guard next. I told Pte LeClaire that his shift was from

2nd Witness: M16193 Pte Gardiner E.J. Loyal Edmonton Regt being duly sworn states. I am Pte. Gardiner E.J. of A Coy. Loyal Edmonton Regt. On the night 15th December 1943 I was in charge of A Coy HQ. guard I ordered Pte Le Claire R.J. ~~[illegible]~~ the accused ~~was~~ to take a shift on guard at A Coy HQ. ~~at~~ from 2255 hrs to 0020 hrs. Pte Akinam W. was to take the first shift at 2130 hrs and to stand guard until 2255 when he was to waken Pte. Le Claire for him to stand his shift from 2255 until 0020. My orders from Capt Blair were that the guard was to stand guard right at

3. W.

2nd Witness:- M16193 Pte Gardiner E.J. Loyal Edmonton Regt being duly sworn states. I am Pte Gardiner E.J. of A Coy. Loyal Edmonton Regt. On the night 15th December 1943 I was in charge of A Coy HQ. guard I ordered Pte LeClaire R.W. the accused ~~was~~ to take a shift on guard at A Coy HQ. ~~at~~ from 2255 hrs to 0020 hrs. Pte Akinam W. was to take the first shift at 2130 hrs and to stand guard until 2255 when he was to waken Pte. LeClaire for him to stand his shift from 2255 until 0020. My orders from Capt Blair were that the guard was to stand guard right at

4. W.

A Coy. HQ. To my knowledge Pte LeClaire had stood guard on A Coy HQ before and knew that the guard was to stay at A Coy. HQ.

E.J. Gardiner

The accused declines to cross. Warning the witness

3rd Witness:- M65587 Pte. Akinam W.J. Loyal Edmonton Regt. being duly sworn states:- I am M65587 Pte Akinam W.J. of A Coy. I was on guard at A Coy. HQ on the night of Dec. 15th. Pte Gardiner was in charge of the guard. At about 2225 hrs. I finished my shift and I woke Pte LeClaire up whom I was told by Pte. Gardiner was to stand guard next. I told Pte LeClaire that his shift was from

6.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence"

The accused declines to make a statement.

I certify that the foregoing summary of evidence consisting of six pages was taken down by me in the presence of the accused on 19th Dece mbr 1943 and that Rules of

5.

2223 hrs until 2350 hrs because C. Coy Clarke had watched me at 2100 hrs and he had to stand my shift at instead of 2030 hrs.

The accused declines to cross-Hamine the witness

4th Witness:- Lieut G. H. Pybus Royal Edmonton Regt being duly sworn states:- I am Lieut G. H. Pybus, OC. 9 Platoon A Coy. I returned from patrol about 2330 hrs night of Dec. 15th 1943. As I came past C. Coy HQ. I noticed Pte. LeClaire, the accused standing there. I mentioned this to Capt. Blair because there should be no A Coy's guard at C. HQ. When I came over to A Coy HQ. I could see no one on guard.

The accused declines to cross-Hamine the witness.

Lieut G. H. Pybus

7

Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Date:- 19 Dec '43 In the Field.

W. F. Rothbugh (Capt.) Officer taking the summary.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H77211	Pte	LECLAIR H.H.	The Loyal Edmn R

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet mentioned should be produced in court with this statement but not admitted in the proceedings.

† See para. 671, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to not recognized special acts of gallantry or distinguished conduct.

Interpretation.—In the charts which follow the entries for drunkenness stand for similar misconduct and fraud.

	* Within last 12 months.		*Since Enlistment.	
For	Sec 40 AA	3 times	5	times.
For	Sec 15 (1) AA	nil times	2	times.
For	Sec 10 (4) AA	nil times	1	times.
For	Sec 11 AA	1 times	1	times.
	Sec 6 (2) (h) AA	nil	1	
For	Sec 19 AA	1 times	3	times.

Number of instances of gallantry or distinguished conduct. N/A

or

~~XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of Mar 44

E.H. Pritchard

(E.H. Pritchard) Capt & Adjt
The Loyal Edmonton Regiment.

11. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

RECORDED AT CMHQ IN AB 160 III-20

Correspondence to be PINNED here.

E136

Army Form A.3.

CANADIAN SECTION DISCIPLINE & PAY SECTION 29 MAR 1944 D.R.O. OF ECHELON

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this EIGHTH day of MARCH, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

PROCEEDINGS REVIEWED.
[illegible] Lieut.
25 Apr 44 Rev 3
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D.H. Rosser	PPCLI

Members.

Rank.	Name.	Regiment.
Lt	F.H. Harfield	Seaforth of C
Lt	M.E. Tucker	Seaforth of C
(W) Lt	C.N. Shea	PPCLI

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(B.M. Hoffmeister) Brig
Commanding 2 Cdn Inf Bde
Convening Officer.

E 336

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H77211 Pte LECLAIR R.H. L. EDMN R	1st Charge Sec 6 (2) Army Act When On Active Service Acting As a sentinel leaving his post before he was regularly relieved	Guilty	Guilty 180 days detention	I Confirm the finding and Sentence of the Court 18 Mar 44 Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet, if necessary) —

(Signed) (B.M. Hoffmeister) Brig
Commanding Second Canadian Infantry Brigade

(Signed) [illegible] Maj
10 March 44.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of March 1944.

[illegible] Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded), the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 18 day of Mar 1944.

Brig
Confirming Officer.

Promulgated and extracts taken in the case of H77211 Pte.Leclair R.H.

(a) (Dated) 21-Mar-44 (Signed) Lt.Col. O.C. L.Edmn.Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

4A-148

Cfw. LaClair, S

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 53044 Gnr McClair, Simon

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~to present under sentence for~~ beginning on (date) (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1) Nil

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for thirty (30) days and to be put under stoppages of pay until he has made good the sum of one hundred & twenty dollars and twenty-four cents ($120.24) in respect of the loss of the motorcycle mentioned in the charge

Nil Other award

(Sgd) [illegible] Major Judge-Advocate, if any. Date awarded: 4 October 1944 (Sgd) E H Warwick Lt Col President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court but commute the two days detention.

I confirm the sentence to be varied [illegible] and suspended [illegible] and further ordered [illegible] until [illegible] Date of my order.

(Sgd) [illegible] LT Col

Date 5 OCT 1944 Commanding CCE 4 Can Armd Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G 53044 Gnr McClair, Simon	10 Oct 44	[illegible] for Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 27 OCT 1944 Office of JAG BRANCH C.M.H.Q.

RECORDED ALONG IN AD 160. 4A-148

CFA96 (To item of AFA81 40/P & S/1698 (40-01) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Lt. Col J RB Jones Comd RCE 4 Can Armd Div dated 2 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 53044	Gnr	Simon	LeClair	4 C A H Tp RCE

PROCEEDINGS REVIEWED 28 Oct 44 W. C. Dale Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 4 Oct 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn HQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A96, for duties and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) NAT NAT

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences. (HW)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) (HW)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you~~ object to as interpreter? Ans — as shorthand writer? Ans — NOT

The Interpreter is sworn.(1) Do you object to

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	NOT Major ~~E H Warwick~~	E H Warwick	2 Can A Tk Regt RCA
Member	Capt	O P Dutchak	Algonquin Regt
Member	NOT ~~R A Finlayson~~ Lieut	R A Finlayson	21 C A R.
Judge-Advocate	Major	N C Fraser	H, & 2 Can Corps.
Prosecutor	Capt	A C Douglas	6 Can Fd Park Regt RCE
Defending Offr	Lieut	H C Baker	6 Can Fd Park Regt RCE

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (1)

(1. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea NOT. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. (HW)

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5. (HW)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3 / MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The ~~Defending Offr~~ submits that ~~the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, ~~the trial will~~ proceed on the former, but ~~the accused is (are) found Not Guilty on~~ the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. I wish to ~~give evidence on oath~~ make an unsworn statement. Do you intend to call witnesses on your behalf?
Ans. Yes on witness Are they witnesses as to character only? Ans. NO as to facts only.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces~~ that the accused ~~is found Not Guilty on all charges~~ and is to be released forthwith ~~and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. I wish to call one witness as to character
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. I wish my defending Officer to speak for me
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to ~~prove~~ on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused G.53044 Cfn Simon LeCLAIR 46 L.A.D. R.C.E.M.E. att to 6 Cdn Field Park Sqn RCE. A Soldier of the Canadian Army Overseas.

Is Charged With

CHARGE (A-4C)

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

IN THAT HE

In the field on the night of 28/29 Sep 44 improperly and without authority used Cdn Military Vehicle No.C4193674 (Norton Motorcycle). Whereby the said vehicle was lost. Value of the said vehicle $339.72

IN THE FIELD

2 OCT 1944

(E.W. ODDLEIFSON) MAJOR RCE
Officer Commanding,
6 Cdn Fd Pk Sqn RCE.

To be Tried by FGCM

Lt.Col
C.R.E. 4 Cdn Armd Div.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(3).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-53044	Cfn		Simon	LECLAIR	46 LAD, RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Whom I appoint to support (if above Offrs to form the Court) the Pd Offr as President for the reasons I have entered hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Whom I appoint as Judge-Advocate (hereunder the Offr mentioned hereunder).~~
(RP 106(E). Delete, if none appointed.)

5. I also appoint as Judge-Advocate the offr mentioned hereunder.

PRESIDENT.

Major (Rank.)	E. H. WARWICK (Must be named. RP 106.)	5 Cdn A Tk Regt RCA (Unit.)

MEMBERS.

Captain	C. P. DUTCHAK	Algonquin Regiment
Lieutenant (Rank.)	R. A. FINLAYSON (Named or detailed. RP 106.)	21 C.A.R. (Unit.)

WAITING MEMBER.

Captain (Rank.)	R. de la B. GIROUARD (Named or detailed, if any. RP 106.)	4 Cdn Armd Div Tps Coy (Unit.) RCASC

JUDGE-ADVOCATE.

Major (Rank.)	M. C. FRASER (Must be named, if any. RP 106.)	2 Cdn Corps (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 2 Oct 44

(Signed personally. RP 106(3) fn 2.)

Commanding CRE 4 Cdn Armd Div (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

E Whs

MEDICAL OFFRS CERTIFICATE
KR Can Para. 557.

I certify that I have this day examined No. G53044 Cfn LeCLAIR, Simon, and in my opinn is ..fit..... to undergo trial by Court Martial

IN THE FIELD
4 OCT 44.

J A C Thomson maj.
12 Can Fd Amb.

Character evidence for Defense. MA

First witness
Lieut. Ayers. testifies under his former oath

During my 2 mos as OC 46
LAD accused has given no trouble.
He has performed his duties well
I have every reason to believe he
will continue to be a good craftsman
as well as a good soldier.

No cross-exam
No questions by Court.
R R 3 3 B complied with.

Defense Offr. in mitigation

asks the court to consider mitigating
circumstances in the evidence and
particularly the matters to be referred to
in addressing the Court before the finding

G 53044 Cpl Le Clair S. ①

First Witness for Prosecution.

Lieut. H. Ayres, 46 LAD att. 6 Fd Park Sqn RCE sworn states.

On night of Sept 28/29 I had given no authority for any vehicle of the LAD. to leave camp area. up to time when I went to bed at 2100 hrs. all vehicles were still in the area until following morning I was not aware any vehicles had left. As a result of the morning of 29 Sept as consequence of information received I investigated and found that M/C. C 4 193164 Dr Cpl to Cpl Hague was missing. I am not sure of number but it was M/Cycle Dr to Cpl Hague.

Cross-examined.

I didnt give Kelly permission to leave. There was no CB of Sqn. It was understood if no work on hand men could go out. On night of 29 Sept Recreation not allied to Bruges. A few days before that there had been Liberty trucks to Bruges. Bruges was not out of bounds to LAD so far as I was concerned but no recreational Sqn. provided for that night Previously Rec. Sqn had been provided.

Vehicles leaving Sqn. must have permission of myself or A&WS Greenways Sqn. W.O. Only vehicles that leave without specific permission are DR's on regular runs & breakdown vehicles in response to calls. This only of two vehicles Greenways and myself present.

M/C. first issued 1941. Not issued to us then.

(2)

No-re-exam.

By Court

Our unit received ~~an~~ vehicle from base workshops. It was supposed to be in good shape. I checked vehicles myself before I went to bed.

By J A.

M/C's not used for recreational purposes. I was available all night & so far as I know no reason for M/C to leave lines. If any vehicle other than recovery vehicle to go my permission should have been sought, A Q M S. ~~could have~~ Greenaway would give permission for recovery vehicle without reference to me but M/C not used as recovery vehicle.

R P 83 B. complied with.

2nd witness for Prosecution

M 50608 A Q M S. ~~Greenaway~~ Greenaway R S. 46 L A D. att. 6 Fd Park Sqn RCE

sworn states. —

1. Didn't authorize any M/C to go out on night of 28/29 Sept.

On morning of 29 Sept as a result of something I heard I made a search and found M/C C 4193 674 missing. It was on charge to Cfn Magee, I reported it to Lieut Ayers. This M/C is still missing.

No-cross-exam.

By J A. - I was in camp all evening of 28 Sept and night of 28/29 Sept. No vehicle was supposed to leave camp without Lieut Ayers or my permission unless we were both absent. In that case the Sgt could give permission. I received no request for permission for M/C to leave on night in question. I was in my billets about 150 yds from vehicle park at 2100 hrs.

R P 83 B. complied with

3 rd. witness for prosecution (3) RCEME MG

H. 64526 Cfm Magee, CF 46 LAD, att 6 Fd Park

Sgt RCE sworn states

On night of Sept 28 between ~~9~~ 2100 and 2130 hrs Cfm LeClair asked if he could take my M/C. I had done lot of work on it & refused at first. He asked again and I said "OK by me" & he left 5 or 10 minutes afterwards. I saw him go out on my M/C.

In morning I looked for M/C and it wasn't in usual place. I asked LeClair where M/C was. He said "out there" but didn't indicate where. I couldn't see it in usual place so I reported it missing

My M/C is still missing

Cross-Exam

In the morning I woke LeClair to question him. I don't think he was fully awake. AGMS Greenaway ~~slep~~ sleeps 5 or 600 yds from vehicle park. It would not have been difficult to see hunt ayers or AGMS Greenaway when M/C taken.

By JA.

LeClair didn't indicate purpose for which he wanted M/C.

By court at request of Dif. Offr.

I lent M/C without explanation from accused other than request to use it.

By court

M/C. referred to is Norton solo C 4193674 on chge to me. I don't normally take it out of vehicle park without permission of ~~ins~~ orders. Permission normally obtained from hunt ayers or AGMS Greenaway.

RPB3B. complied.

(4)

4th Witness for Prosecution.

Capt R.E Blackburn, HQ 4 Cdn Amd Div.

R.C.O.C. - ~~S/L. Q~~ ~~Was~~ Was until recently employed in Office of 4 Div. A.D.O.S. Am now S/L. Q. I am ~~fal~~ familiar with vocabulary prices of M/C.

Voc. price of Norton M/C Solo is $339.72

Life is 3 years and depreciates 1/3 each year for first 2 years. After that it is valued at 1/3 of Voc price as long as serviceable.

Referred to ~~9/~~ 9/B Vehicle Issue/1 HQ First Cdn Army 3rd Cyst 43.

Present value of Norton Solo 1st issued in 1941 then $113.24 provided it is serviceable.

No cross-exam.

No Quest'n by Court.

RP 8 3 B. complied with.

The Prosecution is closed.

~~Defence~~ Defence (5) nlf

The Defending Offr declines to make an opening address.

First Witness for the Defence.

The accused G 53044 Cfn. Leclair S. 46 LAD RCEME

sworn states

On night of 28th Sept I wasn't going out. I was asked by friend Cfn Kelly whether I would ask Cfn Magee for his M/C. to pick him up in Bruges. Cfn Magee being out didn't come in until 2100 hrs. I asked him for his M/C. to pick up Cfn Kelly in Bruges. His first answer was "No". I told him the reason why I wanted ~~him~~ to go. Then he changed his mind & sd I could take it.

I took it and got to Bruge to a cafe where I was to pick up Cfn Kelly. I parked M/C 3014 feet from door. It was on a side street. I left it there and went in door to see if he was ready to come. I told him I couldn't leave M/C out there but he said he would be with me in a moment. I noticed 3014 Tank Corps soldiers there. I was in cafe approximately 5 minutes. When we got out and M/C was gone. We followed out on street and out on another one & couldn't see it so we ~~ho~~ started walking home. Got in sometime in morning about 06.30 or 0700 hrs.

I was first awaked by Cfn Magee He did ask me something about M/C but

(6)

I don't remember what answer I gave as I had just fallen asleep waked up.

Next thing was that on same morning Mr Ayers asked me to explain what had happened.

Soldiers could have taken M/C.

Cafe was closing but anyway I was on way back.

No cross-exam.

By Court

Took long time to walk home 4 or 5 hrs anyway. Also took time to look for M/C. Couldn't find any Provost to whom to report loss.

I knew that permission to take out vehicle was required but didn't think of it just then and didn't see any offs around.

RP 93B complied with

2nd Witness for Defence

G49649 Cfn Kelly, CT. 46 LAD RCEME
att 6 Fd Park RCE

Sworn States

I asked accused to pick me up at cafe at Bruges. Accused was in cafe 5 or 10 min. I was finishing glass of beer.

There were people in pub. - soldiers from Tank Corps - who left pub just before we did.

M/C was right outside door.

Cross-Exam

I partially saw M/C. ~~my~~ just outside door. I watched the accused park it there. It was gone when we came out.

RP. 83B complied with - Defence is closed

Def. Offr. Defending Offr. address as the Court as follows.

(1). Rec. Tpt to Burges frequently given.

(2). Cfn. Kelly was entitled to be absent & was legitimately in Burge.

(3). Although no claim not ~~entitle~~ instructed to pick up Kelly he was picking up man on legitimate recreation.

(4) Vehicle not lost through improper handling. He left vehicle in place where he could normally hear it ~~left veh~~ leaving.

(5) Vehicle ~~not~~ not lost to Army as people most like to acquire it were Army personnel who were in pub at time

Proc. Address the Court

no permission given by Lieut Ayres or A & M S Greenaway for any LAD vehicle to leave camp.

Accused took M/C to Burges without permission. Evidence of cost of new M/C is before the court

M/C's can't be used for recs Tpt.

Improperly doesn't refer to manner in which M/C added but purpose for which obtained and used.

The J. A summed up:

(1) He instructed the court on respective functions of court and J A.

(2) He explained the chge and read fn. to A A 40 at bottom of P 458. and also referred to notes on ~~my~~ amended notes to section

(3) He reviewed the evidence briefly

(4). He instructed the court on the presumption of innocence and that accused entitled to the benefit of every reasonable doubt. ~~and that burden of proving~~

(5). He also instructed court that for this purposes the value of the A/C must be taken as not more than the amount testified to by Capt Blackburn i e £113 24

"A" (HQ)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1773-39-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G-53044	Cfn	LECLAIR, Simon --	46 LAD, RCEME.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 11	NIL	times	ONE	times
For	NIL	times		times
For	NIL	times		times
For	NIL	times		times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

A.F.A. 73

3. The accused is not under sentence at the present time. ~~24 yrs 11 mos.~~

or,

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and N/A days in military custody, making a total of N/A days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 24 yrs 11 mos

6. The date of his attestation specified in his record of service is 16 JUN 41.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs and 3 mos.

8. The accused is entitled to reckon 3 yrs & 3 mos. service for the purpose of determining his pension, etc.

9. The accused is or is in possession of or entitled to). State any military decoration or reward. Cdn Volunteer Service Medal and Clasp.

10. (If the accused is a warrant officer.)

of

Date of promotion.

years.

years.

years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number G53044 Rank Cfn

Name LeCLAIR Simon of 46 LAD, RCEME Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of SEPTEMBER, 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No G53044 Name LeCLAIR, S. | Sqn, Battery, or Company | Corps RCEME | Date of enlistment 16-6-41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc D.C.DOUGLAS, Capt. | Character B

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 May 43	Pte		Speeding Sec 11 A.A.	Documentary	5 days pay FRI 149 (2)	26 May 43	Lt R. Brown	48 m.p.h.

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS

D.C. Douglas Capt

(D.C. DOUGLAS) CAPT R.C.E.
Officer having custody of the Regtl Books.
6 CDN FIELD PARK SQUADRON, R.C.E.

(PTO)

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the Case of G-53044 Cfn LeCLAIR, Simon, 46 LAD RCEME att 6 CDN FIELD PARK SQN, RCE.

The ACCUSED demands that the SUMMARY OF EVIDENCE be taken on oath.

FIRST WITNESS:

Lieut H D AYERS, RCEME, having been duly sworn, states: I am Lieut H.D. AYERS RCEME commanding 46 LAD RCEME.

On the night of 28 SEP at about 2100 hrs I went to bed, I had NOT given permission for any veh of the LAD to leave the Camp Area during the night.

On the morning of 29 SEP at about 0830 hrs I was informed by AQMS GREENAWAY, LAD WO, that NORTON M/C C4193674 on charge to Cfn MAGEE was missing from the area. On investigation by myself I found this report to be true.

The ACCUSED declines to cross examine this Witness.

H D Ayers Lt

(H D AYERS) Lieut, RCEME.

SECOND WITNESS:

M-50608 AQMS GREENAWAY, R S, having been duly sworn, states, I am M50608 AQMS GREENAWAY R.S., 46 LAD RCEME.

On 29 SEP 44 at about 0900 hrs I reported to Lieut AYERS, OIC 46 LAD that M/C C4193674 was missing, I had last seen it in the afternoon of 28 SEP, I did NOT authorize any person to take it out that afternoon or later. I have NOT seen it since, it is missing.

The ACCUSED declines to cross examine the Witness.

R Greenaway

(M50608 AQMS GREENAWAY, R.S.)

THIRD WITNESS:

H-64526 Cfn MAGEE, C F, Having been duly sworn states: I am H-64526 Cfn MAGEE C F, 46 LAD RCEME.

Sometime after 2100 hrs on the 28 SEP, Cfn LeCLAIR asked me if he could use my Motor Cycle C4193674. I said that I did NOT like any one to have it, as I wanted to break it in myself. I changed my mind and told him that it was OK for him to take it. About five minutes later I saw him leave on my Motor-cycle.

When I got up next morning my M/C was NOT in its usual place, I asked LeCLAIR where it was, he said it was out there. I could NOT see it so I reported that it was missing to AQMS GREENAWAY. After this I had a good look around, but did NOT find it. I have not found it yet, it is missing.

The ACCUSED declines to cross examine the Witness.

C F Magee

(H64526 Cfn MAGEE, C F).

The ACCUSED was cautioned as follows:--

Q. Do you wish to make any statement or to give evidence on oath? You are NOT obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I want to make a statement.

Q. On Oath or NOT on Oath?

A. On Oath.

The ACCUSED, G-53044 Cfn LeCLAIR, S, having been duly sworn states:

I am G-53044 Cfn LeCLAIR, S, 46 LAD RCEME.

On the night of 28 SEP I was asked by a friend of mine whether I was going out. I told him I was NOT because I had some laundry to do and also some writing, so he asked me if I would do him a favour and ask MAGEE for the Bike, so I said I would after I had finished.

When Cfn MAGEE came in, it was after 9 p.m. I asked him if I could use his Bike to pick up Cfn KELLY in BRUGES. His first answer was NO, he told me he wanted to ride it himself until it was broken in. I did NOT say anymore and started towards the tent when Cfn MAGEE came over and told me it was O.K. to use it but to take it easy. When I got to where I was to pick KELLY up I parked the bike near the door of a small CAFE in a side street. I walked in and asked Cfn KELLY if he was ready, he said he was as the Cafe was closed he was waiting for me to pick him up. I was in the Cafe about five minutes, when we got out the bike was gone, we looked up and down the streets near there and could NOT see it anywhere. We walked home, it took us about four hours. I was first awakened by Cfn MAGEE asking me where the bike was. I answered him but don't remember what I said as I was hardly awake.

S LeClair

(G-53044 Cfn LeCLAIR, S.)

The ACCUSED calls as a Witness G49648 Cfn KELLY, C.T., 46 LAD RCEME.

G-49648 Cfn KELLY, C.T., having been duly sworn states:

I am G-49648 Cfn KELLY, C T, 46 LAD RCEME.

On the night of 28 SEP I asked Cfn LeCLAIR if he was going out, he said NO, I then asked him if he would get the bike and pick me up, he said yes. I was in BRUGES in a CAFE and LeCLAIR came in and asked me if I was ready to go. I said yes I was all set. We went outside and the bike was missing. I looked up and down the street and could NOT find it. We then walked home, taking between three and four hours to get there. That is ALL.

The ACCUSED declines to cross examine this Witness.

C.T Kelly

(G-49648 Cfn KELLY, C.T.).

I certify that the foregoing SUMMARY OF EVIDENCE, consisting of 3 pages, was taken down by me in the presence of the ACCUSED and that RP 4 (C) (D) (E) and (F) have been complied with

D.C. Douglas Capt.

(D C DOUGLAS) CAPT R.C.E.
6 CDN FIELD PARK SQN., RCE.

In the Field.
30 SEP 44.

DCD/ws.

ADDITIONAL SUMMARY OF EVIDENCE.

ADDITIONAL SUMMARY OF EVIDENCE in the CASE of G-53044 Cfn LECLAIR, Simon, 46 LAD RCEME attached 6 CDN FIELD PARK SQUADRON, R.C.E.

~~The ACCUSED demands that the SUMMARY OF EVIDENCE be taken on oath.~~

A document purporting to be the signed statement of the evidence of Capt R.E. BLACKBURN, RCOC, 4 CDN ARMD DIV was read over to the ACCUSED, marked EXHIBIT 'A' and attached hereto.

I certify that in my opinion owing to the exigencies of the service, incl the time and expense involved, the attendance of this witness at the taking of the additional summary of evidence cannot readily be procured.

(D.C. DOUGLAS) CAPT., R.C.E.

I do NOT demand the attendance of this witness for Cross examination.

(G-53044 Cfn LECLAIR, S.)

The ACCUSED was cautioned as follows:--

Q. Do you wish to make any statement or to give evidence on oath? You are NOT obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

A No.

I certify that the foregoing ADDITIONAL SUMMARY OF EVIDENCE consisting of one page, was taken down by me in the presence of the accused and that RP 4 (c), (d), (e),(f) and (g) have been complied with.

(D.C. DOUGLAS) CAPT., R.C.E.,
6 CDN FIELD PARK SQUADRON, R.C.E.

IN THE FIELD.
1 OCT 44.

DCD/ws.

APPENDIX "A"

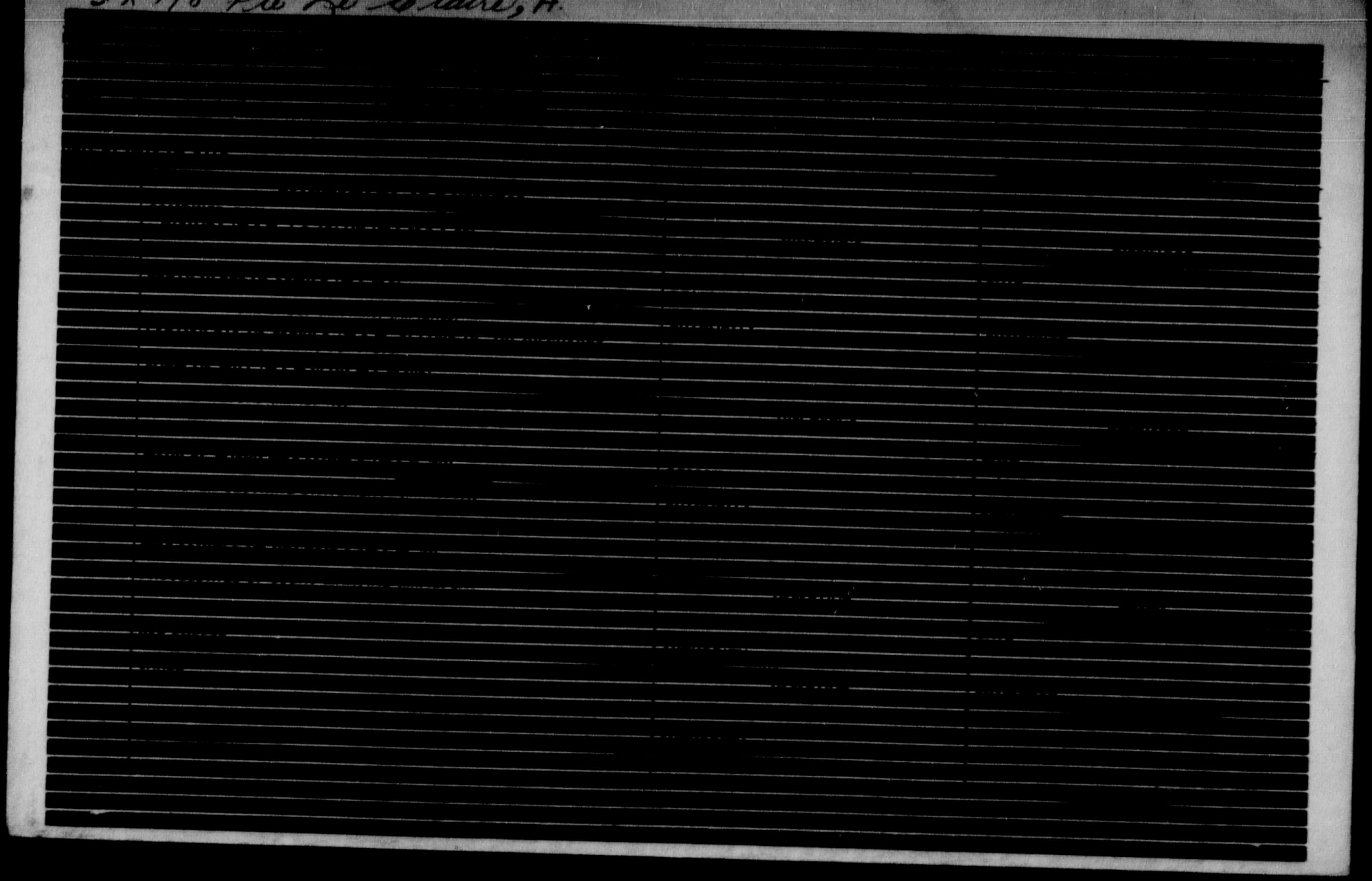
This is EXHIBIT "A" referred to in the Additional Summary of Evidence in the case of G-53044 Cfn LECLAIR, Simon, taken before me this first day of OCTOBER, 1944.

(D.C. DOUGLAS) CAPT., R.C.E.

Capt R.E. BLACKBURN, having been duly sworn states: I am Capt R.E. BLACKBURN, RCOC, 4 CDN ARMD DIV. I hereby certify that the vocabulary price of Cdn Military Vehicle C4193674 (Norton Motorcycle) is three hundred and thirty nine dollars and seventy two cents ($339.72).

(R.E. BLACKBURN) CAPT., RCOC.

5X-148 Pte Le Blanc, A.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 15181 Pte LeCLAIRE Adelard - 4 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44, special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for the period of six (6) months

(Sgd) ..... Judge-Advocate, if any.

8 JAN 46 Date awarded.

(Sgd) C.E. Woodrow Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I mitigate the sentence to read to undergo detention for a period of two months (sixty days) and confirm the finding and the sentence so mitigated

~~Subject to the remarks contained in the attached letter, I direct that~~ (1. AA 57A. Delete if not used.)

Date 9 Jan 46 (Sgd) H Rutherford Brig

Commanding E Gp C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H 15181 Pte LECLAIRE A.	11 JAN. 46	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 9 JAN 1946 CANADIAN PERS. OVERSEAS

RECORDED AT CMHQ IN AB 160. 5 X-148 B

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA3) 40/P & R/1608 (2864)

Convened by Order of Brig TJ Rutherford, CBE, ED Comd "E" Gp CRU dated 3 Jan 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 15181	Pte		Adelard	LeCLAIRE	4 Cdn Repat Dep

PROCEEDINGS REVIEWED 28 Jan 46 K.F. Mosley Maj. REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 8 Jan 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans ~~The Interpreter is sworn.(1)~~ Do you object to E 100 409 Sgt O'NEILL as shorthand writer? Ans NO SIR The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT. COL.	C.E. WOODROW OBE ED	HQ. C.R.U.
Member	CAPT	N.M. LEITCH	1 CDN REPAT DEP
Member	LIEUT	F.R. ARMSTRONG	1 CDN REPAT DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	G.A. MORRISON	4 CDN REPAT DEP
Defending Offr	CAPT	R.E. DEMPSTER	4 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ~~X~~ before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 37, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure ~~after~~ Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 171(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR. (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (and) to advise accused to change his~~ ~~plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they)~~ ~~changes his (their) plea(s) to~~ ~~charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(3). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(1) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(1)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(1) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(1) and Conduct Sheet(1), and in mitigation of punishment?(1) Ans defending officer's plea in mitigation (attached). (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"B" WING NO. 4 CANADIAN REPATRIATION DEPOT
CANADIAN ARMY ENGLAND

CHARGE SHEET

In the case of

H-15181 Private A. LeCLAIRE, of C.D. 89, on strength of "B" Wing, No 4 Canadian Repatriation Depot, a soldier of the Canadian Army, Overseas, is charged with:-

SEC 15 (1) A.A. WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Laurentide Camp, Witley, Surrey, absented himself without leave from 1700 hours, 16th July, 1945 until he surrendered himself to the Civil Police at Epsom at 1945 hours, 18th December, 1945. (Total time absent: 155 days 2 hours and 45 minutes)

(R.E.A. Morton) Colonel
Officer Commanding,
No 4 Cdn Repat Depot

In the Field

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FD
3 JAN 46

(T J RUTHERFORD) Brig
Comd
"B" Gp CRU

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H 15181	Pte		Adelard	LeCLAIRE	4 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~have~~ committed the offence(~~s~~) set forth in the Charge Sheet(s) attached and on (date) 3 Jan 46 endorsed by me, ~~[illegible]~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	C E Woodrow, OBE, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO 1 Cdn Repat Dep	1 Repat Dep
Lt	To be detailed by CO 1 Cdn Repat Dep	1 Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England. (Country.)

Date 3 Jan 46

T J Rutherford
(Signed personally. RP 105 for 2.)
(T J RUTHERFORD)
Commanding "E" Gp CRU
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined H-15181 (No.) Pte (Rank)

Le Claire C. (Name) of "H. Bofat B. Wing (Unit)

and in my opinion he is fit to undergo trial by C.O. or if necessary to do detention or F.P.

Station Field

Date 8 Jan. 46

Sgd Geo. Wolfe capt (Medical Officer)

PLEA OF MITIGATION FOR H.15161 PTE LeCLAIRE, A.

Exhibit E/3

Pte LeClaire's record shows that his greatest lapse since Sept 1939, with one exception - was one day's AWOL.

His sheet has been clean for over a year now.

During this past year LeClaire served on the continent, and when he returned on a repatriation draft, he received a letter from his wife, stating she was having a baby by another man. This news so upset him that he knew he was in no mental condition to face his wife until he could again think clearly. Consequently he found a job until he regained his mental equilibrium.

Last month LeClaire received another letter from his wife - (letter offered as evidence) - saying she had had the baby adopted, pleaded for his forgiveness, and told him how terribly she needed him now.

LeClaire has completely forgiven his wife and has a great desire to return to her and straighten things out.

In mitigation I would plead that LeClaire was AWOL while under a great mental strain - the result of a domestic tragedy - and that he now is as anxious as his wife to make a fresh start together.

L C Dempster Capt
"B" Wing 4 Repat

Second letter
of explanations.

(2) Please answer this letter & be honest with me. Nov 1. '45

To get back to what I am trying to tell you & hope you won't be too disappointed in me & hope with all my heart for forgiveness & another chance to proof I can be the wife you want — I was once but lost my way & I have been finding back each day since it all happened. I am not going to spare my self any as I want you to know & then I know I have done the biggest part of getting back to your heart if you care. I know I have done wrong darling but try to find it in your heart to forgive me. See you darling I went for drinking when things really got under my skin & I couldn't figure things out about you — I went silly in thoughts & thought drinking was no harm but it soon showed me I was on the wrong track & punished me. One night there was some people over, one Jessie is was — & there was drinking that night & guess I had too much — well there was a Navy fellow there & he was the father of a little girl I had Oct 13/44. He never knew I was having it as he left for Halifax the day after it happend & was drowned when his ship when down to Peter. The child I haven't got now as I put it for an adoption & I only had her for a month or I should say my mother took after her until she left. Thats the story darling & believe me I have suffered in my mind & heart to the wrong I have done you & from that day on I have

Don't stop the cheque as the children need it & I can't bare the thought of them suffering for my doings

any of these is good questions you want to ask I'd answer them

Second letter of explanations.

(2) Please answer this letter & be honest with me. Nov 1. \45 [illegible]

To get back to what I am trying to tell you & hope you won't be too disappointed in me & hope with all my heart for forgiveness & another chance to proof I can be the wife you want — I was once but lost my way & I have been finding back each day since it all happened. I am not going to spare my self any as I want you to know & then I know I have done the biggest part of getting back to your heart if you care. I know I have done wrong darling but try to find it in your heart to forgive me. See you darling I went for drinking when things really got under my skin & I couldn't figure things out about you — I went silly in thoughts & thought drinking was no harm but it soon showed me I was on the wrong track & punished me. One night there was some people over, one Jessie is was — & there was drinking that night & guess I had too much — well there was a Navy fellow there & he was the father of a little girl I had Oct 13/44. He never knew I was having it as he left for Halifax the day after it happend & was drowned when his ship when down to pets. The child I haven't got now as I put it for an adoption & I only had her for a month or I should say my mother took after her until she left. Thats the story darling & believe me I have suffered in my mind & heart to the wrong I have done you & from that day on I have

Don't stop the cheque as the children need it & I can't bare the thought of them suffering for my doing.

If there is any questions you want to ask I'd answer them

been trying be the wife you want & hope you will find it in your heart to forgive me darling. I didn't want to have to write you this — I wanted you home & then tell you but I guess I am still being punished but hope with all my heart you will find forgiveness in your heart & still love me as you say you do for. Please write darling in answer to this as I would rather you tell me then any one else as to what my answer is about this affair. I love you

Fold Here

If anything is enclosed in this letter it will be sent by ordinary mail.

FROM:
(Sender's Regt'l No., Rank and Name only).

P. Le Claire

641 Nassau St.

This Armed Forces Air Letter cannot be accepted for registration.

Fold Here

POSTAL TRACING SECTION
10 NOV 1945
CANADIAN OVERLEAS
POSTAL DEPOT

CFQ 11
46/P & B-1446

Fold Here

ARMED FORCES AIR LE

AIR MAIL

This letter must be posted in Armed Forces Postal channels. If posted in a Civil Post Office or pillar box, it will not be given air transmission.

B/PE

TO: H-25181 Pte P. Le Claire

4 Repl Depot

Cool

EAT RIGHT
FOR HEA

CANADA
10 CENTS 10

I need your love darling to help win back my self respect with in my self. So darling don't let the children suffer for something their mother done for being a very stupid women. I hope you'll find forgiveness darling & haven't changed too much to understand & think wisely & right. I love you my darling husband & faithful wife & love you now

(children) XX Looking forward XXXXXXXXX to hear from you

Your Loving & faithful wife
XXXX Freda XXXX

Exhibit "A"

"B" WING NO. 4 CANADIAN REPATRIATION DEPOT

SUMMARY OF EVIDENCE

IN THE CASE OF

H-15181 Private LeCLAIRE, A, CD 89,
a soldier of the Canadian Army, Overseas,
on strength of "B" Wing, No 4 Cdn Repatriation
Depot.

Taken at "B" Wing, No 4 Canadian Repatriation
Depot. 22nd December, 1945.

By direction of the Commanding Officer, all
Evidence will be taken on Oath.

First Witness for the Prosecution

Lt G. Morrison, a Officer of the Canadian Army Overseas, on strength of "B" Wing No 4 Canadian Repatriation Depot, having been duly sworn states:

"I am Lieut G. Morrison on strength of "B" Wing, No 4 Canadian Repatriation Depot. I produce Certified True Copy of Daily Order Part II No 22, dated 10 Aug 45, showing an entry stating that H-15181 Pte LeCLAIRE, A., AWL from 1700 hours, 16th July 1945. Still AWL at 1900 hours, 6th August, 1945 (21st day). I also produce Army Form "O" 1617 showing that H-15181 Pte LeCLAIRE, A. on the 18th December, 1945 at 7.45 p.m. surrendered himself in Uniform to Sgt WHITE of the Epsom Police Force."

The accused declines to cross-examine the witness.

G.A. Morrison Lt
(G.A. Morrison) Lieut.

The witness withdraws.

The certified true extract of Part Two Daily Order No 22 dated 10th August, 1945 referred to by the witness ~~xx~~ is shown to the accused marked and initialled by me as Exhibit "A" for the Prosecution. Army Form "O" 1617 also referred to by this witness is shown to the accused, marked and initialled by me as Exhibit "B" for the Prosecution.

Exhibit "A" and "B" are attached to the Summary of Evidence.

(B. Lavery) Lieut.,
Officer Detailed to
take down Summary of
Evidence.

The Accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and given in evidence.

The accused declines to give evidence or make a statement on Oath .

The accused states that he has no witnesses for the Defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused and that Rule of Procedure 4 (C) (D)(E) (F) & (G) were complied with.

(B.V. Lavery) Lieut
Officer Taking Down
Summary of Evidence

In the Field
22nd December, 1945

A ove
Ord

NO 4 CANADIAN REPATRIATION DEPOT (CAC)

PART II ORDERS

BY

Last Order No 21 dated 8 Aug 45	Colonel R E A MORTON, D.S.O. Officer Commanding	This Order No 22 Dated 10 Aug 45

Y

---

23. ABSENT WITHOUT LEAVE

(d) H-15181 Pte LeCLAIRE, A., AWL from 1700 hours, 16th July, 1945. Still AWL at 1700 hours, 6th August, 1945 (21st day).

Signed D.M. MacPhee, Capt.
for (REA Morton) Colonel
Officer Commanding,
No 4 Cdn Repat Depot

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO. 22 dated 10 Aug 45.

(J.C. Dunn) Capt & A/Adjt
"B" Wing, No 4 Cdn Repat Depot

BVLavery Lt

(B.V. Lavery) Lieut.
Officer detailed to take
down Summary of Evidence

B Ave

I CERTIFY that the man whose personal description is given below surrendered himself to* Sergt 20"W" White

at Epsom at (hour) 7-45 pm on the 18th, day of December 1945 as being No. H15181

(Rank and Name) Pte DECLAIRE. A.

a deserter (or absentee without leave) from R.C.A.S.C.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "by" to be inserted the name and rank of the police officer concerned.

Age 30 Height 5 Feet 11 Inches

Complexion sallow Hair black

Eyes Dk brown

Marks nil

In uniform or plain clothes uniform

Probable Date and Place of Attestation	Winnipeg Manitoba
Probable Date of Desertion or beginning of absence, and from what place	16th, July 1945 Milford, Sussex.

A Buckland P.S.98"W"

Signature of Officer of Police in charge of Epsom Station

18th, December 1945 Date of Signature

Army Form O.1617
R.A.F. Form 1617

NIL

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.

who surrendered to the Police at on

Payable to

NIL

CERTIFIED that this statement of expenses is correct.

A Buckland P.S.98"W" Superintendent or Officer in charge of Police Station at

18th, December 1945 Date of Signature.

Exhibit "B" Form B.296 (War).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
H-15181	Private	LeClaire, A.	"B" Wing, 4 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Exhibits in the Field Conduct Sheet, provisions being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15 (1)	10 times.
For	A.A. Sec 40	2 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 10 (4)	1 times.

Date of first entry in Field Conduct Sheet 4th September, 1940

Date of last entry in Field Conduct Sheet 18th October, 1944

2. ~~[illegible]~~

*Strike out if not applicable.

*3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for One days in civil custody; and for ~~10~~ 20 days in military custody, *i.e.*, Nil days in open arrest, ~~10~~ 20 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 30 years 11 months 21 days

6. The date of his attestation ~~[illegible]~~ 14 Sep 39

7. ~~[illegible]~~

‡State the military decorations (if any) held by accused.

8. The accused is in possession of: Canadian Volunteer Service Medal and Clasp

9. ~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28672) Wt.20721/3701 R2,000 9-44 A.A.K.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 29th ~~8th~~ day of ~~December~~ January 46, 1945

(J.C. Dunn) Capt & A/Adjt
"B" Wing, 4 Cdn Repat Depot

No. H15181 Name LeClaire, A. Sqn, Battery, or Company 11th Corps 2 H.A.A. Regt (Mob) RCA Date of enlistment 14 Sep 39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Character			
Field	17Jan 44	Pte		1st Charge AA 15(1) WOAS AWL from 2300 hrs 17 Jan 44 to 0630 hrs 18 Jan 44(Absent 7 hrs 30 mins) A/Cpl Fanaro		Forf 1 day pay FR&I149 (1)(a)	20Jan44	Lt-Col FA Burgess	
				2nd Charge AA 10(4) WOAS breaking out of camp whilst under Open Arrest A/L/Cpl at 1900 hrs till 0710 hrs 19 Jan 44 (Absent 12 hrs 10 mins) Short M.L. B-32784		Forf 3 days pay FR&I 149 (2)			
Field	18Oct 44	Pte		WOAS AWL fr 2200 hrs 18 Oct 44 till 1430 hrs 3 Nov 44 TTA 15 days 16 hrs 30 mins. AA Sec 15 (1)	Documentary	21 days F.P. 21 days pay FR&I 149 (2)	8 Nov 44	Lt-Col WH Copeland	16 days pay FR&I 149 (1) Total Forfs 37 days pay

CERTIFIED TRUE COPY

for Records Officer, No 4 Cdn Repat Depot

Exhibit 6

No. H15181 Name Le Claire, A. Sqn, Battery, or Company 11th Corps 2 H.A.A. Regt (Mob.) RCA Date of enlistment 14 Sep 39 GC Badges Service or Proficiency Pay 3/17 [illegible] (AFB 122) 40/PAS/136 (5412

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc ?????? Major Character

After six months service

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petewawa	4Sep 40	Gnr		AA Sec 15(1) AWL from 0600 hrs 4 Sep 40 to 0730 hrs 4 Sep 40	BSM McAuley	3 days C.B.	4 Sep 40	Major Peeks	
Field	4Mar 42			AA Sec 40 Neglect to the Predjudice neglected duties as a cook	Lieut Kidd	7 days C.B.	13 Mar42	Capt Arsenault	
Field	19Apr 42			AA Sec 11 Neglect to obey Bty Standing Orders Absent at Tattoo	Sgt Wall	7 days C.B.	20Apr 42	Mjr Zink	
Field	25Apr 42			AA Sec 15(1) AWL fr 1800 hrs 25 Apr 42 to 1820 hrs 25 Apr 42	Sgt Kitteringham	3 days C.B.	26 Apr42	Mjr Zink	
Field	27 Jul 42			AA Sec 40 Neglect to the prejudice neglected duties of a sentry	Lt A.L. Ferguson	7 days C.B.	5 Aug 42	Mjr Zink	
Field	31Aug 42			AA Sec 15(1) AWL fr 0800 hrs 31 Aug 42 to 0930 hrs 31 Aug 42	Bdr Greens	2 days F.P.	3 Sep 42	Lt-Col AE Bell-Irving	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 May 43			AA Sec 15(1) WOAS AWL fr 2300 hrs 2 May 43 until 0815 hrs 3 May 43 (Absent 9 hrs 15 mins)	Sgt Cougeon Sgt Ostrander	7 days C.B.	3 May 43	Major J.A. Taylor	Forfs 1 day pay FR&I 149(1) (a)
Field	5 Sep 43	Pte		AA Sec 15(1) AWL 11 hrs 10 mins from 2300 hrs 5 Sep 43 to 1010 hrs 6 Sep 43	L/Sgt Fogarty	5 days C.B.	7 Sep 43	GC Baker Major	Forf 1 days pay FR&I 149 (1) (a)
Field	20 Sep 43	Pte		AA Sec 15(1) AWL 9 hrs 45 mins	A/Sgt Fogarty	5 days C.B.	22 Sep 43	GC Baker Major	Forf 1 days pay FR&I 149 (1) (a)
Field	19 Oct 43	Pte		AA Sec 15(1) AWL 1o mins	L/Sgt Wade NG	5 days CB	21Oct 43	GC Baker Major	
Field	9 Dec 43	Pte		AA Sec 15(1) AWL 14 hrs 30 mins	A/Sgt Watts GS	3 days C.B.	13 Dec 43	GC Baker Major	Forfs 1 days pay FR&I 149 (1) (a)

LIST OF WITNESSES

For the Prosecution

Lieut G.A. Morrison — "B" WING NO. 4 Canadian Repatriation Depot, Canadian Army, Overseas.

For the Defence

NIL

(B.V. Lavery) Lieut
"B" WING, 4 Can Repat Depot,
Officer Detailed to Take Down
Summary of Evidence.

STATEMENT IN ACCORDANCE WITH RULE OF PROCEDURE 14 (B)

I, H-15181 Private A. LeCLAIRE, C.D. 89,
on strength of "B" Wing, No 4 Canadian Repatriation
Depot, desire to have an Officer assigned to represent
me at my trial by Court Martial.

A. LeClaire

H-15181 (A. Leclaire/ Pte.,
"B" Wing, 4 Cdn Repat Depot

Witley, Surrey,
22nd December, 1945

B.V. Lavery

(B.V. Lavery) Lieut.,
Officer Taking Down
Summary of Evidence

LIST OF EXHIBITS

EXHIBIT "A"	Certified True Copy of Extract from PT II Daily Order No 22, dated 10th August, 1945.
EXHIBIT "B"	Army Form "O" 1617 showing surrender in Uniform of: B-15181 Pte LeClaire, A. to Civilian Police

(E.V. Lavery) Lieut.,
Officer Detailed to Take
Down Summary of Evidence

55-68 (case #2)

PTE LE CLARE J.A.

See S-122 for lost case

Headley Dam 2174 SS-68 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 11 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] HS

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint:—~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~ HS

~~for the following reasons, namely:~~]

Procedure Reviewed

Gen Graham Capt Brandt

27 Oct 43.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	A C Ross	C B Highrs

Members.

Rank.	Name.	Regiment.
Capt	R J Miller	Ir RC
Lt	D A Smith	C B Highrs
Lt	Waiting Member D W Handford	Perth R

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H Sharp Brig

Commanding 11 Canadian Infantry Brigade

Convening Officer.

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.11516 Pte LeClare, James Edward Perth Regt 5 Cdn Armd Div	First Charge AA Sec 15(1) (see charge sheet att) Marked "G"	Guilty R.P. 35 (2) has been complied with.	Guilty. Sentenced to undergo 120 days detention & to be placed under stoppages in the amount of £0-13-5 cost of return	Confirmed HS Confirmed HS

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

Signed: H Sharp. (Signed) A C Kaye Major
(H Sharp) Brigadier
Comd 11 Cdn Inf Bde
Convening Officer (d) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

R.P 110 (A) complied with.
A C Kaye Major

33

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter~~
~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 19th day of October 19 43

A C Kaye Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. ~~570~~ of 1918 have been complied with.

Signed this day of A.C.R. 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ HS

Signed this 19th day of Oct. 1943

H Sharp Brig.
~~Confirming Officer.~~
COMD 11 CDN INF BDE

Promulgated and extracts taken in the case of A11516 pte Le Clare J. E.

(a) (Dated) 21 OCT 43 (Signed) [illegible] Brigade Major
The Perth Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A.A. & S.W. Ltd. Cp.455

"G" Page 3.

CHARGE SHEET

The accused A 11516 Pte Le Clare J E, The Perth Regt., C A a soldier of the Canadian Army Overseas

is charged with

First Charge Sec 15(1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on 27 Aug 43 absented himself without leave from his Regt., The Perth Regt C A from 2359 hrs on said 27 Aug 43 until he was apprehended by the Military Police at No 3 C I R U at 0145 hrs 28 Sep 43.

Total cost of transportation of the accused and escort 20-13- 5.

(W S Rutherford) Lt Col
Comd Perth R

In the field
4 Oct 43

To be tried by Field General Court/Martial

(H Sharp) Brigadier
Comd 11 Cdn Inf Bde

In the Field
18 Oct 43

A.C.R. Pres. 5

A.C. Pres. Mg.

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined No A 11516 Pte LeClare J E of Perth Regiment and in my opinion he is fit to undergo trial by court-martial.

Station In the Field

Date 19 Oct 43

[signature]
Medical Officer

A.E.R. 7
Pres

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT the Field, England
ON THE 19th DAY OF October 1943

The accused A 11516 Pte James Edward Le Clare Unit Perth R

The order convening the Court and charge sheet are laid before the Court who satisfied themselves as provided by RsP 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court, signed by the President and attached to the proceedings.
The order convening the Court is read by the President and the accused having no objection to the President or any member of the Court, the Court is duly sworn.

The following constitute the Court:

President Maj A C Ross Unit C B Highrs

Members Capt R J Miller Unit Dr R C

Lieut D A Smith Unit C B Highrs

~~The Officers under Instruction are duly sworn.~~ a.b.h.

Prosecutor Lieut V G Hicks Unit Perth R

Defending Officer Lieut R W Mitchell Unit Perth R

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s).
The Summary of Evidence is read, signed by the President and attached to the Proceedings.
The Prosecutor is sworn and produces ~~AFB 2[illegible]~~ MFB 355 and MFM 6. a.b.h.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character or~~ a.b.h.
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer
(e) ~~or in person.~~

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

(See statement of defending officer attached)

(To be signed by the President and attached to A.F.A. 3)

RECEIPT.

No. A11516 ....Rank... P.T.E. .....Name LE CLARE J.E. ..

Company SUPPORT ..Bn.... FIELD .....Regiment PERTH (CANADA).

Station. ANDOVER.....

.....

Sir,

I was Commander of the A.3.C.I.R.V. ..Guard on the 11 28 Sept.....194 about 0145 hrs. when the above-named soldier was handed over to me by the Military Police.

He was. Sober + properly Dressed

Station. ALDERSHOT...

J R Monckton Sign

Date. 0145 hrs 28 Sept 43.

Bn. 3.C.I.R.V. .....Regi

Commander of the G

a l [illegible]

Expense Voucher Re—: A C Ross Mg Ref: K.R. & O. (Can) 539 27

Reg. No. A11516 Rank Pte Name Le Claire J.E. Unit Perth Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount	
29 Sept 43.	Escorts return fare from LONDON To Micheldever	8	11
	Prisoners single fare to LONDON From Micheldever		
	Prisoners fare from London To	4	6
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	13	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is Exhibit "B" referred to in the summary of evidence in the case of A11516 Pte Le Claire J.E. Perth Regt CA, taken before me this 30 day of Sept 1943

J. G. Hicks Lieut. Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:15
40(P & S/482(3287)

CHARGE

23

Army Form B 252
(See King's Regulations)

Perth Regiment

Support

Battery
Squadron
Troop or
Company

CHARGE against No A.11516 Rank Pte.

Name LeClare J.E.

Place Andover Date of Offence

OFFENCE W.O.A.S. 1) Absent from until apprehended by the Military Police in Hospital Hill Aldershot at about 01.40hrs on the 28th Sept 43. 2) Not being in possession of his M.B.1.

Names of Witnesses :—

L/C.B.Blamey C.M.Police.
L/C.J.Wright C.M.Police.
L/C. Monckton J.R.No.3 C.I.R.U.

Signature of O.C. Battery, Squadron, Troop or Company (Statement attached)

Punishment Awarded

By whom Awarded

This is exhibit "B" referred to in the summary of evidence in the case of A11516 Pte. LeClare J.E. Perth Regt C.A., taken before me this 16th day of Oct. 1943

J. G. Hicks Lieut.
Adjutant.

P.T.O.

72

Statement of **EVIDENCE** in the case of
No.A.11516 Pte. LeClare J.E.
Support Coy., Perth Regiment,
Nr. Andover.

Sir,

At Aldershot on the 28th Sept 43 at about 01.40hours I was on duty in Hospital Hill where I saw the above named soldier. I asked him to produce his pass and he failed to do so. I then asked him for his M.B.1. and he also failed to produce same.

I pointed out the offences to him and he said "I have been away about a month and had my pay book stolen in London". I arrested and conducted him to No.3 C.I.R.U., Guard Detention Room at Salamanca Barks, and handed him over to the N.C.O. i/c to be detained. He was sober and properly dressed.

Aldershot.
28th Sept. 1943

L/Cpl
C.M.Police.

Sir,

REMARKS

I have read over and corroborate the above statement.

Aldershot.
28th Sept. 1943

L/Cpl.
C.M.Police.

"H" a.c. for Major

15

SUMMARY OF EVIDENCE

Summary of evidence in the case of A 11516 Pte LeClare J E, Perth Regiment, Cdn Army Overseas, charged with Absence Without Leave from 27 Aug 43 to 28 Sep 43.

The Commanding Officer directs that the evidence be taken on oath.

First Witness:

A 11551 Pte Cameron F M, Coy Clerk, Sp Coy, Perth Regt C A sworn, states:

I am the Coy Clerk of the Sp Coy, Perth Regt C A and have been for the past eighteen months. The accused, A 11516 Pte LeClare J E whom I recognize here, proceeded on 48 hrs leave on the 25 Aug 43. The pass, made out by me and signed by the Sp Coy, Coy Comd expired at 2359 hrs, 27 Aug 43. When the said pass expired the accused had not reported back in to the Coy office and was immediately marked absent as of 2359 hrs 27 Aug 43.

The accused declines to cross examine this witness.

F M Cameron

A 11551 Pte F M Cameron

Second Witness:

A 11103 Sgt Williams A W, No 3 Pl Sp Coy, Perth Regt C A sworn, states:

I was on 27 Aug 43 to 18 Sep 43 Platoon Sgt of No 3 Pl Sp Coy, Perth Regt. I am well acquainted with A 11516 Pte LeClare J E whom I recognize here as the accused and who has been for the past three months a member of my platoon. At the first parade at 0800 hrs 28 Aug 43 I called the roll of my platoon and the accused did not answer his name. I searched his hut in the unit lines and was unable to find him. I have called the roll on all subsequent parades of the platoon to the 18 Sep 43 and the accused was not present at any parade and I did not see him again until I saw him in custody in the unit guard room on 30 Sep 43.

The accused declines to cross examine this witness.

A W Williams

A 11103 Sgt A W Williams

Witness:

A 11694 Sgt Holst W D, No 3 Pl Sp Coy, Perth Regt C A sworn, states:

I was on 18 Sep 43, and am still, Platoon Sgt of No 3 Pl, Sp Coy, Perth Regt C A. I am well acquainted with A 11516 Pte LeClare J E whom I recognize here as the accused and who has been for the past three months a member of my platoon. On the 18 Sep 43, A 11103 Sgt Williams A W reported to me that the accused had been absent without leave from 2359 hrs 27 Aug 43 and still was at that date. I have called the roll of the platoon on all subsequent parades and the accused has not been present at any parade. I did not see him again until I saw him in custody in the unit guard room on 30 Sep 43.

The accused declines to cross examine this witness.

W D Holst
A 11694 Sgt W D Holst

Fourth Witnesses:

L/Cpl Blamey B. C.M.P. Police
L/Cpl Wright J. C.M.P. Police
L/Cpl Monckton J. R. No 3 C.I.R.U.

Document purporting to be a signed statement of evidence of the said Cdn Military Police which was read to the accused and marked Exhibit "A".

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, that the attendance of this witness at the taking of the Summary of Evidence could not be readily procured.

V G Hicks Lieut.
Lieut V G Hicks

Witness:

A 11588 L/Cpl Minzen C W, Regimental Policeman, having been duly sworn, states:

I am a Regimental Policeman of the Perth Regt C A. The accused was handed into my custody at the railway station in Micheldever, Hants at 1850 hrs 29 Sep 43 by an escort of the 6th Cdn Provost Corps. The accused was in military uniform. I brought the accused to our unit area and placed him in custody in the unit guardroom at approximately 1930 hrs 29 Sep 43.

The accused declines to cross examine the witness.

C W Minzen
A 11588 L/Cpl C W Minzen

Sixth Witness:

Capt W Fern, D A P M C M H Q.

Document purporting to be a signed statement of evidence of Capt W Fern, Officer issuing railway warrant and expense monies at No 6 Area Provost Company, Cdn Provost Corps, London, England, which was read to the accused and marked Exhibit "B". This in the form of one expense voucher states the total amount of monies expended in the transportation of the accused and escort.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, that the attendance of this witness at the taking of the Summary of Evidence could not be readily procured.

V G Hicks Lieut
Lieut V G Hicks

A 11516 Pte LeClare J E, Perth Regt C A.

"Do you wish to make any statement or give evidence? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

"The accused does not wish to make a statement or give evidence."

"The accused declines to call any witness or witnesses on his behalf."

I certify that R P 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 30th day of September 1943.

V G Hicks Lieut.

Lieut V G Hicks

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. A11516 Name LeClare J E | Sqn., Battery, or Company | Corps Perth R | Date of enlistment 28 Sep 39 | O.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. J P Robinson, Lieut

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	23 Mar 43	Pte		(1)WOAS AWL in that he did absent himself from 0800 hrs 23 Mar 43 until 1200 hrs 23 Mar 43.(Total Time: 9 hrs) AA Sec 15(1)	Sgt Fox AP Cpl Daly W J	28 days F P 28 days pay FR&I 149(1)(b)	29 Mar 43	Lt Col Fletcher	Forf 6 days pay FR&I 149 (1)(a)
				(2)WOAS AWL in that he did absent himself from 2000 hrs 23 Mar 43 until 2215 hrs 23 Mar 43(Total Time 24 hrs 15 mins)AA Sec 15(1)	Sgt Fox AP Cpl Daly WJ				Total Forf 34 days pay as amended by Pt II Order #77 d/7 May 43.
In the Field	24 Mar 43	Pte		(3)WOAS AWL in that he did absent himself himself from 0800 hrs 24 Mar 43 until 0730 hrs 29 Mar 43. (Total Time 4 days 23 hrs 30 mins) AA Sec 15(1)					

(P.T.O.)

Sheet No 1 destroyed 26/4/40

No. A11516 Name Le Clare J E | Sqn., Battery, or Company "Sp" | Corps Perth Regiment (MG) CASF | Date of enlistment 28-10-39 | O.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 3 Feb 40 | No. and date of last drunk 0 | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	1940								
Camp Borden	19Aug	Pte		AWL 0100hrs 19 Aug 40 to 2345hrs 21 Aug.(2 days 22hrs 45min)AA15(1)	Cpl Kydd T	7 days C B	22Aug 40	Maj Kemp	Forfeits 3 dys pay under FRI
Hamilton	29Dec	L/Cpl		AWL from 1200hrs 29 Dec 40 till 2300hrs 14 Jan 41 (16dys 11hrs) AA 15(1)	Cpl Brown	Reduced to permanent grade	16Jan 41	Lt Col G W Little	Forfeits 17dys pay under FRI
	1941								
Camp Borden	17Jul	Pte		AWL from 0100hrs 17 Jul to 2300 Hrs 17 Jul 41 (22hrs) AA 15(1)	Sgt Blohm Pte JR Hahn	7 days C B	18Jul 41	Maj Kemp	Forfeits 1 dys pay under FRI
Hamilton, Ont	20Jan	Pte		AWL from 0200hrs 20 Jan 41 till 1930hrs 24 Mar 41 (AA 15(1)) (63 days 17hrs 30Mins)	Cpl EW Schnelder CSM J Armstrong S/Sgt Ferguson	90 days Detn Stoppages of pay $29.64 costs of apprehension & return.	30Apr 41	DCM	Forfeits 64dys Pay FRI.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 May 43	Pte		WOAS AWL in that he did absent himself from 0600 hrs 5 May 43 to 0620 hrs 12 May 43 (total time absent 6 days 20 mins)AA Sec 15(1)	Sgt Maslen A G	28 days F P 28 days pay AA 40	14 May 43	Lt Col D Fletcher	loss of 7 days pay FRI 149(1)(a)

Certified true copy

(P J F Baker) Capt
Adjt Perth R

Custodian Regimental Documents.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	10Sep 1942	Pte		AWL from 0100hrs 10 Sep till 2300 hrs 23 Sep 41 (13dys 22hrs) AA 15(1)	Cpl Harvey G L	168 hrs Detn 14 days ord pay	24 Sep 41	Lt Col G W Little	Forfiets 14dys under FRI
In the field	12Nov	Pte		Act to the prejudice (neglegent performance of fatigue duty) AA Sec 40	Lt Tripp Sgt Dyke	3 dys C B	18 Nov 41	Lt Col G W Little	
In the field	12Nov	L/Cpl		(1) AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer.	Cpl Doyle WA Maj JE Tipler Pte Teale EL	120 dys Detn	20 Nov 42 confirmed by Brig	F G C M	
	13Nov	L/Cpl		(2) AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer	Sgt Downing W Capt SR Tripp Sgt Irwin WJ Sgt Dempsey JH Lieut RT Currelly		Bradbrooke MC Coad 2nd Cdn Armd Bde on 23 Nov 42		

"I"

A/C Ross Maj.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 11516	Pte	Le Clare J E	Perth

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A W L	4	times	A W L	4 times
For Neglect of Duty	1	times	--	times
For		times		times
For		times		times

~~[illegible] gallantry or distinguished conduct~~

or

~~[illegible] in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~

or

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~R.A.F. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for [illegible] beginning on the [illegible] day of [illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for —— days in civil custody, and 20 days in ~~Air Force~~ military custody, making a total of 20 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 22yrs, 1 month, 15 days

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 28 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 18 days

8. The accused is entitled to reckon 4 yrs 18 dys service for the purpose of determining his pension, etc.

~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to) State any air force decoration or reward entitled to.~~

~~(If the accused is a warrant officer) The accused before he was made a warrant officer had held the regimental rank of [illegible]~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent/Temp unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A 11516 Rank Pte

Name Le Clare J E of Perth Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
D C M	30 Apr 41 Camp Borden Ont.	AA Sec 15(1) AWL from 0200hrs 20 Jan 41 until apprehended at Iroquis Falls, Ont at 1930 hrs 24 Mar 41. (63 dys 17 hrs 30 mins)	90 dys Detn. Stoppages $29.64	
F G C M	20 Nov 42 Hove, Sussex	(1) AA Sec 9(2) WCAS Disobeying a lawful command given by his superior offr. (2) AA Sec 9(2) WCAS Disobeying a lawful command given by his superior offr.	120 dys Detn.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th 19th day of Oct 43 (T J Baker) Capt Adjt Perth R

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

19 Oct 43 9

Lieut. R. W. Mitchell, Perth Regt C.A., the Defending Officer duly sworn states:—

"The accused No A 11516 Pte Le Clare, of Ex Perth Regt C.A., is 22 years of age and has already been in close arrest in respect of this charge for a period of (20) twenty days."

Note:— No new evidence other than that contained in the Summary of Evidence was brought before the Court

A. C. Kossthaus

11 Nov.

10/

(a) INDENT No._____ for Materials and Stores

Date_____ Unit_____ (b) Copy No._____

DESCRIPTION	TYPE OF WORK, Location and Job Reference	REMARKS

Signature of Officer Indenting

_____

APPROVED

Collect from_____ Dump Date_____

Signed_____

S.P.E._____

Stores Received

Signed_____

_____

NOTE: (a) Indents will be numbered serially monthly.
(b) Indents will be submitted in triplicate
(c) Tpt will be arranged by Indenting unit

F G C M A 11516 Pte James Edward LE CLARE
The Perth Regt C A

LIST OF EXHIBITS

Exhibit "A" Document purporting to be a signed statement of evidence of

L/Cpl Blamey B C M Police
L/Cpl Wright J C M Police
L/Cpl Monckton J R 3 C I R U

Exhibit "B" Document purporting to be a signed statement of evidence of Capt W Fern, D A P M C M H Q

F G C M A 11516 Pte James Edward LE CLARE
The Perth Regt C A

I do not desire the Convening Officer to detail an Officer to represent me at my forthcoming trial by Field General Court-Martial.

J E Le Clare
A 11516 Pte Le Clare J E

I acknowledge that I have been notified that it is proposed to detail an officer with legal qualifications to act as Prosecutor at my forthcoming trial by Field General Court-Martial.

In the field
4 Oct 43.

J E Le Clare
A 11516 Pte Le Clare J E

MM-73

PTE LECLAIRE J.P.

MM-73 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 21st day of July, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 5TH CANADIAN ARMOURED DIVISION, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *XXXX

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D96104 Pte John Paul LECLAIRE, 5 Cdn Armd Bde Wksp, 5 Cdn Armd Div.	First Charge Sec 40 - AA	Not Guilty	Not Guilty	Noted 28 Jul 43
	Second Charge Sec 40 - AA (Alternative)	Guilty	Guilty	Confirmed 28 Jul 43
	Third Charge Sec 15(1) - AA	Guilty	Guilty	Confirmed 28 Jul 43
	(See Charge Sheet attached)	To mileage 75 days detention. 23 July 43 W. K. Birt Maj		Confirmed 28 Jul 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded in the words used, on separate sheet if necessary*) :—

(Signed) (C R Stein) Major General
Commanding 5 Cdn Armd Div.

(Signed) W. K. Birt Major
Convening Officer (*d*) President Guillemaison Capt. Judge Advocate

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of July 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and Judge Advocate
2. The witnesses and Court Clerk were
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~) W. K. B.

* Omit if not applicable.

were duly sworn.

Signed this 23rd day of July 1943.

Guillemaison Capt. Judge Advocate

W. K. Birt Major
President of the Court Martial.

* See footnote (*b*) on page 762 M.M.L. 1939.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

W. K. B.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison until further order.)

Signed this 28th day of July 1943.

C. R. Stein Maj. Gen.
Confirming Officer.
G. O. C. 5 CDN. ARMD. DIV.

Promulgated and extracts taken in the case of D 96104 Pte John Paul LeClaire.

(*a*) (Dated) 29 Jul. - 43 (Signed) 2 i/c 5 Cdn Armd Bde Wksp.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42721) Wt. 40133—983 200 m 43 P. St. C. 600

W. K. Bickmayer 3

CHARGE-SHEET

The accused D.96104 Private John Paul Leclaire, 5 Cdn. Armd. Bde Workshop, 5 Cdn. Armd Division, a soldier of the Cdn Army Overseas is charged with:-

First Charge
Sec. 40 AA

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

In that he,

in the field, on or about 10 Jul 43 improperly and without authority took and used for his private purposes Cdn. Military Vehicle H.U.C. CZ4228330

Second Charge
(Alternative)
Sec 40 AA

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

In that he,

in the field, on or about 10 Jul 43 was concerned in the improper and unauthorized use of Cdn. Military Vehicle H.U.C. CZ4228330.

Third Charge
Sec 15(1) AA

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from his Unit, 5 Cdn Armd Bde Workshop, from Roll Call (2230 hrs) 10 Jul 43 till 0425 hrs 13 Jul 43.
Total time absent 2 days 5 hrs and 55 minutes

In the Field
10 Jul 43

(J.E.H. STETHEM) Mjr.
O.C. 5 Cdn Armd Bde Workshop
5 Cdn Armd Division

To be tried by Field General Court-Martial.
In the Field
21 Jul 43

Maj. Gen.
G. O. C. 5 CDN. ARMD. DIV.

W.L. Bits Major
5

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this mroning examined No. D.96104 Pte. Leclaire, J.P. of 5 Cdn Armd Bde Workshop, 5 Cdn Armd Div. and is my opinion he is FIT to undergo trial by court-martial.

Station Field

Date 23 Jul 43

F. Sobie, Capt
(Medical Officer)

Record of Proceedings of a Field General Court Martial

Held in the field in England on this 24th day of July, 1943, to try D96104 Pte John Paul LECLAIRE, 5 Cdn Armd Bde Wksp, 5 Cdn Armd Div.

PRESIDENT

Major W.K. Bice — RCAMC, HQ 5 Cdn Armd Div

MEMBERS

Captain G.C. McDougall — HQ Sqn (6H) 5 Cdn Armd Div
Captain A. Walton — Westmr Regt (M)

JUDGE ADVOCATE

Captain G.M. Morrison — ADJA 5 Cdn Armd Div

PROSECUTING OFFICER

Captain H.W. Hagey — 5 Cdn Armd Bde Wksp RCOC

DEFENDING OFFICER

Captain B.J. Finestone — HQ 5 Cdn Armd Bde

The President produces the Convening Order, Charge Sheet and Summary of Evidence.

The President, in closed court, reads the Convening Order and the Charge Sheet to the Members, and the Court satisfy themselves that it is properly convened and constituted, that the accused is amenable to Military Law, and that each charge discloses an offence.

The accused is brought before the Court and at 1130 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 that the accused has this day been examined and is fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

President to accused

Q. 1 Do you object to A57385 Cpl B.W. Henheffer, CMSC, HQ 5 Cdn Armd Div, acting as shorthand writer?
A. 1 No, sir.

The shorthand writer is duly sworn.

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A. 2 No, sir.

The President, Members and Judge Advocate are duly sworn.

The Charge Sheet is signed by the President.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty. He pleads as follows:

First Charge - Not Guilty
Second Charge - Guilty
Third Charge - Guilty

The President complies with R.P. 35(B) in respect of the "Guilty" pleas by ascertaining that the accused understands the nature of the charges and his plea thereto, explaining the difference in procedure by the plea and advising him to withdraw his plea if he thinks the accused ought to plead Not Guilty thereto.

The Court proceed as though the accused has not pleaded guilty to either the first or the second charge.

President to accused

Q. 3 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A. 3 No, sir.

P R O S E C U T I O N

The Prosecuting Officer declines to make an Opening Address.

1st Witness, B53397 Pte R.A. Lingard, 5 Cdn Armd Bde Wksp, having been duly sworn is examined by the Prosecuting Officer:

Q. 4 Would you tell the Court in your own words what took place on the evening of 10 Jul?
A. 4 I was in the NAAFI when Cpl Moorehouse called me over and told me to go to the guard and ask whether they had seen Cpl Moorehouse and make out a work ticket for the HUC. Coming out of the orderly room, Cpl Moorehouse called me over and told me to make out a work ticket for the HUC with destination as Thetford. I made out the work ticket and gave it to him. Cpl Moorehouse walked over to the accused and started to talk to him. I went back into the orderly room and the accused jumped in the HUC, backed it up and went out the main gate. I saw the HUC later parked on the left hand side of the road with no driver visible.

Q. 5 Just exactly where did you see the HUC?
A. 5 At the main gate on the left hand side of the road with no driver in it.

Q. 6 You did not see any driver inside?
A. 6 No, sir, I came back then into camp.

Cross Examination by the Defending Officer

Q. 7 You say you saw the accused get in the HUC?
A. 7 Yes, sir.

Q. 8 Did you see him drive the vehicle out of camp?
A. 8 I saw him back it up and drive towards the main gate.

Q. 9 What happened to the work ticket after you gave it to Cpl Moorehouse?
A. 9 I don't know, sir.

Q. 10 Did Cpl Moorehouse go to the accused with the work ticket?
A. 10 We made out the work ticket for,Thetford and then Cpl Moorehouse came to the transport office, picked up the work ticket and went out to the accused and talked to him.

Q. 11 Do you know whether Cpl Moorehouse took the work ticket out of the transport office?
A. 11 No, sir.

Q. 12 You did not see the work ticket after you made it out?
A. 12 No, sir.

Q. 13 Have you spoken to anybody at any length about your testimony?
A. 13 No, sir, only when the Summary of Evidence was taken.

Q. 14 Who was the officer taking the Summary of Evidence?
A. 14 Capt Hagey.

Q. 15 I noticed that you used the same words in the Summary as you have stated here. Is that all you remember about the story?
A. 15 Yes, sir.

Re-examination by the Prosecuting Officer

Q. 16 At what time did you speak to me?
A. 16 During the taking of the Summary of Evidence.

Q. 17 At any other time?
A. 17 No, sir.

By the Judge Advocate

Q. 18 Do you remember the number of this HUC for which you made out the work ticket?
A. 18 No, sir.

Q. 19 How many HUCs are there in the unit?
A. 19 2.

Q. 20 Whose HUC was this in question?
A. 20 I believe it belonged to Div as it had number 40 on it.

Q. 21 What authority did you have to make out work tickets?
A. 21 Cpl Moorehouse told me to make them out.

Q. 22 Is that customary?
A. 22 Yes, sir, he is the transport Cpl.

Q. 23 Why did you make it out?
A. 23 Because he told me to do so.

Q. 24 How was that made out?
A. 24 First of all I marked in the duty, destination as Thetford, and I believe I put the mileage in. I would not say for certain.

Q. 25 What time was this?
A. 25 About 7.30 on the evening of 10 Jul.

Q. 26 Did you have any conversation with the accused after you made out the work ticket?
A. 26 I don't believe I did.

Q. 27 You are sure?
A. 27 Yes, sir.

Q. 28 When you saw the accused drive away with the HUC, was anyone in with him?
A. 28 No, sir.

Q. 29 How long after that did you see the HUC parked on the main highway?
A. 29 10 or 15 minutes after.

Q. 30 You had occasion to go out of camp?
A. 30 Yes, sir.

Q. 31 Where did you go?
A. 31 I went about a mile down the road.

Q. 32 Where did you see the HUC?
A. 32 At the main gate.

Q. 33 Was it there when you came back?
A. 33 Yes, sir.

Q. 34 Did you hear the conversation between the accused and Cpl Moorehouse?
A. 34 No, sir.

By the Court

Q. 35 Was the name of the driver put on that work ticket?
A. 35 I don't know.

Q. 36 You did not put the driver's name on it?
A. 36 No, sir.

Q. 37 Was there any officer's signature on the work ticket?
A. 37 No, sir.

Q. 38 Was there any signature put in the place where it is supposed to be?
A. 38 Not that I know of.

Q. 39 What happened to the work ticket?
A. 39 I do not know. I have not seen it since.

Q. 40 Were you actually authorized to make out that work ticket?
A. 40 Yes, sir.

Q. 41 That is your job?
A. 41 No, sir, I was told by Cpl Moorehouse to make it out.

Q. 42 Whose job is it?
A. 42 Cpl Moorehouse.

Q. 43 Cpl Moorehouse should have signed it before it went out?
A. 43 No, he just makes them out.

Q. 44 What is the custom with regard to the signing of work tickets?
A. 44 An officer must sign it before it leaves camp.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

2nd Witness, K53249 Pte A. Bartel, 5 Cdn Armd Bde Wksp, having been duly sworn is examined by the Prosecuting officer:

Q. 45 What is your position in the unit?
A. 45 I am a DR in the Recovery Section.

Q. 46 Will you tell the Court what happened on the evening of 10 July?
A. 46 The HUC was parked outside the transport office almost directly opposite the transport office. I took it out and drove it out of the yard sometime after 1800 hours. I drove it out of the camp where I picked up the accused and further down the road I picked up Cpl Moorehouse. We then went up to Thetford where we parked the vehicle and had some drinks. After the pub closed we drove the vehicle back to camp and turned around and drove towards London. When we got to London we parked the vehicle where it would not be noticed and all went their separate ways. I saw the accused once on Sunday the 11th Jul. I did not see him after that.

Q. 47 Did you see anyone at the orderly room which is directly across from where the HUC was?
A. 47 No, sir, I did not.

Q. 48 Where was the work ticket for the vehicle?
A. 48 On the transport office desk.

Q. 49 You took the work ticket?
A. 49 Yes, sir.

Q. 50 Did you park the vehicle from the time you took it, until you picked up the accused and Cpl Moorehouse?
A. 50 I parked it just outside the gate where I saw Cpl Moorehouse coming from the SNBH lines.

Q. 51 For how long?
A. 51 About two minutes.

Q. 52 Can you state exactly what time it was when you left camp?
A. 52 No, sir, it was after 1800 hours but I do not know exactly what time.

Q. 53 How did you know the work ticket would be in the transport office?
A. 53 I overheard a conversation that the work ticket would be made out for Thetford.

Q. 54 You were there at the time of the conversation?
A. 54 Yes, sir.

Q. 55 Were you present at any time between a conversation between the accused and Cpl Moorehouse.
A. 55 No, sir.

Q. 56 Can you tell me your movements just prior to the time you took the HUC?
A. 56 No, sir, I could not. I do not remember.

Cross Examination by the Defending Officer

Q. 57 Who drove the vehicle to London?
A. 57 I drove it most of the way and we changed off.

Q. 58 Who drove the vehicle to Thetford?
A. 58 I did.

Q. 59 Just where did you pick up the accused?
A. 59 Just outside the gate going towards Brandon.

Q. 60 Was he walking?
A. 60 Yes, sir, he was.

No re-examination.

By the Judge Advocate

Q. 61 How did it happen that you took this vehicle?
A. 61 It was just that I was refused a pass that night. I wanted to go to Kings Lynn and could not get in the truck because they checked on everyone who went. It was Saturday night.

Q. 62 What did you do with the work ticket?
A. 62 I destroyed it.

Q. 63 How was it made out?
A. 63 Just the same as other work tickets are made out.

Q. 64 Do you recall the wording on it?
A. 64 No, sir.

Q. 65 Who had signed it?
A. 65 I couldn't say.

Q. 66 Do you know who made it out?
A. 66 I believe it was Pte Lingard, but I am not sure.

Q. 67 How did you know the work ticket had been made out?
A. 67 I just happened to be in the transport office and saw it was made out and so I took the HUC.

Q. 68 Had you discussed this trip with the accused prior to this time?
A. 68 No, sir.

Q. 69 Do you know whether he had driven it that evening?
A. 69 As far as I know he had not.

Q. 70 You did not see him drive it?
A. 70 No, sir.

Q. 71 Who else drove it on the way to London?
A. 71 Cpl Moorehouse drove for a while. I drove most of the way. When Cpl Moorehouse drove, I went to sleep and whether the accused drove I am not certain.

By the Court

Q. 72 On leaving camp did you have to produce your work ticket to the guard?
A. 72 No, sir, I did not.

Q. 73 Do you normally have to?
A. 73 No, sir, we do not. There are BCD guards on there and they just stop their own vehicles for work tickets.

Q. 74 Was there any signature on that work ticket?
A. 74 No, sir. I don't think there was.

Q. 75 You did not show that work ticket to anyone after you picked it up?
A. 75 No, sir.

Q. 76 When did you destroy that work ticket?
A. 76 I destroyed it when we got to London.

Q. 77 You were carrying it between here and London?
A. 77 Yes, sir.

Q. 78 When did you last see the accused before you picked him up in the HUC?
A. 78 Around supper time.

Q. 79 Did you have any conversation with the accused at supper time?
A. 79 I do not think I did.

Q. 80 It was just a coincidence that you met him on the road?
A. 80 Yes, sir, I picked him up on the way to Brandon.

Q. 81 Why were you parked outside the gate?
A. 81 I saw Cpl Moorehouse coming from the SNBH lines and waited for him.

Q. 82 Which was was he coming, from Swaffham or from Brandon?
A. 82 From Swaffham.

Q. 83 You did not leave the vehicle at all?
A. 83 No, sir.

Q. 84 Which way was the vehicle going when you picked up the accused?
A. 84 Towards Swaffham. I then turned around and went to Thetford.

Q. 85 You were on the left hand side of the road when you picked up Cpl Moorehouse and going south when you picked up the accused?
A. 85 Yes, sir.

Q. 86 How long before you picked up Cpl Moorehouse, did you pick up the accused?
A. 86 Not very long.

Q. 87 You picked up the accused first?
A. 87 Yes, sir.

Q. 88 And then you turned around and went towards Swaffham?
A. 88 Yes, sir, I then saw Cpl Moorehouse coming and waited for him.

Q. 89 This was not planned, was it?
A. 89 No, sir.

Q. 90 Had you made any arrangements to pick up these two men?
A. 90 No, sir.

Q. 91 What about this time when the HUC was outside the gate and no one was in it?
A. 91 I was never away from the vehicle.

A. 92 How long were you parked outside the gate?
A. 92 About two minutes.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

3rd Witness, K150881 A/Cpl F. Moorehouse, 5 Cdn Armd Bde Wksp, having been duly sworn is examined by the Prosecuting Officer:

Q. 93 You were acting in the capacity of Cpl in the wksp on 10 July?
A. 93 Yes, sir.

Q. 94 Did you have any conversation with the accused on the evening of 10 July?
A. 94 Just concerning the OC's station wagon, around 1900 hours.

Q. 95 What was the conversation?
A. 95 The conversation was that I told him to leave the keys for the station wagon in the transport office. He had left and had not left the keys there.

Q. 96 Was that all the conversation?
A. 96 Yes, sir.

Q. 97 Did you see Lingard there?
A. 97 Yes, sir, I told him to make out a work ticket.

Q. 98 Was the accused there?
A. 98 I do not know.

Q. 99 Which work ticket did you refer to when you told him to make out a work ticket?
A. 99 The one for the HUC.

No Cross Examination.

By the Judge Advocate

Q. 100 When next did you see the accused after your conversation?
A. 100 The next time was in the HUC.

Q. 101 Where?
A. 101 On the road.

Q. 102 Leading to Brandon?
A. 102 Yes, sir.

Q. 103 He was in it at that time?
A. 103 Yes, sir.

Q. 104 What time was that?
A. 104 I do not remember, but I think it was between 7 and 8 o'clock.

Q. 105 Did you see anyone else with him?
A. 105 I saw only the accused's hair when I got in the HUC. I recognized him by that.

Q. 106 Did you have any conversation with him?
A. 106 No, sir.

Q. 107 How did you happen to get in the HUC?
A. 107 I opened the back door and jumped in. I drove off with them.

Q. 108 Where did you get in?
A. 108 On the left hand side of the road.

Q. 109 Facing which direction?
A. 109 Facing North.

By the Court

Q. 110 When you opened the back door, did you know where that vehicle was going?
A. 110 The work ticket was made out for Thetford. I knew that.

Q. 111 Was the work ticket completely authorized?
A. 111 Only by me.

Q. 112 Did you sign it?
A. 112 No, sir.

Q. 113 Is it a practice of yours to sign work tickets?
A. 113 No, sir, I pass them to an officer.

Q. 114 In this case what happened?
A. 114 No officer authorized or signed it.

Q. 115 After you left the transport office, did you speak with the accused?
A. 115 Yes, sir.

Q. 116 What did you tell him to do?
A. 116 Nothing.

Q. 117 To the best of your knowledge, how did the HUC get to the main road?
A. 117 I do not know.

Q. 118 How many were in the HUC when you saw it?
A. 118 Two, the accused and Bartel.

Q. 119 Where were they?
A. 119 Both in the front.

Q. 120 You got in this vehicle outside the gate not knowing who was driving?
A. 120 Yes, I was facing towards camp.

Q. 121 When you made out the work ticket, did you detail a driver?
A. 121 No, sir.

Q. 122 What was your intention when you made out the work ticket?
A. 122 To go to Thetford. I would have driven it myself if no one else would have had it.

Q. 123 You had no other conversation as to where the vehicle was going and where the work ticket was going to be left?
A. 123 We must have had some intention. We were going to Thetford.

Q. 124 You did have some conversation about going to Thetford?

A. 124 I made a remark and they said they would like to go along. I would not say it was a conversation.

Q. 125 You, in other words, conveyed to one another that you would like to go to Thetford?
A. 125 Yes, sir.

Q. 126 Where?
A. 126 In the NAAFI.

Q. 127 What time?
A. 127 Between 7 and 8 o'clock.

Q. 128 You intended to go to Thetford?
A. 128 Yes, sir, as far as that is concerned I was going to Thetford.

Q. 129 And did someone say you would be picked up outside the gate?
A. 129 No, sir, no one did.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Court recalls the 1st Witness, B53397 Pte R.A. Lingard:

Q. 130 On the night in question, did you see the accused driving the HUC after you made out the work ticket?
A. 130 Yes, sir.

Q. 131 What did he do in the way of driving it?
A. 131 He got in, backed it up and drove away.

Q. 132 You did not see the HUC come in the area again after that?
A. 132 No, sir.

Q. 133 When Cpl Moorehouse came to you in the NAAFI and asked you to make out a work ticket who had he been talking to previous?
A. 133 I do not know.

Q. 134 Were the accused and Bartel in the NAAFI?
A. 134 I do not remember. I did not see them.

Q. 135 You say you saw this vehicle being driven to the main gate?
A. 135 I saw it going to the main gate past the orderly room.

Q. 136 About how far is the orderly room from the main gate?
A. 136 About 10 minutes walk.

Q. 137 You did not see the accused actually drive the vehicle out of there?
A. 137 I saw him get in and back it up.

Q. 138 When you were instructed to make this work ticket, who was supposed to be the driver?
A. 138 We do not put that name on it. The driver fills in the name.

Q. 139 On whose authority was the vehicle taken out?
A. 139 I do not know, sir, I was just told to make out the work ticket.

Q. 140 Who told you?
A. 140 Cpl Moorehouse.

Q. 141 What was Cpl Moorehouse doing at that time?
A. 141 He told me where he wanted the work ticket made out for.

A. 142 Anyone else in there at the time?
A. 142 No, sir.

Q. 143 In the work ticket there is a column "Purpose of Journey". What sort of phrase did you use for that?
A. 143 I do not know whether I put anything in there.

Q. 144 Did you see Cpl Moorehouse again after you gave him the work ticket?
A. 144 I saw him get out of the duty car at the 8NBH lines.

Q. 145 Do you know who the driver of the duty truck was?
A. 145 Yes, sir, Driver Mitchell.

Q. 146 Did you see Cpl Moorehouse in conversation with anyone else?
A. 146 Yes, with the accused.

Q. 147 Where?
A. 147 Outside the transport office.

Q. 148 Did you see the HUC again after it was driven away from the orderly room?
A. 148 Yes, on the road facing towards Brandon.

Q. 149 And no one was in it at that time?
A. 149 I did not see anyone.

Q. 150 Anyone inside?
A. 150 I could not see inside it.

Q. 151 Where was the vehicle parked?
A. 151 Just outside the camp entrance.

Q. 152 You could positively identify it as the vehicle for which you made out the work ticket?
A. 152 Yes, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Prosecution is closed.

At this time the Defending Officer submits that the evidence given for the prosecution has not established a prima facie case against the accused and he should, therefore, not be called upon for his defence and makes the following statement:

"I submit that there is no prima facie case as the two witnesses are at direct variance."

The Prosecuting Officer answers as follows:

"I would like to state that in as much as Pte Lingard is concerned, he is a neutral witness and the other witnesses are men who are involved in the case and that the testimony of Pte Lingard should be held in slightly better respect to the other accused. We have heard the testimony of all the accused and they have been at variance in small points with what they have said before and if they vary in certain details, they are liable to vary in different details as to who entered the vehicle in question whereas Pte Lingard has not varied in any way in his testimony and, inasmuch as he is the only witness of the case other than the three accused, the prosecution will have to rest on his testimony alone."

The Defending Officer replies as follows:

"I would like to repeat that the two witnesses are both prosecution witnesses and Pte Bartel certainly cannot be said to be gaining anything by saying he took the vehicle and ticket and the prosecution brought that out themselves. Their other witness states that the accused took the vehicle.

There is no proof that he took the vehicle and there is no case for the prosecution to say that because he took the vehicle that his word is not good."

The Court is closed to consider the submission.

The Court re-opens and announces that the submission has been disallowed.

The accused is informed that he may, if he wishes, give evidence but if he does so he will be liable to cross examination or that he may, if he wishes, make an unsworn statement upon which he cannot be cross examined.

President to accused

Q. 153 Do you apply to give evidence yourself as a witness?
A. 153 Yes, sir.

Q. 154 Do you intend to call any other witness in your defence?
A. 154 No, sir.

D E F E N C E

1st Witness, D96104 Pte J.P. Leclaire, 5 Cdn Armd Bde Wksp, having been duly sworn is examined by the Defending Officer:

Q. 155 Did you drive the vehicle in question on the night of 10 July around 1900 hours?
A. 155 No, sir.

Q. 156 When did you first get in that vehicle on that night?
A. 156 I do not know what time it was.

Q. 157 Where did you first get in that vehicle?
A. 157 On the main road to Brandon.

Cross Examination by the Prosecuting Officer

Q. 158 Did you at any time see Pte Lingard on the night in question?
A. 158 I do not remember.

Q. 159 You did talk to Cpl Moorehouse near the HUC?
A. 159 Yes, sir.

Q. 160 Did you then immediately go down the road to the main gate or did you leave camp walking?
A. 160 I went out walking. I do not remember what I did before that.

Q. 161 How long after you spoke to the Cpl?
A. 161 I am not sure.

Q. 162 Did you meet or see anybody that you knew from the orderly room to the main gate?
A. 162 No, sir.

Re-examination by the Defending Officer

Q. 163 Would you state briefly in your own words, the subject of the conversation with Cpl Moorehouse?
A. 163 I drive the OC and that evening he said he did not need me and I put the keys on the top of my bed and went out. Cpl Moorehouse asked me why I had not put the key in the office and I told him I always kept it on my bed.

Q. 164 That is all you said?
A. 164 Yes, sir.

By the Judge Advocate

Q. 165 Did you drive HUC #4228330 at all on the night of 10 Jul?
A. 165 No, sir.

Q. 166 What are your duties in the unit?
A. 166 I am a DR.

Q. 167 What were your duties on the 10 Jul?
A. 167 I was driving the OC.

Q. 168 On this occasion did you have to drive this HUC?
A. 168 No, sir.

Q. 169 Did you have any conversation with Cpl Moorehouse on the evening of 10 Jul prior to the time he asked you about the keys to the station wagon?
A. 169 Yes, sir, in front of the transport office.

Q. 170 What about?
A. 170 I could not say for certain what it was about.

Q. 171 You have no recollection?
A. 171 No, sir.

Q. 172 And later you talked to him again?
A. 172 Yes, sir.

Q. 173 Do you remember hearing him say anything about this HUC?
A. 173 No, sir.

Q. 174 How did you happen to get in it at all?
A. 174 I was walking to Brandon, and was picked up.

By the Court

Q. 175 Do you remember, in Cpl Moorehouse's evidence, the Court asked him about a conversation which had taken place and he admitted such a conversation had taken place as to where you would spend that evening. What about this conversation?
A. 175 I do not remember anything about it.

Q. 176 Cpl Moorehouse said you three discussed going to Thetford that evening. Were you a party to that discussion?
A. 176 I do not recall it sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Defence is closed.

The closing address of the Prosecutor is recorded on a separate sheet, marked "X" and attached hereto.

The closing address of the Defending Officer is recorded on a separate sheet, marked "Y" and attached hereto.

The closing address of the Judge Advocate is recorded on a separate sheet, marked "Z" and attached hereto.

The Court is closed to consider the finding.

The finding of the Court is recorded on page 2 of APA 3.

The Court being re-opened, the accused is again brought before it.

The finding of Not Guilty is announced and the President states "The finding of the Court on the second charge being subject to confirmation will be promulgated later.

The charges to which the accused pleaded guilty are read to him.

The findings of the Court are recorded on page 2 of AFA 3.

President to accused

Q. 177 Do you desire to make any statement of the circumstances in reference to the charges to which you have pleaded guilty?

A. 177 No, sir.

The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

President to accused

Q. 178 Do you wish to make any statement in mitigation of punishment?

A. 178 No, sir.

Q. 179 Do you wish to give evidence yourself or to call any witnesses as to character?

A. 179 No, sir.

Statement of Character and Service and Field Conduct Sheet, signed in the manner required by A.A. 163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, signed by the President and attached to the proceedings.

President to accused

Q. 180 Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment?

A. 180 Yes, sir.

The Defending Officer makes the following plea in mitigation of punishment:

"The Court have decided in favour of the accused on the first charge, gives further strength to what I have said about the other two men. This man was not involved in the original idea. He had come in early in the evening and like the others his mind was not as clear as it should have been.

He returned of his own volition and surrendered himself at the camp on the Monday evening and like the others he would like to be of some help in the trials we have ahead of us. His case is the least serious of the three and I ask the Court to take these things into consideration when arriving at the sentence."

The President announces:

"The Court is closed for consideration of the sentence. The sentence to be awarded by the Court being subject to confirmation will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated."

The Court is closed for consideration of the sentence.

The sentence is recorded, dated and signed by the President on page 2 of AFA 3.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 24th day of July, 1943.

Captain
Judge Advocate

The charges to which the accused pleaded guilty are read to him.

The findings of the Court are recorded on page 2 of AFA 3.

President to accused

Q. 177 Do you desire to make any statement of the circumstances in reference to the charges to which you have pleaded guilty?
A. 177 No, sir.

The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

President to accused

Q. 178 Do you wish to make any statement in mitigation of punishment?
A. 178 No, sir.

Q. 179 Do you wish to give evidence yourself or to call any witnesses as to character?
A. 179 No, sir.

Statement of Character and Service and Field Conduct Sheet, signed in the manner required by A.A. 163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, signed by the President and attached to the proceedings.

President to accused

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He returned of his own volition and surrendered himself at the camp on the Monday evening and like the others he would like to be of some help in the trials we have ahead of us. His case is the least serious of the three and I ask the Court to take these things into consideration when arriving at the sentence."

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CERTIFIED A TRUE RECORD OF THIS TRIAL, this 24th day of July, 1943.

G.W. Morrison
Captain
Judge Advocate

"X"

ADDRESS BY THE PROSECUTING OFFICER

I have no further summing up to make in addition to what I said in the answer to the Defending Officer on the motion that there was no prima facie case established.

"Y"

ADDRESS BY THE DEFENDING OFFICER

I would like to say that the accused has, as you know, entered a plea of guilty of being concerned in the improper use of this vehicle, but as to the first charge we have heard Pte Bartel admit that he took the work ticket and that he drove the vehicle himself out of the camp and that he then picked up the accused and Cpl Moore-house and went on from there. You have heard the accused say that he did not drive the vehicle nor did he have anything to do with the vehicle outside the camp.

There is some variance in the testimony and there appears to be some contention that there was some evidence that they planned to go to Thetford. Even if they had planned that, there is no evidence that he intended to take and use this vehicle but there has been no testimony given by the prosecution that he took the vehicle.

I submit that despite the evidence of Pte Lingard, and despite the fact that he may have gone in the vehicle on this expedition to Thetford, that the accused did not have any part in the taking of the vehicle and in view of there not being any proof that he took the vehicle, I submit that the charge should be dismissed.

ADDRESS BY THE JUDGE ADVOCATE

The first charge is laid under Sec 40 of the Army Act, with which I imagine you are quite familiar which states (reads), and this charge is laid under that section. Now it is the duty of the Court to determine whether or not the particulars alleged on that charge have been established by the prosecution beyond a reasonable doubt, that is that the accused at this time improperly and without authority took and used this vehicle. If you find that the evidence establishes this fact, you will then have to determine whether that action on his part constitutes conduct to the prejudice of both good order and military discipline.

You are both the judge and the jury in this case. First as jury you must decide whether the facts have been established and then whether they constitute conduct to the prejudice of both good order and military discipline.

The prosecution has called witnesses and there has been some variance between the evidence of certain witnesses. It is my duty to say that the prosecution is bound by its evidence and if the witnesses do not agree, it is its misfortune. It is your duty, if the witnesses do not agree, to give the benefit of the doubt to the accused. That is, if a certain witness swears to circumstances which are favourable to the accused and that witness has not been proved to be a hostile witness in any way which I recall is the case of Pte Bartel who gave evidence for the prosecution. The prosecution is bound by its evidence. You will have that in mind and will consider whether the accused improperly and without authority took this vehicle. One witness for the prosecution said he saw the accused drive the vehicle away, while Pte Bartel says he took the vehicle. Of course, I should tell you that the accused could possibly be found guilty of this charge even if he did not actually drive the vehicle because as you will see on page 107, para 16 of MML which states (reads). That, I think, gives you a fairly good idea as to who are parties to an offence although they actually did not take part in the actual commission of the offence.

You will have to consider here whether the accused on the evidence before the Court, was a party to the taking of this vehicle or whether he subsequently became involved in the improper and unauthorized use of this vehicle. In that connection it brings me to the second charge, alternative to the first. He has pleaded guilty to this second charge in the alternative and even although he has pleaded guilty, which he has a right to do, I want to refer you to R.P. 37 and particularly to note 2 (reads). In other words, you will have in mind that although the accused pleaded guilty to the second charge, that unless the evidence presented before you today, warrants that plea, you can find him not guilty even though he has pleaded guilty.

That is about all I have to say to you. You will have in mind that before you can find him guilty on the first charge, you must find he was a party to the taking and using the vehicle, whereas in the second charge it is necessary for the prosecution to prove he was concerned in the improper use at the time in question.

It is the duty of the prosecution to prove the accused guilty beyond a reasonable doubt and if you have any such doubt, you must resolve it in favour of the accused.

w.r. Bitch x4 4 4 4 29

SUMMARY OF EVIDENCE IN THE CASE OF D.96104 Private John Paul Leclaire of 5 CDN ARMD BDE WORKSHOP, 5 CDN ARMD DIVISION, CDN ARMY OVERSEAS CHARGED WITH:-

1. Improperly and without authority taking and using for private purposes a W.D. vehicle
2. Improper and unauthorized use of Cdn.W.D. vehicle.
3. AWL from 10 Jul 43 to 13 Jul 43

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH

First Witness:-

B-53397 Pte. Lingard, R.A., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a D.R. of the Recovery Section, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for four months. At approximately 1845 hrs 10 Jul 43 I was in the NAAFI. Cpl. Moorehouse called me over and told me to go around to the guard and ask the guard if they had seen Cpl. Moorehouse. I was to tell him to tell Cpl. Moorehouse to make out a work ticket for the H.U. Computator. I went back to the NAAFI after doing as I had been told and I told Cpl. Moorehouse that I had seen the guard and had told them what he had instructed me to say. I went back to the Orderly Room and resumed my duties as Duty D.R. I came out of the Orderly Room shortly after 1900 hrs and Cpl. Moorehouse called me in to make out a work ticket for the H.U.C. I made the work ticket out for the H.U.C. and made the destination Thetford as ordered. I gave the work ticket back to Cpl. Moorehouse, he walked over to Pte LeClaire and started to talk to him. Pte LeClaire jumped in the H.U.C. and backed it out and headed towards the main east gate. Cpl. Moorehouse came and got the duty driver who took him up to the 8 NBH lines. On the way back I saw the H.U.C. parked on the left hand side of the road with no driver visible. The number of the H.U.C. for which I made out the work ticket was CZ4228330.

The accused declines to cross examine this witness.

R J Lingard
(Signature of Witness)

Second Witness:-

M-28131 Sgt. Duffin, J.C.L., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a Sgt. in Headquarters, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for six months. On the afternoon of 11 Jul 43 at 1330 hrs I was going around the vehicle park looking for the H.U. Computator and couldn't find it, so I checked the guards who were on at that time. They had not seen any vehicle going out of the lines. I called out the guard for the previous night and Pte. Bohannon told me that Pte. Lingard knew something about the missing H.U.C. I located Pte. Lingard and he told me that Cpl. Moorehouse had told him to make out a work ticket for the H.U.C. in Pte. LeClaire's name as driver, which he did and gave to Cpl. Moorehouse.

The accused declines to cross examine this witness.

J Duffin
(Signature of Witness)

Third Witness:-

B-19041 Cpl. Minns, J.D., 5 Cdn Armd Bde Workshop, sworn states:

I was on 10 Jul 43 and still am a Cpl. in the Vehicle Section, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte LeClaire Whom I recognize here as the accused and whom I have known for five months. On the night of 10 Jul 43 I did not call the tattoo roll in Hut 12.

The accused declines to cross examine this witness.

J.D. Minns
(Signature of Witness)

Fourth Witness:-

D.105 Col. Alexander, K.C., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a Cpl. in the Armament Section 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte LeClaire whom I recognize here as the accused and whom I have known for five months. On the night of 10 Jul 43 I called the roll of the Armament personnel in Hut 12 at 2230 hrs. At that time I noticed that Ptes. LeClaire and Bartel of the Vehicle Section were missing, but I understood that these men would be reported on the Vehicle Section roll. At 0425 hrs 13 Jul 43, Pte. LeClaire reported in to me. I asked him, at that time, if he had reported to the guard, he replied "Yes", so I told him to go to bed in the hut and reported his presence to Sgt. Maj Evans at 0630 hrs 13 Jul 43. Pte. LeClaire was continually absent from this Unit from 2230 hrs 10 Jul 43 until 0425 hrs 13 Jul 43.
The accused declines to cross examine this witness.

H. Alexander
(SIGNATURE of Witness)

Fifth Witness:-

B-81941 Pte Legacy, N.J., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and still am a soldier in the Tank Section, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte LeClaire whom I recognize here as the accused and whom I have known for five months. I was on guard from 2000 to 2200 hrs on 10 Jul 43. There were no vehicles moved on my shift except the duty driver.

The accused declines to cross examine this witness.

N.J. Legacy
(Signature of Witness)

Sixth Witness:-

A-50417 Pte. Bohannon, E.J., 5 Cdn Armd Bde Workshop, sworn states:

I was on 10 Jul 43 and am still a soldier in the Armament Section 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte LeClaire whom I recognize here as the accused and whom I have known for 5 months. I was on duty from 1800 to 2000 hrs Saturday 10 Jul 43 as guard. I went on my beat from the main road to the end of the 3rd Hangar during my tour of duty as I had been instructed. At the beginning of my tour of duty the M.U.C. was standing on the main road side of the Halt sign. About the time it started to rain I noticed that it was gone. About 1900 hrs Pte. Linyard came up and asked if I had seen Cpl. Moorehouse. My answer was "No".

The accused declines to cross examine this witness.

E.J. Bohannon
(Signature of Witness)

Seventh Witness:-

E.74525 Pte. Provencal, R., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a soldier in Headquarters, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for five months. I was Duty Driver Saturday evening 10 Jul 43 and I had orders to drive Cpl. Moorehouse to the 6NBH lines at 1930 hrs. I returned to the Orderly Room at 1940 hrs. This order was given to me by Cpl. Moorehouse.

The accused declines to cross examine this witness.

R. Provencal
(Signature of Witness)

Eighth Witness:-

L-51009 Pte. Ashmead, W.T., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a soldier in the Vehicle Section, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for 5 months. On returning from HQ RCMP on 10 Jul 43 I parked the H.U.C. almost directly across the road from the Tpt Office on the west side of the road. I took the work ticket over to the Tpt Office but it was closed, so I returned it to the H.U.C. and put it in the Log Book. The Log Book was sitting on top of the motor cover. Then I came over to the Orderly Room and told L/Cpl. Holliday that I had returned with the H.U.C. and couldn't get the Station Wagon for which I had been sent.

The accused declines to cross examine this witness.

W.T. Ashmead.
(Signature of Witness)

Ninth Witness:-

M.28005 Pte. McLeod, G.W., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a D.R. in the Recovery Section, 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for five months. I had the work ticket for the H.U.C. in the Log Book of Lt-Col. Bishop's car. I was returning the vehicle to HQ RCMP. I was told that the work ticket was for the H.U.C. and when I turned the car over to Major Birss I asked him for the work ticket out of the Log Book. He gave it to me and I put it in the Log Book of the H.U.C. Sgt. Duffin told me the work ticket was for the H.U.C.

The accused declines to cross examine this witness.

G.W. McLeod
(Signature of Witness)

Tenth Witness:

K.15081 a/Cpl Moorehouse, F., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and still am a Cpl. of the Recovery section 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for 1 month. On 10 Jul 43 I did ask Pte. Lingard to find LeClaire, the purpose was to ask him why he hadn't left the keys of the O.C's Station Wagon in the Tpt Office. Pte Lingard did not find LeClaire and I ran into him myself. I told Pte. Lingard to make out a work ticket for the H.U.C. and to make it out for Thetford and it was laying on the Tpt Office desk. I then went out of the office and requested the Duty Driver to drive me up to the 6NBH lines. I then walked down the road and jumped into the H.U.C. which was waiting on the side of the road. I jumped into the back and therefore didn't see who was driving it as the front curtain was down. We then drove off to Thetford. From Thetford we returned to the main gates and turned around again and went straight then to London. I was asleep on the way to London.

Tenth Witness (Cont)

The accused declines to cross examine this witness.

J W Woodhouse
(Signature of Witness)

Eleventh Witness:-

K-53249 Pte. Bartel, A., 5 Cdn Armd Bde Workshop, sworn states:-

I was on 10 Jul 43 and am still a D.R. of the Recovery Section 5 Cdn Armd Bde Workshop. I am well acquainted with D.96104 Pte Leclaire whom I recognize here as the accused and whom I have known for 13 months. The work ticket was made out, but not for any driver. I picked up the work ticket from the Tpt Office and drove the H.U.C. out of camp where I picked up Pte. Leclaire who got in the front and farther down I picked up Cpl. Moorehouse who got in the back. I drove the H.U.C. to Thetford where we had a few drinks and I drove the H.U.C. back. When we got back here, I decided to take it up to London. Pte. Leclaire and Cpl. Moorehouse were in the back. I believe Cpl. Moorehouse was asleep. I took it up to London and parked it, then everyone of us went our separate ways. I saw Leclaire once on Sunday and didn't see him again. I met Cpl. Moorehouse Tuesday afternoon and I was supposed to pick him up that night to return to camp. While I was waiting for him about 0130 hrs I was picked up by the civilian police. I was in the H.U.C.

The accused declines to cross examine this witness.

A Bartel
(Signature of Witness)

THE ACCUSED WAS WARNED AS FOLLOWS:-

Do you wish to make any statement or give evidence upon oath ? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing, and may be given in evidence.

The accused:- I have nothing to say at this time.

J P Leclaire
(Signature of Accused)

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 15th. day of July 1943.

H W Hagey Capt.
(Signature of Officer taking Summary)

25

CERTIFIED TRUE COPY 1 Hw Hagey Capt (H.W. Hagey) Capt., 2 i/c 5 C A B W Kap

M.F.M. 6 (A.F.B. 122)

No. D-96104 Name Leclaire J.P. Sqn., Battery, or Company #1 AFW Corps RCOC Date of enlistment 1 Jun 43 G.C. Badges Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A. No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No. 2 Signature of Company, etc. R. Campbell, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1941 6 Feb	Pte		Conduct to the prejudice etc (Breaking ranks without permission)	S/Sgt. Screaton L.	4 days C.B.	7 Feb 41	Capt. C.H.	Hillier
Field	1942 23 Jul	Pte		AWL from 2215 hrs 23 Jul 42 until 2250 hrs 23 Jul 42(AA15(1)	Major REH Oglivie	5 days C.B.	24 Jul 42	Capt. DA	Fitzgerald
Field	28 Jul	Pte		AA15(1) AWL from defaulters drill from 1830 hrs-1840 hrs 28 Jul	1 Sgt. Whiteside S/S Thomas L/S Moore L/S Wilkin	7 days forfeiture of pay	30 Jul 42	Lt-Col. I.M. Cumberland	
Field	8 Aug	Pte		AWL from 1330 hrs to 1400 hrs 8 Aug 42 A.A. 15(1)	Lt. EA Weir S/S Thomas M.	14 days CB	10 Aug 42	Lt-Col Cumberland	
Field	18 Aug	Pte		1st chg-AA15(1) AWL 5 days 16 hrs 25 minutes (to back sheet)	L/C Wilkins	28			

P.T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field(cont)	18 Aug	Pte		2nd Chg AA 10(4) Breaking out of barracks 3 Chg AA 9(1) Disobeying a lawful command given by his superior officer	A-21023 A/QMS Thomas Lt. AF Judd	28 days Field Punishment	27 Aug 42	Lt-Col. I.H. Cumberland	Forf 6 da pay FR &I 149(a) Total forf. 34 days

26

W. K. Bish 27

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D96104	Private	John Paul Leclaire	5 Cdn Armd Bde Workshop

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ Service and General Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months			Since enlistment or appointment		
For A.W.L.	4	4 times	Conduct to predjce Good Order & mil.discpln	2	times
For Conduct to prejdce Good Order & mil.discpln	2	times	Breaking out of Brks	1	times
For Breaking out of Brks	1	times	Disobeying a lawful Cmd	1	times
For Disobeying a lawful Cmd	1	times	A.W.L.	4	times

Number of instances of gallantry or distinguished conduct - nil

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~seven~~ 10 days in ~~Air Force~~ military custody, making a total of ~~seven~~ 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 24 years

~~6. The date of his commission specified in his record of service is~~ ~~attestation~~ ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 3 years 1 month

8. The accused is entitled to reckon 3yrs service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military - NIL

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

28/

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps), the rank of~~ ~~dated~~

~~12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion~~

~~In the rank of years~~

~~In the rank of years~~

~~In the rank of years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Air Force

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~twentieth~~ 23rd day of July 1943 Hon Hagey Capt 2 1/2 32 AB W Rep

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

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D-96104 Private John Paul Leclaire of 5 Cdn Armd Bde Workshop states:

I acknowledge that I have been notified that it is proposed to detail an officer with legal qualifications to act as Prosecutor at my forthcoming trial by Field General Court-martial.

In the Field
19 Jul 43

J. P. Leclaire
(Signature of Accused)

39

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

I desire the services of Lieut John McLeod Prescott, 5 Cdn Armd Regt (SNBH), if he is available.

J. P. Leclaire.
(Signature of Accused)

20 Jul 43
Field

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LIST OF WITNESSES in the case of D.96104 Pte. Leclaire, John Paul
5 Cdn Armd. Bde Workshop

D.105	a/Cpl.	Alexander, K.C.
B-53397	Pte.	Lingard, R.A.
M-28131	a/Sgt.	Duffin, J.C.L.
B-19041	Cpl	Minns, J.D.
B-81941	Pte	Legacy N.J.
A-50417	Pte	Bohannon E.J.
L-74525	Pte	Provencal R.
L-51009	Pte	Ashmead W.T.
M-28005	Pte	McLeod, G.W.
K-15081	a/Cpl	Moorehouse F.
K-53249	Pte	Bartel A.

E. 4044 Pte LeClerc A. LECLERC
No. 2 Can Inf N. S.

Correspondence to be PINNED here.

331A Original E4044-Pte L Clue A

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 7th day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[XXXX

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer† (*d*)
E-4044 PTE. LeCLERC, A. (R 22e R. rein-forcement) No.2 Cdn Inf Hldg Unit.	First Charge A.A. Sec 15 (1) as per charge sheet Second Charge A.A. Sec 24 (2) as per charge sheet	GUILTY NOT GUILTY	GUILTY GUILTY OF LOSING BY NEGLECT KIT AND EQUIPMENT TO THE VALUE OF £7-15-10½. TO UNDERGO DETENTION FOR A PERIOD OF TWO YEARS LESS ONE DAY AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £7-15-10½ IN RESPECT OF THE FOLLOWING LOST ARTICLES OF EQUIPMENT: 1 pr shoulder badges(Canada) 5½d; 1 pr boots ankle, £1-2-6; 1 pr braces, 1s 6d; 1 brush shaving, 1s 2d; 1 brush tooth, 5½d; 1 cap comforter, 1s 3d; 1 greatcoat, £2-8-6; 1 comb hair, 2d; 1 disco identity, 1d; 1 field dressing, 1s 2d; 1 pr gloves woollen, 1s 8d; 1 holdall, 11d; 1 housewife, 6d; 1 jacket sweater, 8s 6d, 1 clasp knife, 3s 5½d; 1 blouse denim, 12s 9d; 1 trousers denim, 11s 9d; 1 shirt flannel 10s; 1 shirt service 4s ½d; 1 vest woollen, 6s 6d; 1 shoes canvas, 3s 6d; 3 prs socks, 5s 9d; 1 drawers cotton, 4s 1d; 1 mess tin, 3d; 1 strough web supporting, 2s 8½d; 1 mess tin, 2s 3d.		Confirm the finding & sentence of the Court but mitigate the sentence, in so far as it refers to detention, to 1 year & 6 months detention	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*h*)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— SEE PAGE 1 TRANSCRIPT OF EVIDENCE.

(Signed) L. T. Rowley Brigadier (Signed) L. T. Rowley major R.C.A.

Commanding Cdn Base Units, Cdn Army. *President.*
Convening Officer (e)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th and 16th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 16th day of April 1941.

L. T. Rowley Major R.C.A.
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of P.A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 21st day of April 1941.

L. T. Rowley Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of E-4044 Pte Leclerc, A., R22eR. (2 C.I.H.U.)

(*a*) (Dated) 24 April 1941 (Signed) W. McMillan Capt.
Officer Commanding
No. 2 Cdn Inf. Holding Unit C.A.P.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44750) Wt. 40159—63 400 10/40 P. St. C. Ltd.

334 a duplicate Original

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. E-4044 Pte. LeClerc, A. Unit (R.22e R.)No. 2 Cdn. Inf. Holding Unit.

Sentenced to Two years less one day detention and on 18 April 1941
stoppages of pay of £7-15-10½d in respect to loss of kit.

Age on, and date of enlistment 21 yrs Sep 5 1939 Term of service

Sentence of Detention mitigated to One Year and Six Months Detention

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

ORDERLY ROOM
No. 2 Cdn. Inf.
MAY 28 1941
HOLDING UNIT
C. A. S. F.

Place

Date

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(1) Erase words not required, and initial erasure.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(22440) Wt.4272/1500. 25,000 (A) 8.40 K.W.H. Gp.698 Forms/A3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
12 June 1941	Sentence of detention is hereby suspended, stoppages to remain in effect	P.J. Montague Major-General Senior Officer, C.M.H.Q., Superior Military Authority (P.J. Montague) Major-General Senior Officer Canadian Military H.Q. 13 JUN 1941	

All recommendations etc. considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges (if more than one)	Date of Offence	Date of Trial
VII.—First Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

VIII.—Second Trial.

Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date	Signature
12 June	

X.—Confirming Officer's remarks and recommendations on First Trial.

Date	Signature
13 June	

CHARGE SHEET

The accused, E-4044 Pte. A. LeClerc, Royal 22nd Regiment (Reinforcement) No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 15(1) Army Act.

When on active service, absenting himself without leave,

in that he,

at Willems Barracks, Aldershot, where he had been sent to attend a Cookery Course, absented himself without leave, at 1930 hours, on 20th December 1940, and remained absent, until apprehended by Civil Police, at 0845 hours, 17th March 1941, in Guildford, Surrey.
(Total absence, 77 days and about 13 hours and 15 minutes)

Second Charge
Sec 24 (2) Army Act.

When on active service, losing by neglect his equipment, clothing, and regimental necessaries,

in that he,

at Camp 102, Witley, Surrey, 18th March 1941, was deficient of 1 badge shoulder prs (Canada 5½d; 1 bag kit ½s 3d; 1 boots Anke pr £1 2s 6d; 1 braces pr 1s 6d; 1 brush boot blacking 8½d; 1 brush boot polishing 2s 6d; 1 brush shaving 1s 2d; 1 brush tooth 5½d; 1 cap comforter 1s 3d; 1 great coat £2 8s 6d; 1 comb hair 2d; 1 discs identity 1d; 1 field dressing 1s 2d; 1 gloves woolen prs 1s 8d; 1 holdall 11d; 1 housewives 6d; 1 jacket sweater 8s 6d; 1 knife clasp and lanyard 3s 5½d; 1 blouse denim 12s 9d; 1 trouser denim 11s 9d; 1 razor 5½d; 1 shirt flannel 10s; 1 shirt service 4s 2d; 1 vest woolen 6s 6d; 1 shoes canvas 3s 6d; 3 socks prs 5s 9d; 1 drawers cotton 4s 1d; 1 cover messtin 3d; 1 haversack 10s 7½d; 1 pack 12s 5½d; 1 sling rifle 1s 3d; 2 strap shoulder 8s 1½d; 2 strap web supporting 2s 8½d; 1 mess tin 2s 3d; 1 bottle oil 3d; 1 pull through 3d; 1 rifle £7 8s 0d; 1 eyeshield 2s; 1 ointment No. "2" 9d.
Total £17 8s 5d.

(F.S. MATHEWSON) Lt.-Col
Officer Commanding
No. 2 Cdn. Inf. Holding

April 2nd 1941
Witley, Surrey

Camp 102

OPINION OF THE MEDICAL BOARD

18. Does the Board concur with the preceding report? If not, give differing opinions, with reasons, quoting the number of the answer criticised.

We concur that this man is absolutely useless to the Army.

19. Is the invalid fit for
(a) ~~General service~~,
(b) ~~Service abroad, not general service~~
(c) ~~Home service (Canada only)~~,
(d) ~~Temporarily unfit~~
(e) Unfit for service in Categories A, B and C

~~Category A) Yes or No~~
~~B) Yes or No~~
~~C) Yes or No~~
~~D) Yes or No~~
~~E) Yes or No~~

"E"

20. It is certified that the invalid
(a) ~~Does require treatment~~ (Give the nature of the condition and of the treatment required and its probable duration.)
(b) Does not require treatment.
(c) Should pass under his own control.
(d) ~~Should not pass under his own control.~~
(Strike out condition not applicable.)

21. It is recommended that the invalid be discharged. (When not for discharge add special recommendation.)

Categorized as in 19 (E) above.

Before signing the President of the Medical Board will read the statement signed by the invalid and differing opinions regarding Sections 7, 8, 9 and 10, as recorded in Section 18, to the invalid and if no change is indicated, will initial the statement. If, as a result of differing opinions regarding Sections 7, 8, 9 and 10 only, recorded in Section 18, the invalid is dissatisfied with the statement previously made, remarks of the Medical Board will be added here.

Signed (W. L. Boulter) Major R.C.A.M.C. President.
(Luciem Ostiguy) Capt. R.C.A.M.C.
(J.A. Ireland) Capt. R.C.A.M.C. Members

Place: Witley, Surrey.
Date: 28-4-41

TO BE COMPLETED WHEN TREATMENT IS REFUSED

I, the undersigned ..... understand the nature of the treatment which it is recommended that I should undergo and refuse to accept it.

Witness ..... Signed .....

Should the refusal of the invalid to accept treatment appear to be unreasonable, or should he decline to sign this statement the Board of medical officers should so state.

President

Place: ..... Members

Date: .....

APPROVED BY
W. E. Hum, Major
for Assistant Director of Medical Services.
D.A.D.M.S. Canadian Troops
Date 7 May 1941.
Aldershot - Bordon.
Area.

APPROVED BY
E. Young, Major
For Director-General of Medical Services.
R.L.G. Luton, Brigadier.
Date Director of Medical Services
Canadian Military H.Q.
May 8, 1941.

Certified true copy. — J.W. Beveridge Capt
Adjutant
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

THIS FORM WILL BE USED FOR ALL RANKS

MEDICAL HISTORY OF AN INVALID

INSTRUCTIONS WHICH MUST BE READ BY MEDICAL OFFICERS

1. In using this Form the "Instructions issued for the guidance of Medical Officers serving on Medical Boards" issued by the B.P.C. and instructions issued by Militia H.Q., Ottawa, will be carefully followed.
2. The Medical Officer in charge of the case is responsible for the proper completion of Sections 1 to 17 of this Form and will obtain the signature of the invalid to the "Statement," page 3. The President of the Board of Medical Officers is responsible for the proper completion of sections reserved for recording the "Opinion of the Medical Board."
3. In answering the questions, Medical Officers will carefully obtain and record the invalid's statements concerning his condition. They will distinguish observations made by themselves from hearsay. They will distinctly state the authority for statements not resulting from their personal observation; it must be made clear whether such statements are obtained from the invalid concerned, from witnesses, or from documents, Regimental or otherwise.
4. Special care is required in answering question 9. Read the questions carefully. All questions must be answered.
5. If space provided under any section is insufficient add another sheet. Such sheets must be initialled by the Medical Board.
6. A note will be made of attached papers by the Medical Board under the section "Opinion of Medical Board."
7. Under no circumstances may information other than that in sections 7, 8, 9 and 10 be communicated to the invalid, directly or indirectly.
8. The nomenclature of diseases must be followed, if possible, as described in "List of Diseases" printed in the order in which they appear in the Annual Report on the Health of the Army, published in London (1915), by Messrs. Harrison & Sons.

R.22e R. Station Witley, Surrey Date 28-4-41

1. 1 (a) Unit #2 Inf.Hold.Unit (b) Regimental No. E-4044 (c) Rank Pte.
(d) Surname Leclerc, (e) Christian name Adrien, Joseph
(f) Home address 175 Lavigueur, Quebec, P. Que. Canada
(g) Next of Kin Paul Leclerc, (h) Relationship Father
(i) Address of Next of Kin Same as above
2. Age last birthday 23 Date of birth 12-10-1918
3. Enlistment, or Appointment (if an Officer) (a) Place Quebec (b) Date Sept.5-1939
4. Personal description:
(a) Height 5' 5" (b) Weight 135 (stripped) (c) Complexion Fair
(d) Colour of hair L/Brown (e) Colour of eyes Blue (f) Identification marks, Scars, etc. Vaccination on left arm
5. Former trade or occupation Mechanic

6. Service (The information should be secured from personal documents, but if documents are not available the invalid's statement may be taken and note must be made to that effect. Periods of service in Canada, England, France or elsewhere should be noted).	Years	Days
	1	236

Invalid's statement

	Period From	Period To
Canada	Sept. 5-1939	Dec.19-1939
England	Dec. 19-1939	Todate
France or other theatres of War		

7. Original disease, or injury (1) Temperamental Instability
(2) Mental inferiority

(a) Date of origin (1) Unknown (2) Unknown
(b) Place of origin (1) Canada (2) Canada
(c) Cause (1) Unknown (2) Unknown

M. F. B. 227.

8. Present disability— (Here state the exact nature of the disability resulting from the disabling conditions; e.g. (a) Weakness—slight, moderate, marked, etc; (b) Loss, complete or partial, of an organ or member, or of its functions; (c) Necessity for rest of the body, or of some of its parts, for therapeutic reasons; (d) Any other restrictions in choice of occupation.)

(1) (a) No
(b) Partial loss of function C.N.S.
(c) No
(d) Unfit for Military Service

(2) (a) No
(b) Partial loss of function C.N.S
(c) No
(d) Unfit for Military Service

9. Present condition—(a) (Before completing this section the invalid should be stripped, and subjected to a thorough physical examination. Important, to be a full description of the present disabling condition, or conditions only. "History" must be recorded in Section 10. Describe all abnormalities, anatomical and functional, contributing to present disability; objective findings to be stated first, then subjective findings.)

I C.E. Male of average development. Mildly depressed - Finger nails bitten. Slight furtive expression

S.E. Complains of headaches three or four times a week. He is worried about not receiving news from home.

II C.E. Never learned a trade. Only got as far as 6th. grade at age of 17. Appears disinterested in surroundings. Repeatedly A.W.L.

S.I. Does not understand drill and Army life. Has no interest in object of war.

See specialist's Report (Neuro-Psychiatry) # 550 from # 15 Gen. Hosp. Signed by Major Van.Nostrand.

(b) Has the invalid now any affection of the following systems, not described in Section 9 (a) above? (Answer Yes or No.—If the answer to any part is Yes, give a brief description of the present condition.)

Nervous System No
Cardio-Vascular System No (If pulse rate is abnormal, B. P. will be taken.)
Genito-Urinary System No (Albumen and Sugar will be excluded.)
Special Senses No
Respiratory System No
Integumentary System No
Disturbances of Mentality No
Digestive System No
Muscular System No
Osseous and Joint Systems No
Any other general condition No

10.—(a) History (of the condition referred to in Section 9 (a).)

His school history is bad in that he only got as far as the 6th. grade in eleven years. His actions are quite irresponsible, such as yelling for no reason, playing with any object along his way easily upset over small things in guard house, cries easily, seems to suffer from a persecution complex. Was frequently A.W.L. and has no idea of discipline. Never was able to earn a decent sort of living. Poor family and pre war history. One brother insane - he was one of a family siblings.

10.—(b) (Here give a complete history, as obtained from invalid, with dates of origin, of any affection from which the invalid has suffered either prior to or since enlistment, and not included in Section 10 (a).)

Denies previous illness

(c) (Here give a description of wounds, scars and deformities.

As in 4 (f)

11.—(a) Did the disabling condition have its origin before enlistment? R. O. 453

(b) If so, has it been aggravated by Service? (If aggravated, give a description, as far as it is possible to do so, of the disabling condition at time of enlistment.)

R.O. 453

12. Was the disability caused, or aggravated; (a) by intemperance, or improper conduct; or (b) by unreasonable refusal to accept treatment? (a) No (b) No

(The regimental documents will be referred to. If the answer is in the affirmative, state in percentages, to what extent the patient is incapacitated by that cause or aggravation. In answering this question, conduct sheets should be considered. If treatment has been refused, the circumstances surrounding the refusal should be described on page 4.)

13. What is the probable duration, in months, of the disability or of each of the disabling conditions, if there is more than one? Permanent

14. Treatment (Case reports, general or special, should be secured and attached where possible.)

None

15. Is further treatment in hospital, convalescent home, etc., likely to be of material benefit? (If the answer is "yes" state nature of treatment required and probable duration)

16. Can the former trade or occupation be resumed? Yes (If not, briefly state why)

17. Recommendations

That he be recategorized

Signed (Lucien Catiguy) Capt.R.C.A.M.C.
Medical Officer by whom the case is brought forward.

STATEMENT OF THE INVALID

(Sections 7, 8, 9 and 10 are to be read to the invalid and either "satisfied" or "not satisfied" struck out)

I, the undersigned Adrien Leclerc have heard the description of my disability and present condition read, and am satisfied (or not satisfied) with it. (If dissatisfied, statement should follow.)

I complain in addition of Nil

Signed Adrien Leclerc, Pte. Rank.
Signature of invalid examined.

No. 550

DEPARTMENT OF NEUR-PSYCHIATRY REPORT

No. E-4044 Pte. Rank. Pte. Name. Leclerc, A. J. Unit. # 2 C.I.H.U.

REPORT:-

Date April 28th.,1941.

Complaints:- None volunteered. Because of reported behaviour disturbance, he has been reported from detention for psychiatric examination.

Inquiry:- Age 23, Born in Quebec City. Attended Primary School to 6th. grade at age of 17 years. Never learned a trade, never had a steady job, small wages in a garage owned by a friend. Lived with parents until enlistment Sept. 5th.1939, in R.22e R. To England Dec.1939. Was a driver until March 1940, when he took civilian car while drunk. Was charged with theft of the vehicle. Served three months in Winchester jail. Repeatedly A.W.L. in past year. Is at present doing 18 months detention after being absent 77 days.
Never charged in a Civil Court prior to enlistment.
Parents A & W. Five sisters and 7 brothers A & W.
No family history of nervous or mental disease.
Later admits that an older brother was for five years in a mental Hospital "Following an accident".
Single, denies V.D. Has drunk a good deal for his age.
Has been nervous for at least 5 years, gets depressed and cries.

Examination:- Pulse 68. B.P.122/80. Routine Neurological examination shows no evidence of organic nervous disease. Finger nails are bitten. He is mildly depressed. There is no tremor, no tachycardia, no external sweating. He is obviously inferior mentally - has no appreciation of the present status of the war. No idea who is present Premier of Gt. Britain and thinks Tachereau is Premier of Canada.
I find no evidence of psychosis to-day.

(1) Poor family and pre war history - a brother insane one of a family of 13 siblings. Was retarded at school and never earned a good living.
(2) Never adopted himself to Army Routine and discipline.

Diagnosis:- Temperamental instability and mental inferiority. To-days examination fails to show insanity or other disability which would prevent him doing detention. He will never be useful in the Army.

SIGNED (F.H.Van Nostrand) Major,
Specialist R.C.A.M.C.

No. 15 Canadian
General Hospital.

CHARGE SHEET

The accused, E-4044 Pte. A. LeClerc, Royal 22nd Regiment (Reinforcement) No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 15(1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Willens Barracks, Aldershot, where he had been sent to attend a Cookery Course, absented himself without leave, at 1930 hours, on 29th December 1940, and remained absent, until apprehended by Civil Police, at 0845 hours, 17th March 1941, in Guildford, Surrey.
(Total absence, 77 days and about 13 hours and 15 minutes)

Second Charge
Sec 24 (2)
Army Act.

When on active service, losing by neglect his equipment, clothing, and regimental necessaries,

in that he,

at Camp 102, Witley, Surrey, 18th March 1941, was deficient of 1 badge shoulder prs (Canada 5½d; 1 bag kit 5s 3d; 1 boots Anke pr £1 2s 6d; 1 braces pr 1s 6d; 1 brush boot blacking 8½d; 1 brush boot polishing 2s 6d; 1 brush shaving 1s 2d; 1 brush tooth 5½d; 1 cap comforter 1s 3d; 1 great coat £2 8s 6d; 1 comb hair 2d; 1 discs identity 1d; 1 field dressing 1s 2d; 1 gloves woolen prs 1s 8d; 1 holdall 11d; 1 housewives 6d; 1 jacket sweater 8s 6d; 1 knife clasp and lanyard 3s 5½d; 1 blouse denim 12s 9d; 1 trouser denim 11s 9d; 1 razor 5½d; 1 shirt flannel 10s; 1 shirt service 4s ½d; 1 vest woolen 6s 6d; 1 shoes canvas 3s 6d; 3 socks prs 5s 9d; 1 drawers cotton 4s 1d; 1 cover messtin 3d; 1 haversack 10s 7½d; 1 pack 12s 5¼d; 1 sling rifle 1s 3d; 2 strap shoulder 8s 1½d; 2 strap web supporting 2s 8½d; 1 mess tin 2s 3d; 1 bottle oil 3d; 1 pull through 3d; 1 rifle £7 8s 0d; 1 eyeshield 2s; 1 ointment No. "2" 9d.
Total £17 8s 5d.

To be tried by Field General Court Martial

[signature] ....Brigadier
Commanding Cdn Base Units
Bordon, Hants
This 7th day of April 41.

F. J. Renouf Major R.C.A.
President

[signature]
(F.S. MATHEWSON) Lt.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.

April 2nd 1941
Witley, Surrey

Camp 102

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No E-4044 Fte. Leclair, A. .....

of R.22e R. Coyp. .....and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Witley Camp 103 .....

Date 9th April 1941 .....

Medical Officer Capt.

I.T.R.

E-4044, pte. LeClerc, A., No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 9th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. L. Canon
Defending Officer - Lieut. W.P. Charlebois

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Not guilty, sir.

R.P. 35(B) is complied with by the Court in connection with the first charge.

Q5 - Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A5 - (Defending Officer) We do wish to apply for an adjournment of this case on the grounds that I was only assigned to this case last night and the accused advises me that certain of the articles with which he is charged on the second charge are with the quartermaster at Aldershot. We ask for an adjournment to give us the opportunity of having these articles returned to the accused.

The Court is closed for consideration of application for adjournment by the defence officer.

President - The Court has considered the application of the defending officer and the case will be adjourned to give the accused an opportunity to acquire his kit. The Court will re-convene at a time and place set by Headquarters, Canadian Base Units.

The Court is re-convened at 1000 hours at Witley, Surrey, on the 16th day of April, 1941.

President - Is the defence now ready to proceed with the case?
Defending Officer - Yes, sir.

Prosecutor - Some of the man's kit has been located in barracks at Aldershot and that kit would have been back if transportation had been available but we have been duty unit and transport has been hard to secure. However, I would like to point out that if a man's kit is

J.I.K.

recovered after trial it is deducted from the charges. I have that authority from C.B.U. I can assure the Court that if certain articles are recovered they will be credited. The articles the man produces will be credited on his account by the Quartermaster.

The prosecutor proceeds to call witnesses.

First witness for the prosecution, E-17009, CQMS Gagne, F., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q6 - Did you take an inventory of the kit of Pte. LeClerc on the 18th March, 1941?
A6 - Yes, sir.
Q7 - Did you check that inventory with the man's M.F.C. 800?
A7 - Yes, sir.
Q8 - And he was deficient of articles issued to him on his M.F.C. 800 form?
A8 - Yes, sir. (Repeats items listed on second charge in charge-sheet)
Q9 - Can you tell us whether, since the 18th March, you have received from Aldershot any of the articles listed in the charge-sheet?
A9 - We have received one rifle with oil bottle, pullthrough and sling.
Q10 - That was the extent of the kit belonging to LeClerc that was at Aldershot?
A10 - Yes, sir.

The defending officer declines to cross-examine this witness.

The Case for the prosecution is closed.

Q11 - Do you apply to give evidence yourself as a witness?
A11 - Yes, sir.
Q12 - Do you intend to call any other witness in your defence?
A12 - No, sir.

First witness for the defence, E-4044, Pte. LeClerc, A., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q13 - Have you any articles other than the rifle mentioned which belong to you and with which you have been charged?
A13 - Yes, sir, eyeshields, anti-gas ointment, razor, boot blacking brush and polishing brush, my kit bag, pack, haversack and two shoulder straps.
Q14 - You can identify these to the Court as being your own?
A14 - Yes, sir.

The prosecutor declines to cross-examine.

The Court is closed for the consideration of the finding.

Lieut. L. Canon, No. 2 Cdn. Inf. Holding Unit, is duly sworn.
Q15 - Have you any evidence to produce as to the character and particulars of service of the accused?
A15 - Yes, sir, A.F.B. 296 and M.F.M. 6.
Q16 - Is the accused the person named in the statement which you have heard read?
A16 - Yes, sir.
Q17 - Have you compared the contents of the above statement with the regimental books?
A17 - Yes, sir.
Q18 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A18 - Yes, sir.

The accused declines to cross-examine.

Q19 - Do you wish to address the Court?
A19 - No, sir.

The Court is closed for the consideration of the sentence.

J.Z.M.

SUMMARY OF EVIDENCE

in the case of

E-4044 Pte. A. LeClerc (Royal 22nd Regiment Reinforcement) No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

First Witness E-23301 Sergeant I. Roy, having been duly sworn, states:
Prosecution

"I am a sergeant on the strength of the Royal 22nd Regiment Company, #2 C.I.H.U., Camp 102, Witley, Surrey. On the 20th March 1941, Pte. LeClerc declared to me, that, he absented himself without leave, at 1930 hours, on the 29th December 1940, from Willems Barracks, Aldershot, where he had been sent on a Cookery Course, and remained absent until apprehended by Civil Police, at 0845 hours, 17th March 1941, in Guildford. Pte. LeClerc was duly warned according to R.P. 4 (e), before he made this statement."

Irene Roy Sgt.

Accused declines to cross-examine this witness.

Second Witness L. Girardot W.O. i/c School of Cookery, Willems Barracks, Aldershot.
Prosecution.

The statement of L. Girardot is attached. It was read to the accused, who asked no questions. Furthermore, Pte. LeClerc was duly warned that this statement might be used in evidence against him, and raised no objections.

Third Witness Lieut. I.H. MacIntosh, having been duly sworn, states:
Prosecution

"I am an officer of the West Nova Scotia Regiment, and Acting Records Officer of No. 2 Canadian Infantry Holding Unit. I produce herewith:
(a) A.F.O. 1618 17-3-41

This concerns the accused whom I recognize.

I.H. MacIntosh Lieut

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Laurence Cameron Lieut.

Officer detailed by O.C. #2 C.I.H.U. to take Summary of Evidence.

Camp 102
Witley, Surrey
2 April 1941

I.H.M.

To:-
Officer Commanding.
No.1. Coy.
No.2. Canadian Infantry Holding Unit.
Whitley Camp.

Subject: E.4044. Pte. Leclerc. A.

Sir.

The above mentioned soldier reported to the school of Cookery, Willems Barracks at approximately 19.30 hours on Sunday 29.12.40.

After reporting in the first instance this man was not seen by us again.

L. Girardot

W.O. i/c School of Cookery.
Willems Barracks.

14.3.41.

Attendance of this witness was not readily procurable in the presence of the accused.

L. Carrigan Lieut.
I.T.W.

SUMMARY OF EVIDENCE

Page

in the case of
E-4044 Pte. A. LeClerc, (Royal 22nd Regiment Reinforcement)
No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

Fourth Witness E-17009 C.Q.M.S. F. Gagne, having been duly sworn, states:
Prosecution

"I am C.Q.M.S. of the Royal 22nd Regiment Company, #2 C.I.H.U. Camp 102, Witley, Surrey. On the 18th March 1941, I made an inventory of the kit of Pte. A. LeClerc, and found him deficient of the following articles:

1 badge shoulder prs (Canada) 5½d; 1 bag kit 5s 3d; 1 boots ankle, pr £1 2s 6d; 1 braces pr 1s 6d; 1 brush boot blacking 8½d; 1 brush boot polishing 2s 6d; 1 brush shaving 1s 2d; 1 brush tooth 5½d; 1 cap comforter 1s 3d; 1 great coat £2 8s 6d; 1 comb hair 2d; 1 disc identity 1d; 1 field dressing 1s 2d; 1 gloves woolen prs 1s 8d; 1 holdall 11d; 1 housewives 6d; 1 jacket sweater 8s 6d; 1 knife clasp and lanyard 3s 5½d; 1 blouse denim 12s 9d; 1 trouser denum 11s 9d; 1 razor 5½d; 1 shirt flannel 10s; 1 shirt service 4s ½d; 1 vest woolen 6s 6d; 1 shoes canvas 3s 6d; 3 socks prs 5s 9d; 1 drawers cotton 4s 1d; 1 cover mess-tin 3d; 1 haversack 10s 7½d; 1 pack 12s 5½d; 1 sling rifle 1s 3d; 2 strap shoulder 8s 1½d; 2 straps web supporting 2s 8½d; 1 mess tin 2s, 3d; 1 bottle oil 3d; 1 pull through 3d; 1 rifle £7 8s 0d; 1 eye shield 2s; 1 ointment No. "2" 9d.
Total £17 8s 5d.

F. Gagné C.Q.M.S.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Laurus Cannon Lieut.

Officer detailed by O.C. #2 C I HU to take Summary of Evidence.

Camp 102
Witley, Surrey
2 April 1941

J.J.A.

LIST OF WITNESSES

in the case of

#E-4044 Pte. A. LeClerc, Royal 22nd Regiment Reinforcement No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Lieut. I.N. MacIntosh W.R.S.R. (#2 C.I.H.U.)
E-17009 C.Q.M.S. F. Gagne, R. 22nd R. (#2 C.I.H.U.)
E-23301 Sgt. I. Roy R. 22nd R. (#2 C.I.H.U.)
L. Girardot W.O. 1/c Cookery School, Willems Barracks, Aldershot

LIST OF EXHIBITS

in the case of

#E-4044 Pte. A. LeClerc, Royal 22nd Regiment Reinforcement No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

(a) A.F.O. 1618 - 17-3-41

J.J.M.

Description of Court by which tried, or Status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Second day of April 1941.

J W Sevenridge Capt.
Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

#E-4044 Pte. Leclerc H. of the Royal 22nd Regiment (Reinforcement) No. 2 Canadian Infantry Holding Unit

NOTE.—† The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	4	times	5	times.
For Other Crimes	4	times	5	times.
For Civil Crimes (Larceny)	2	times	2	times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct~~,

~~or~~

~~There are no entries in the Conduct sheets of the accused~~.

~~2. The accused has not been previously convicted~~,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 43646/564 50,000 2/40 W. S. Ltd. 51—6000

1-7R

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....
beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges for .....
days in Civil Custody,
and 16 days in Military Custody.
Total 16 days.

Of which ..... days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24

6. The date of his ~~attestation~~ specified in his attestation paper is 5th May 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... years' service.

9. The accused is entitled to reckon ..... years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward (*or* is in possession of *or* entitled to .....

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years.
In the rank of ..... years.
In the rank of ..... years.

(INSTRUCTIONS.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name ..... of the .....

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Petty Sessions	Inchmurd 14/5/40	Feloniously stealing from the person of Mary Lines one pocket book the sum of £-0-0	Six months imprisonment	Nil
Police Court	Aldershot 5/8/40	Theft of a car the property of a Civilian	Three months imprisonment	Nil

(Continued overleaf.)

E 4044.

Leclerc A. 17-4-41

1 Kit Bag

1 Pack

C. D. M. S.

in Store

222 R

Eng.

Patricia [illegible]

Officer Commanding,
R.22e R Company No.2 Canadian Infantry
Holding Unit,
Whitley Camp,
Surrey.

-1-

Reference your enquiry of the 2nd April, 1941, concerning the equipment of Private Leclerc A.

I am pleased to advise you that his rifle and haversack are in my possession. Will you please collect at your earliest convenience.

L. Guardot W.O. School of Cookery,
Willems Barracks,
Aldershot.

9.4.41.

9.4.41. -

11°

14/4/41

Capt. Poirier
Please return this document
Thank you for offering [illegible]

O.C. Rr Reg
one Rifle & one
Web Haversack received and being returned to you
L. Whitley Capt.
No. 2 Can. Rifle Holding Unit, (C.A.S.F.)
Quarter M. [illegible]

1 Rifle No J.8 4257

1 Haversack and strap shoulder 2
in Store. E.A. M.L.
Received by Patwaman

1 Oil Bottle
Pull through.
Rifle Cleaning).

3.7.06

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No E4044 Pte. Leclaire A .....

of Royal 22nd Regt. Company ..and in my opinion he

is fit ~~unfit~~ to undergo Trial by Court Martial.

Station Witley Camp 102.....

Date 18 April 1941

W L Boulter / major RCAMC
Medical Officer

No. E4044 Name LECLERC Adrien Sqn., Battery, or Company — Corps R. 22e R.(CASF) Date of enlistment 5-9-39 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122) 10674—8-39 (1722) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Citadel Quebec	20-9-39	Pte		Breaking out of barracks	Sgt. Descoteaux Sgt Begin	3 dy C.B.	21-9-39	A.A. Larue Captain	
CITADEL	1-11-39	Pte		AWL from 2200 hr until apprehended at 1330 hr 8-11-39(159 hr 30 min)	Sgt Plourde	168 hr det,	9-11-39	Lt-Col. Flynn,	Forfeit 7 dy pay
CITADEL	9-11-39	Pte		Breaking out of barracks (detention)	Sgt. St. Armand	(48 hr det, additional)	13-11-39	Lt.-Col Flynn	
CITADEL	6-12-39	Pte		Overstaying pass 29 hrs 30 min 0730 6-12-39 to 0100 6-12-39	L/Sgt LeBlanc	3 dys C.B.	6-12-39	E. Doiron Lt.	3 dy pay
Guillemont	10-2-40			Failed to report to guard room when coming back to camp	Cpl Bernier M	2 dy C.B.	12-2-40	E Doiron Lt.	
"	7-3-40			When on active service Neglect to obey order from superior	Cpl Bernard D	3 day C.B.	8-3-40	E Blair Major	

(P.T.O.)

F. T.O.

No. E4044 Name Leclerc A Sqn., Battery, or Company "B" Corps R 22e R Date of enlistment 5-10-39 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122) 10674—8-39 (1722) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp	18-7-40	Pte		AWL from 1200 18-7-40 till 0500 19-7-40 Total 17 hours	CSM BOUCHARD CPL ANDERSON	2 dy C.B. forfeit 1 dy pay	19-7-40	J.P.E.Bernatchez Major	
Camp	19-7-40	"		When a defaulter absenting himself AWL from 2200 19-7-40 till apprehended in London at 0915 hr by L/Cpl H. Johnston C.M.P. Total 1 day 11 hr 15 min.	Cpl Anderson L/Cpl H. Johnston	168 hr detention Forfeit 2 dy pay	24-7-40	Percy Flynn Lt.-Col	

(P.T.O.)

F. T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Guillemont	23-3-40	Pte		When on active service offering violence to his superior officer in that when on parade he showed him his fist	Sgt. Proulx	Admonished	25-3-40		
"	12-5-40	Pte		Feloniously stealing from the person of Mary Ann Welsh the sum of 5.0.0.	P. Const. Saunders	1 month's civil detention	14 May 40	Civil Court	
Louisburg	29-11-40	Pte		WOAS Neglect his duties and absented himself from duty 2 occasions (See 40)	Sgt Blades	7 days C.B.		Lt. Gauthier.	

Certified True Copy
Laurus Lauzon Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	1-8-40	Pte		Theft of a car, property of a civilian Arrested by Civil Police, convicted of the charge at Aldershot Police Court 5-8-40 F.R.I (Can) 149 (1) (b)	Civil Police Aldershot	3 months in jail Forfeit 96 days pay	5-8-40		
Louisburg Bks	13-10-40	Pte		WOAS AWL from 0845 hr 13-10-40 until 0900 hrs 17-10-40. Total 4 days 1 hour 45 minutes	Cpl. Lebel, L.P. CSM Herbert A	14 day det	18-10-40	P.E Belanger Major	5 dy pay
Louisburg Bks	31-10-40	Pte		WOAS AWL from 2200 hr 31-10-40 until he reported himself at 1345 hr 5-11-40. Total absence 4 days 15 hr 45 min.	L/Sgt Gatien	21 dy Detention 5 days pay	6-11-40	Lt.Col.Mathewson	

Certified True Copy
Laurus Lauzon Lieut.

VV.37 (AFRICA)

PTE LECLERC J.

Exhibit M1

WW-37

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-first day of October, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely—~~]

Proceedings Reviewed

.....

Reviewing Officer (J.A.G.) C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.L.F. ~~D.~~. McNeil, MC	West NSR

Members.

Rank.	Name.	Regiment.
Captain	H.M. Riegenhauer	West NSR
Lieut	E.D. Hersey	West NSR
Waiting Lieut	J.A. Blanchard	R 22e R

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed N.K. Wilson Brigadier,

Commanding 3 Cdn Inf Bde.

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
[illegible] Pte LOVELOCK, Norm. R.22e R	1st Charge Sec 5(7) A.A.	not guilty	not guilty	Confirmed
	2nd Charge Sec 15(1) A.A.	not guilty	guilty To be dismissed from the service Sixty days detention and to forfeit all ordinary pay for a period of sixty days [illegible] 1943 22 Oct 43	Confirmed Nil Brig.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a).) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer [illegible] (*state briefly, or see separate sheet if necessary*) :—

(Signed) A Nicholson Brigadier (Signed) A L McNicol Major

Commanding 3 Cdn Inf Bde
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22 day of October 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 22 day of October 1943

A L McNicol Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ Nil

Signed this 24 day of Oct 1943.

A Nicholson Brig
Confirming Officer.

Promulgated and extracts taken in the case of E5715 Pte Lovelock, N. R22eR.

(*a*) (Dated) 24 Oct 43 (Signed) [illegible] Adjutant, ROYAL 22e REGIMENT, C.A.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21579) W1.46179-852 20,000 2-43 A.A.S.W.Ltd. Gp.698

Army Form A 9.

A

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at HG R22eR (Tilsonburg) on the 22 day of OCTOBER 1943 by order of Brigadier T G Gibson

Commanding 3 Cdn Inf Bde dated the 21 day of OCTOBER 1943

President.

Maj G L F McNeil, West Nova Scotia Regt

Members

Capt H M Eisenhower, West Nova Scotia Regt

Lt E D Hersey, West Nova Scotia Regt.

~~Judge Advocate~~

Trial of* E 5715 Pte Jean Leclerc, Royal 22nd Regiment

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt Georges A Cadarre, R22eR

Counsel‡ or defending officer† Lt C E Levesque, R22eR

At 0945 o'clock the Trial commences.

The order convening the Court is read, and is marked M1 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

~~H~~ G A Blanchard, West Nova Scotia Regt.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 18 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

Answer. Not guilty

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Not guilty

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

~~*Question.*~~

~~*Answer.*~~

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

~~*Question.*~~

~~*Answer.*~~

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (b) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

B 2

CHARGE SHEET

The accused E.5715 Pte LECLERC Jean, Royal 22e Regiment, Canadian Army Overseas, On Active Service , is charged with:-

1st CHARGE:
AA Sec 5 (7) WHEN ON ACTIVE SERVICE, MISBEHAVING IN SUCH A MANNER BEFORE THE ENEMY AS TO SHOW COWARDICE ,
in that he,
In the field, on the 9 Oct 43, during an advance and under enemy's shell fire, fell out of the ranks and went to "B" echelon.

2 nd CHARGE:
AA sec 15 (1) ABSENTING HIMSELF WITHOUT LEAVE,
in that he,
In the field, on the 9 Oct 43. absented himself without leave from 0900hrs the 9 Oct 43 until 1800hrs the 13 Oct 43.
Totalabsence: ~~3 days, 33hrs~~.

(J.P.E. BERNATCHEZ) Lt.Col.
Commanding, Royal 22e Regiment.

18 Oct 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(T.G. Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
21 Oct 43.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir

The prosecutor makes ~~his~~ his opening address [~~hands in a written address which is read, marked~~ signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. } See separate sheets.

being duly sworn, is examined by the prosecutor.

1st Witness for the prosecution being duly sworn states.

I am 4514 Sergeant Morris Welsh R. 22nd R. On the morning of the 14th Oct 43 I discovered that Private Le Clerc, the accused absent after being on duty on guard he failed to report to his detachment.

Ques 1. At what time was Private Le Clerc, the accused, to report back to his detachment after guard duty?

Answer. Immediately after guard duty which finished at six o'clock.

Ques 2. Did you notice his absence at 0600 hrs or later on in the morning?

Answer. Later on when we were getting ready to go out about 0100 hrs.

Ques. 3 Did the accused Pte Le Clerc report to you after his absence?

Answer. Yes, sir.

Question 4 Will you give the court the time and date of his return?

Answer. He reported to me on the 13 Oct 43 at 1800 hrs

Question 5. Will you tell the court what happened on the 8th/9th Oct 43 during an advance and under enemy shell fire?

Answer On 8th October 1943 Pte Le Clerc told me that he could not stand the enemy's shelling. I told him to go and see the M.O. We left together to go and see the M.O when we saw him he was too busy to see us. He told us to come back later on. We went back to our detachment. I told the accused to go back and see the M.O while he (the M.O) came back from the front line I do not know if he went to see the M.O later on. Pte Le Clerc stayed with us until the next move. That same night 8/9 Oct we left for Gambalisa and there I discovered the absence of the accused at about 1700 hrs next morning 9 Oct 43.

I next saw the accused when he reported himself to me on the 13th October 1943 at 1800 hrs.

Question 6. Did the accused tell you why he could not stand the enemy shelling any more?

Answer. He told me that his head ~~failures~~ was too weak

Question 7. Did you know if the accused had been sick before?

Answer. No.

Question 8. When you noticed the absence of the accused, ~~who~~ were you under enemy shell fire?

Answer. Yes, sir they were shelling all night from time to time and were still shelling in the morning

Cross-examination by the defence.

Question 1. When you went to see the M.O with the accused was it before, during or after the shelling.

Answer. After the shelling

Question 2 Did the accused go to see the M.O before the advance towards the enemy?

Answer. B fore the advance.

Question 3. During the same advance was the accused with you?

Answer. No.

Question When he reported back to you where did he come from?

Answer. He came back from the D.C.S.

Question by the Court

Question Was the shelling very close?

Answer. About 1000 yards away

2nd Witness for the prosecution being duly sworn states

I am E 4598 Private Paul Henri Lyzina, R. 22e R. on the morning of 9th October 1943 we were advancing towards Gambatesa on the way up I noticed the absence of the accused, Pte Le Clerc. It was between 0900 hrs and 0930 hrs. He came back about 3 days later at about 1800 hrs. I cannot remember the exact date he returned.

Question 1. Were the enemy shelling as you were advancing towards Gambatesa on the morning of the 9th Oct. 43?

Answer. Yes.

Question 2. Was Private Le Clerc sick before the advance on Gambatesa.

Answer. Yes he complained about his heart and he could not stand enemy shelling. No Question 3

Defence declines to cross examine the witness

Question by the Court.

Ques 1. When did you actually start the advance to Gambatesa.

Answer. The morning of the 9th October 43 We were given orders to move forward early on the morning of the 9th October 1943.

I did not see Pte Le Clerc around at that time and did not see him fall out of the ranks during the advance.

The above evidence was read and translated to the accused

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. No

~~*Question.* Is he a witness as to character only? *Answer.*~~

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. Yes

The accused in his defence ~~says~~:

[hands in a written address which is read, marked D1 signed by the President and attached to the proceedings.]

Instruction.

* In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

Defence Pte Leclerc 91 [illegible]

On Oct 8th 43 Leclerc went to see the M.O. but was refused to be examined, and was told to come back.

The next day, at Oct 43 under enemy shelling, Leclerc was found absent. When did he leave, nobody knows. His absence was noticed early in the morning.

At that time there was still no contact with the enemy and consequently, the charge for cowardice should be written off.

According to M M L Sect 5-(7) 5 sub 4

"Misbehaviour of any kind not endeavoring cowardice cannot be charged under the fore."

As to his charge of being out, it has been clearly established that the accused had been with LOBs at B echelon where he could fulfill a lot of duties. That man was sick, he was not in fighting condition and he made the best out of it.

To the field,
Oct 22nd 1943.

C Leclerc [illegible]
Defending off

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E 5715 Pte Jean LECLERC, R22eR is NOT GUILTY of the first charge under Sec AA 5(7) Finding of not guilty announced in open court and GUILTY of the second charge under AA Sec 15(1)

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lt Georges A Cardenne, R22eR is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, Fd conduct sheet & AFB 296

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked M2 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. Declines to cross-examine

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment on addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* Yes, repeat sheet M3

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused E 5707 Pte Jean Leclerc Sentence
to undergo detention for a period of sixty days

M 3

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE IN THE CASE OF

E.5715 Pte Leclerc J.N.

PROSECUTION

E.4594 Sgt Walsh M. R 22e R Sig Coy
E 4598 Pte Vezina, P.H R 22e R Lt Coy

I certify that I have been served with a true copy of the Summary of Evidence taken prior to my trial by F.G.C.M. I, furthermore acknowledge the receipt of a true copy of the charge sheet upon which I am being brought into Court-Martial.

I require the service of an officer to represent me at my trial.
I require the service of [illegible] R 22e R
if he is available.

[illegible]

MEDICAL OFFICER'S CERTIFICATE

I certify that I have examined E.5715 Pte. LECLERC J.N.

and that I have found him in a [illegible] state of health, he is FIT to undergo Detention, Field Punishment or Trial by a Court Martial.

In the field,
this 11 day of October 1943.

MEDICAL OFFICER,
Royal 22e Regiment

SUMMARY OF EVIDENCE

In the case of E.5715 Pte LECLERC Jean Marc , a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer, this Summary of Evidence was taken on oath.

1st WITNESS:
for the Prosecution: E.4594 Sgt Walsh M., Royal 22e Regiment, having been duly sworn states:-

I am E.4594 Sgt Walsh M, Royal 22e Regiment. On the 9 Oct 43 as it was shelling, Pte Leclerc told me that he could not stand the bombing at all. I went with him to see the M.O., and as the doctor was busy going forward, he told him to come back later. The 9 Oct 43 as we were packing up to move through GAMBATESA and as it was under enemy shelling I noticed the absence of Pte Leclerc who was in my detachment. Pte Leclerc reported back to me at about 1800 hrs on the 13 Oct 43. He had come up with the ration truck and he told me that he had been staying two days with "B" echelon.

M Walsh Sgt

The accused declines to cross-examine this witness.

2nd WITNESS;
for the prosecution E.4598 Pte VEZINA Paul Henri, Royal 22e Regiment, having been duly sworn states:
I am E.4598 Pte VEZINA Paul Henri, Royal 22e Regiment,

On the 9 Oct 43, at 0900hrs , as we were to go through GAMBATESA through enemy shelling I noticed the absence of Pte Leclerc from my detachment. On the 13 Oct 43 Pte Leclerc came up at 1800hrs with the ration truck and rejoined the detachment. Between the 9 Oct 43 0900hrs and the 13 Oct 43 1800hrs I did not see Pte Leclerc with us. Pte Leclerc belongs to the same ~~xxxxx~~ crew asme.

P-4 Vezina

The accused decline to cross-examine this witness .

The acused havingbeen duly cautioned in French in accordance with R.O. 1424 reserves his defense.

I certify that the foregoing Summary of Evidence consisting of one page was taken down in the presence and hearing of the accused. And that rules of procedures ~~xxxx~~ 4 (c) (d) (e) and (f) and (g) were duly complied with.

n the field, 18 Oct 43.

A. Letourneau Lt
officer taking Summary

FIELD CONDUCT SHEET.

Date of Enlistment: 20-5-40 [illegible]

Army Form B122
Sheet No.

*No. [illegible] Name Leclerc J. M. Sq., Batty. or Company: Sup Coy Corps C.S.C.

Date of last entry in Company Conduct Sheet	No. and date of last drunk	G.C. Badges	Long Service and G.C. Pay	Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 20-5-43 this soldier completed one year service and was discharged with R.O.M. Once the above right entitled was forfeited from pension [illegible] which was destroyed									
[illegible]	8-7-43	[illegible]		[illegible] from [illegible] 8 Jul 43 till 16 hrs 9 Jul 43 28 hrs 20 mins	Cpl [illegible]	3 days C.B.	[illegible] 10 Jul 43	[illegible]	2 days pay

Certified True Copy

[illegible] Adjutant,
ROYAL 22e REGIMENT, C.A.S.

[P.T.O.

*Serial Number in case of enemy prisoner of war

enclosure No 2

ARMY FORM B.213.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E5715	Pte	Jan Hendrik Jochs	Lapal 2nd Regiment

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—In a trial by field general court martial the summary may be compiled from the field conduct sheet.

The accused's sheet(s) mentioned should be produced to court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The accused's hands stated should correspond with the amount of entries in the conduct sheets, permission being given to the said sheets to be used in such cases, and to any recognised spell sick of gallantry or distinguished conduct.

Instruction with the charge sheet thereto. The entries for misdemeanors must be stated accurately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	3 days C.B.	1 times	N:L	times.
For		times		times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and ..... days in military custody, making a total of ..... days, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 20 2+ years old.

6. The date of his commission / attestation specified in his record of service / attestation paper is 20-5-40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 132 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 132 days service.

9. The accused is entitled to reckon 2 years 132 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer*) The accused holds in the army the rank of ....., dated ..... and in his regiment (*or corps or department*) the rank of ..... dated .....

(Printed) W. [illegible] 144 [illegible] 8/42 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of October. 43

[signature] Adjutant,
ROYAL 22n. REGIMENT, O. A. C. [illegible]

11. The second has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion:

In the rank of ..... years .....

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

COUNTER NUMBER 00042

HOUR 11 25

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

44-63.

Gnr. Le Clerc. R.

- RECORDED AT CMHQ IN AB 160, 4H-63

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P.& S./1698 (3864)

Convened by Order of Brig F.D. Lacy CRA 2 Can Inf Bde dated 21 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent as confirmed s/rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 1175	Gnr	Rolland	LeClere	5 Can LAA Regt RCA

PROCEEDINGS REVIEWED
REVIEWING OFFICER Lieutenant Capt
14 Dec 44
JAG

RECEIVED
POST BAG
CMHQ

PROCEEDINGS REVIEWED
Date
G.H.Q. 2 Echelon
Canadian Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 24 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/45

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Major	R.C. Lacy	6 Can Inf Bde RCA
Member	Capt	J.H. Bingle	5 Can LAA Regt RCA
Member	Lieut	J.J.M. Ross	5 Can LAA Regt RCA
Judge-Advocate			Ref
Prosecutor	Capt	S.G.M. Grange	4 Can Inf Bde RCA
Defending Offr	Lieut	W.J. Barbour	4 Can Inf Bde RCA

Questions by President: Is the Prosecutor a lawyer? Ans ..... Is the Defending Offr a lawyer? Ans ..... (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

AB 160 Ref- Vol II Part 64

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 1175 Gnr Rolland LeClere

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (*date*) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for a period of four (4) months

(Sgd) ..... 24 Nov 44 (Sgd) R.C. Lacy Mjr
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) ..... Brigadier

Date 26 Nov 44. Commanding C.R.A., 2 CDN. DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 1175 Gnr LeClere R.	28 Nov 44	[illegible] Capt

CR #23 d/27 Nov 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial will proceed by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Large Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....Do you intend to call witnesses on your behalf ? Ans .....Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(5), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

R C Lucas Mgr
President

CHARGE SHEET

The accused, No. E1175 Gnr Rolland LeClerc, 26 Fd Bty, 4 Fd Regt RCA, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
in that he,
In the Field, on 7 Nov 44 absented himslef without leave from 2300 hrs 7 Nov 44 until 2130 hrs 11 Nov 44. (Absent 3 days 22 hrs and 30 mins).

McG Young
(McG Young) Lt-Col.,
Comd., 4 Field Regt RCA

In the Field
16 Nov 44

In the Fidl
21 Nov 44
To be tried by FGCM

F D Lace
(F D Lace) Brig
CRA 2 Cdn Inf Div

I desire the services of an officer to defend me at my trial.

I desire the services of Lt H S Barber if he is available.

Leclerc. R.

(R. LeClerc) Gnr.,
4 Field Regiment RCA

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AF A33)
40/PA&S/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E1175	Gnr		Rolland	LeCLERC	4 Cdn Fd Regt

R E Lucy Maj
Convening

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and dated (*date*) 21 Nov 44 endorsed by me, [redacted]" To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial ; and [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R E Lucy	6 Cdn Fd Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J H Buck	3 Cdn LAA Regt
Lieut	J F M Ross	3 Cdn LAA Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	L E Ross	6 Cdn Fd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

H.Elmes (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 21 Nov 44

Commanding CRA 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 742, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, *if any*. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 586. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE
K.R.(Can) Para 557

I certify that I have this morning examined No. E1175 Gnr LeClerc, R. of 26 Bty - 4 Fd Regt RCA and in my opinion he is fit to undergo trail by court-martial.

Station: In the Field
Date: 24 Nov 44

Capt
Medical Officer
4 Fd Regt RCA

Character Witness - Lieut H.S. Barber
A Cdn Fd Regt.
Sworn states.

"Gnr Sellers came to my troop about 3½ months ago. During this time he has always been a very good gunner. He was well liked by his No 1 and the rest of the troop. Until going AWL he committed no offences whatsoever."

Summary of Evidence in the case of No E.1175 Gnr LeClere, R., 26 Cdn Fd Bty, 4 Cdn Fd Regt RCA, Can, charged with absenting himself without leave (AA Sec 15(1).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness — A17165 Lsjt Stokes, M.L., 26 Cdn Fd Bty, 4 Cdn Fd Regt RCA, sworn, states:-

"On the 7 Nov 44, I was acting "E" tp NCO ic Roll Call. At 2300 hrs I found the accused, whom I recognize, absent. I turned his name into the Battery Office".

Cross-examined by Officer taking Summary:-

Q When did you next see the accused?
A Not until he returned to us in this area 2 days a go.

The accused declines to cross-examine the witness.

M L Stokes
(M.L. Stokes) Lsjt
26 Fd Bty, 4 Fd Regt RCA

The certificate of Apprehension and Receipt for Soldier under arrest produced as documentary evidence were read over to the accused, marked Exhibit "A" and "B" respectively, signed by me and attached hereto.

(S.G.M. Grange) Capt
Officer taking Summary

The accused was cautioned as follows:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I wish to make a statement.

The accused states:-
"The first night I left, I went to Antwerp. I was too late for the last train. So the next morning when I got up I was not feeling too good. I went back to the cafe and started drinking again. That was what happened until Saturday when I turned myself over to the "provost".

The accused does not call any witnesses.

Leclerc, R.
(R. LeClere) Gnr
26 Fd Bty, 4 Fd Regt RCA

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) have been complied with.

(S.G.M. Grange) Capt.,
Adjt., 4 Field Regt RCA

In the Field
16 Nov 44

Exhibit "A"

CERTIFICAT UNDER SECTION 163 (1)(i) OF THE ARMY ACT

I, (a) R.O. Dunn certify that No. E1175 Rank Lieut.

Name LECLERC, R of 4th Hy. R.C.A. regiment

surrendered himself to No. G14043 Rank Cpl Name Hatfield of

No. 7 Cdn. Prov. coy. (or me) in the field 2130 hrs; on the 11 day of

Nov. 1944 as a deserter (or absentee without leave.

He was wearing Mil. Uniform

Lieut.
R.O. Dunn Lieut.
No. 7 Cdn. Prov. Coy.
I/C Antwerp Det.

Exhibit "B"

[illegible] Capt.

Rd.

RECEIPT FOR SOLDIER IN ARREST

I was Commander of the TOWN Guard at ANTWERP

when on NOV 11th 1944 at about 2150 hours. No. E 1175 Rank GNR

Name LECLERC, R. of 4th FLD. REG. R.C.A. Regiment was handed

over to me by the Military Police.

I detained him. He was SOBER Sgd. [illegible]

L.M.P. (VP) i/c Guard.

Date 11/11/44.

NE.1175 Name LeClerc R. | Sqn., Battery, or Company n.a. | Corps R.C.A. | Date of enlistment 21Mar41 | G.C. Badges n.a. | Service or Proficiency Pay n.a.

Date of last entry in Company Conduct Sheet n.a. | No. and date of last drunk n.a. | Period not reckoning towards freedom from extra fine n.a. | Sheet No. 1 | Signature O.C. Company, etc. Lt A.K. Ware | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Improper entry deleted 27Apr44 F.R. Clayton Lt			
Field	11/5/41	Gnr		AWL 0700 hrs 11/5/41 to 1230 hrs 12/5/41 Total 29 hrs 30 mins.	E449006 CSM Morissette FR	Admonished	12/5/41	Capt ??????	2 days forf pay
Field	19/5/41	Gnr		AWL 0530 hrs 19/5/41 to 1700 hrs 20/5/41. Total 35 hrs 30 mins	E449033 Sjt Portugais E.	Admonished	23/5/41	Capt ??????	2 days forf pay
Field	18/6/41	Gnr		AWL 0630 hrs 18/6/41 to 0625 hrs 19/6/41. Total 24 hrs 25 mins.	E449117 Cpl R Beaulieu	1 days pay	21/6/41	Maj ??????	2 days forf pay
Field	4/Aug 41	Gnr		Overstaying leave from 0730 hrs 4-8-41 until 0700 hrs 9-8-41 (Absent 4 dys 23 hrs 30 min)Total 5 days	Sjt Weeks Sjt Bradbury Bdr Wilson	5 days CB Fined 5 days pay(ordinary)	9-8-41	Col A.V. Tremaine	Forf 5 days pay by FR &I
				Improper deleted 11 May 41 G Christmas		Lt.			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	19/11/41	Gnr		(1) Sec 10(4) Whilst confined to bks under open arrest did leave Camp Area	Bdr Powell Gnr Snyder	14 days FP	29-11-41	Lt Col J.W.G. Thompson	
				(2) Sec 40 Did urinate on Bk Sleeping Room Floor.	Bdr Powell Gnr Snyder				
				(3) Sec 9(2) Disobeying a lawful command given by his superior officer.	Bdr Powell				
Field	5Apr42			Conduct to prejudice of good order and Military Discipline (AA 40)	Documentary	5 days CB	11Apr42	Capt ??????	
In the Field	14Aug 43			(1) WOAS on 14Aug43 was Drunk AA Sec 19 (1st offence) (2) Conduct to the prejudice of Good Order and Military disciplen in that he on 14 Aug43 was using obscene language in a public place and was improperly dressed.	Documentary	14 days Field Punishment	16Aug43	Maj McG. Young	

Certified true copy of original

(S.G.M. Grange) Capt
Adjt, 4 Fd Regt R.C.A.

R C Lucas Major

(Substitute for AFB 296)
of MFB 355

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

NO. E1175 NAME LeClerc, R UNIT 4 Fd Regt RCA

AGE 23 MARRIED OR SINGLE Married NO OF DEPENDENTS 2

DATE OF ATTESTATION 22 Mar 41

NO OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY _____ HOSPITAL _____ TOTAL Nil

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS OF RANK, IF ANY

A CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

R C Lucas Capt

Dated xx In the Field

this 24 day of Nov 194 4

(To be dated and signed as of date of trial)

Gov. Le Clerc joined the army three years ago, during this period he has committed a few minor offences but has done nothing to prove that he is not a good soldier and worthy of the uniform which he wears.

While ~~the troop~~ he was in action and doing something which was important he never once failed in his duty.

But while the Pvt was resting he became homesick for his wife, went out and had something to drink, became ~~reckless~~ reckless and hence A. W. L.

~~Pvt of this troop~~

Gov. Le Clerc is a definite asset to his troop and his loss to that troop would not be in the best interests of the troop.

Barbara Ed.

XX-112

PTE LECOUFFE J.

XX-112

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40-P & S/1698 (2864)

Convened by Order of Brigadier G. Francoeur Comd "D" Gp, CRU dated 15 DEC 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 82889	Pte		Joseph	LECOUFFE	4 CIRU 48 Highrs

Proceedings Reviewed

E.K. Lle Dorpall. Capt

Reviewing Officer (J.A.G.) C.M.H.Q.

28 Dec 43

PROCEEDINGS OF TRIAL.

R Held in the Fd in (*country*) England on (*date*(1)) 16 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for instns and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1110 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ~~Ans~~
~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ ~~as shorthand writer~~ ? Ans
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D. L. Redman, V.D.	2 C.R.C.
R Member	Capt	G. M. Henderson	1 C.L.R.I.
Member	Lieut	J. McN. Jardine	1 C.R.C.
R ~~Judge-Advocate~~			
Prosecutor	Lieut	F.W. Towsey	4 C.L.R.I.
Defending Offr	Lieut	T.R. Scott	4 C.L.R.I.

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

R A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

R A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82889 Pte LECOUFFE, Joseph - 48th Highrs - 4 CIRU.

Charge. (*Insert "alternative" where applicable.*)	Plea. (*See instrs p 2.*)	Finding. (*See note below.*)	(*Space for use as required for further charges, accused charged jointly, special findings, etc.*)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~If prisoner awaiting sentence list~~ beginning on (*date*) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six(6) months

(Sgd) Judge-Advocate, if any. 16th/43 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

20 DEC 1943 (Sgd) Brig
Date Commanding D GP CDN INF UNITS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-82889 PTE. LECOUFFE, JOSEPH	21 DEC 43	D.P. Lennox Capt. Adjt. 4 Cdn Inf Bde Units

Captain Adjutant,
4 Cdn Inf Bde Units

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. NML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans NO - I R (5)
(1. RP 37(B). 2. RP 37(D) fn 4. 3. RP 35(B) fn 3 para 3; MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes (change) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - I R
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. D 82889 Pte. JOSEPH LeCOUFFE, of the 48th Highlanders of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC. 15(1)

WHEN ON ACTIVE SERVICE, Absenting himself without leave,
in that he
In the Field, absented himself without leave from 0730 hours, 31 August, 1943, until surrendering himself to Civil Police at Woking at 1315 hours, 7 December, 1943.
(Total absence:-98 days, 5 hours, 45 minutes.)

(J.H. Christie) Col.,
Commanding Officer,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
13 DECEMBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
15 DEC 43.

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAB) 40/PAB/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82889	Pte		Joseph	LECOUFFE	4 CIRU 48 Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 15 DEC 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col.	D. L. Redman		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by CO		1 CSRU
A Lieutenant	to be detailed by CO		1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(*Signed personally. RP 105 fn 2.*) Brigadier. (*Rank.*)

Date 15 DEC 43

Commanding "D" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 95(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40–42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 46 fn 1, 86.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court *(RP 86(D))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 86(C).)*

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 557.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (ii).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 53(9), RP 118(C), MML p 738.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Officer's Certificate. 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No B 82889.....
PTE. LECOUFFE. J..... of.... ~~Q.O.R.~~ ... 48th Hd/C
and in my opinion, he is... fit..... to undergo trial by Court Martial.
Station. FIELD.....
Date. 16-DEC. 1943..... (Sgd.) [illegible]
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/c Jan 42)

Trial of D-82589, Pte. Joseph LeCuffe, of the 48th Highlanders of Can. on strength of No. 4 C.D.R.U.

Note E-3

Statement by accused in mitigation:-

I was posted from No 4 C.D.R.U. to a Field Unit, 2.O.R., but the dental officer took me off because I had no back teeth. That was in August 1942. I am 21 years old. I am unmarried. I was working in a garage, car washing, before I enlisted on 12 Jun 41. I got to grade seven in school and stopped when I was about 16 years old. I prefer to be in a Field Unit than a Reinforcement Unit. I came overseas in May 1942, was in a Reinforcement Unit and went to the Royal Regt. in the field in August 1942 after Dieppe. I was with them about nine months. I went A.W.L. and arrived at the Reinforcement Unit this spring and I have been there since.

The Defending Officer stated that he had nothing to add in mitigation to what the accused said except to point out that the accused is young, and that he has not had a previous Court-Martial, and that the accused is very anxious to get to a Field Unit.

MM

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D 82889 Pte. LeCouffe, J., of the 48th Highlanders of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS

For the Prosecution

B 78577 C.S.M. Sumner, E.H., of the Irish Regiment of Canada, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am C.S.M. of "C" Coy., 4 C.I.R.U. The accused, D 82889 Pte. LeCouffe, J., whom I now recognize, attached to "C" Coy absented himself without leave from 0730 hrs. 31 Aug 43, and has not been present since that time. I would have known it had he been present.

I produce MFB 375(Certified copy of the Record of Court of Inquiry) which relates to the accused, and which is read to the accused and included in this Summary of Evidence and is marked Exhibit "A".

I also produce AF O 1617, purporting to be signed by the Officer in charge of Woking Police Station, which relates to the accused, and which is read to the accused and included in this Summary of Evidence and is marked Exhibit "B".

The accused declines to cross-examine this witness.

E Sumner
B 78577 C.S.M. Sumner, E.H.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of One page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (e) and (f) have been complied with.

(F.A.H. Gallop) Capt.
Officer detailed to take Summary.

IN THE FIELD
8 DECEMBER 1943.

EXA

EXHIBIT "A"

Captain
Admin. Officer, Holding Wing,

RECORD of the Declaration of a Court of Inquiry assembled at 4 Cdn Inf Reinforcement Unit on the 22nd day of September 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. D 82889 Pte. LeCOUFFE, J.(48 Highlanders of Canada) 4 C.I.R.U., C.A.C.

DECLARATION

The Court declare, that D 82889 Pte. LeCouffe,J., of the 48 Highlanders of Canada, on strength of 4 Cdn Inf Reinforcement Unit, did illegally absent himself without leave or other sufficient cause from 4 C.I.R.U. at 0730 hours on the 31st day of August, 1943, and that he is still so absent and that on the 22nd day of September, 1943, he was deficient and is still so deficient of articles of kit to the value of £5:4s:8d.

ARTICLE	VOCABULARY PRICE £	s	d	APPRAISED VALUE £	s	d
Blouse, battle-dress	1	7	8	1	0	9
Trousers, battle-dress	1	7	11	1	0	11
Boots, ankle	1	1	6		15	1½
Pullover, jersey		6	9		5	1
Shirts, angola		9	2		6	10½
Socks, wool		5	-		3	8
Brush, cloth		1	1			10
Brush, hair		1	1			10
Brush, shaving		1	4		1	-
Comb, hair			2			1¼
Brush, tooth			4½			3½
Holdall			9			7
Razor		1	10½		1	5
TOTAL	£5	4s	8d	£3	17s	6d

Names of President and Members:

PRESIDENT: Capt. J.K. Stainton,(IGL)"F" Coy. 4 Cdn Inf Reinforcement Unit

MEMBERS: Lt.W.G.A. Gillespie, "E" Coy., 4 Cdn Inf Reinforcement Unit,C.A.C.
Lt.W.Brown, "E" Coy., 4 Cdn Inf Reinforcement Unit,C.A.C.

Signature of Commanding Officer (J.H. Christie) A/Col., Commanding Officer, 4 Cdn Inf Reinforcement Unit, C.A.C.

Certified true copy

Signature of Officer having custody of original record

Captain Adjutant,
4 Cdn Inf Rein Unit

LIST OF COMMANDS AND DISTRICTS.

Aldershot Command	General Officer Commanding-in-Chief, Aldershot Command, Aldershot
Eastern Command	General Officer Commanding-in-Chief, Eastern Command, 50, Pall Mall, S.W.1.
Irish Command	General Officer Commanding-in-Chief, The Forces in Ireland, Parkgate, Dublin
Northern Command	General Officer Commanding-in-Chief, Northern Command, York
Scottish Command	General Officer Commanding-in-Chief, Scottish Command, Edinburgh
Southern Command	General Officer Commanding-in-Chief, Southern Command, Salisbury
Western Command	General Officer Commanding-in-Chief, Western Command, Chester
London District	General Officer Commanding, London District, Horse Guards, Whitehall, S.W.1.
Jersey	General Officer Commanding, Jersey District, Jersey
Guernsey and Alderney	General Officer Commanding, Guernsey and Alderney District, Guernsey

NOTE.—In case of doubt as to the Command or District concerned application should be made to the nearest Assistant Provost Marshal.

(13875.) Wt. W 918—R.P. 127. 200m. 10/17. D & S.' E1256a.

IMMEDIATE. Army Form O. 1617.

PART 1.

Certificate of Surrender to the Civil Police of a Deserter or Absentee without Leave.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military custody without bringing him before a court of summary jurisdiction.

In such case Part 1 of this certificate should be forwarded by post to the General Officer Commanding-in-Chief the Command or the General Officer Commanding the District (*see* page 4) in which the man has surrendered. A telegram should also be despatched to the General Officer Commanding, to whom this form is to be despatched, stating the number rank, name, unit, and place from which the man absented himself, and that officer will at once arrange for the man to be taken into military custody.

I CERTIFY that the man whose personal description is given below surrendered himself to* Detective John William Robert CABLE. 213. at 1-15pm. on the 7th day of December, 1943 as being No. D 82889 Pte. LeCouffe J. a ~~deserter~~ (or absentee without leave) from Queens Own Rifles 4 C.R.U. Regiment, and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 21 yrs. Height 5 Feet 6 Inches

Complexion fresh Hair brown. Eyes blue

Marks nil.

Probable Date and Place of Attestation	Montreal. Canada. 1941.
Probable Date of Desertion or beginning of absence, and from what place	Since about October 1st, 1943, from 4 C.I.R.U' Aldershot.

J. W. White Sgt.

Signature of Officer of Police in charge of Woking. Station.

7/12/43 Date of Signature.

Exhibit "B"

Admin. Officer, Middle East
4 Can. Inf. Reinf. Unit.

Army Form O. 1617.

PART 2.

This portion of the Form should be detached and forwarded to the General Officer Commanding-in-Chief the Command, or the General Officer Commanding the District, to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

Statement of Expenses chargeable to Army Funds incurred by the _____ Police in the case of No. _____ of the _____ Regiment, who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that Part 1 of this Form was passed to the G. O. C. _____ Command or District, on _____ and that this statement of expenses is correct.

_____ Superintendent or Officer in charge of Police Station at _____

_____ Date of Signature.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 82889	Pte.	LeCouffe, J.	4 C.I.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 40	Nil	times	A.A. 40	5 times
For A.A. 15(1)	1	times	A.A. 15(1)	6 times
For A.A. 22	Nil	times	A.A. 22	1 times
A.A. 8(2)	Nil		A.A. 8(2)	1
For A.A. 9	Nil	times	A.A. 9	1 times

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for ~~10~~ days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21

6. The date of his attestation specified in his attestation paper 13 Jun 41

EX B

N/A

N/A

N/A

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. 082189 Name Le Couffe J. The Black Watch RHC Sqn., Battery, or Company Corps Old Sheet Destroyed 13 Dec 41

Date of enlistment 13-6-41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Jacques Cartier Barracks	6-2-42	Pte		Conduct contrary to Mil. Det Brks rules Talking on parade.	Sgt Bain Cpl French	3 days No 2 diet		Lt Col Mason	
"	27-3-42	"		Conduct contrary to Mil Brks rules Inattentive at drill	Sgt Smyth	3 days No 2 diet		"	
Farnham	28-3-42	"		1) Escaping from confinement in Farnham at 2015 hrs 28-3-42 (2) A.W.L. from 2015 hrs 28-3-42 till apprehended at Montreal 0500 hrs 6-4-42	Sgt Shelly Pte LeClare Doig	27 days Detention	9-4-42	Lt Col Howard	1 day pay FRI 149(1)(a) 27 " " " 149(1)(b) R of A 1143
Jacques Cartier Barracks	21-5-42	"		1) Conduct contrary to Mil. Det Rules Party brass on parade (2) Talking on parade	Cpl Nicholson Sgt Hanley Sgt Vuillette	5 days No. 2 diet		Lt Col Mason	
"	22-5-42	"		1) Conduct contrary to Mil Det rules 2) Refused to obey an order 3) Insubordination	Sgt Vuillette Sgt Hanley	5 days No. 2 diet		Lt Col Mason	
Laurentide Camp	3-6-42	"		WOAS - AWL 2359 hrs 30-1-42 to 2130 hrs 1-2-42 total 21 hrs. 31 min. AA 15(1)	Cpl Halkett	7 d. C.B.		Lt Col Hanley	1 day pay FRI 149(1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	8-7-42	Pte		WOAS AWL 0615 hrs to 0645 hrs 8-7-42 (30 mins) AA 15(1)	Cpl Halbett	2 days pay	8-7-42	Lt Col Harvey	
"	27-7-42	"		WOAS AWL from 2300 27-7-42 to 2359 hrs 27-7-42	Cpl	5 days F.P.			Total Forf
				Total 59 mins) A A 15(1)	Nicholson	5 days pay	3-8-42	"	5 days pay
"	19-8-42	"		WOAS AWL from 2200 hrs 19-8-42 to 0720	Cpl Jones	Forf 13 days			
				hrs 21-8-42. A Lost 1 day thru 20 min AA 15(1)	Bory	pay	22-8-42	"	2 days pay FR 1 [illegible]
Field	26-6-43	"		A A 15(1) WOAS AWL from 0815 hrs 26	Bory	21 days F.P.			
				Jun to 2010 hrs 10 Jul 43		21 days pay	28-7-43	Lt Col	15 days pay FR 1
						Awarded stoppage		Smith	1 49 (1) (a)
						of 4/5 d			

CERTIFIED TRUE COPY FROM THE RECT BOOKS & DOCS IN MY POSSESSION

[signature] Captain
Admin. Officer, Holding Wing,
4 Con. Int. Reinf. Unit.

EX C

MD

13 Dec 43.

This is to certify that I have received the following documents, free of charge.

1 Copy of Summary of Evidence
1 Copy of Charge Sheet
1 Copy of List of Witnesses
1 Copy of List of Exhibits.

.....
D 82889 Pte. LeCouffe, J.

LIST OF WITNESSES

in the case of D 82889 Pte. LeCouffe, J., 4 C.I.R.U.

FOR THE PROSECUTION

1. B 78577 C.S.M. Sumner, E.R., "C" Coy. 4 C.I.R.U.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

in the case of D 82889 Pte. LeCouffe, J., 4 C.I.R.U.

EXHIBIT "A" - MFR 375(Certified Copy of Record of Court of Inquiry)

EXHIBIT "B" - AF O 1617 Certificate of Surrender to Civil Police.

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(O). 4C/24

8 December 1943

I No. D 82889 Pte. LeCouffe J. (Rank) (Name), wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of any officer so detailed if he is available.

(Sgd.) J. Le Couffe

156 b. Ste Lecours C

Correspondence to be PINNED here.

Original (1)

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 13th day of JUNE, 19 41

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN CORPS ROYAL ARTILLERY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *xxxx

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No. D.76143 Private LECOURS, C. R.C.A. (MG)	FIRST CHARGE Section 9(1) Army Act.	Guilty	Guilty	No D 76143 Private Lecours C R.C.A.R (M.G.) Finding and Sentence Confirmed
	SECOND CHARGE Section 8(2) Army Act.	Not Guilty	Guilty	
	THIRD CHARGE Section 40 Army Act.	Not Guilty	Guilty	
	(As per charge sheet attached)		No Court sentences the accused No D 76143 Private Lecours C R.C.A.R (M.G.) to undergo detention for 60 days. J.H.L. Tucker Major Presidents of the Court June 19th 1941	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*): No Sir

(Signed) J.T. Stewart
(J.T. Stewart) Brigadier
Commanding Corps Royal Artillery.
Confirming Officer (e)

(Signed) J.H.L. Tucker Major.
President.
General Hospitals C.A.O.C. (Ottawa Unit)

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of June 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court ✓
2. The witnesses ✓
*(3. ~~The interpreter~~)
*(4. The officers under instruction) ✓

were duly sworn. 1. The Shorthand writer.

* Omit if not applicable.

Signed this 19th day of June 1941.

J.H.L. Tucker Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (i) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further ordered~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this Seventeenth day of JUNE 1941.

K.A. Stewart Brigadier,
Chief Engineer Canadian Corps.
Confirming Officer.

Promulgated and extracts taken in the case of D76143 Pte LECOURS C.

(a) (Dated) 22 June 41. (Signed) H.H. Calder Lt.Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[44779] Wt. 41113—45 200 m 1/41 T. St. G. 640

CHARGE SHEET

The accused, D76143, Pte. Charles Lecours, a soldier of The Royal Montrewl Regiment (M.C.), Canadian Army (A.F.), is charged with:-

First Charge
A.A. Sec 9(1)

While on active service, disobeying in such a manner as to show wilful defiance of authority a lawful command given personally by his superior officer in the execution of his office,

In that he, at 1855 hrs, 14 May 41, when personally ordered by D76831, Cpl. Williams, G.A.T., orderly corporal on that day, to report to the unit kitchen for work, refused to do so, and in fact did not do so, saying, "I might just as well be charged with four crimes as two."

Second Charge
A.A. Sec 8(2)

While on active service, using insubordinate language to his superior officer,

In that he, at 0930 hrs, 14 May 41, when told to report to his platoon by Cpl. Williams, replied, "That will be the fucking day."

Third Charge
A.A. Sec 40

While on active service, conduct to the prejudice of good order and military discipline,

In that he, at 0930 hrs, 14 May 41, acted in an unsoldierly and insolent manner after receiving an award of seven days' C.B. from his Company Commander, Major D. MacRae, having a sneering expression on his face and making disrespectful noises with his mouth.

In the Field
6 Jun 41

(J.A. Calder) Lt. Col.,
Commanding R.M.R. (MG).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

13/6/41

J. C. STEWART, BRIG.,
C.C.R.A., Cdn Corps.

President of the Court Martial.
13/6/41

THE ROYAL MONTREAL REGIMENT (MG)

11

This is to certify that I have examined D 76143, Pte. Lecours, C. and find him fit to undergo trial by Court Martial

K.R. MacKenzie Capt.

(K.R. Mackenzie) Capt.
Medical Officer, R.M.R. (MG)

In the field
19 June 41

19/6/41

FIELD GENERAL COURT MARTIAL

held at

39, Grange Road, Sutton, Surrey

19 June 1941

---

president - Major A.G Fisher E.D Cam. Highldrs of Ottawa(MG)
Member - Capt. A.O. Leslie - 1st Cdn Survey Regt. R.C.A.
Member - Lieut. S.E. Alsop - Cdn Corps Signals

Accused - D-76143 - Pte. Lecours, C. offre R.M.R.(MG)

Defending Officer - Lieut. Schwob - R.M.R.(MG)

Prosecuting " - Lieut. D.T. Lynch - R.M.R.(MG)

The Court having been Sworn the accused was brought in. The convening order is read and the following question is put to him by the President
(Q) Do you object to being tried by me as President or the Officers named?
(A) No sir.
accused does not object to shorthand writer.
The President then proceeds to read the charges.
Charge 1 is read
Accused pleads guilty.
Charge 2 is read
Accused pleads not guilty
Charge 3 is read
Accused pleads not guilty.

~~Pres (Q) Do you wish to apply for an adjournment?~~
~~(A) No sir.~~

~~The medical certificate is then produced.~~

2nd Charge

1st Witness for Prosecution
D-76851 Cpl Williams G.A.T. offre R.M.R.(MG)

Having been called, identified and duly sworn, the following questions were put to the witness:

Examination by Prosecuting Officer
Lt. Lynch (Q) Tell the court what you know about the case.
(A) Sir, on that date I took Lecours to Coy. Office and, when dismissed, I told him to get ready to go to the gas chamber. He replied "That will be the fucking day"

Cross-Examination by Defending Officer
Lt. Schwob (Q) Have you heard that expression used before?
(A) Yes it is commonly used as a joking term.
(Q) In this case, when the expression was used, was it used simply to express dissatisfaction or do you state that it was used as an insult?
(A) From the way uttered, it was a direct insult.

Cross-Examination by Prosecuting Officer
Lt. Lynch (Q) After the accused made the remark, you laid a charge against him?
(A) Yes sir.
(Q) Then you didn't take it as a joke ?
(A) No sir

WITNESS DISMISSED

2nd Witness for Prosecution
Sgt. Spooner, L.W. of the R.M.R. (MG)

Having been called, identified and duly sworn, the following questions were put to the witness:

Examination by Prosecuting Officer
Lt. Lynch (Q) Will you tell the court what you know?
(A) Pte. Lecours was up for Office and, when dismissed was taken outside. When told to report for duty, turned round and replied "that will be the fucking day"

Question by President of Court
(Q) You were present and heard this?
(A) Yes sir.

WITNESS DISMISSED
Defending Officer states that he is calling no witnesses. Accused has nothing to say.
3rd Charge

1st Witness for Prosecution
Sgt. L.W. Spooner of the R.M.R. (MG)

Examination by Prosecuting Officer
Lt. Lynch (Q) Will you give us your evidence?
(A) Sir, I was Orderly Sgt. when the accused was up for Coy. Office. On the award being given, he sneered and when told to pull himself together, made a noise with his mouth.

Cross-Examination by Defending Officer
Lt. Schwob (Q) At what point did he start to smile?
(A) After the 2nd award.
(Q) Did anything occur during the hearing of the case to give cause for amusement?
(A) No sir.
(Q) Did you have occasion to smile?
(A) No sir.
(Q) In your opinion, the expression on the accused's face was not a smile caused by genuine amusement?
(A) Definitely not, sir.

WITNESS DISMISSED

2nd. Witness for Prosecution
Pte. Stackhouse, A.E. of the R.M.R. (MG)

Having been called, identified and duly sworn, the following questions were put to the witness:

Examination by Prosecuting Officer
Lt. Lynch (Q) Will you give your evidence?
(A) On 14 May I was Coy clerk and after the accused received his award I saw him smiling and Major Macrae told him to take the smile off his face. He then told him that he would be remanded to the C.O. Then Lecours made a noise with his mouth.
(Q) Was Lecours smiling or sneering?
(A) I would call it sneering.

Question by President of Court
(Q) What position did you have in the Orderly Room?
(A) Clerk

WITNESS DISMISSED
Case closed for Prosecution. Defending Officer states that he is calling no witnesses. Accused has nothing to say.
Defending Officer
Lt. Schwob

Let us trace what happened re these charges. The accused was first brought up on a charge regarding his respirator while on a route march. The respirator had been condemned and he felt that the charge should not have been made. On coming up to Office he was given another award and he believed it was illegal. I ask the court to consider these points in the case of the accused. There might possibly be reason to believe that the charges were brought because of the accused's ignorance of what constitutes a crime and might have a bearing on the case.

9

Prosecuting Officer
Lt. D.T. Lynch

As far as a man's knowledge of Military Law goes, if he doesn't know now he should. He joined in Sep 1939 and has been in the army nearly two years. If he does not know what constitutes lack of obedience, and insubordination, I think it about time that he found out.

COURT CLOSED

COURT REOPENED

President of Court calls for character evidence and this is produced by Lt. Lynch: a certificate re close arrest since 15 May - a period of 35 days. MFM 6 also produced.

Defending Officer's Closing Address

Sir, I would like to draw attention to the conduct sheet of the accused. It is a lengthy document but there are no serious crimes. He joined in 1939 and was a good soldier for a period. Then he got in trouble and has not been out of trouble for some time. From enquiries, he seems to try to be a good soldier, but he has the faculty of getting into trouble. The point I would like to make is that he is not a suitable chap for a M.G. Bn. He has only a vague idea of orders and responsibility. He is not a good machine gunner. He has done nothing of a serious nature. It is just slackness on his account. If he were transferred to some other branch of the service and given work where smartness and neatness are not important, he would probably do better. If found guilty, a term in gaol will not make him a better soldier. I think that if he is transferred to some other branch of the service, he might become a valuable man to the Canadian Army. If left where he is, he will never be of any great use. He is not responsible, to a great extent, for his actions.

[signature]
President of the Court Martial
June 19th 1941

THE ROYAL MONTREAL REGIMENT (MG)

13

This is to certify that D76143, Pte. Lecours, C. has been in close arrest since 15 May 41 ---- 35 days.

19-6-41

(B.W. Stevens) Capt&Adj
Royal Montreal Regiment (MG)

I, No. D76143 Pte. C Lecours, remanded for F.C.C.M., wish with permission of the convening officer to have Lieut R. Stewart to appear as my defending officer.

Signature...C. Lecours...

(copy). Royal Montreal Regt (R 6) Certified correct

No. D76143 Name Lecours, L | Sqn., Battery, or Company "D" Coy | Corps Mr Stevens Capt. (ME) | Date of enlistment 9-9-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning freedom from date | Sheet No. | Signature O.C. Company, etc. | Character

MONTREAL REGT. ORDERLY ROOM 3RD CAST

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Montreal	4 Mar 40	Pte		Found in Canteen during Parade hours	Sgt R White	admonished			
Aldershot	1/5/40	"		Unshaven on Parade	Lt Trenholme, RC	2 days CB	2/5/40	Maj. D. MacRae	
" "	24/4/40	"		Neglect to Order (AR Sect 40)	Sgt Mc Leod	7 days CB	24/4/40	" "	
Aldershot	18 Mar 40	Pte		Disobeying lawfull command RA 9(a)	D76135 A/Cpl Johnson, E A76063, A/Cpl Sgt Hy, PC	Detention 21 days	21 Mar 40	C.O. Lt Col S.V. Clemow	
	4/5/40	"		Released by a/Cpl					
						RELEASED AID MIL PRISON 18 APR 40			
Aldershot	11/5/40	Pte	WRS	Unshaven & improperly dressed on parade AR Sect 40	A/Sgt Beaudoin, S	7 days CB	14/5/40	Capt D.H. Campbell	
Northampton	3/6/40	"		Failed to appear for PT. (AR Sect 15(a))	Sgt Pistorius, J.	3 days CB.	3/6/40	D. Menzies	
" "	4/6/40	"		Failure to report for defaulters " "	Sgt Sutherland	7 days CB	4/6/40	" "	
Epsom	14/9/40			Neglected to be properly dressed on Parade (AR Sect 40)	A/C.S.M. Murdoch, GE.	2 days CB	14/9/40	" "	

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P.T.O.

16

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sutton	22/9/40	Pte		AWOL 2200 hrs 22/9/40 to 0700 hrs 24/9/40 AA Sect 15(1)	Sgt. Sutherland	14 dys CB Forfeits 2 dys pay	25/9/40	Major D. MacRae	
	28/12/40	"		Failed to opt for guard - log AA Sect 15(2)	Sgt Sandberg	2 dys CB	29/12/40	" "	
	27/12/40	"		Inattentive, during instruction after warning	" Roberts	7 dys. CB	28/12/40	" "	
Sutton	1/Jan/41	"		Neglect (Improperly dressed) AA Sec 40	Cpl Davies M.T.	2 extra guards 2 dys. CB	4/Jan 41	" "	
"	9/Jan/41	"		Conduct etc. Failing to arrange equip. Sect 40	Sgt. Nestuck	2 dys CB	10/Jan 41	" "	
"	21/2/41	"		AWL 10 min late for Sunset duty and had AA Sect 15(2) to be replaced	Cpl. Williams, G.A.T.	5 dys CB	22/2/41	" "	Forfeits 1 day Pay
In the field	16/Apr/41	"		Sect 40 A.A. Neg. etc. Neglected his duty with A/T Rifle	RSM Mitchell Cpl. HECTOR	4 dys F.P. 4 dys loss pay	24/Apr 41	Maj. J.A. Calder M/O.C.	
Sutton	10/5/41	-		Sect 40 AA Conduct etc. Showing insubordination	Cpl Leatherbarrow Cpl Williams, G.A.T.	7 Days CB	14/May 41	Maj. D. MacRae	
Sutton	11/5/41	—	—	" " " " " "	Cpl Williams, G.A.T.	7 dys CB	14/May 41	" "	

(2)

The Accused declines to make a statement.

R C B Secours

Taken down by me at 1430 hrs this 22nd day of May 1941 in the presence of the accused. Rule of Procedure 4 complied with.

D Mackie Major

(Signed) Major D Mackie,
O.C. "D" Coy. R.M.R. (MG)

Summary of evidence in the case of No. D76143 Pte. Lecours C., The Royal Montreal Regt (MG).

1st. Witness No. D76831 Cpl. Williams G.A.T., The Royal Montreal Regt (MG) having been duly sworn, stated;

At 0935 hrs. 14 May 41, while parading with Pte. Lecours, whom I now recognize, from company office I told him to go back to his billets and prepare to go down to the gas chamber and he replied "That will be the fucking day". I returned to company office and laid a charge against him.

At 1855 hrs. 14 May 41 acting on my duties as orderly sergeant, I entered the guard room and ordered the accused Pte. Lecours to go over to the kitchen, under escort, and work under orders of the cook. He refused, stating that he had not been tried and therefore could not be made to work until he had been convicted. I explained to him that he had been tried and punished for two offences that morning, receiving seven days C.B. on each and therefore he was a defaulter and could be ordered to work. When I ordered him again to go over to the kitchen he replied that he might just as well be charged with four crimes as two. On reaching company office I entered another charge against him.

The Accused declined to cross-examine this witness.

G.A.T. Williams 76831

2nd Witness No. D76818 Sgt. Spooner L.W. The Royal Montreal Regt (MG), having been duly sworn, stated;

At 0930 hrs. 14 May 41, I was orderly sergeant when the accused whom I now recognize was up for company office. The charge was read and when the punishment was awarded the accused threw up his head and smiled in a sneering manner. On being told to conduct himself properly by Major MacRae, the accused still continued to sneer.

When the accused was dismissed outside company office, Cpl. Williams told him to report to his platoon and he turned around and replied "That will be the fucking day". Cpl. Williams then warned him that he was on another charge.

The Accused declined to cross-examine the witness.

Sgt. L.W. Spooner.

3rd Witness No. D76230 L/Cpl. Lang L.E. The Royal Montreal Regt (MG) Having been duly sworn, stated;

On 14 May 41 I was guard commander. At 1855 hrs. Cpl. Williams who was acting orderly sergeant came to the guard room and ordered the accused, whom I now recognize, to report to the mess room for some work. He refused to do so and did not go.

The Accused declined to cross-examine this witness.

L Cpl Lang

4th Witness No D76422 Pte. Stackhouse A.R., The Royal Montreal Regt(MG) having been duly sworn, stated;

On the morning the accused whom I now recognize was up for company office, being company clerk, I was in the office and after Major MacRae, had awarded him a punishment I happened to be looking in Pte. Lecours direction and saw him smiling. Just as Sgt. Spooner gave the order for the accused to march out, Major MacRae halted them and told the accused that he was going to be remanded for the O.C. The accused then made some noises with his mouth.

The Accused declined to cross-examine this witness.

Pte A.R. Stackhouse

Sheet 2 to follow

Application for Field General Court-Martial
D76143, Pte. Lecours, Charles, The Royal Montreal Regiment(MG)

LIST OF WITNESSES	PRESENT ADDRESS
PROSECUTION	
D76831, Cpl. Williams, G.A.T. The Royal Montreal Regiment (MG)	With bn in the field
D76518, Sgt. Spooner, L.W. The Royal Montreal Regiment (MG)	" "
D76230, L/Cpl Lang, L.E. The Royal Montreal Regiment (MG)	" " " "
D76422, Pte. Stackhouse, A.R. The Royal Montreal Regiment (MG)	" "

J.Y. Fisher Lt.Col
President of the Court
19/6/41

4G-54.

Gpl. Lecayer. L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D62928 Cpl Louis Lecuyer R de Chaud 6th Fd Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(2) alternative	not guilty	not guilty	
2nd AA 24	not guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for n/a beginning on (date) n/a (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be reduced to the ranks and to undergo detention for one year

(Sgd) — Judge-Advocate, if any. 9 Nov 44 Date awarded. (Sgd) E R Kay President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings of the Court but mitigate the sentence so that it shall read as follows: "To be reduced to the ranks and to undergo detention for ninety (90) days", and I confirm the sentence as so mitigated.

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Date — Commanding G.H.Q. Confirming Officer.

DJAG Canada

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D62928 Cpl Louis Lecuyer	15 Nov 44	A Green Maj.

Major, Registrar, 1 Can. General Hospital, R.C.A.M.C. C.A.(O'S)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 4-54

RECEIVED 8 DEC 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P & S/1698 (4050) 4/388

Convened at Bruxelles by Brigadier G W Beamish Comd 6 I C Corps dated 24 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
D62928	Cpl		Louis	Lecuyer	6 Fd Coy

PROCEEDINGS REVIEWED 9 Dec 44 JC4C W C Inch Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 9 DEC 1944 JAG BRANCH G.H.Q. 2 Echelon Gen Sec G.H.Q. 1 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 9 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13/112.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed. DCL

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) DCL DCL

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1600 hours trial commences. DCL

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ DC

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans ...~~ DCL

~~The Interpreter is sworn.(1)~~ ~~Do you object to ... as shorthand writer? Ans ...~~ DCL
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Pse Non (2) DCL

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: DCL

President	Maj	E R Kay	Can Inf Bde Gp HQ 1 Cdn Army Gp
Member	Maj	M R Long	R C E attd Can Inf Bde Gp HQ 1 Cdn Army Gp
Member	Capt	J A Bellingham	Can Inf Bde Gp HQ 1 Cdn Army Gp
Judge-Advocate			
Prosecutor	Lt Col	J A Thompson	HQ 2 Can Corps
Defending Offr	Capt	W G D Hemmyngford	HQ 2 Can Corps attd 12 Can Fd Amb

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2) DCL

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (no) (~~a~~) plea DCL

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. DCL

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 A 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 37(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No sir.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*). *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~ The Court is closed, and considers the submission.(2) ~~The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(3)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115*.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I will give evidence on oath. Do you intend to call witnesses on your behalf? Ans. Yes sir. Are they witnesses as to character only? Ans. Yes sir.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 90(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 3.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 56(*C*). *Note the further opportunity is given at Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1) ~~On the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor ~~makes no statement~~ produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 160(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. I will say in my defence if you please.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 99, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 58(7), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. *No, sir* .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. *Yes sir I give evidence on oath* Do you intend to call witnesses on your behalf ? Ans. *No sir* . Are they witnesses as to character only ? Ans. *No sir* .
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the *accused* charge(s), being subject to confirmation, will be promulgated later.(1) ~~On the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. *No sir*
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor ~~produces~~ tenders Statement(s) as to Character and Particulars of Service(1), ~~and~~ are not admissible as evidence certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. *B* and Ex. ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. *I as on behalf of my defendant I have*
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to give on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1E), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

T he accused, No. D.62928 Cpl Louis LECUYER, Regiment de Chaudiere, attached No.21 Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 4 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left hand with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field on 4 Jul 44 while with his regiment in the line so negligently handled his rifle as to shoot himself in the left hand thereby rendering himself unfit for service.

In the Field,
14 October, 1944.

(H.M. Cameron) Colonel,
OC No 21 Canadian Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field;
25 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.62928	Cpl		Louis	LECUYER	R de Chaud att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on [illegible] 25 Oct 44 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have [illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee	Gen List- Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy	Alg Regt- att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F.A. Baillargeon	Gen List - att Cdn Sec GHQ 1 Ech 21 A Gp

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

(Signed personally. RP 105 fn 2.) (A W Beament) Brigadier, (Rank.)

Dat 25 Oct 44.

Commanding Cdn Sec GHQ 1 Ech 21 A Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Approved. Blackwell Capt ADJA.

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 86(C)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 118(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 82(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so *far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn* 3, *46 fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly, see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subjects of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, *if any*. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, *if any*, and then pinned by top left *corner* to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of registrial books see AA 162 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p 739.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

MEDICAL CERTIFICATE

I certify that I have this morning examined
Reg.No. D-62928, Cpl. LEGUYER, Louis.,
and he is fit to undergo trial by court-martial.

Date 9 Nov 44.

Medical Officer

D2.

The case for the prosecution will be the statement made by the accused. The witnesses referred to in his statement are reported by his Regiment to have been killed. The Prosecution will accordingly only be able to add the medical evidence.

D3

First witness Prosecution

67050 L/Cpl Wheaton G No 8 Provost Coy Cdn Provost Corps duly sworn states

I recognize the accused. I interviewed him at No 7 Cdn Gen Hosp. I had with me L/Cpl Bentney F of No 2 Provost Coy 2nd Cdn Div. We identified ourselves to the accused and informed him that we were investigating the circumstances surrounding his wound.

Cpl The accused was cautioned as ~~[illegible]~~ ~~[illegible]~~ follows "You do not have to say anything unless you wish to do so but what you do say will be taken down in writing and may be given in evidence" The accused understood the caution. The accused was not under arrest to my knowledge. The interview took place on 4 Aug 44. The statement the accused gave me was taken down in writing and he read it over. The statement is produced to the court and marked Exhibit A. The defence has no objection to the statement. There are no alterations or interlineations in the statement which were not there when it was signed.

No cross examination.

Second witness Prosecution

Captain Kickham K A RCAMC attached No 8 Cdn Gen Hosp.

The accused is a patient under my care

He was admitted to No 8 Cdn Gen Hosp on 3 Nov 44. The accused was suffering from a gun shot wound in left hand which according to his medical records was received on 4 July 44. The present examination discloses a through and through wound with a stiffened index finger. I cannot say now as to the point of entrance or exit. The scar shows the wound to be in the centre of the palm and over the ~~front~~ second metacarpal ~~of~~ on the back of the hand ~~The larger scar is on the~~

It has been recommended that the index finger of the left hand be removed as it is useless. The wound is of such a nature that it could have been caused by a bullet and from a weapon in the accused's own hands. The wound is now completely healed and no further medical care is required unless the finger is amputated. The accused's category is definitely lowered but it has not been decided as to his category.

No cross examination.

Prosecution closed.

35. Defence evidence - see statement attached

Cross examined

I joined the Regt de Chaud on 13 June 44. I received my wound in my first action at Carpiquet. It was not a heavy engagement. There was lots of artillery in front of us. I saw a number of soldiers killed. I was out looking for snipers and was digging in. I cleaned my rifle before going into action. The day before

The last time I fired my rifle was in England when I fired five rounds until I went into action. The rifle was in good condition the safety catch was all right. I knew the rifle was loaded. I was not upset about going into action. I was satisfied with my rifle training. I just went to take my rifle which was standing by a tree. I was in a trench. The butt was on the ground. I brought the rifle toward me and taken I went to take the bayonet off the rifle went off and wounded me in the left hand. The rifle was locked, I can't remember about the safety catch. I knew there was a round in the chamber. By the book I should not have taken the bayonet off until I removed the magazine and proved the rifle but I had done that before. We don't follow the rules under those conditions. My rifle needed cleaning. It was then just enough for me to do that. I would have to remove the bolt to clean it. If I had done that first I would not have been injured. I didn't need my rifle just then for immediate action. We were the first company up there might have been a counter attack at any time. There was shell fire. I had fired my rifle at the enemy.

Witness demonstrates with rifle as to manner in which he was holding rifle when he was wounded.

I don't know what caused the rifle to fire. It should not have gone off unless it was defective and it was in good order. There must have been a pressure on the trigger. I can't explain what. My finger was not on the trigger.

Prosecution address

The accused was a well trained soldier and this was his first action. He was under stress saw people killed and was under strain. It is not reasonable that at that time he was about to clean his rifle. It had been fired but would not need cleaning under such circumstances. As to the alternative charge there are grounds for negligence. He was a well trained soldier and knew the proper steps to take in cleaning his rifle. He should have removed the bolt and admits he did not take the proper procedure. Knowing the rifle was cocked he attempted to remove the bayonet. He gives no explanation as to how the rifle was fired and if it was quiet enough for him to clean his rifle it was quiet enough for him to follow the proper drill. From the accused's demonstration he could not have been accidentally wounded as he alleges. The wound is in the centre of the hand, and the hand must have been over the muzzle, not grasping the bayonet as alleged. In any event there was gross negligence in this case.

Defence address see attached.

[illegible]
[illegible]
Pres.

D-62928 Cpl Louis Lecuyer 35

Regiment de Chaudière att to No 8 Cdn Gen Hosp.

Sworn states: "I was born at Mansonville Inc Sec on the 15th April 1918. I went to fifth grade in school which I left at the age of eleven years. My parents are both dead. They were of French Cdn origin. They died 23 years ago. I have one sister. I am not married. In Civilian life I was a labourer on print. work at the Dominion Textiles Ltd. Magog Inc Sec. I was making $17.60 a week plus overtime. I worked 60 hrs a week at night work.

I enlisted on the 16th July 140 with the Regt du Chateau gay. I trained in Canada and landed in the U.K. on the 2nd Mch 141 as a reinforcement for the F.M.R. I came to France on 9 June 144 as a ~~R.M.~~ reinforcement for the ~~F.M.R.~~ R de Chauds.

~~I came to France on 9 June 1944 as a reinf. for the R. de Chauds.~~ I was wounded on 4 July & I have been in Hospital ever since.

I never wounded myself on purpose. I am right handed (my wound is in the left hand). I want to go back to action. I am ready to go back to the Tech any day now as soon as my hand is better.

I considered myself quite well trained before I came overseas. I had had battle training with the F. M. R's.

I am 5' 4" tall. My category is A. It always has been. I have never suffered from any serious diseases.

Closing address in the case of 36 Erlen

D:162928 Cpl Louis Lecuyer R de Chaud
att 8 Cdn Gen Hosp

The Court has now heard the case for the Prosecution ~~(Crown)~~ and the case for the defence.

I submit to them that there is no evidence, presented by the Prosecution, ~~submitted~~, upon which a conviction could lie on the first charge, or, in the alternative, that even if any evidence has been submitted, there is an inadequate inference from such upon which to find the intent necessary to convict on the first charge. I therefore recommend dismissal — dealing with the second charge, I refer the Court to page 459 of the Manual of Military Law and more particularly

to the amendment to Sec 40 appended thereto. Is the Court satisfied that the circumstances under which this incident took place, as portrayed by the prosecution, could be termed "blameworthy"? For, neglect, as defined therein, must be of this nature. I say they have failed to establish it.

As a result I recommend dismissal on both counts and ask them to release this accused forthwith.

at Antwerp
Belgium this
9th day of Nov
1944.

W. T. Shinkerford
Captain
Defence Counsel

D. 62928 Cpl Louis Lecuyer E 3
R de Chaud
Plea in mitigation

---

4 This lad was a textile worker at Magog, in Que bec, before he came overseas. He has served with the R de Chaud Regt One of Que bec's best — if not the best Regt of Infantry they have, at any rate, prominently so in this Theatre. He served at Carpiquet and no one here will ever forget either the physical damage wrought to the terrain at that time or to the toll it took of strong men's minds. He does not stress this fact in evidence and I think this is to his credit. He finds himself in

an unwholesome predicament - stewing in grease, he sincerely feels, not of his own choice.

He is naturally anxious to acquit his honour and he asks the court to provide him with the means of so doing - by recommending mercy"

W. T. Shinkerford
Capt.
Def. Counsel.

at Antwerp
in Belgium
this 9 Nov 1944

8-135914

No 8 Provost Coy 4 Cdn Armd Div Provost.
Field 4 Aug 44

D62928 Cpl. Lecuyer L.
1st Sect. 16 Platoon "D" Coy.
Regt - De - Chaudier
3 Cdn Inf Div

Self Inflicted Wound.

The above mentioned N.C.O was interviewed by L/Cpl. Britney F and the writer at No 7 Cdn. Gen. Hospital on 4 Aug 44 where he was being treated for a gunshot wound in the left hand. After being cautioned the following Voluntary Statement outlining the circumstances of this incident was obtained from him:

Statement of D62928 Cpl Lecuyer L

I am Louis LECUYER age 26 years. I enlisted 16 July 40 and arrived in France 9 June 44. I first joined the Regt. De Chaud from No 2 C.B.R.G. near ROTS. Our first action was at CARPIQUET where we engaged the enemy. My company took its objective. We moved over on the right flank to give "B" Coy a hand in getting up to theirs. It was here that I saw some boys hit but it was not serious. One German got shot in the head. It did not effect me. I could not see any rockets or mortar bombs. Our Artillery was very good and covering it up. The Airforce helped too. After the attack ~~myself and the other~~ I ~~chap~~ started to dig a trench. It was raining and when I rested I dozed off. It was too dangerous to sleep so I kept on digging. Quiet some time after the Platoon officer called my section out to make a hunt for some snipers

We had gone about a couple of hundred yards when some of our tanks opened fire at the tree tops in cleaning the woods. It was too dangerous for us. They were doing the job any how. We went back to our trench. I finished up my trench, and then I went to take my rifle to clean it. I had stood it up arm length from my trence against a big tree. I grabbed it by the forward swivel and brought it towards me and went to take the bayonet off with my left hand. That's when it went off. Pte Lalonde C. and Pte Thibeault G.A. were near. I dont know what they saw. Thibeault went for the stretcher bearer and he fixed up my hand. I went to the M.O. and he gave me a shot in the arm. He sent me to a British F.D.S. I went to the British 20th hospital where I made the first statement.

The rifle was loaded and cocked for quick action. I dont think I put the safety catch on. I dont know why it went off as it was in good condition.

I did not shoot my self intentionally. I was just so tired that I was working automatically and I will go up there and do my best when ever I am able.

Signed.

Louis Lecuyer Cpl.

Witness.

C.C.Cpl. Brutney S.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of D.62928 Cpl Louis LECUYER, R de Chaud, taken before me this 13th day of October, 1944.

[signature]

Officer taking Summary.

No. D62928 Name LECUYER, L. | Sqn., Battery, or Company | Corps CIC | Date of enlistment 16 Jul 40 G.C. | Badges | Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Field	31-5-42	Pte		AWL from 1600 hrs 31-5-42 to 0630 hrs 1-6-42 Absent 14 hrs 30 mins. AA Sec 15 (1)		Forf 9 dys pay under FRAI 149(2). Forf 1 dys pay under FRAI 149 1 (A). Total forf 10 dys pay.	1-6-42		
Field	6-6-42	Pte		AWL from 2200 hrs 6-6-42 to 2300 hrs 6-6-42. Total absence 1 hr. AA Sec 15(1)		Forf 1 days pay under FRAI 149(2)	10-6-42		

Certified True Copy from MFM 2.

Major,
AAG (Records)
Canadian Section G.H.Q. 2nd Echelon
21 Army Gp.

(P.T.O.)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.62928 Cpl Lecuyer, L., Regiment de Chaudiere, attached No.21 Cdn General Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS — Major M.T. Kobrinsky, No.21 Cdn General Hospital, RCAMC, sworn, states:

I am Major M.T. Kobrinsky, Medical Officer at 21 Cdn General Hospital. Cpl Lecuyer, L., D.62928, has been a patient under my care since 2 Oct 44. Review of his documents reveal that he sustained a through and through gunshot wound of his left hand on 4 Jul 44 which caused a severe fracture of his second metacarpal. On examination there was moderate deformity of his left index finger with considerable loss of function of that finger. Physical examination of the metacarpal gave the impression that the fracture was not uniting properly. He will require further surgical intervention and hospitalization for approximately two months. There may not be any lowering of category. However, it cannot be particularly ascertained at this time. The wound is of a nature which might have been caused by a weapon held in the man's own hands.

The accused declines to cross-examine this witness.

M T Kobrinsky Maj
Witness.

SECOND WITNESS — G.7050 L/Cpl Wheaton, C., Cdn Provost Corps, attached to No.21 Cdn Gen Hospital, sworn, states:

On 4 Aug 44 I interviewed D.62928 Cpl Lecuyer, L., whom I now recognize, at No.7 Cdn General Hospital. L/Cpl Britney was with me. We identified ourselves to the accused. We told him that we were Cdn Provost Corps and that we were investigating the circumstances surrounding his wound. He was then cautioned in this manner, he did not have to say anything unless he wished to do so but whatever he did say would be taken down in writing and may be given in evidence. He appeared to understand the caution. He was not under arrest at the time. He gave us a voluntary statement which I reduced to writing and produce. This is the accused's signature which was signed in my presence. Before it was signed the statement was read over to the accused soldier and he was allowed to read it which he did and then signed it. There were no promises of reward, threats or inducements made.

Q. Is the statement in the same form without any alterations, erasions or interlineations as it was when it was signed?
A. Yes, sir.

The accused declines to cross-examine this witness.

C Wheaton
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

THIRD WITNESS Capt. M.A. Cardinal, Regt de Chaudiere.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'B'.

Officer taking Summary.

I do not require the attendance of Capt. M.A. Cardinal for the purpose of cross-examination.

Louis Lecuyer Lt.
Accused

FOURTH WITNESS Major G. Burton, RCAMC, No.10 Cdn General Hospital.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and a certified true copy is attached hereto as Exhibit 'C'.

Officer taking Summary.

I do not require the attendance of Major G. Burton for the purpose of cross-examination.

Louis Lecuyer.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"There is nothing I wish to say".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
13 Oct 44.

Officer detailed to take Summary of Evidence.

C.M.H.Q. 1000-14
40T & 8500

CANADIAN PROVOST CORPS

FILE REFERENCE

COMPANY. No.1 S.I.S. FORMATION. 1 Cdn. Army CORPS.

LOCATION. Field DATE. 4 Aug. 44

SUBJECT:

D-62928 Cpl. LECOYER L.,
Regt. De Chaud., 3 Cdn. Div.

SUSPECTED SELF INFLICTED WOUND

File Numbers

Previous Report
First

Diary Date

1. The a/m N.C.O. was interviewed by L/Cpl BRITNEY F. and the writer at No.7 Cdn. General Hospital on 4 Aug. 44, where he was being treated for a gunshot wound in the left hand. After being cautioned the following voluntary statement outlining the circumstances of this incident was obtained from him.

BEGINS: "I am Louis LECUYER age 26 years. I enlisted on 16 July 40 and arrived in France on 9 June 44. I first joined the Regt. de Chaud. from No.2 C.B.R.D. near ROTS. Our first action was at CARPIQUET where we engaged the enemy. My company took its objective. We moved over on the right flank to give B Coy a hand in getting up to theirs. It was here I saw some boys hit but not serious. One German got shot in the head. It did not effect me. I could not see any rockets or mortar bombs. Our Artillery was very good and covering it up. The Air Force helped too. After the attck I started to dig a trench. It was raining and when I rested I dozed off. It was too dangerous to sleep so I kept on digging. Quite some time after the Platoon officer called my section out to make a hunt for some snipers. We had gone about a couple of hundred yards when some of our tanks opened fire at the tree tops in cleaning the woods. It was too dangerous for us. They were doing the job anyhow. We went back to out trench. I finished up my trench and then I went to take my rifle to clean it. I had stood it up arm length from my trench against a big tree. I grabbed it by the forward swivel and brought it towards me and went to take the bayonet off with my left hand. That's when it went off. Pte. LALONDE C. and Pte. THIBEAULT G.A. were near. I don't know what they saw. THIBEAULT went for the stretcher bearers and he fixed up my hand. I went to the M.O. and he gave me a shot in the arm. He sent me to a British F.D.S. I went to the British 20th Hospital where I made the first statement.

The rifle was loaded and cocked for quick action. I don't think I put the safety catch on. I don't know why it went off as it was in good condition. I did not shoot myself intentionally. I was just so tired that I was working automatically and I will go up there and do my best whenever I am able."

Witness: L/Cpl BRITNEY F.
2 Cdn. Pro. Coy.

Sgd: LOUIS LECUYERS

.....L/Cpl
(G-7060 G. WHEATON)
3 Cdn Provost Coy

Chaud
61

Marinenachrichtendienst

Weiter an	Tag	Uhrzeit	durch	Aufnehmer

Verzögerungsverm.

Kontrolle

I am Capt M.A Cardinal - R de Chaud
On the 13th of Jun (Approximately) I was
2½ D Coy R de Chaud when D-62926
Cpl L. Lecuyer came up to join us as
reinforcement. As it was felt at the time
that he did not have enough battle experience
to be a section leader he was made 2½
of a section. To my knowledge, he always
did his job ~~satis~~ factorily until the 4th of July
when the Bn put on the attack on Campiquet
village. For Cpl Lecuyer it was really his
first experience of battle. On the afternoon of
the 4th of Jul at about 1400 hrs while we
were digging in ~~Cpl Lec~~ somebody came to
me at the Coy HQ and reported that Cpl Lecuyer
had been wounded through the hand by a
bullet emanating from his own rifle. I
immediately sent a Stretcher Bearer to give
First Aid and the wounded (Lecuyer) was
evacuated the same day

M A Cardinal Capt
R de Chaud

This is Exhibit 'B' referred to in the Summary of Evidence in the case of D-62928 Cpl Lecuyer, L., taken before me this 13th day of October, 1944.

[illegible]
Officer taking Summary.

STATEMENT OF CAPT. M.A. CARDINAL - R DE CHAUD

I am Capt M.A. Cardinal, R de Chaud. On the 13th of Jun (approximately) I was 2 i/c D Coy, R de Chaud, when D-62926 Cpl L. Lecuyer came up to join us as reinforcement. As it was felt at the time that he did not have enough battle experience to be a section leader he was made 2 i/c of a section. To my knowledge, he always did his job satisfactorily until the 4th July when the bn put on the attack on Carpiquet village. For Cpl Lecuyer it was really his first experience of battle. On the afternoon of the 4th of Jul at about 1400 hrs while we were digging in somebody came to me at the coy HQ and reported that Cpl Lecuyer had been wounded through the hand by a bullet emanating from his own rifle. I immediately sent a stretcher bearer to give First Aid and the wounded (Lecuyer) was evacuated the same day.

(sgd) M.A. Cardinal, Capt.
R de Chaud.

This is Exhibit 'B' referred to in the Summary of Evidence in the case of D-62928 Cpl Lecuyer, L., taken before me this 13th day of October, 1944.

Officer taking Summary.

HOSPITAL OR SICK LIST RECORD

Regt No..D-62928 Surname...LECUYER, Louis

Rank..Cpl Unit...Regt de Chaud Age....26

Hospital...No.7 Cdn General Hospital.

July 28/44

Fr. Cdn. NCO with 4 yrs service in the army (2 yrs NCO). No evidence of neurotism in history. Grade 5 age 11. Orphaned early age reared by grandparents. Steady occupational record. Good army record. Sent to Canada for 9 months as Sgt instructor, 1943. Returned to UK Apr 44. Man gives a stable history during servine since D plus 3. Evidence as obtained suggests accidental G.S.W. left hand. No evidence of any psychiatric disability.

Impression:- N.A.D.(N.P.) (sgd) G. Burton, Maj. RCAMC

This is a certified true copy of Exhibit 'C' referred to in the Summary of Evidence in the case of D-62928 Cpl Lecuyer, L., taken before me this 13th day of October, 1944.

Officer taking Summary.

I...D.62928.Cpl.Lemmer,L.L.....desire to have an officer assigned to represent me at my trial by court martial. I desire the services of...Capt.W.G.D.Hungerford.....if he is available.

15 Oct 44.

Louis Lemmer
(Signature of Accused)

4K 26.
Plé. Leemyer. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A/108939 Pte Royal LECUYER HLI of C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 723, and in lieu of kit see RP 44 (n 5).)

~~In custody under sentence for~~ beginning on (date) (Sd)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 45 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer Field Punishment for Ninety days and to Forfeit all Ordinary Pay for a period of Seventy Six days

(Sgd) Judge-Advocate, if any. Date awarded. 6 Dec 44 (Sgd) Dr Pugh Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.) 1C Scot R

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 34, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) J M Rockingham

Date 12 Dec 44 Commanding (J M Rockingham) Brig 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
2 108939 Pte Royal Lecuyer	13 Dec 44	Captain The Highland Light Infantry of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 JAN 1945 CASUALTY

RECORDED AT CMHQ IN AB 160 4K-26

CPA96 (In lieu of AFA8) 40/P & S/1698 (4910) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of 9 Cdn Inf Bde dated 4 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) ~~Apprnt~~ A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
A/108939	Pte	Royal	LECUYER	HLI of C

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 6 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 14.20 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter?~~ Ans ~~The interpreter is sworn.(1) Do you object to as shorthand writer?~~ Ans ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	DV PUGH	1C Scot R
Member	CAPTAIN	AH PARKER	3 ATk Regt RCA
Member	CAPTAIN	HGW BEAN	QOR of C
Judge-Advocate			
Prosecutor	CAPTAIN	WAE ROBERTSON	HLI of C
Defending Offr	CAPTAIN	BE BRYANT	HLI of C

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused before arraignment make(s) (no) ~~a~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N/C (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers~~ the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change ~~his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~changed his~~ (their) plea(s) on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded ~~GUILTY~~ are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (E), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 333. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 892. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(b).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 2. RP 46, KR Con 538. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes by my defending Offr Ex D (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(a), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. When several accused tried separately see RP 7 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 98, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Dus

CHARGE SHEET

The accused No. A.108939 Private LECUYER, Royal, "B" Company, The Highland Light Infantry of Canada, a soldier of the Canadian Army Overseas, is charged with:-

SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 2200 hrs 4 Oct 44 until 0800 hrs 26 Oct 44. (Absent 21 days 10 hours).

P W Strickland Lt Col

In the Field

(P.W. Strickland) Lt.-Col.,
C.O. The H.L.I. of Canada

To be tried by Field General Court-Martial

J M Rockingham

In the Field
4 Dec 44

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

6 Dec. 44

I have this day examined. —

A108939 Pte. Lecuyer R. and find him FIT for Court-martial.

P.P. Dieter Capt.
R.M.O.
H.L.I. of C.

Accd

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A108939	Pte	----------	ROYAL	LECUYER	HLI of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused ~~were~~ was being subject to military law, has ~~(have)~~ committed the offence~~s~~ set forth in the Charge Sheet ~~sheets~~ attached and on (*date*) 4 Dec 44 endorsed by me, ~~[illegible]~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~ and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D V PUGH	1 C Scot R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H.G.W. BEAN To be detailed by 9 Cdn Inf Bde	O O R 7 C
Capt	A.H. PARKER To be detailed by RCA	3. A. Tk. Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	S R Robertson	HQ 9 C I B

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 4 Dec 44

John Rockingham (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 9 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 739.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

SUMMARY OF EVIDENCE in the case of

Dist. Ex. A

No. A.108939 Private LECUYER, Royal, "B" Company, The Highland Light Infantry of Canada, charged with:-

Sec 15 (1) Army Act

When on Active Service, absenting himself without leave, in that he, in the field, absented himself without leave from 2200 hrs 4 Oct 44 until 0800 hrs 26 Oct 44. (Absent 21 days 10 hours).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

A.37513 CSM. Wilson, W.J., "B" Company, The Highland Light Infantry of Canada, sworn states:-

"On 4 Oct 44, at 2200 hrs I checked 10 platoon of which I was platoon Sergeant at that time and found that A.108939 Pte. Lecuyer, R. was not present. I checked the area and he could not be found. At roll call the following morning A.108939 Pte. Lecuyer, R. was still absent. At 0800 hrs 26 Oct 44 A.108939 Pte. Lecuyer, R. 10 platoon "B" Company, The Highland Light Infantry of Canada, reported in to me. At this time I was Company Sergeant Major."

The accused declines to cross-examine this witness.

W J Wilson CSM
.....
The Highland Light Infantry of Canada

The accused was cautioned as follows:-

(Q) Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

(A) No, sir.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence of the accused and that RP 4 (c), (d), (e) and (f) have been complied with.

W A E Roelofson Capt
.....
The Highland Light Infantry of Canada

Dist. E. C.

M.F.M. 6
(F. B.122)
40 [illegible]/8136 (2965)

No. A108939 Name Lecuyer, Royal Sqn., Battery, or Company Corps C.I.C. Date of enlistment 6-8-43 C.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. one Signature O.C. Company, etc. (D.M. Ross) Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				First sheet destroyed 24 Mar 44					
Camp Ipperwash	4-1-44	pte		AWL from 1200 hrs 4 Jan 44 until apprehended at Sturgeon Falls at 2030 hrs 24 Jan 44 (20 days 10 hrs, 30 mins) AA SEC 15 (1)	Cpl Winter Documentary	14 days detn	28 Jan 44	Lt-col. A. Garrod	Forf 21 days pay by FR&I 149 (1) (a) Costs $25.75
Ipperwash				Blodd donor (1st) 2 Dec 43)	Cpl Smithers Documentary	7 days C.B.	8 Apr 44	J.L. Baechler Lieut	
Ipperwash	5 Apr 44	Pte		AWL from 2200 hrs 5 Apr 44 until 1815 hrs 7 Apr 44 (abs 1 day 20 hrs 15 mins) AA SEC 15 (1)					

CERTIFIED TRUE COPY FROM THE RECORDS IN MY POSSESSION

[illegible] Capt (P.T.O.)

Ex B

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A.108939	Private	LECUYER, Royal	THE H.L.I. OF CANADA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	Two times	Two times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~[illegible]~~

or

~~[illegible]~~

2. The accused has not been previously convicted, or

~~[illegible]~~

3. The accused is not under sentence at the present time, or ~~[illegible]~~

~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, ~~for~~ ~~[illegible]~~ ~~days~~ ~~in civil custody, and~~ 14 days in military custody, making a total of 14 days, ~~of which~~ no. ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 years 3 months

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 6 Aug 43

~~[illegible]~~

~~[illegible]~~

9. ~~[illegible]~~

10. The accused is in possession of, or entitled to, ~~a~~ military decoration or military award ~~[illegible]~~ CVSM and clasp

11. ~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

(*[illegible]) Wt. [illegible] 12/40 A.A. E.W. Ltd. Gp.[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A.108939 Rank Private Name LECUYER, R. of HLI of C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of November 44

[illegible] Capt

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Ans
Ex D

Mr. President & Members of the Court.

The accused A108939 Pte Lecuyer R. has been with the unit since the 9th of July 44. He joined the unit just after the battle of Buron and was in action with the regiment through all the battles up to and including Cape Gris Nez.

Through all these battles he has served to the best of his ability. Although not outstanding he took part and exerted his powers to the best of his ability.

At the time he absented himself without leave the regiment was at "Deseldonk". He did not intend to stay away but on returning to his company areas he found that the regiment had moved on and that he was absent without leave. The accused states that he immediately proceeded to rejoin the regiment but encountered some difficulty in doing so. But of his own accord he finally succeeded in joining the unit which at that time were in action on the Scheldt. Although the accused was absent for the first action on the Scheldt he did succeed in rejoining the regiment before the Scheldt operation was completed as a result he was in action on the Scheldt even though he was absent without leave when the operation started. If the accused had not tried to rejoin his unit of his own accord he would not have seen action on the Scheldt operation.

Therefore from the above you will understand that this case was not wilful and premeditated and merits consideration.

R. L. Bryant Capt.
Defending Officer.

APPLICATION FOR DEFENDING OFFICER

Precedent:

To Officer Commanding,
The Highland Light Infantry of Canada

With reference to my pending trial by Field General Court Martial.

(a) I desire that an Officer be assigned to act as Defending Officer,, Capt. B.E. Bryant, if available.

Brent Bryant

.....
The Highland Light Infantry of Canada

TTT-56

Pte Ledger, D.E.

RECEIVED 7 AUG 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 TTF-56

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P.S.B.1608 (2864)

Convened by Order of Brig. T.G. Gibson Comd 2CIB dated 20 June 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 46, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/capt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
K-49873				

K-[illegible] PROCEEDINGS REVIEWED BY [illegible] 8 JUL 1944 Judge Advocate General

Held in the Fd in (country) Italy on (date(s)) 26 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1180 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to the interpreter I am~~ [illegible]

The Interpreter is sworn.(1) ~~Do you object to the shorthand writer I am~~ ~~The shorthand writer is sworn.~~ [illegible]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Geo Buchanan	Supreme H.Q.
Member	Capt.	J.R. Washburn	R. Can R.
Member	Lieut	F.J. Saudrain	R. Can R.
Judge-Advocate			
Prosecutor	Lieut.	Eugene Chantler	P.P.C.L.I.
Defending Offr	Lieut.	J.A. Keenagen	P.P.C.L.I.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment makes(s) ~~are~~ (a) plea ~~pleas~~ of G. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AWL Sec 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for incapacities see RA 56, RP 44; findings on alternative charges see MML p 482 fn 4 para 2, RP 44; special findings see RP 44 and MML p 732, and in lieu of Kn see RP 44 fn 6.)

Kn present under sentence for ~~beginning~~ on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8.255 or AF 8.296.)

Time in confinement awaiting present trial—a total of 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF 8.255 or AF 8.296 submitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 90 days in addition to ~~the~~ period spent in custody awaiting trial.

(Sgd) [illegible] 26 JUN 1944 Sgd [illegible] Lieut-Colonel/Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51–56, 120, MML pp 739–751, KR Con 567–577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back Finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 122, MML p 63. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

I vary the sentence so that it shall be as follows, "to suffer said punishment for 90 days and to forfeit all ordinary pay for a period of 90 days and confirm the finding and sentence as varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Lt. Col.

Date 2 July 44 Commanding A/Comd 2 Cdn Inf Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 573, 577.)

Accused K-49873 Pte LEDGER L.E. Date 4 Jul 44 Signature of Offr

[illegible] Lt. Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*E*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*E*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N/c (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his ~~their~~ plea(s) of Guilty to Not Guilty on ~~the~~ charge(s). ~~The accused is (are) so informed and he (they) change(s) his (their) plea(s) to~~ ~~Not Guilty.~~ ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~are~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the *ground* that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes witnesses, statement, evidence and any summing up by the JA under RP* 42, 103(*a*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part II of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N/c
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy(ies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(1. *MFB 355 or AFB 2670.* 2. *MFW 6.* 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES Plea of mitigation (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* "*RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*a*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 358, 330, 363-366, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 44(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 98(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K69873 Private David Ernest LEDGER, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF, is charged with:-

1ST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1600 hrs 19 May 44 until surrendering himself to the Military Police in NAPLES at 1545 hrs 23 May 44, (absent 3 days 23 hrs 45 mins).

C.B. Ware

(C.B. WARE) Lt Col
CO, PPCLI

In the Field
13 Jun 44

To be tried by Field General Court Martial

Date:

20 Jun 44

T.G. Gibson

(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2998)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K69873	Private	David Ernest	LEDGER	P.P.C.L.I.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 June 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~xxxx

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No K69873

Pte LEDGER, D.E. of PPCLI an in my opinion

he is fit/~~unfit~~ to undergo trial by Court Martial.

Station In the Field

Date 26 Jun 44

Medical Officer

for C.

"Summary of Evidence in the Case of
K 69873 Private Ledger D. E., P. P. C. L. I.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution — H 17591 T/Sgt Frances, H. R. D. Coy. P. P. C. L. I., having been duly sworn states:-

I am H 17591 T/Sgt Frances H. R. D. Coy P. P. C. L. I. At 1600 hrs 19 May 44 I went around to check the platoon and see that every man was ready to move. As we were on one hours notice and I found Private Ledger D. E. absent I reported the fact to the C. S. M. immediately. On this checking tour I was warning the men that they were on one hours notice to move. I am well acquainted with K 69873 Private Ledger D. E. whom I recognize here as the accused and who has been a member of my platoon for the past eight months. Private Ledger D. E. was sent down the line after the Moro River crossing suffering from shell shock, and on his return to the battalion four weeks later suffered for some time from bad nerves.

The accused declines to cross-examine this witness. (R. P. & D).

T/Sgt Frances H.R.

Ex 3 work

Plea for Mitigation of sentence in the case of K69873 Pte Ledger D.E. P.P.C.L.I.

The accused realizes his mistake and is willing to take his punishment. Certain factors in this man's case should be considered.

Firstly. This soldier has been a good soldier during his time with the Bn. His M.F.M.G. is proof of this.

Secondly. The accused had gone down the line with nervous exhaustion once during the crossing of the Moro River. This man has had a bad case of nerves since that time. This is shown in the Summary of evidence i.e. L/Sgt Francis' evidence.

Thirdly. He surrendered voluntarily and is sorry.

Fourthly. The time this man spent in close arrest should be considered

No character witnesses are available as most of the officers & N.C.O.s

Second Witness for the Prosecution — P22339 Sgt McDonald H.E. having been duly sworn, states:-

I am P22339 Sgt McDonald H.E. Orderly Room Sergeant, P.P.C.L.I. I herewith produce a certificate of surrender referring to K69873 Private Ledger D.E.
(The certificate having been read to the accused is attached as Exhibit "A".)

H.E. McDonald

Third Witness for the Prosecution — H5427554 L/Cpl Coppin W., 111 Provost Company, C.M. Police:-

I certify that in my opinion the attendance of this witness is, owing to exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached as Exhibit "B".

J.W. Bird Lt.

I do not require the attendance of this witness for the purpose of cross-examination.

D.C. Judge

Summary of Evidence in the Case of K69873 Private LEDGER, D.E., PPCLI

The Commanding Officer directs that the evidence be taken on oath.

First WITNESS for the PROSECUTION

H17591 L/Sgt Frances, H.R., "D" Coy, PPCLI, having been duly sworn states:-

"I am H17591 L/Sgt Frances H.R., "D" Coy, PPCLI, At 1600 hrs 19 May 44 I went around to check the platoon and see that every man was ready to move. As we were on one hour's notice and I found Private Ledger D.E. absent, I reported the fact to the CSM immediately. On this checking tour I was warning the men that they were on one hour's notice to move. I am well acquainted with K69873 Private Ledger D.E., whom I recognize here as the accused and who has been a member of my platoon for the past eight months. Private Ledger D.E. was sent down the line after the Moro River crossing, suffering from shell shock, and on his return to the Battalion four weeks later suffered for some time from bad nerves."

The accused declines to cross-examine this witness. (RP 4(D)).

(Signed)(H.R. Frances)L/Sgt

Second WITNESS for the PROSECUTION

P22339 Sgt McDonald H.E., having been duly sworn states:-

"I am P22339 Sgt McDonald H.E., Orderly Room Sergeant, PPCLI. I herewith produce a certificate of surrender referring to K69873 Private Ledger D.E. (The certificate having been read to the accused is attached as Exhibit "A".)

(Signed)H.E. McDonald)Sgt

Third WITNESS for the PROSECUTION

4542759 L/Cpl Coppin W., 111 Provost Company, CM Police:-

I certify that in my opinion the attendance of this witness is, owing to exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached as Exhibit "B".

(Signed)(J.M. Bird)Lieut

I do not require the attendance of this witness for the purpose of cross-examination.

(Signed)(D.E. Ledger)
Signature of Accused

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence. (RP 4(E))."

The accused declines to make any statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E) & (F) have been complied with.

(Signed)(J.M. Bird)Lieut
Officer Taking Summary

In the Field
12 Jun 44

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

I, Captain H.E. HOBBS Commanding 111 PROVOST COMPANY. C. M. POLICE.

certify that No K.69873 Rank PTE. Name LEDGER D.E.

of the PRINCESS PATRICIA'S CANADIAN surrendered himself to

No 542759 Rank L/CPL. Name COPPIN W.

of the 111 PROVOST COMPANY, C.M.POLICE at NAPLES

at hrs., 1545 on the 23rd day of MAY 1944.

as a deserter (or absentee without leave).

Date 23rd MAY 1944.

K. Hobbs Capt.

O. C. 111 Provost Coy C. M. P.
Commanding Officer of the person or portion of His Majesty's Forces to whom the Surrender was made

1400 hrs 23/5/44

Exhibit B.
This is exhibit B in the case of K69873 Pte Ledger D.E. taken by me as evidence on 10 June 44.
J. McBird Lieut.

Exhibit A.
This exhibit A in the case of K69873 Pte. Ledger D.E. taken by me as evidence on 10 June 44
J. McBird Lieut

CHARGE

1180/B

Army Form B 252
(See King's Regulations)

PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY Regiment

"D" ~~Battery~~ ~~Squadron~~ ~~Troop or~~ Company

CHARGE against No. K67873 Rank PRIVATE.

Name LEDGER, D. E.

Place Date of Offence

OFFENCE W.O.A.S. ABSENT FROM ? UNTIL SURRENDERING TO THE MILITARY POLICE AT THE INFORMATION BUREAU, NAPLES AT ABOUT 1545 HOURS ON THE 23rd MAY 1944.

Names of Witnesses:

4542457, L/CPL. W. COPPIN, III, PROVOST COMPANY, C.M. POLICE.

3466965 CPL J. KELSBY III PROVOST COMPANY, C.M. POLICE

N.P.O. 1/c GUARDROOM BODY RECEIPT ATTACHED.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.S.S. 172-250,000-11/43

P.T.O.

562/5/44

Statement of EVIDENCE in the case of:-

K 69873, PRIVATE, LEDGER, D. E.
"D" COMPANY.

PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY,
2. BRIGADE.
1st CANADIAN DIVISION.

Sir:

At NAPLES, on the 23rd MAY 1944, at about 1545 hrs. I was on duty at THE MILITARY POLICE INFORMATION BUREAU. Where I saw the above named soldier, who approached me and stated, "I am absent, and want to give myself up."

I arrested him and obtained his particulars for report, verifying same from his MILITIA BOOK, M.1. He was then conducted to THE MILITARY POLICE GUARDROOM to be detained.

NAPLES.
23rd MAY. 1944.

H. Coffin, Lpd. 111, PROVOST COMPANY.
C. M. POLICE.

REMARKS

Sr. F. [illegible]

Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
~~K69873~~	~~Private~~	~~LEDGER, D.E.~~	~~PPCLI~~

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

Within last 12 months.	Since Enlistment.
For NIL	Times NIL ~~[illegible]~~
For	Times
For	Times
For	Times
For	Times

~~Number of instances of gallantry or distinguished conduct~~ 1B00

2. The accused has not been previously convicted,

Previous convictions of the accused by a court martial or civil court summary awards under section 47 of the Army Act and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or the accused at the present time is under sentence~~

~~begining on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges for Nil days, in civil custody, and 34 days in military custody, making a total of 34 days of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 20 years 248 days

6. The date of his ~~attestation~~ record of service specified in his ~~attestation paper~~ is 11 Nov 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 Year 218 days.

~~The accused is entitled to [illegible] in respect of [illegible]~~

~~The accused is entitled to [illegible] service for [illegible]~~

~~[illegible] entitled to no military decorations [illegible]~~

~~[illegible] The accused is in possession of Cdn Vol Service Medal [illegible] & Clasp~~

~~[illegible]~~

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

No. K69873 Rank Private Name LEDGER D.E. of PPCLI Regiment(or as the case may be).

(INSTRUCTION - A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted).

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
	N I L			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~18th~~ 26th day of June 1944

(C.B. Ware) Lt Col
CO, PPCLI

In the rank of years
In the rank of years
In the rank of years

(INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental book the paragraph must be struck through except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly).

No. K69873 Name LEDGER, D.E. Sqn., Battery, or Company "D" Corps CIC Date of enlistment 11 Nov 42 Badges Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P & /8196 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. (Sgd) P.D. Crofton Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Dispensing with trial)	By whom awarded	Remarks

OLD SHEET DESTROYED ON COMPLETION OF SIX MONTHS SERVICE WITHOUT A REGT'L ENTRY - 11 May 43

Certified to be a true copy from the Regt'l books in my custody

(D.H. Rosser) Major
A/CO, PPCLI

(PTO)

4E 123

PTE LEDGER DE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K69873 Pte DAVID ERNEST LEDGER

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12 (1) (a) AA	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under ~~sentence~~ for ~~beginning on~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Two Years (1) Imprisonment with Hard Labour

(Sgd) ..... 21 Nov 44 (Sgd) Shyach Lynch

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court

~~I direct that the accused be not committed to prison or detention~~ barracks until further orders.(1) H.H.B.

(1. AA 57A. Delete if not used.)

Date 28 Nov 44 (Sgd) H. F. Bogert Lt-Col

Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K69873 Pte LEDGER, D.E.	29 Nov 44	COND, PPCLI

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 27 DEC [illegible] JAG BRANCH

RECORDED AT CMHQ IN AD 100 41-123

CFA96 (In lieu of AFA3) 40/P As S. 1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Lt-Col M.F. Bogert A/ Comd 2 Cdn Inf Bde dated 18 Nov 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-69873	Private	David Ernest	LEDGER	PPCLI

PROCEEDINGS REVIEWED 28 Dec 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 21 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-107

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~ brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if none applicable.)

A5. ~~President to accused: Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to the shorthand writer is sworn.(1)~~ ~~a shorthand writer? Ans~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	S. LYNCH MC.	SEAF of C.
Member	CAPT.	J.J. MACKIE	LER.
Member	LT.	T.A.S. KING	SEAF of C.
Judge-Advocate			
Prosecutor	LT.	J.A. SHIRKIE	PPCLI.
Defending Offr	LT	E.A. SHONE	PPCLI

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused K69873 Pte DAVID ERNEST LEDGER before arraignment makes(s) (no) (~~no~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

F84 AA/135

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See paru C3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof at a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The ~~Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Make a statement from Dock. Do you intend to call witnesses on your behalf ? Ans One. Are they witnesses as to character only ? Ans Yes.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and states~~ to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~(1)

Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No, there any defending Officer (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K69873 Pte David Ernest LEDGER, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF, is charged with:-

1st Charge
Sec 12(1)(a) AA

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, In Italy, on 16 Sep 44, after having been warned to proceed for service in a battle area, with intent to avoid so proceeding, absented himself without leave from 1500 hrs 16 Sep 44 until apprehended by Military Police in Rome at 1130 hrs 6 Nov 44 (Absent 50 days 20 hrs 30 mins)

R.P. Clark

(R.P. Clark) Lt Col
CO, PPCLI

In the Field
16 Nov 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(R.P. Bogert) Lt-col
A/Comd 2 Cdn Inf Bde

In the field
18 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-69873	Private		David Earnest (N/K.)	LEDGER	PPCLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 16 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~[and that it is not practicable for a Court to be assembled for the purpose within a reasonable time]~~ N/K.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[I am unable to appoint as the Court, as a Fd Offr as President, for the reasons I have stated.]~~ N/K.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[I have appointed as Judge Advocate.]~~ N/K.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	S. Lynch MC (Must be named. RP 106.)	Seaf of C (Unit.)

MEMBERS.

Capt	J.J. Mackie	L E R
Lt (Rank.)	T.A.S. King (Named or detailed. RP 106.)	Seaf of C (Unit.)

WAITING MEMBER.

Lt (Rank.)	K.J. Rootes (Named or detailed, if any. RP 106.)	L E R (Unit.)

~~JUDGE ADVOCATE~~ N/K.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.) Lt-col (Rank.)

(M.P. Bogert)
Commanding 2 Canadian Infantry Brigade
Convening Officer.

Date 18 Nov 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAG (In lieu of AFA2) 60-P & S/1887 (4603)

(See overleaf for paths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No K69873

Pte LEDGER D.E. of PPCLI and in my opinion

he is fit/~~unfit~~ to undergo trial by Court-Martial.

Station In the Field

Date 21 nov 44

S. Wardell Capt
(Medical Officer)

A- ①

First Witness - Prosecution -
Having been duly sworn states -
I am - P-21300 - Pte. Sugden J.A. 17 pln. D Coy
P.P.C.L.I.

On 16 Sept 44 at approx. 1430 hrs. after ~~having~~ heavy shelling Cpl. Ross who was acting Pln. Sgt. asked me to accompany him on a grand of inspection of 17 pln. position, which we did & we looked in all the slit trenches but could not find Pte. Sedgu. Sir.

Prosecution

I now recognize the accused as Pte. Sedgu. I was present on the parade when the accused was warned for action. There was a parade to warn the pln. of the coming action. There are no NCOs of the Pln. with Coy. now, they are either in hospital or holding units of some description but I don't know just exactly where they are. The next time I saw Pte. Sedgu was on Coy Cmdr. Orders 16 Nov.

Defense

There were different slit trenches in the area we were holding, we looked in them all thoroughly & could not find Sedgu. We walked. We were not in actual contact with the enemy, just shelling, we stayed in this area 2 days & 2 nights, we went into the attack morning of 18 Nov. We were told on a parade in Cattolica that we were going into the attack. The whole Pln. was present when our Sgt. warned us. The last time I saw Sedgu was during the warning parade in Cattolica.

Defense

RP 83(B) complied with

(5)

St

2nd Witness Prosecution.

Having been duly sworn states -

I am D-141397- Pte Adelman W., 17 pln. D Coy. P.P.C.L.I.

I was present at the time we were given notice that we were moving into the line & know that the accused was their Prosecution.

I recognize Pte Sedger now.

Defense.

The whole pln was present, I noted Sedger a couple of men from me when the Sgt was briefing us.

I was hit on the 18 & it was just a day or so before that that we had a pln Parade in Cattolica & were warned for the action. It was at this Parade that Pte Sedger was present, this was 14th Sept.

R.P. 83(b) complied with

(3)

Prosecution -

3rd Witness - Having been duly sworn states - I am M-10813 Wgt. Wm. R.B. D Coy. P.P.C.L.I. - Coy. Clerk.

On the evening of 18 Sept. I had occasion to go over to the Coy & Cpl. Brewer (acting Q.S.M.) asked me if had heard anything or seen anything of Pte. Sedger. I told him that I had not & he informed me that Pte. Sedger had not been with the Coy for approx. a day & a half. I then marked Pte. Sedger absent on my nominal roll.

Prosecution

I now recognize Pte. Sedger. The next time I saw him was on Coy. Cmdrs. Orders. 14 Nov 44.

R.P. 83(b) complied with

Sb

Having been duly sworn states:-

I am Sect. J.A. Shirki, P.P.C.L.I.

I hereby present the certificate of apprehension for evidence.

Accepted & labelled exhibit "A"

RP 83(b) complied with.

(5) Jan

Statement by Pte. Sedges.
Not on Oath.

I am K 69873 - Pte. Sedges D, 17 pln. D. Coy. P.P.C.L.I. - We advanced from Cattolica approx. 15 Sept. marched approx. a day & came under heavy shelling, the Pln. Cmdr. told us to take cover, which I did in a near by shell hole. There were also 3 SASK. L.I. in the hole. I stayed thus that night & the next morning at approx. 1000 hrs. the SASK. L.I. said that they were going to a house about 100 yds. back, I went with them & had a cup of tea & had intentions returning to my Pln. area which was being shelled at the time, I became frightened & went back. I was lost in the hills for approx. 50 days, until I came to a highway, where I thumbed a ride on a truck which took me to Rome. I was picked up thus as soon as I got in.

R.P. 83(b) complied with.

1st Witness Defense. 81. (6) [illegible]

Having been duly sworn states.

Jam K-69872 Cpl. Hanbury T., D Coy. P.P.C.L.I.

Pte. Sedgu came to me in Ortona after having been down the line for awhile, when he came up & got under shell-fire appeared quite nervous & shaky, the same went for the next two actions that we were in Defense.

He was a good man except when under shell fire.

R.P. 83 (b) complied with.

Prosecution's Closing Address. (7)

I contend that the charge is proven as there has been no contradictory evidence raised by the Defence. ~~I [illegible]~~

In the statement made by the accused, the fact that he was with two men gives rise to the question of why he did not produce them as witness to his intention to return. It is well known that all people being detained are given ample opportunity of calling all witnesses who have any bearing on the case. These witnesses are/were not called why?

In his statement he was wandering about the hills for fifty days seems rather incredible in view of the fact that the sound of the guns would be a good guide, and when one finds a gun crew, you find the location of your regiment. In the face of this, the statement seems incredible.

I submit the charge is proven, & invite the courts inspection of the written evidence.

The Prosecution rests.

J.

RP 83(6) complied with

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

(8)

Closing address for Defence 19th

In the case of K 69873 Pte David Ernest Ledger, P.P.C.L.I.

In the evidence given by the prosecution there was no evidence to show that Pte Ledger was dully warned by his Pl Comdr. The first witness assumed Pte Ledger was present because his pl. Sgt gave them the orders but he did not see the accused on parade. The second witness definitely remembers where Pte Ledger was sitting, two men away from him but he can't remember approx. within days of the time of the orders been given. It may have been another "O" group he is thinking of because it is sure they were on a number together. The third witness is only hear say and has no knowledge of the orders.

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

Sr (9)

Mitagation of sentence 194

Evidence given by witness on character of Pte Ledger shows he did a good job before he was charged and that he had just recently gone to pieces. I wish to express to the court that if the accused was given a second opportunity he could again become the soldier he was and could do a good job in his pl. He has been with his unit since the beginning of Italy and all the way through has shown himself as a good soldier until he went to pieces. If the court will give Pte Ledger a opportunity to get back to what he was before this charge occured. He will make a good soldier.

Exhibit A p. 1374

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No K/69873 Rank PRIVATE Name LEDGER D.E.

of the PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY

was arrested at ROME at 1130 Hrs.,

on the 6th day of NOVEMBER 1944.

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest.

Rank Captain

Appointment (if any) D.A.P.M.

Commanding 111 PROVOST COMPANY, C.M.POLICE

Date 6th November 1944

PSS2 067 5M 7-44

Exhibit B-4h.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K69873	Pte	LEDGER, D.E.	PPCLI

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) 2 times.*

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 28 Dec 42

Date of last entry in Field Conduct Sheet 19 May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [illegible]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 9 days in military custody, *i.e.*, Nil days in open arrest, 9 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 years 109 days

6. The date of his attestation is 11 Nov 42

7. The service which the accused is allowed to reckon is 2 year 5 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

[illegible]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.698
(22459) Wt.29258/1873 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	26 Jun 44 In Italy	WOAS. AA Sec 15(1). AWL from 1600 hrs 19 May 44 until 1545 hrs 23 May 44(Absent 3 days 23 hrs 45 mins) [redacted]	90 days Field Punishment	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 16th day of November 1944

R P Clark

(R.P. Clark) Lt Col
CO, PPCLI

No K69873 Name LEDGER D.E. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 11-11-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc (Sgd)xxxxxxxx-Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camrose Alberta	28-12-42	Pte	Nil	WOAS. AA Sec 15(1). AWL from 0630 hrs 28-12-42 to 1100 hrs 29 12-42(Abs 1 day 5 hrs 30 mins)	Sgt Spink D	7 days CB Forf 10 days pay by FR&I 149(2)	29-12-42	Lt Col PJA Fleming	Forf 2 days pay by FR&I 149(1)(a)
Currie Barracks Field	17-3-43 to 19-5-44	Pte		Certified no further entries to date WOAS. AA Sec 15(1). AWL from 1600 hrs 19 May 44 to 1545 hrs 23 May 44 (Abs 3 days 23 hrs 45 mins)	Cpl Frances HR Documentary	(Sgd)(AO Wilson)Maj 90 days F P	26 Jun 44	FGCM	Forf 90 days pay by FR&I 149(1)(b) Forf 4 days pay by FR&I 149(1)(a)

CERTIFIED TO BE A TRUE COPY AS FROM REGTL BOOKS IN MY CUSTODY

(R.P. Clark) Lt Col
CO, PPCLI

(PTO)

Summary of Evidence in the case of
K69873 Pte Sedger D.F.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

P 21300 Pte Sugden J.A. "D" Coy P.P.C.L.I. having been duly sworn states;

I am P 21300 Pte Sugden J.A. a member of 17 pl of "D" Coy P.P.C.L.I. On the afternoon of 16 Sept 44 we were being shelled quite heavily at approx 1400 hrs about 1500 hrs of the same day, the shelling having lessened considerably Cpl Ross, the acting platoon sgt, asked me to accompany him around the platoon position to check on the number of casualties and see how many men we had left. We looked in all the slit trenches but we could not find the accused. I saw the accused (whom I now recognize) on a parade when we were warned that we were going into action. I did not see the accused again until Company Orders 14 November 44 following day.

The accused declines to cross-examine this witness RP 4 (D)

Second Witness for the Prosecution

D 141 397 Pte Adelman W "D" Coy P.P.C.L.I. having been duly sworn states:

I am D 141 397 Pte Adelman W a member of 17 platoon of "D" Coy PPCLI On the day that we received the order that we were on half-hour notice to move into the line, the accused whom I now recognize was present. W. Adelman

The accused declines to cross-examine this witness RP 4 (D).

Third Witness for the Prosecution

M 10913 L/Cpl Weir RB "D" Coy PPCLI having been duly sworn states;

I am M 10913 L/Cpl Weir RB "D" Coy PPCLI Coy Clerk for the Coy. About the 18th Sept. 44 I had occasion to go up to the coy from the tech. Cpl Brewer then the acting CSM, asked me if I had seen the accused, whom I now recognize. He told me that he had been absent from his platoon for appx a day and a half. I entered the

Third Witness (Continued)

accused's name on my rolls as missing. I did not see the accused again until Company Orders on the morning of the 14 Nov 44.

P B Wise.

The accused declines to cross examine this witness RP 4 (D)

Fourth Witness for the Prosecution

Capt AM Mills Adjt PPCLI having been duly sworn states.

I am Capt AM Mills Adjt PPCLI I herewith produce the following document revelent to K69873 Pte Ledger D.E.

I Certificate in accordance with AA Sec 163 (1) (JJ) regarding apprehension on [redacted] 6 NOV 44

II The above document is marked exhibit "A" and attached to the summary.

A M Mills Capt

The accused declines to cross examine this witness RP 4 (D)

The accused was cautioned as follows

Do you wish to make any statement or to give evidence on oath? You are not obliged to ~~give evidence~~ say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence RP 4 (E)

The accused does not desire to make any statement or to give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing summary of evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C)(D)(E)&(F) have been complied with

In the Field
15 NOV 44

J. Shirkie LT.
Officer taking Summary

AY118

Pte Ledoux JH

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.41142 Pte Ledoux J.H.

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge	Guilty	Guilty	
2nd	Charge	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence of _____ beginning on (date) _____ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to be imprisoned with hard labour for two years.

(Sgd) _____ 12 Mar 45 (Sgd) "W.J. Ridge Maj"
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 120A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(+) "SAL"
(+. AA 57A. Delete if not used.)

(Sgd) "S.A. Lee Col"

Date 13 Mar 45. Commanding Comd 1 Cdn Base Rft Gp.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
H.41142 Pte John Henry Ledoux 2 Cdn NDTD.	16 Mar 45	"D.J. Sturgeyne Major"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
(D.J. Sturgeyne Capt)
Cdn Sec 2 Ech AFHQ

RECORDED AT CMHQ IN AB 160 47-118

CFA96 (In lieu of AFA3) 40/P & S/1608 (2864)

FIELD GENERAL COURT-MARTIAL.

Convened by Order of Col S.A. Lee Comd 1 Cdn Base Rft Gp. dated 9 Mar 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.41142	Pte		John Henry	Ledoux	2 CIBRBn.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 12 Mar 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans _____
The interpreter is sworn.(1) Do you object to _____ as shorthand writer? Ans _____
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	W.J. Ridge	CIC	2 C I B R Bn.
Member	Lt	W.H. Pope	CIC	1 C I B R Bn.
Member	Lt	W.L. Prideaux	CIC	2 C I B R Bn.
Judge-Advocate				
Prosecutor	Lt	H.C. Pattison	CIC	2 C I B R Bn.
Defending Offr	Lt	J.J. Murphy	CIC	2 C I B R Bn.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused H.41142 Pte Ledoux J.H. before arraignment make(s) (no) (an) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is sworn and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B *above*.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 712.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 462. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(*1. MFB 253 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans Yes my defending offr will
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Con 308, 335, 563-566, Overseas RO 309, 2323, MML p 82, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 73. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"WAR"

CHARGE SHEET.

The accused, H.41142 Pte John Henry LEDOUX (Lanark & Renfrew Scottish Regiment), 2 Canadian Infantry Base Reinforcement Battalion, a soldier of the Canadian Army Overseas, is charged with:-

First Charge Sec 15(1) Army Act. WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy absented himself without leave from about 0800 hours 5th October 1944 until surrendering himself at about 1000 hours 6th October 1944 (absent - 1 day).

SECOND CHARGE Sec 15(1) Army Act. WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy absented himself without leave from about 0900 hours 10th October 1944 until apprehended at about 2000 hrs 20th February 1945. (Absent - 133 days 11 hours).

" R.W. Lent"
(R.W. LENT) Lt-Col.
Comd 2 Cdn Inf Base Rft Bn,
Cdn Army CMF.

In the Field
7th March 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
In Italy
9 Mar 45.

"S.A. Lee"
(S.A. Lee) Colonel
Comd 1 Cdn Base Rft Gp.

"WJR"

FIELD GENERAL COURT-MARTIAL

CFA55 (In lieu of AFA3)
40/PAR/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.41142	Pte		John Henry	LEDOUX	2 Cdn Inf Base Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on "SAL"
(*date*) ..... endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) "SAL"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have marked hereto.~~ "SAL"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I do not appoint as Judge Advocate the next the Offr mentioned hereunder.~~ "SAL"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	W.J. Ridge	(CIC)	2 Cdn Inf Base Rft Bn.
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt or Lieut to be detailed by the OC 1 Cdn Inf Base Rft Bn.

Capt or Lieut to be detailed by the OC 2 Cdn Inf Base Rft Bn.
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by the OC 1 Cdn Inf Base Rft Bn.
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy "S.A. Lee" Colonel
(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 9 Mar 45. (S.A. Lee)
Commanding 1 Cdn Base Rft Gp.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"WJR"

2 CANADIAN INFANTRY BASE REINFORCEMENT BATTALION

I certify that I have this morning examined

H.41142 Pte Ledoux J.

and he is fit to undergo trial by Court Martial.

12 March 1945

"H.C. Allen Maj"
M.O. 2 Cdn Inf Base Rft Bn.

"WJR"

PLEA OF MITIGATION IN THE CASE OF PTE LEDOUX.

SIR,

The accused joined the army in June 40. He was pushed out of infantry as not good enough and was sent to Arty. He went to England as Arty and again to North Africa. InNORTH AFRICA he was taken out of Arty and put in RCASC. He arrived in Italy as RCASC in Sep 43. Around 1 Aug 44 he was put back in infantry. He was employed on fatigues 29 Sep 44 sent to the Field as infantry man to Can 4 Ren Scot R. (then 1 LAA Bn). Because he was first considered too poor for infantry and was put out of every other branch he did not consider himself good enough for infantry in the field. May these circumstances be taken into account when pasing sentence on the accused.

"J.J. Murphy Lt"
Defending Officer.

"Ex A WJR"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H41142 Pte LEDOUX, J.H. (Lanark & Renfrew Scottish Regiment), 2 Canadian Infantry Base Reinforcement Battalion, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS for the Prosecution. M.105021 Cpl Pawluk W.G. 2 Cdn Inf Base Rft Bn, having been duly sworn, states:

"I produce a certified true copy of 1 Cdn Light Anti-Aircraft Battalion Part II Order No. 32, dated 30th October 1944, para 6(c) which shows H.41142 Pte Ledoux J.H. absent without leave from 0800 hours 5th October 1944 and returned from absence without leave at 1000 hrs 6th October 1944. Para 6(d) shows H.41142 Pte Ledoux J.H. absent without leave from 0930 hours 10th October 1944 (marked Exhibit "A"). I also produce a certificate in accordance with Army Act Sec 163(1)(jj) which shows H.41142 Pte Ledoux J.H. arrested at 2000 hours 20th February 1945 (Marked Exhibit "B").

"W.G. Pawluk"
(M.105021 Cpl Pawluk W.G.)

The accused declines to cross examine this witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given as evidence."

The accused declines to make any s tatement or give any evidence on oath.

Certified that Rules of Procedure 4(c),(d), (e) and (f) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused this 7th day of March 1945.

In the Field
7th March 1945

"H.C. Harrison Lieut"
Officer detailed to take Summ

" Ex B WJR" "Exhibit "A"

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

"R.C. Harrison Lieut"
Officer having custody of original.

Last Order No 31 27 Oct 44 | 1 CANADIAN LIGHT ANTI/AIRCRAFT BATTALION CIC PART II ORDER ISSUED BY CANADIAN SECTION GHQ 2nd Echelon AAI. | This Order Number 34 30 Oct 44.

"B" OTHER RANKS.

Page - 2 -

6(c) ABSENT WITHOUT LEAVE.

AWL from 0800 hrs 5 Oct 44 Ret from AWL approx 1000 hrs 6 Oct 44.
H.41142 Pte Ledoux J.H.

(d) AWL from 0900 hrs 10 Oct 44 Still absent 0900 hrs 18 Oct 44(8th day)
H.41142 Pte Ledoux J.H.

"S. MacRae Lt"
for (C.V. Allen) Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon AAI.

No 2 Bn Orderly Room
Received
Mar 4 1945.
1 Cdn Base Reinforcement Group.

"Exhibit B.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163(1)(ii)

I CERTIFY THAT

No H.41142 Rank Pte Name Ledoux J.H.

of the 1st L.A.A. Regt Canadian L.I.

was arrested at Lanciano at 2000 hrs

on the 20th day of February 1945.

Signature of FM APM or other officer whose custody the above named was taken on arrest. "A.L. Marshall"

Rank Capt.

Appointment if any D.A.P.M.

209 Sub Area.

Date 20 Feb 45. Commanding.....

Ex D "WJR"

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number	Rank.	Name.	Regiment (or as the case may be).
H.41142	Pte	Ledoux J.H.	Lan & Ren Scot R, 2 CIBRBn.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA Sec 10(4) ..... 3 times.

For AA Sec 15(1) ..... 5 times.

For AA Sec 15(2) ..... 1 times.

For AA Sec 24(2) ..... 2 times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for~~ .....

~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 20 days in military custody, i.e., ... days in open arrest, ... days in close arrest; of which nil. days were spent in hospital.

5. The present age of the accused is 24 years.

6. The date of his attestation / ~~calling up for military service~~ is 18 Jun 41

7. The service which the accused is allowed to reckon is .....

†State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & Clasp.

9. (If the accused is a warrant officer or N.C.O.). The accused has served continously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 51-432 T.Ltd. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of March 1945

"D.A. Smith Capt"
ADJT 2 Cdn Bn 1 Cdn Base Rft Dep
"HEP" ot.

No. H.41148 Name LEDOUX John Henry | Sqn, Battery, or Company " EX E WJR" | Corps CIC | Date of enlistment 18-6-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40(F&S/135(5418)

Date of last entry in Company Conduct Sheet N41 | No. and date of last drunk N41 | Period not reckoning towards freedom from extra fine N41 | Sheet No 1 | Signature OC Company, etc W.C. Edworthy Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Arvide PQ	11-5-42			AWL from 2030 hrs 11-5-44 to 2300 11-5-42(Absent 2 hrs 30 min) 15(1)	Sgt Cuff WJ	7 days C.B.	12;5-42	Capt McAlpine. A/OC 70 LAA Bty.	
Sussex Camp NB.	5-7-42			AWL from 2200 hrs 5-7-42 to 1415 hrs 6-7-42 (absent 16 hrs 15 mins)	Sgt Elliott	Admonished.	6-7-42	Capt McAlpine	Forf 1 days pay.
Field	28-10-42			WOAS fail to appear at place of parade AA Sec 15(2)	Sgt Rasburn	5 days CB	28-10-42	" ? "	
Field	8-8-44			WOAS (1) charge Sec 10(4) breaking bks 1330 hrs 8-8-44. 2nd charge Sec 15(1) AWL from 1330 hrs 8 Aug 44 until 2000 hrs 16 Aug 44 Absent 8 dys 6 hrs 30 mins. 3rd charge AA Sec 24(2) losing by neglect regt'l necessities to value of $34.99.	C.32504 Sgt Seeley S.F.	28 days F.P. 28 days pay. FRAI 149	14-8-44	Lt-Col Lent.	Forf 9 days pay auto.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8-8-44	Pte		(1) AA Sec 10(4) (2) AA Sec 15(1) (3) AA Sec 24(2)	Sgt Seeley Documentary	F 28 days FP	17-8-44	Lt-Col R.W. Lent	Total forf of pay 37 days.
Field	13-9-44	Pte		(1) AA Sec 15(1) (2) AA. Sec 10(4)	Sgt McCarney	14 days F.P.	18-8-44	Major J.H. Stehelin	Total 17 days forf of pay.

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

"D.A. Smith" Capt.

4E-136

PTE LEDOUX R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 40 days, of which 2nd 8 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To UNDERGO DETENTION FOR ~~3 Mos~~ 89 Days

(Sgd) ..... 7 Nov 44 (Sgd) adjutant, maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) C Thompson, Brig.

Date 10 Nov 44 A/ Commanding 6 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D/115449 Pte R. LEDOUX	10 Nov 44	D.N.S. Langlois, Capt (FSD M R /CA(O)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 100 4E-136

FIELD GENERAL COURT-MARTIAL

CFASR (In lieu of AFA3) 60/P & R/1698 (40/P) 4/38B

Convened by Order of Lt Col E P Thompson A/Comd 6 Cdn Inf Bde dated 5 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent, confirmed, substantive appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D/115449	Pte	ROGER HEDOUX	LEDOUX	Cdn. Inf. Regt.

PROCEEDINGS RECEIVED 27 NOV 44

W. C. Duch Capt.

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS RECEIVED Date 20 DEC 1944 Dept. of J.A. GHQ 2nd Army Gp

JCC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 7 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13/56

A1. The President, Members, waiting Member, ~~AA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~were~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : Do you object to ~~the Interpreter~~ Adjt as Interpreter ? Ans No

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~AA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J.A. DeCRAZE	Fus M.R.
Member	Capt	E.A. BAH	D. Sask R.
Member	Capt	R.C.S. WILLIAMS	C. Hamilton's of C.
Judge-Advocate			
Prosecutor	Capt	J.J.A. LANGLOIS	Fus M.R.
Defending Offr	Capt	E. TRIBAULT	Fus M.R.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D/115449 Pte ROGER HEDOUX before arraignment makes(s) ~~made~~ (a) plea of Guilty (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 30, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~did~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Ref - Vol III Fol 38

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change ~~his (their)~~ plea(s) of Guilty to Not Guilty on all charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex II , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CP A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(ies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ..... (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ACCUSED ELECTS TRIAL BY FGCM

adv pres

CHARGE SHEET

D-115449 Private Roger LEDOUX, Les Fusiliers Mont Royal, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTED HIMSELF WITHOUT LEAVE

In that he,

In the Field, at about 0900 hrs on the 13th of October 1944, absented himself without leave until he surrendered himself to the Canadian Military Police at Brussels at 1600 hrs on the 18th of October 1944.

Absent: 5 days, 7 hrs.

In the Field
29 Oct 44

J M Sauve Lt Col
(J.M.P.Sauve)Lt-Col
Officer Commanding
Les Fus M R - C A (O)

To be tried by Field General Court Martial.

E P Thompson Lt Col
(E.P. Thompson)Lt-Col
A/Comd 6 Cdn Inf Bde

4 Nov 44

adv pres

FIELD GENERAL COURT-MARTIAL

CPA 85 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 115449	Pte.	—	ROGER	LEDOUX	Fus. M.R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 NOV 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". CG.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ CG.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ CG.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ CG
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	J. A. DEXTRAZE	FUS. M.R.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	C. A. BALL	S. SASK R
CAPT.	A. C. S. WILLIAMS	CAM of C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
LIEUT	R. R. WADDELL	CAM of C.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
—	—	—

On Active Service in the Fd

in BELGIUM (Country.) — C. Thompson (Signed personally. RP 105 fn 2.) — Lt-Col. (Rank.)

Date 5 Nov 44 — A/ Commanding 6 CDN INF BDE Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. D-115449 Pte. Ledoux. R.

of Les Fus. M.R. and in my opinion he

is FIT ~~or UNFIT~~ to undergo Trial by Court-Martial

Station In the field

Date 7 November 44

G. Lavoie Capt
Medical Officer

D 118449 Cedoux is a private in my section. has been with me for two months and I have in the course of action found him a reliable man. Through many an attack he has shown his value and I will readily take him again in my section.

E109003 Morin Robert Lt

Cadyf
Pres

A

SUMMARY OF EVIDENCE

In the case of D-115449 Pte Roger LEDOUX, Les Fusiliers Mont Royal, a soldier of the Canadian Army Overseas:

The accused is informed of his rights.

The Commanding Officer directs and the accused demands that the evidence be taken on oath.

FIRST WITNESS for the prosecution: Capt C.J.R.Langlois, Adjt Les Fusiliers Mont Royal, having been duly sworn, makes the following statement:

"I certify that the accused Pte Roger LEDOUX was reported Absent without leave by his Coy's clerk at 0900 hrs on the 13 oct 1944. Owing to lack of witnesses, I present Casualty Return Serial 30 of 30 Oct 1944 showing the accused as Absent without leave(Att as Exh A) from that time and date. I also present Certificate of Surrender under the Army Act Sec 163(1)(j) (Att as Exh B) purporting to be signed by Capt C.J. Allendorf, DAPM Cdn Sec HQ Brussels Garrison. Both documents relate to the accused whom I recognize."

The accused declines to cross-examine.

C.J.R. LANGLOIS, Capt/Adjt
Les Fus M R - C A (O)

SECOND WITNESS for the prosecution: Capt C.J. Allendorf, DAPM Can Sec HQ Brussels Garrison.

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in this Summary (att as Exh C) having regard to his surrender. The attendance of this witness cannot in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

R.A. ASSELIN, Lieut
Offr detailed to take
the Summary

The accused, having been duly cautioned in accordance with RP 4(e) says:

" I have nothing to say"

R. Ledoux.
R.Ledoux, Pte

Certified that RP 4 have been complied with.

R.A. ASSELIN, Lieut
Offr detailed to take
the Summary

In the Field
30 Oct 1944

adv pres

LIST OF WITNESSES

In the case of D-115449 Pte Roger LEDOUX, Les Fusiliers Mont Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

Capt C.J.R.Langlois,	Adjt	Les Fusiliers Mont Royal
Capt C.J. Allendorf,	DAPM	Cdn Sec HQ Brussels Garrison

DEFENCE

Nil

LIST OF EXHIBITS

Exh "A" Casualty Return Serial 30 dated 30 Oct 44 showing absence without leave.

Exh "B" Certificate of Surrender under AA Sec 163(1)(j) dated 19 Oct 44.

Exh "C" Statement of evidence in the case of D-115449 Pte R. Ledoux, Les Fusiliers Mont Royal.

STATEMENT BY ACCUSED

I, D-115449 Pte Ledoux, R. certify that I have been given free-of-charge copy of documents, proceedings, etc, relating to my Trial by Field General Court Martial.

I request the services of an offr to defend me at my trial by Field General Court Martial.

I desire the services of...CAPT...V.E. THIBAULT... if he is available.

R. Ledoux

R. Ledoux, Pte

(Margin for filing purposes)

Army Form W.3011A.

LAST C.R. SERIAL 29 of 29 Oct 44

Serial No. 30

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Number of sheets to this return

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
	ABSENCE WITHOUT LEAVE					
	a) AWL from 0900 Hrs 13 oct 44. Ret 1600 hrs 18 Oct 44.					
D-115449	Pte	LEDOUX R.				

CERTIFIED TRUE COPY

CJR LANGLOIS, Capt & Adjt
Pus M R - C A (O)

(Unit)

(Date) 30 Oct 1944

(Signature and appointment of Officer).

(Bde., Divn., Area, etc., with which unit is serving).

B

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (i)

I...Capt. C.J. Allendorf.....Certify that

Reg No. D118449....Rank. Pte.....Name...LEDOUX R.....

REGIMENT.....F. M. R.....

UNIT.....6th Bde, 2 Cdn Div.....

STATIONED AT...Field.....

Surrendered himself to No M44999....Rank. Sgt.....Name..MATHESON,D....

of the No 8 Cdn L of C Pro. Sec.....

on the 18.....Day of..Oct....194, at. 1600.....Hours.....

.....AS AN ABSENTEE WITHOUT LEAVE.....

at the time of his surrender he was wearing (military uniform) or

(xxxxxxxxxxxxxxxxx).

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender

.....Capt.....

(C.J. Allendorf) D A P M

Cdn Sec H.Q. BRUSSELS GARRISON

CHARGE

Army Form B 252
(See King's Regulations)

F.M.R.

6th Bde. 2 Cdn Div.

Regiment / Battery / Squadron / Troop or Company

CHARGE against No. D115449 Rank Pte

Name LEDOUX R.

Place Field Date of Offence

OFFENCE Absent without Leave untill surrendering himself to Canadian Provost Corps at BRUSSELS at1600 hrs 18 Oct 44

Capt
DAAG 1st Cdn Corps.

Names of Witnesses :—

M44999 Sgt. Matheson, D. No 8 Cdn L of C Pro Sec.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

30180. Wt.W2/274/1961. 2,000,000 10/42. K. & H., Ltd. G657/42.

P.T.O.

B

Adv pres

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF [illegible]

No. D-115449 Rank Pte Name LEDOUX, R Unit Les Fus M R

Age 28 Married or Single Single No of Dependants N/A

Date of Attestation 7 Sep 40

No of days spent in close arrest (to date of trial) 20 days

Dates of promotions, appointment and confirmation of rank, if [illegible]

Nil

(A certified true copy of [illegible] must accompany this form)

Dated at In the field

This 7 day of Nov 1944

J. Langlois

(C.J.R.Langlois) Capt & Adjt
Les Fus M R - C A (C)
Unit

(To be dated and signed as for date of trial)

Redeem

I appeal for the leniency of the Court, because of his crimes sheet, this being his first offence is more than two years, because of his good conduct as brought by the witness for character. I also ask that the accused be permitted to serve sentence on the front line, in the interest of the service.

Only
[illegible]

J. Thibaudeau
Capt

D-115449 LEDOUX R.

No. Name | Sqn., Battery, or Company | Corps CIC | Date of enlistment 7/9/40 | G.C. 7/9/42 | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /B136 (2965)

Date of last entry in Company Conduct Sheet 19/9/41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. HD Ball Lt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet destroyed 28 Apr 43 on completionf of 2 years service with no rept'l entries (signed) HD Ball, Lieut									
Field	19-2-44			AA Sec 40 Improperly dressed	Documentary Cpl Horton	7 days CB	1-3-44	W.A.Wilson Lieut	

CERTIFIED TRUE COPY OF ORIGINAL

CJR LANGLOIS, Capt&Adjt
LES FUS M R / C A (O)

(P.T.O.)

56-124.

Ste. Ledoux, R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-115449 Pte R LEDOUX, Fus MR, 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1) ppo

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for nine months

(Sgd) ..... 23 Feb 45 (Sgd) P S Osler major ppo

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) (G S N Gostling) ~~Brig~~

Date 24 FEB 45 Commanding 2 CDN BASE RPT GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D115449 Pte Ledoux, R	26 Feb 45	Comdg, 1 Cdn Disciplinary Centre

C.R. 59
2/27 FEB 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5C-124

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA21) 40/P & S/160B (49/6) 4/38B

Convened by Order of Brig G S N Gostling, ED Comd 2 CBRG dated 22 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-115449	Pte	R		LEDOUX	Fus MR 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED 17 Apr 45 W.M. Kay Capt REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) ppo 23 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) ppo amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) ppo brought before the Court. At 1345 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) ppo fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ ppo

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~ ppo

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	P S OSLER, RCA, X-9 List,	att 3 Cdn NETD
Member	Capt	J P G Gagnon CIC	13 Bn 2 CBRG
Member	Lt	J Y Vilandré CIC	10 Bn 2 CBRG ppo
Judge-Advocate		nil	
Prosecutor	Lt	J P Gougeon CIC	10 Bn 2 CBRG
Defending Offr	Lt	W H Sparrow CIC	10 Bn 2 CBRG

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32)

A8. The accused D-115449 Pte LEDOUX R before arraignment make(s) (no) (~~a~~) ppo plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) ppo arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~) ppo not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E ppo

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 3 P 146

PROCEEDINGS REVIEWED Capt Major DTA 27/21- 2 Cdn Sec GHQ & Eqn Unit 20 Army Pde

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(D), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans no.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes, to give evidence
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes in mitigation of punishment.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 1223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to reinstat from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

P/O

CHARGE SHEET

The accused D-115449 Pte LEDOUX R, Les Fusiliers Mont-Royal, on strength of No 1 Cdn Disciplinery Centre, a soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he
In the Field, did absent himself without leave from 2359 hrs 15 Jan 45 until he surrendered himself in BRUSSELS, Belgium at 2215 hrs on the 29 Jan 45.

Total time absent:- 13 days 22 hrs 16 mins.

In the Field
21 Feb 45

(W G Wood) Lt-Col
Commanding Officer
No 1 Cdn Disciplinery Centre

To be tried by Field General Court-Martial

In the Field
22 Feb 45

(G S W Postlethwaite) Brigadier
Comd
2 Cdn Base Rft Gp

P20

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-115449 Pte	R		LEDOUX	Fus MR, 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) ~~✓~~ set forth in the Charge Sheet(~~s~~) attached and on (date) 22 FEB 45 endorsed by me, ~~and whereas an offr of my rank has so~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to convey the case for reference to a superior qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate, alternate the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

		RCA, X-9 List, att 3 Cdn NETD	(Unit.)
Major (Rank.)	P S OSLER, (Must be named. RP 106.)		

MEMBERS.

Major (Rank.)	P S OSLER, (Must be named. RP 106.)	13 CER Bn (Unit.)
Captain (Rank.)	to be detailed by OC 13 CER Bn (Named or detailed. RP 106.)	10 CER Bn (Unit.)
Lieutenant (Rank.)	to be detailed by OC 10 CER Bn (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat: 22 FEB 45

Brigadier (Rank.)

(Signed personally. RP 105 fn 2.)

(G S M Costling) Commanding 2 CDN BASE RPT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 49 (In lieu of AFA 3; AO 7 & 8, 1897 (45/43).)

P20

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-115449	Pte		R	LEDOUX	Fus MR, 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 22 FEB 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) P S OSLER, (Must be named. RP 106.) RCA, X-9 List, att 3 Cdn NETD (Unit.)

MEMBERS.

Captain (Rank.) to be detailed by OC 13 CBR Bn (Named or detailed. RP 106.) 13 CBR Bn (Unit.)

Lieutenant (Rank.) to be detailed by OC 10 CBR Bn (Named or detailed. RP 106.) 10 CBR Bn (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

(G S N Gostling) Commanding 2 CDN BASE RFT GP Convening Officer. Brigadier (Rank.)

Dat: 22 FEB 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CPA 95 (In lieu of AFA 2) 40/P & S/1897 (6143)

P20

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-115449	Pte		R	LEDOUX	Fus MR, 1 Cdn Disciplinary Centre

CONVENTING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 FEB 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	P S OSLER,	RCA, X-9 List, att 3 Cdn NETD	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC 13 CBR Bn		13 CBR Bn
Lieutenant	to be detailed by OC 10 CBR Bn		10 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Goetling)

Dat 22 FEB 45

Commanding 2 CDN BASE RPT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 93 (In lieu of AFA 3) 40-P & S-1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

P70.

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D 115449
(No.)

Pte. Ledoux Roger. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.

Station C. Disc. C

Date. 23 Oct 45

Capt. (Sgd)
Medical Officer.
(unit) C. Disc. Centre.

Under oath, pte Rhedoux states: P20

"J'ai rejoint l'armée le 7 sept 40 dans le Service Corps et après 4 mois à Montréal et Valcartier comme "driver" attaché au regt de Maisonneuve. Envoyé en Angleterre, le 6 février 1941, attaché au regt de Maisonneuve comme driver et de là envoyé pour travailler au 2ème bataillon pour dix mois pour construire un camp. Après 10 mois ils ont considéré qu'ils avaient besoin de moi et m'ont demander de transferré aux Ingénieurs et j'ai accepté, et j'ai travaillé 2 ans et demi pour la 6ème. Je n'avais aucun entrainement pour l'Infanterie et de là j'ai été envoyé aux F.M.R. sans me donner aucune raison. et dans le F.M.R. j'étais rifleman, ce que je ne connais pas. Nous avons une petite patrouille en Octobre et j'étais le premier et le lieutenant Prusse m'a dit de tirer, j'ai fait cela mais je me suis trouvé seul dans le bois. Je n'ai pas confiance dans l'infanterie J'ai rammené mon prisonnier seul, Je n'ai pas aimé cela.
Je me suis enrolé pour servir le roi comme driver, non comme infanterie, comme chauffeur, ingénieur

Q. How long with F.M.R?
A. 3 weeks with them.

P20

P/O

Plea in mitigation of punishment
by the Defending Officer.

The accused surrendered voluntarily and was not apprehended. In view of his previous service and in his own mind lack of infantry training he was convinced that he was not capable of carrying out infantry work with a box in the line. I suggest to the Court that this was his reason for going A.W.L.

W.H. Sparrow Pte.
P/O.

Exhibit A pjo

Summary of Evidence in the case of D-115449 Pte LEDOUX R, Les Fusiliers Mont-Royal, on strength on 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order FMR No 9 dated 10 Feb 45

Exhibit "B" - Certification of apprehension dated 30 Jan 45.

Q In French Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I wish to give evidence on oath.

STATEMENT OF THE ACCUSED The accused being duly sworn states:-

I, D-115449 Pte LEDOUX R joined up in Montreal with the RCASC and served with them as a truck driver for four (4) months attached to Regt de Maisonneuve and proceeded overseas with R de M. After ten (10) months I was transferred to RCE and worked with them (6 Cdn Const Coy) for two (2) and one half years. From this formation I was transferred without choice to the Fusiliers de Mont Royal where I was mustered as a rifleman. I served with this Regt in the line and on patrol even though I had not had the proper instruction or training to qualify me for this role. I lacked confidence and was very unhappy and unsatisfied with my employment in the Regt and allowed this to worry me to such an extent that I went AWL.

R. Ledoux.
D-115449 Pte LEDOUX R

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP4(C) (D) (E) (F) and (G) have been complied with.

J.F. Rutherford
(J F Rutherford) Capt
R C Signals
Officer detailed to take Summary of Evidence.

Dated in the Field
17 Feb 45

pjo

EXHIBIT "A"

PART II ORDER EXTRACT FORM

TO:

99/20/ FMR/1(A.5a)

10 FEB 19 45

EXTRACTS FROM: UNIT LES FUSILIERS MONT-ROYAL

Part II Order No. 9 dated 10 FEB 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 15 JAN 45 App 2215 hrs 29 JAN 45
D115449 Pte LEDOUX R

This is Exhibit A referred to in the Summary of Evidence in the case of D115449 Pte Ledoux R taken before me this 17th day of Feb 45
J.J. Rochford Capt.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials JRRB

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
40/P & S/1276 (6704)

EXHIBIT "B."

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) J

I A/Capt. J. Tweddle, OC 2 Cdn L of C Provost Coy, Certify that

Reg No D115449, Rank Pte. Name LEDOUX R.

REGIMENT "A" Coy, F.M.R.

UNIT 2 Cdn Div.

STATIONED AT FIELD

Surrendered himself to No L-22669 Rank L/Cpl. Name Bryan, F.J.

of the 2 Cdn L of C Pro Coy, C provost Corps.

on the 29 Day of Jan 1945 at 2215 Hours,

AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) or

(xxxxxxxxxxxxxxxxxx

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of his Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender

Field
30 Jan 45
213 B.

This is exhibit "B" referred to in the summary of Evidence in the case of D115449 Pte Ledoux R. taken before me this 17th day of Feb 45

W.W. Mahaffy Lieut
for (J. Tweddle) A/Capt.
OC, 2 Cdn L of C Provost Co
J.F. Rutherford Capt.

Exhibit B pg 10

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-115449	Pte	LEDOUX R	Les Fusiliers Mont-Royal 1 Cdn Disc Centre

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement not annexed to the proceedings.

† See para. 671, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 15(1)	Once times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, *or*

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or~~ ~~The accused at the present time is under sentence~~ for N/A beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 4325 days in military custody, making a total of 4325 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service / attestation paper~~ is 29

6. The date of his commission / attestation specified in his record of service / attestation paper is 7 Sept 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). GVSM with clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or* corps *or* department) the rank of dated

(72500) W1.24500/1731 10,000 10/43 A.& E.W.Ltd. Gp.698
(28500) W1.21500/1488 12,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-115449 Rank Pte Name LEDOUX R of Les Fusiliers Mont-Royal Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	7 Nov 44	AA Sec 15(1) AWL 5 day 7 hrs	89 days det	nil

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of February 45

(R O Hood) Lt-col
OC 1 Can Disciplinary Centre

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	
In the rank of	
In the rank of	

(INSTRUCTION—If any matter in any of the above five columns cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be omitted from such records as are available and the paragraph endorsed accordingly.)

Fuellers Mont. Royal

No D115449 Name LEDOUX Roger | Sqn, Battery, or Company | Corps CIC | Date of enlistment 7SEP40 | GC Badges 1 | Service or Proficiency Pay $1.50 | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		CHARGE: AA 15(1) AWL from 0900 hrs 13 OCT 44 to 1600 hrs 18 OCT 44(Absent 5 days 7 hrs) FINDINGS: Guilty SENTENCE: 89 days DET CONFIRMATION:Findings and sentence conf by Comd 6 CIB on 10NOV44 CLOSE ARREST:In close arrest from 1600 hrs 18 OCT 44 to date of trial FORFEITURES: Forfs 6 days pay FR&I 149(1)(a) Forfs 89 days pay FR&I 149(1)(b)Forfs 19 days pay FR&I 149(1)(c)(i)Total forf 114 days pay		"DUPLICATE CREATED FROM MFM 4(17 FEB 45) RECORD OF CONDUCT IN CANADA NOT AVAILABLE" (J R FENELON)Captain for Officer i/c Records Cdn Sec 2nd Ech HQ 21 A Gp	7 NOV44	FGCM	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15Jan45	Pte		AA Sec 15(1) AWL from 2359 hrs 15 Jan 45 until 2215 hrs 29 Jan 45. Total Absense: 13 days 22 hrs 16 mins.	Documentary	14 days pay 25 days pay 270 days pay Total Forf. 309 days pay	FGCM 23Feb45		FGCM FR&I 149 (1)a FR&I 149 (1) (c)(11) FR&I (1)b

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order "A"
FMR No 9 dated 10 Feb 45

Certification of apprehension dated 30 Jan 45 "B"

I, D-115449 Pte LEDOUX R hereby certify that I have ~~received~~ READ one (1) copy of charge sheet and one (1) copy of Summary of Evidence free~~x~~ of charge on 23 February 1945

R Ledoux.
D-115449 Pte LEDOUX R

COUNTER NUMBER 80205

HOUR 1200

OPERATOR'S INITIALS EJM

RELIEVING OPERATOR JMB

QQ-37 SPR LEDUC E.
QQ-38 SPR DUBE M.
QQ-39 SPR HEBERT A.
QQ-40 SPR. GAUVIN W. E.

JOINT TRIAL

Correspondence to be PINNED here.

QQ-37
QQ-38
QQ-39
QQ-40

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this eighteenth day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of H.Q. R.C.E. Works (C.E.) First Cdn Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

Judge Advocate
Major W. B. Bate

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	G. A. McClintock	5 Cdn Const Coy RCE

Members.

Rank.	Name.	Regiment.
2 Lieuts to be detailed by C.O. 11 Bn R.C.E.		

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Col
Commanding C.E. Works, First Cdn Army
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D16883 Spr (Ap/Cpl) Hebert A B29744 Spr Gauvin W.E. D15835 Spr Leduc E and D15734 Spr Dube M all of 3 Bn. R.C.E.	First Charge A.A. 41 [illegible] Committing a Civil Offense (Stealing) Second Charge A.A. 41 [illegible] Committing a Civil Offense (Malicious Damage)	HEBERT ① NOT GUILTY ② NOT GUILTY GAUVIN ① NOT GUILTY ② NOT GUILTY LEDUC ① NOT GUILTY ② NOT GUILTY DUBE ① NOT GUILTY ② NOT GUILTY	① NOT GUILTY ② NOT GUILTY ① NOT GUILTY ② GUILTY ① NOT GUILTY ② GUILTY ① NOT GUILTY ② GUILTY	I confirm the findings and sentences of the court

The Court sentence B29744 Spr. Wilfrid E. Gauvin to undergo detention for 6 months and to be put under stoppages of pay until he has made good the sum of £2.6.8. re damage to telephone.

The Court sentence B15835 Spr. Emile Leduc to undergo detention for 8 months and to be put under stoppages of pay until he has made good the sum of £2.6.8 re damage to telephone

The Court sentence D.15734 Spr. Marcel Dube to undergo detention for 90 days and to be put under stoppages of pay until he has made good the sum of £2.6.8 re damage to telephone.

21 Sep 43.

[signature] RCE

W. B. Bate Major
Judge Advocate

[signature] Col
C.E. Works, First Cdn Army

23 Sep 43.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No sir.

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [signature] (Signed) [signature] RCE

Commanding [signature] Col
Commanding Officer (a) C.E. Works, First Cdn Army

W. B. Bate Major
Judge Advocate

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th & 21st days of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The ~~officers under instruction~~ Judge Advocate.

*Omit if not applicable.

were duly sworn.

Signed this 21st day of September 1943.

W. B. Bate Major
Judge Advocate.

[signature] RCE
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this [signature] day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of Sep 1943

[signature] Col
Confirming Officer, First Cdn Army

Promulgated and extracts taken in the case of D15835 Spr Leduc E.

(Dated) (Signed)

~~Promulgated and extracts taken in the case of D16883 Spr (Ap/Cpl) Hebert A~~

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of B29744 Spr Gauvin W.E.

(Dated) (Signed)

Promulgated and extracts taken in the case of D15734 Spr Dube M

(Dated) 25 Sep 43 (Signed) [signature] Lt Col
OC 3 Bn. RCE

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(28379) Wt.48179-800 50,000 2-43 A.&E.W.Ltd. Gp.698
(28256) Wt.11192/71 100,000 5-43 " "

X

C H A R G E S H E E T

The accused,

D.16883 Spr. (A/L/Cpl/ HEBERT, Achille

B.29744 Spr. GAUVIN, Wilfrid E.

D.15835 Spr. LEDUC, Emile

D.15734 Spr. DUBE, Marcel.

All of "C" Coy, 3rd Battalion, R.C.E., soldiers of the Canadian Army Overseas, placed on active service, are charged with:-

FIRST CHARGE

Sec. 41 Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that they

at LOXHILL, HASCOMBE, SURREY, on or about 1 Sep 43, did steal Three Shillings and Four Pence (3s-4d), the property of His Majesty's Government, from a public telephone kiosk, contrary to the Larceny Act, 1916.

SECOND CHARGE

Sec 41 Army Act

COMMITTED A CIVIL OFFENCE, THAT IS TO SAY, MALICIOUSLY DAMAGING PUBLIC PROPERTY CONTRARY TO SECTION 51 OF THE MALICIOUS DAMAGE ACT 1861

in that they

at LOXHILL, HASCOMBE, SURREY, on or about 1 Sep 43, maliciously damaged a public telephone kiosk to the amount of Seven Pounds (£7-0-0)

Dated at In the Field, this 6th day of September 1943.

(GEO.W. SMITH) LT.COL.,
Officer Commanding,
3 Bn., R.C.E.

Approved for trial under AR(Can) 540

A.J.A.
H.Q., First Cdn Army.

To be tried by Field General Court Martial

10 Sept 43
In the field.

Staff Capt 'A'
for C.E. Works, First Cdn Army

MEDICAL OFFICER'S REPORT

I certify that No. B.29744 Spr. GAUVIN, E.E.

of 3rd Bn RCE is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

Station in the field

Date 20 Sep 43

M. F. B. 246

MEDICAL OFFICER'S REPORT

I certify that No. D.15835 Spr. LEDUC E.

of 3rd Bn RCE is in a good state of health,

and fit to undergo Trial by Court martial.

P. A. LaPrue Capt.
Medical Officer

Station in the field

Date 20 Sep 43

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

CAMC

2 [illegible]

MEDICAL OFFICER'S REPORT

I certify that No. D.15734 Spr. Dube, M.
of 3rd Bn RCE is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station in the field

Date 20 Sep 43

M. F. B. 246

20M—6-41 (792)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. D.16883 Spr. (A/L/Cpl) HEBERT, A.
of 3rd Bn RCE is in a Good state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station In the field

Date 20 Sep 43

M. F. B. 246
2SM—6-41 (792)
H.Q. 1772-39 480

MEDICAL OFFICER'S REPORT

I certify that No. D.15734 Spr. DUBE M.

of 3 Bn R.C.E. is in a good state of health,

and fit to undergo Trial by Court martial.

P.A. Lawrence Capt.
Medical Officer

Station In the Field

Date 21 Sep 43

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

EAMC
WBB

MEDICAL OFFICER'S REPORT

I certify that No. B.29744 Spr. GAUVIN, W.E.

of 3 Bn R.C.E. is in a good state of health,

and fit to undergo Trial by Court martial.

[signature]
Medical Officer

Station In the Field

Date 21 Sep 43

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

[signature]
[signature]

MEDICAL OFFICER'S REPORT

I certify that No. D.16883 Spr.(A/L/Cpl) HEBERT, A.

of 3 Bn R.C.E. is in a good state of health,

and fit to undergo Trial by Court martial.

[signature]
Medical Officer

Station In the Field

Date 21 Sep 43

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

[illegible]

MEDICAL OFFICER'S REPORT

I certify that No. D.15835, Spr. LEDUC E.
of 3 Bn R.C.E. is in a good state of health,
and Fit to undergo Trial by Court martial.

Medical Officer

Station In the Field

Date 21 Sep 43

M. F. B. 246

Accused

(Number)	(Rank)	(Christian Names)	(Surname)	(Unit)
D.16883	SPR. (A/L/CPL)	ACHILLE	HEBERT	3 BN RCE.
B 297444	SPR	WILFRID E	GAUVIN	3 BN RCE
D. 15833	SPR	LEDUC EMILE PAGE 4.	LEDUC	3 BN RCE
D 15734	SPR	MARCEL	DUBE	3 BN RCE.

Held in the Field in ENGLAND (Country) on 20 SEP 43 (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR.	G.A. McCLINTOCK	5 CDN CONST. COY RCE.
MEMBERS:	LIEUT.	A.G. SHORE	1 BN RCE.
	LIEUT.	G. REID	1 BN RCE
JUDGE ADVOCATE: (If any)	MAJOR	W.B. BATE	HQ FIRST CDN ARMY

OFFICERS UNDER INSTRUCTION: NIL

PROSECUTING OFFICER: LIEUT A.E. DOWDEN 3 BN RCE Lawyer? Ans. NO

DEFENDING OFFICER: LIEUT J.M JORDAN 3 BN RCE Lawyer? Ans. NO.

(The following procedure must be actually carried out,)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted; that the accused is/are amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused ~~is~~/are brought before the Court and at 1040 hours the trial commences.

The Prosecuting Officer produces * Medical Certificates (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/are fit to undergo trial by Court Martial. The certificates ~~is~~ are initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(B)) Ans. NO.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

President to accused:
Do you object to LIEUT. H. DE PIERRO as interpreter? Each of the accused Ans. NO.

The interpreter is duly sworn.

~~Do you object to~~ _____ ~~as shorthand writer? Ans.~~ _____

~~The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)~~ [illegible]

The Charge Sheet(s) is/are initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~/have not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

D. 16883 Sm (A/L/Cpl) Achille Hebert.
~~He~~ pleads as follows:

First Charge	NOT GUILTY	Sixth Charge	
Second Charge	NOT GUILTY.	Seventh Charge	
Third Charge		Eighth Charge	
Fourth Charge		Ninth Charge	
Fifth Charge		Tenth Charge	

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

See pp. 1A, 1B, & 1C for pleas of other accused.

Accused _____
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in _____ on _____
(Country) (Date)

Rank Name Unit

PRESIDENT: _____

MEMBERS: _____

_____

JUDGE ADVOCATE:
(If any) _____

OFFICERS UNDER
INSTRUCTION: _____

_____

_____

_____

_____

_____

PROSECUTING
OFFICER: _____ Lawyer? Ans.___

DEFENDING
OFFICER: _____ Lawyer? Ans.___

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(2), 22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted; that the accused is/are amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused is/are brought before the Court and at _____ hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/are fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(3)) Ans._____

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

P.T.O.

President to accused:

Do you object to _____ as interpreter? Ans.____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? Ans.____

The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)

The Charge Sheet(s) is/are initialled by the President.

The Prosecuting Officer informs the Court that the accused has/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

D. 18734 Sgt. Marcel Dulac

He pleads as follows:

First Charge	NOT GUILTY	Sixth Charge	
Second Charge	NOT GUILTY.	Seventh Charge	
Third Charge		Eighth Charge	
Fourth Charge		Ninth Charge	
Fifth Charge		Tenth Charge	

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

Accused _____
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in _____ on _____
(Country) (Date)

Rank Name Unit

PRESIDENT: _____

MEMBERS: _____

_____

JUDGE ADVOCATE:
(If any) _____

OFFICERS UNDER
INSTRUCTION: _____

_____

_____

_____

_____

_____

PROSECUTING
OFFICER: _____ Lawyer? Ans.___

DEFENDING
OFFICER: _____ Lawyer? Ans.___

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted; that the accused is/are amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused is/are brought before the Court and at _____ hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/are fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(3)) Ans._____

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

R.L.

President to accused:

Do you object to _____ as interpreter? Ans._____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? Ans._____

The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)

The Charge Sheet(s) is/are initialled by the President.

The Prosecuting Officer informs the Court that the accused has/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (R.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

D.15835 Gnr. Emile Leduc

He pleads as follows:

First Charge	NOT GUILTY	Sixth Charge	
Second Charge	NOT GUILTY	Seventh Charge	
Third Charge		Eighth Charge	
Fourth Charge		Ninth Charge	
Fifth Charge		Tenth Charge	

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

Accused _____
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in _____ on _____
(Country) (Date)

Rank	Name	Unit

PRESIDENT: _____

MEMBERS: _____

_____

JUDGE ADVOCATE:
(If any) _____

OFFICERS UNDER
INSTRUCTION: _____

_____

_____

_____

_____

_____

PROSECUTING
OFFICER: _____ Lawyer? Ans.___

DEFENDING
OFFICER: _____ Lawyer? Ans.___

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted; that the accused is/are amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused is/are brought before the Court and at _____ hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/are fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(B)) Ans._____

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

P.T.O.

President to accused:

Do you object to _____ as interpreter? Ans._____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? Ans._____

The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)

The Charge Sheet(s) is/are initialled by the President.

The Prosecuting Officer informs the Court that the accused has/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly ~~or refuses to plead, see R.P. 35(a).~~

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

B.29744 Gnr. Wilfrid E. Saucier.

~~He~~ pleads as follows:

First Charge	NOT GUILTY	Sixth Charge	
Second Charge	NOT GUILTY	Seventh Charge	
Third Charge		Eighth Charge	
Fourth Charge		Ninth Charge	
Fifth Charge		Tenth Charge	

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all charges.)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President.)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A).) Ans. NO.

2. The Prosecutor's opening address (if any) (R.P. 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D'.)

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P. 40 fn.1; R.P. 70 fn.1.)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn.2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P. 40(D)(ii)(a))

5. President to accused: D.16883 Spr (A/L/Cpl) A. Hebert.
Q. Do you apply to give evidence yourself as a witness? Ans YES SIR
Q. Do you intend to call any other witness in your defence? Ans YES SIR
Q. Is he a witness as to character only? (R.P. 40(B)) Ans YES SIR.
See transcript of evidence - p. 13. for answers of the other accused.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs.P. 40, 41 and 42.)

8. The Court is now closed to consider the Finding (Rs.P. 43, 117).

9. The Court being re-opened, the accused is again brought before it and the Findings of 'Not Guilty' (if any) are pronounced and (if Findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B))

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A. Sec. 163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked 'C-C', and 'P.P.', initialled by the President and attached to the Proceedings. (R.P.46; Overseas R.O. 3131.)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.40) Ans ____
(No cross-examination.) - By my defending officer.
(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

12. President to accused:
The Court is closed for consideration of the Sentence. The Sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated. (Overseas R.O.3262)

(Record Finding and Sentence on Page 2 of A.F.A.3.)

(Punishments - A.A.44, K.R.(Can) 563-566; Sentences of F.G.Cs.M. - R.P. 118; one sentence only to be awarded - R.P.48; sentence should be dated.)

(Signature of President)
[signature] RCE

[signature] Major
Judge Advocate

First Witness for the Prosecution { Ivy May Whittingdon, Loxhill, Hascombe Surrey.

WAB
[illegible]

being duly sworn is examined by the prosecutor.-

On the night of 1/2 Sep 43 I was awakened by my mother who heard a noise. The following morning I went out into the park. I found a piece of telephone apparatus. Nearby I found a paybook. I opened it up and noticed the name "Gawin" in it. There were some photographs inside it. I identify this paybook (Exhibit "G") as the one I found. I gave it to Temporary Constable Foster.

Cross examined:

It was between 10.30 and 11.00 P.M. when my mother called me. I found the paybook (Exhibit "G") right opposite our house near a biggish tree, in the park not on a foot path. It was not very far from the road.

No re-examination:

By the Court:

Because of the disturbance in the night, next morning I was curious and went out in the park. I am not sure what part of the telephone apparatus it was that I found.

By the Judge Advocate:

There is no telephone kiosk in the park. The nearest telephone kiosk is just around the corner from our house. R.P. 83(B) complied with.

Second Witness for the Prosecution { Temp. Constable T. 328. Frederick Foster Hascombe Surrey

being duly sworn is examined by the prosecutor:-

At 8.45 A.M on 2 Sep 43. I received information as the result of which I went to a telephone kiosk at Loxhill Hascombe. I examined the kiosk and found the complete apparatus missing. Nothing was left except the bare wires. I commenced inquiries and saw Miss Ivy Whittingdon. She handed to me a soldiers' paybook in the name of Sgt. Wilfrid Elzer Gawin. I identify this paybook (Exhibit 'G') as the one which she gave to me. Near the paybook was a piece of telephone apparatus which she also gave me. This took place roughly 100 yards from ~~where~~ the telephone kiosk that was damaged. It is very close to Miss Whittingdon's home. I then searched the area and about 1/2 mile away from the kiosk I found a telephone apparatus in a field. This apparatus was badly damaged. I then proceeded to Burningfold Hall where I saw Sgt. Gawin one of the accused whom I recognise in court. I asked him where he was the previous evening, Sep. 1st. and he said "The White Horse," Hascombe, in the company of three

other men, Spr. Emile Leduc, Spr. Marcel Dube and L/Cpl. Achille Hebert. I had no intention of charging Spr. Gauvin at the time but was merely conducting my investigation of the case. Gauvin also said they all left the pub together at 10 o'clock and went back to camp together. Gauvin denied all knowledge of the damaged telephone pinsk. I then saw Spr. Leduc, whom I recognise in court. I asked him if he was in Spr. Gauvin's company at the White Horse on the night of Sep 1st. He said he was and that he returned with Spr. Gauvin. I then saw L/Cpl. Herbert and Spr. Dube who spoke only French so that I was unable to question them. I obtained the assistance of Det. Sgt. Breach, of S.I.D., Godalming. We then saw Spr. Gauvin and we questioned him. He was cautioned and made a statement.

The Judge Advocate advised the court that it must be satisfied that this statement was made voluntarily by the accused and that the prosecution must show the same affirmatively

(Witness continues) I made no threats or promises or inducements made to the accused - nor did any one else present.

Cross-examined:

Lieut. ~~Content~~ Lefebvre was present the first time I questioned Spr. Gauvin. He did not sign a statement then. The second time Det. Sgt. Breach was present. I told Spr. Gauvin the case might be handled by a civil court. I did not tell him that if he signed the statement he would get off lightly. Neither did Det. Sgt. Breach. The questioning took considerable time because he seemed so disinclined to answer our questions. I insisted that Spr. Gauvin answer my questions. I did not tell the accused that he had to make a statement. I cautioned him and he made a voluntary statement. I did not tell the accused Spr. Gauvin that it would be better for him if he made a statement.

No cross-examination: R.P. 83(B) complied with.

Third Witness for the Prosecution:

Det. Const., Owen H. Breach, Surrey Joint Police Force being duly sworn is examined by the Prosecutor:-

I am stationed at Godalming. There were no threats promises or inducements made to Spr. Gauvin by me or anyone else present when Spr. Gauvin made this statement.

Cross examined:

Spr. Gauvin was questioned ~~[illegible]~~ about an hour before he made the statement. At first he was disinclined to answer questions. I insisted that the accused Spr. Gauvin

answer my questions. I told him that in any case I would take him into custody. I did not tell him it would be better for him if he made a statement. I do not think Constable Foster did either. It's not the usual practice. I cannot remember everything that was said.

Re-examined:

The accused Spr. Gauvin was cautioned and it was fully explained to him.

By the Court:

I would have remembered it if Constable Foster had made any inducements to this accused. We had sufficient evidence with which to charge the accused with the offence.

By the Judge Advocate.

P.C. Halsdon, of Dunsfold was also present besides T.C. Foster. I do not speak French nor did anyone who was present. The law gives us considerable leeway in conducting an investigation and we are allowed to ask suspected persons questions. It was as the result of such questioning that he decided to make a statement.

R.P. 83(B) complied with.

The court adjourned at 1345 hrs.
The court re-opened at 1400 hrs.
R.P. 40 complied with.

The accused B 29744 Spr. Gauvin Wilfrid E., having been duly sworn is examined by the defending officer:-

The three policemen, the two that were here this morning and another asked me questions concerning a certain telephone kiosk. The questioning lasted about two hours. They asked me to make a statement and sign it. They weren't satisfied with that and they kept on questioning me. if I knew anything about the matter, or if I had been present. They told me I would be cleared if I paid £1.0.0. The detective constable smacked his fist into the palm of his other hand and said "If I had you alone I'd make you talk". After that he said if I talked he would arrange it so it would go to a military court. I was still being questioned at 5 o'clock. I was left alone with a guard until after 8 o'clock. Then they sent for me and showed me two statements made by two others. I did not believe it so I asked for the two men who had signed the statements. The two men came down and admitted signing the statements.

Cross-examined:

I do not understand English much. I would not understand all the questions if you asked them in English. I was questioned

for three hours before I signed a statement. I thought I had told the court I had signed a statement. I have no watch. I think some one present had a watch. I do not remember exactly. Perhaps one of the detectives asked me. They questioned me from 1.30 until after 5 O'clock. The guards came in for their supper so I knew it was 5 o'clock. I signed the statement about 3.30 in the afternoon. I may have been contronted. Many words in English I do not understand. I do not remember the exact words used by Det. Constable Breach when he said he would hear me.

No re-examination:

By the Court -

"There was no one present who could explain the questions in French to me.

R.P. 83 (6) complied with.

The defending Officer addressed the Court pointing out that the statement was irregularly obtained and consequently is not admissible in evidence.

The prosecutor addressed the Court contending that the statement was obtained voluntarily and the accused was cautioned. The accused's evidence is contradictory in at least three places.

The court is closed to consider the motion.

The Court decide to admit the statement as having been made voluntarily. The Court is re-opened and the decision made known to the accused.

Second Witness (re-called), being already sworn, is examined by the Prosecutor:-

I produce a statement written by me (Exhibit H) which was signed by Spr. Gauvin in my presence. I witnessed it. This was on the afternoon of 2 Sep 42. - Det. Cons. Breach and I then saw Spr. Hebert. One of the accused whom I recognise. He was questioned. Spr. Hebert was cautioned and then made a voluntary statement which I took down in my own hand writing. There were no threats or promises made in obtaining it. Trent Lefebvre was also present but I am not sure if Trent Corbett was there or not. Then Spr. Dube was brought in. He was questioned and made a voluntary statement after being cautioned. Det. Cons. Breach, Trent Corbett Trent Lefebvre were also present. L/Cpl. Hebert was then brought in. He denied any knowledge of the affair. The same persons were present. He then saw Spr. Gauvin again who was willing to make a statement of his own. The same persons were present. After that we again saw L/Cpl. Hebert who made a voluntary statement. The same

witness were present. The accused were all told that a civil offence had been committed and that they would be reported to their C.O.

The Judge Advocate advised the court that the prosecution must prove affirmatively that these four statements were free and voluntarily.

Cross-examined:

Spr. Hebert was cross-examined questioned between 15 minutes and half an hour. We told him this case could be handled in a civil court. Neither of us told Spr. Hebert that it would be better for him if he told the truth.

No re-examination:

By the Court:

Spr. Hebert understood English. I had no trouble making him understand.

By the Judge Advocate and Hawkin

Conversations in Hebert's case were carried on in English With the other two Det. Cons. Breach asked questions which were translated into French by Lieut. Content. Finally Lieut Content wrote out statements in French which L/Cpl. Hebert and Spr. Dube signed. Each individual accused was cautioned before the statements were obtained.

E.P 83 (B) cancelled with.

Third Witness (re-called).

Det. Cons. Breach already sworn is examined by the

the prosecutor-

I questioned the accused Spr. Hebert whom I recognize. I asked him to account for his movements the previous night & after further questioning he made a statement voluntarily. It was taken down by T.C. Foster, and signed by Spr. Hebert. There were no threats promises or inducements made to the accused Spr. Hebert. Only T.C. Foster and I were present. Spr. Hebert was cautioned. Spr Dube was brought in two officers, Lieut. Content and Lieut. Lefebvre were also present. I questioned Spr. Dube through both officers as interpreters. Spr. Dube made a voluntary statement in French. It was made to Lieut Content who wrote it down. No threats or promises were made to Spr. Dube. L/Cpl Hebert was then brought in. He strongly denied the accusation. He left the room and returned later. Both officers were present when he returned. The conversation was in French. I then saw Hawkin & told him I had reason to believe his first statement was not true. He was then asked if he would like to see the other statements which had been made. After reading one of them he said "I will now tell you the truth" He was again

~~my~~ cautioned and made a further statement which I took down in writing. It was read over to him and he signed it. He was cautioned in the presence of T. C. Foster and the same two officers. Spr. Gauvin's statement was made in English.

Cross-examined:

Spr. Leduc was questioned for 15 minutes to ½ an hour before he made his statement. I do not think I told Spr. Leduc that Spr. Gauvin had made a statement. The questions put to Spr. Dube lasted around 45 minutes. He signed something in my presence. ~~I think~~ Spr. Dube was shown the statements made by Spr. Leduc.

No re-examination.

By the Court:

I am not sure if the statement ~~were~~ was read or shown to Spr. Dube. I think it was translated to him by the ~~others~~ officers. Neither Gauvin nor Leduc had trouble understanding English by the Judge Advocate.

I think the statements were translated to L/Cpl. Hebert too. Spr. Leduc was the only one who was not shown statements or had them translated to him. Gauvin, Dube & Hebert were not questioned after they were shown the statements or had them translated.

R.P. 83(E). complied with.

Fourth Witness for the prosecution } Lieut. G. Lefebvre. 3 Cu. RCE.

being duly sworn is examined by the Prosecutor

I was present at the questioning of Dube, Gauvin and L/Cpl. Hebert part of the time and saw them sign their statements. I was present for a few minutes of the questioning of Spr. Leduc. I was there in the way. I was present when Spr. Dube made and signed his statement. There were no threats inducements or promises made to Spr. Dube. Constables Foster & Bread her Content and I were present. I was present when Spr. Gauvin made his statement. He did not make it under any threat promise or inducement of any kind. The same persons were present. I was present when L/Cpl. Hebert made his statement. There was no threat promise or inducement made to L/Cpl. Herbert. The same persons were present.

Cross-examined:

I do not know exactly how long I was present when Spr. Leduc was cross-examined. I do not know how long Spr. Leduc was questioned. L/Cpl. Hebert and Spr. Dube were told the contents of the statements made by the others. It was either read to them & translated or shown to them. I do not remember if any of them were told it would be

NBB
EAMC

better for them to tell the truth and make a statement. So many things were said.

No re-examination.

By the Court:

Det. Cons. Breach I think suggested that the accused be shown or have the read to them the statements. Gauvin asked to see the statements made by the others. So did L/Cpl. Hebert. Spr. Dube was questioned briefly by me after being shown the statements. Spr. Gauvin wanted to see the men who signed statements. They were produced and admitted signing the statements. I do not remember about L/Cpl. Hebert.

R.P. 83(B) complied with.

The Court adjourned at 1645 hrs.

The Court re-opened at 1700 hrs

Fifth Witness for the Prosecution } Lieut Andre Coutant 3 Bn. RCE

having been duly sworn is examined by the Prosecutor

I was present at the interrogation of Spr. Dube, Spr. Gauvin and L/Cpl Hebert. I was present when Spr. Dube signed a statement. I took it down in French myself. There was no promise threat or inducement made to Spr. Dube. I was present when Spr. Gauvin made his second statement but not when he was questioned. I do not think it was made under any threat promise or inducement. - none, when I was there. Spr. Gauvin asked to see the other statements. They were shown to him They were the statements of Leduc and Dube. I was present when L/Cpl. Hebert made a statement. I think I wrote it down. It was made in French. Det. Cons. Breach asked him if he wanted to see the other statements. He said he did but I do not remember if he saw them. L/Cpl. Hebert did not make his statement under any threat inducement or promise. I had spoken to him before.

Cross examined:

The questioning of Spr Dube took about 10 minutes as far I can remember. I do not remember everything that was said but I do not think Spr. Dube was told it would be better for him if he made a statement. I spoke to L/Cpl. Hebert privately for about 10 minutes: told him everything that could happen to him and told him he could make any statement that he wanted. I told him if he signed a statement he would probably be tried by court martial instead of a civil court. I also told him I would speak in his favour in any case.

No re-examination:

By the Court:

Spr. Gauvin spoke in English when he asked Det. Cons.

Breach to see the statements. I told L/Cpl. Hebert I would speak for the four of them. I would do what I could. They are four of very decent.

By the Judge Advocate:-

I do not remember very well if L/Cpl. Hebert was questioned or not after being shown the others statements. Dube was questioned after being shown the statements by Det. Con. Breach. They concerned the case of theft during the evening before. I left Spr. Gauvin after he was shown the others statements but was present when Gauvin signed his statement.

By the Court.

I translated Det. Con. Breach's questions to Spr. Dube and the answers to Det Con Breach.

R.P. 83 (B) complied with.

R.P. 140 complied with. - in the case of all the accused.

The accused O 15835 Spr. E. Leduc, having duly sworn is examined by the Defending Officer.-

I was called in between 5 & 5.15 P.M after Spr. Gauvin to be questioned on the subject of the theft which had occured. Not being able to speak English very well I asked to have Lieut. Lefebvre interpret for me. Lieut. Lefebvre left me alone with the police. The greater part of the questions I did not understand. The detective said that if I did not want to understand he would take steps to make me understand. He said too that if I admitted it we could get away with 7 days C.B. on appearing before the Colonel. After being questioned for some time and not being used to such matters I made an indefinite statement. I made the statement telling I would swear and because he forced me to make it. After that I signed it. I was alone with Det. Con. Breach and T.C. Foster at the time.

Cross examined:

I did not understand half of the statement I made in English. I did not believe that one would get only 7 days C.B. for stealing. I made the statement because I was fed up with waiting around. I could not understand half of what was being said. They mentioned that this offence could have been dealt with in a civil court.

No re-examination.

R.P. 83 (B) complied with.

O. 15734 Spr M. Dube, one of the accused being duly sworn is examined by the defending officer:

They called me between 6.45 & 6.55 P.M. As I didn't speak English I asked to have Lefebvre as interpreter. Sgt. Lefebvre questioned me on information to the constables.

They said it would be merely better for me to make a statement. They said it would be worse for me if I admitted made a statement. After being asked a couple of questions I made my statement. As I was tired and had never gone through anything like that before I signed the statement.

Cross-examined:

I was tired because I wasn't used to such matters and I had been questioned for some time. I was nervous. I did not ask to see any statements.

No re-examination.

R.P. 83(B) complied with.

The accused D16883 Spr (A/L/Cpl) A. Hebert being duly sworn is examined by the defending Officer:

About 7 P.M. on 2 Sep 43 I was called to be questioned by Detective Brooks, interpreted by Lieut. Lefebvre about the matter of the telephone wires. As I had nothing to do with the affair I was asked if I wanted to see the statements made by the other men. I told them not to bother. Lieut Coutant asked the detective to remain alone with me. He said it would be better for me to make a statement, as it would be more protection for me, a lance-corporal. He said that as we would have a smaller chance in the civil courts they would do their best to have it in a military court. He said I could meet my friends and ask them if it was really they who had signed these statements. I returned and signed a statement myself. Detective Brooks said by not owning up I was disgracing my battalion and was not worthy of the stripe I was wearing. Lieut. Lefebvre said being a corporal I should speak.

Cross examined:

I do not remember if Lt. Coutant said that any statement I might make would be entirely voluntarily. Spr. Dube and Spr. Hebert told me they had signed statement but Lefebvre acted as interpreter.

By the Court:

It was Lt. Coutant who said it would be better for me to make a statement. The remarks made by the detective & Lt. Coutant were made before I signed my statement.

R.P. 83(B) complied with.

The Court adjourned at 1835 hrs. - The Court sat after 1800 hrs in order to complete hearing the evidence regarding the admissibility of these statements.

The Court re-opened at 1000 hrs. 21 Sep 43.

The Prosecutor produced 4 medical certificates.

The Defending Officer addressed the Court referring to paras 75 & 75 MML at pp 90-91 contending that the statements are not free and voluntarily and should not be admitted in evidence.

The Prosecutor addressed the Court briefly, reviewing the evidence, contending that such statements are free and voluntary: that there was no co-erciou.

The Defending Officer did not reply

The Court is closed at 1005 hrs.

The Court decided to admit the statements made by Spr. Leduc, Dube and Gaurin but refuse to admit that made Spr (A/L/Cpl) Hebert.

The Court re-opened at 1110 hrs and the accused were advised of the Court's decision.

Second Witness for the Prosecution { T.C. 328 Frederick Foster, already sworn, recalled

is examined by the Prosecutor:-

I produce a statement (Exhibit I) in my own handwriting, signed by Spr. Leduc in my presence. I identify the telephone apparatus (Exhibit J) shown to me as the telephone apparatus which I found about 1/2 mile from the damaged kiosk. It is now in the same condition as when I found it. The damaged apparatus was found in a field under a hedge about 10 feet from a gate, just off the road.

Cross examined:

Miss Whittingdon showed me the exact place where she found the paybook. I indicate on Ordnance 1" to 1 mile map Sheet 124 the place (marked with a 'Y') where the paybook was found (map marked Exhibit 'K'). The co-ordinates are 442576. The telephone apparatus was found at this spot (marked with a 'Z') on the same map. The co-ordinates of this spot are 448572. The approximate location of the White Horse pub is ~~located~~ shown at the ~~upper~~ upper arrow (marked 'AA'). Its co-ordinates are 440490. The lower red arrow (marked BB) indicates the location of this camp. Its coordinates are 444548. The White Horse pub ordinarily closes at 10.00 P.M.

No re-examination.

By the Judge Advocate:

The owner of the damaged telephone apparatus (Exhibit 'J') is the Postmaster General, as is the telephone kiosk I mentioned earlier in my evidence.

~~[illegible]~~.

WBB
[illegible]

By the Court :-

I identify the piece of telephone apparatus (Exhibit L) shown to me by Miss Whittingdon.

R.P. 83(B) complied with.

Third Witness for the Prosecution } Det. Con. O.W. Breach, already sworn,

is examined by the prosecutor -

I produce the statement (Exhibit 'M') made to me by Spr. Gauvin. I saw him sign the statement which is in my handwriting. I signed the statement as a witness. The next morning I again saw Spr. Gauvin in the hope of recovering the missing telephone receiver. I was with T.C. Foster and R.S.M. Claridge. We went to where the phone was recovered and there found some small screws, and a matchbox. The receiver was subsequently found about 100 yds from the kiosk. Spr. Gauvin was present when it was found.

No cross examination.

By the Court :

It was about an hour after finding the matchbox that we found the receiver hanging on a wall.

R.P. 83(B) complied with.

Fifth Witness for the Prosecution } Lieut. A. Content already sworn, recalled

is examined by the Prosecutor -

I produce the statement made by Spr. Dube (Exhibit N) the day after this affair happened. The statement is in my handwriting. It is signed by Spr. Dube. I saw him sign it.

No cross-examination:

R.P. 83(B) complied with.

Sixth Witness for the Prosecution } Mr. George Edwards, 74 Denzil Rd., Guildford, Surrey.

being duly sworn is examined by the Prosecutor.

I am a post office engineer. My duties are concerned with telephone maintainance. I am employed in the Guilford area. The village of Hascombe is in this district. I was advised of a fault on phone Hascombe 43 which is the number of P.O. at Hascombe with an extension in the kiosk outside. I investigated. I went to the kiosk and found that the apparatus was missing from it. All of it was gone from the kiosk. I advised the police in Hascombe. On 3 Sep 43 outside of the kiosk from which the apparatus was missing I met the police and the RSM. I went with them to a Gen. military camp in [illegible] where I was shown a [illegible] telephone apparatus

I identify the apparatus (Exhibit J) as the telephone apparatus which was shown to me. In my opinion it is in its present condition because of having been struck with a heavy object. I examined the coin box. It was empty. The usual way to tell a particular telephone apparatus is by the disc on the dial. It usually has the name of the exchange and number on it. Hodalming has not an automatic exchange. Haseombe has. The No. 443 is on the dial in this case. This apparatus comes from the kiosk in Haseombe. There are two kiosks in Haseombe. This was from the kiosk outside Roxhill, Haseombe. I can read a map. The kiosk in question is located at the spot Y on the map (Exhibit K). The cost of repairing the telephone apparatus (Exhibit J) is £ 7.0.0. Each time a call is made an operator completes a form setting out the time the call was made and where it was to. By these means it is possible to calculate the amount of coins that should be in the coin box. From the records I have ascertained that 3/4 ought to have been in this coin box on 2 Sep 43.

Cross examined:

There is no method by which a call can be made without a coin being put in the box. The method of recording calls is efficient as far as humanly possible. The box has been broken open when I first saw the apparatus (Exhibit J). It weighs about 100 lbs. I am not prepared to say how long it would take to remove the apparatus from the kiosk. There is no method I know of by which the contents of the coin box would not check with the record kept by the operators. Money could be obtained from the coin box as it's present condition. It could be shaken out. It would take a few moments to remove 3/4 ~~six pence~~ from the box.

By the Court. -

The loss to the G.P.O. as the result of this incident is £ 7.0.0. after making some allowance for salvage of the damaged apparatus.

By the Judge Advocate.

H.M. Postmaster General is the owner of the telephone kiosk at Roxhill Haseombe Surrey, and of the damaged telephone apparatus (Exhibit J). It is in the same condition as it was when I saw it on Sep 2., as far as I can tell.

R.P. 53 (B) complied with.

The Court adjourned at 1325 hrs.

The Court re-opened at 1435 hrs.
R.P. 40 complied with.
R.P. 16 (a). 2. complied with.
The Defending Officer had no motions to make to the Court.

B.29744 Spr. W.E. Gauvin.

Q. Do you apply to give evidence yourself as a witness? A. I wish to make an unsworn statement only.
Q. Do you intend to call any other witness in your defence? A. Yes sir
Q. Is he a witness as to character only? A. Yes sir.

D. 15835 Spr. Fouile Redure.

Q. Do you apply to give evidence yourself as a witness? A. I wish to make an unsworn statement only.
Q. Do you intend to call any other witness in your defence? A. Yes sir
Q. Is he a witness as to character only? A. Yes sir.

D. 15734 Spr. Marcel Dube.

Q. Do you apply to give evidence yourself as a witness? A. I wish to make an unsworn statement only.
Q. Do you intend to call any other witness in your defence? A. Yes sir
Q. Is he a witness as to character only? A. Yes sir.

First Witness for the Defence } D. 16883 Spr (A/L/Cpl) Hebert A. already sworn is examined by the Defending Officer.

I do not remember
On the night of 1 Sep 43, when I left the pub, I do not remember anything more until I woke up after I was in camp.

Cross examined:

I do not remember stepping on Spr. Gauvin's fingers on going into the pub. I do not think so. I did.

No re-examination:

By the Judge Advocate:

I remember nothing from about the middle of the evg. while in the pub. I am not in the habit of drinking much. That night I had quite a lot of beer and strong drink. It affected my memory that way. I can't say how much beer I had to drink. I drank very quickly.

R.P. 83 (B) complied with.

The accused, B 29744 Spr. W.E. Gauvin elects to make the following unsworn statement:-

I was at the White Horse pub on 1 Sep 43. While returning this way we may have done some damage to the telephone apparatus. If so I do not remember because I was under the influence of liquor.

R.P. 83 (B) complied with.

The accused D. 15835 Spr E. Leduc elects to make the following unsworn statement:-

I admit that in the evg of 1 Sep 43 we went to the White Horse pub. On returning perhaps we caused this damage. I cannot confirm anything because I was under the influence of liquor.

R.P. 83(B) complied with.

The accused D. 15734 Spr. M. Dube elects to make the following unsworn statement:-

I admit having been to the White Horse pub on the evg. of 1 Sep 43. On coming back we possibly could have done some damage to the telephone apparatus but I can't remember because I was under the influence of liquor.

R.P. 83(B) complied with.

Second Witness for the ~~Prosecution~~ Defence } Lieut. A. Content, already sworn is examined by the Defending Officer:-

I know the four accused. They have been in my platoon for at least 10 months. Gauvin Hebert and Dube have actually been in my platoon for 18 months. L/Cpl. Hebert was with me since the beginning. Three months ago I recommended him for promotion because he deserved it. He has always done his duty well. Spr. Gauvin also has been in my platoon since the beginning. He is a very good worker and well disciplined. Spr. Dube has also been in my platoon since the beginning. I have always considered him a good soldier. Spr Leduc came to my platoon about 10 months ago. ~~He~~ I knew he had a bad name before but he has always been trained to do well since. We never had any trouble.

Cross examined:

There have been no serious disciplinary steps taken against them except one who went to F.P. camp for what I think was merely a mistake he made. I have never known them to be drunk on parade.

No re-examination.

R.P. 83(B) complied with.

The Court adjourned at 1530 hrs.

The Court re-opened at 1545 hrs.

Third Witness for the Defence } Lt-col. G.W. Smith, O.C. 3 Bn RCE being duly sworn is examined by the Defending Officer.

I know all the accused. Cpl Hebert has been before me before he was promoted. Since his promotion his character has been all that could be expected of one in his

rank.

R.P. 83(B) complied with.

The prosecutor addressed the Court, reviewed the evidence and contended that the prosecution had fully proved both charges against each of the accused.

The Defending Officer addressed the Court, and submitted that there was no evidence that the accused stole 3/4 from the telephone kiosk or that there was such a sum in the phone box at the times alleged: that the accused were so drunk they have no knowledge of damaging the telephone kiosk: that there is no direct evidence implicating Cpl. Hebert at all.

The Judge Advocate summed up: referred to the definition of theft (MML p.118. para 5): to sec. 51 of the Malicious Damage Act 1861 and explained the meaning of "intent" and "maliciously" explained the nature of joint trials: advised that a confessi by one accused was evidence against that accused only: explained the defence of drunkeness: pointed out that the Court was the sole judge of the facts: that the burde of proof was on the prosecution: the accused being presume innocent until their guilt was established and that they must be given the benefit of any reasonable doubt in the minds of the Court as to their guilt.

The defending Officer in mitigation of punishment addressed the Court: Spr. Dube has not been guilty of any offences in the U.K. Spr. Leduc has been guilty of only a few offences in this country. Spr. Gauvin has not been guilty of any serious offence: one travelling on a train without authority was due to a mistake.

EXHIBIT "H"

Amelia [illegible] C (a)

SURREY JOINT POLICE FORCE

S.C.1.

W. B. Barton Major
Judge Advocate

Station or Section Hascombe Sub Section

Division Godalming

Date September 2nd 1943.

SUBJECT MATTER

Name WILFRED ELZEOR GAUVIN 329744
(In full—Block Letters)

Address 3rd Battalion C Company R.C.E. Burningfold Hall Dunsfold Surrey

Age 28 Occupation Sapper

Statis,

I have been cautioned and want to make the following statement, and understand that it will be taken down in writing and may be used in evidence.

Between 6pm and 7pm September 1st 1943, I left camp with another soldier LEFEVRE who is stationed with me. First of all we went to the canteen I think it was the British Legion Club. We had a couple of drinks together, at the club me and LEFEVRE met 3 other soldiers L/Bp HEBERT, Sapper LEDUC and Sapper DUBE. The four of us got on a bus and went to the White Horse public house at Hascombe. Before we got on the bus I was playing with ~~[illegible]~~ L/Bpl HEBERT when he trod on my finger I told him he had hurt my finger and that it was bleeding just a wee bit, he said he was sorry. We all went into the public house and stayed there until it closed. When in the public house I knew I had my pay book in my pocket. When we left the public house we were altogether and feeling pretty good. On the way back to camp we all kept to the main road and we did not go off of it. I do not know the time I received to camp

(Continued overleaf)

Signature of Person making statement

Witness to the above

C.1269—7,000—8/2/43.

CONTINUATION.

I am sure that I was with L/Cpl HEBERT Sapper LE DUC and Sapper DUBE all the evening and we were definitely altogether on our way back to camp. I did not leave them at all. I have thought now that I might have my lost my pay book on the way back to camp as I had it when I was in the public house. I have nothing else to say, and I didn't steal anything from the telephone box.

Lawrence OK

Frederick Foster TC 328.

"C(c)"

S.C.J.

SURREY JOINT POLICE FORCE

Station or Section Hascombe

Division Godalming

Date September 2nd 1943

SUBJECT MATTER

Name EMILE LEDUC D15835
(In full—Block Letters)

Address C Company 3rd Battalion R.C.E. Burningfield Hall Dunsfold, Surrey.

Age 19. Occupation Sapper.

Status.

I was with 3 other soldiers c/Cpl Hebert. Sapper. ~~Sap~~ GAUVIN. Sapper DUBE. We all had a good time at the White Horse public house at Hascombe, and we all left together at closing the time feeling merry. We started talking about doing some damage to the telephone booth along the road. I dont know who started talking about it. When we got to the telephone booth and with the others we did some damage and forcing the box. I cannot remember anything after that. This statement is the ~~truth~~ truth. I dont want to get the others into trouble, state why I didnt ~~want to get the others into trouble~~ tell you the truth in the first place.

Emile Leduc

EXHIBIT "I"

[illegible]
Pvt [illegible] RCE

W. B. Balto Major
Judge Advocate

(Continued overleaf)

Signature of Person making statement

Witness to the above Frederick Foster TC 322

C.1299—1,000—6/2/42.

SURREY JOINT POLICE FORCE

"C (b)" S.C.J.

Station or Section _____ Division _____

Date _____

SUBJECT MATTER

Name Wilfred Elzear GAUVIN
(In full—Block Letters)

Address 3rd Bn RCE 'C' Coy

Age 28 Occupation _____

EXHIBIT M.

States.

I have been cautioned and wish to make a statement. I understand that it will be taken down and may be used in evidence.

The four of us started away from the pub - the white horse Hascombe - after the pub at closed. Cpl Hebert - Sapper Pedric - and Sapper Dube. We were feeling pretty good and a little drunk. As we started towards the camp someone started mentioning about the telephone box. Feeling as we were we felt like doing the phone box. Two got in the telephone box and brought the box out and we brought it a little way and tried to open it. We tried with our feet and we couldn't open it, so then we tried rock. We couldn't really open it and only got about two or three pennies. I want to say that we didn't do it for the money

(Continued overleaf)

Ev. L. Batowajer
Judge Advocate

[illegible] RCE
President

Signature of Person making statement _____

Witness to the above _____

C.1299—7,000—8/2/43.

CONTINUATION.

as we had some on us. I guess this is about all.

I did'nt tell you before and my other statement is untrue. This was because, I did'nt want to involve the others.

Gaurin St

I hereby certify that this statement was taken down, read over and signature witnessed by me on the evening of 2nd Sept 1983 at Burningfield Hall Tunsfold.

Owen H Breach
Detective Constable

"C (d)"

S.C.J.

SURREY JOINT POLICE FORCE

Station or Section ..... Division .....

Date .....

SUBJECT MATTER

Name MARCEL DUBÉ D-15734
(In full—Block Letters)

Address 3 BN & C.E. CA(a)

Age 19 Occupation Sapper

EXHIBIT "N"

W.B. Bates Major
Judge Advocate

[illegible] Lt
[illegible] RCE
President.

Declare

Je désire dire la vérité. Quand nous avons laissé le "pub" White Horse, j'étais avec Leduc, Hébert A et Gauvin. Nous avons parlé ensemble de aller qui presque de téléphone et dis prendre l'argent. Il faisait noir et j'ai attendu dehors pendant que les autres pénétraient dans le bras que de téléphone. Nous avons emporté le "cash" container dans nos bras et nous avons essayé de la briser avec nos pieds. Nous y avons pris deux ou trois pennies. Il n'y avait pas d'autres argent. Quant au receptueur je ne l'ai pas vu du tout. Nous avons tous pris part à l'affaire ensemble. Les autres étaient Leduc, Gauvin et Hébert. Nous n'avons pas fait cela parce que nous avions besoin d'argent mais nous avions bu et je le regrette maintenant.

(Continued overleaf)

Signature of Person making statement [illegible]

Witness to the above André Content Lt

C.12999—7,000—8/2/43.

ORDNANCE SURVEY OF ENGLAND AND WALES

GUILDFORD & HORSHAM

5TH EDITION STYLE

SECOND WAR REVISION 1940. SHEET 124

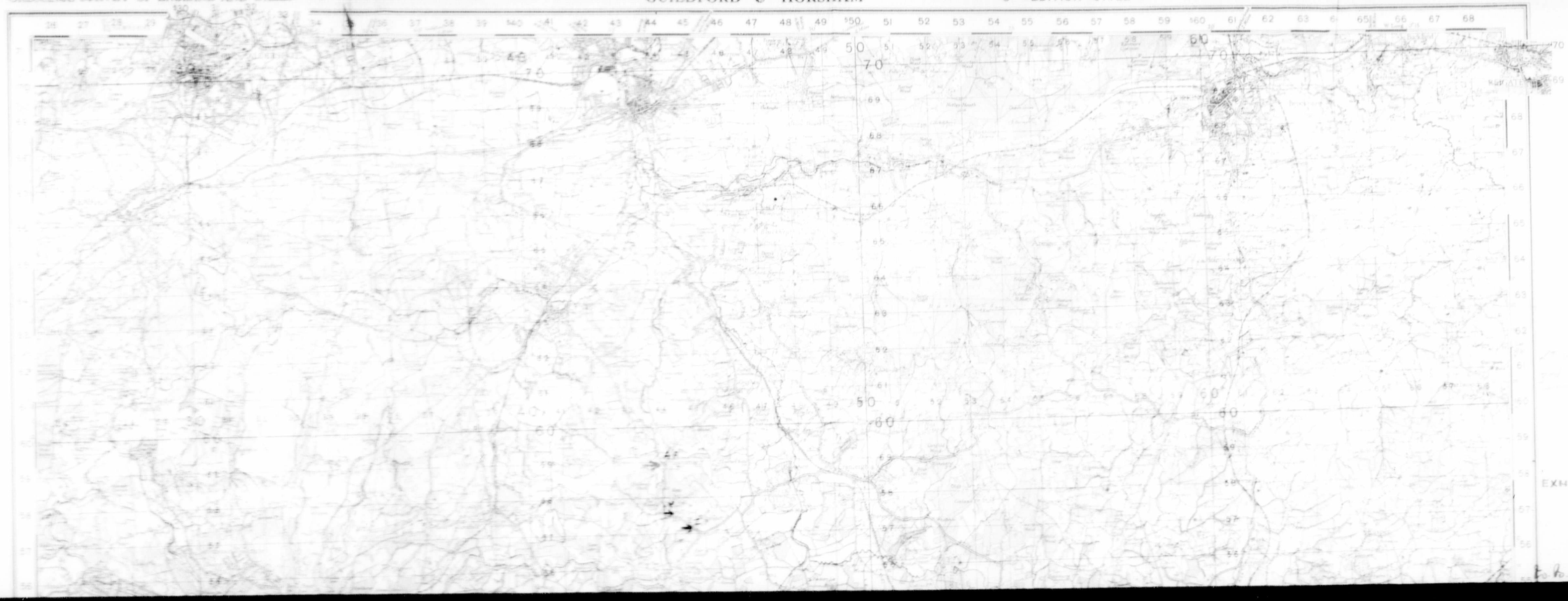

EXHIBIT K



Scale - One Inch to One Statute Mile - 1/63 360

Scale of Kilometres

HEIGHTS IN FEET

MAGNETIC VARIATION

ALWAYS CORRECT

Crown Copyright Reserved

SUMMARY OF EVIDENCE

in the case of

D.16883 Spr. (A/L/Cpl) HEBERT, Achille
B.29744 Spr. GAUVIN, Wilfrid E.
D.15835 Spr. LEDUC, Emile.
D.15734 Spr. DUBE, Marcel.

all of "C" Coy, 3rd Battalion, R.C.E., soldiers of the Canadian Army Overseas, placed on active service.

CHARGES -

1. - Committing a civil offence; stealing.

2. - Committing a civil offence; malicious damage.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS — Mr Frederick FOSTER, Temporary Constable 328, Mare Lane, HASCOMBE, Surrey, having been duly sworn, states:-

At 0845 hrs on Thursday 2 Sep 43, I received information of damage to a telephone kiosk situated at Lexhill, HASCOMBE, Surrey. I attended and examined the kiosk and found the whole apparatus was missing. I commenced enquiries and a soldier's pay book in the name of Wilfrid E GAUVIN, B.29744 was found. I searched the district and about half a mile away, I found this telephone apparatus damaged and no money was in the apparatus. I proceeded to Burningfold Hall and saw Spr Wilfrid E. GAUVIN, B.29744, I interviewed the man and he strongly denied all knowledge of the offence. He then said he was in company with L/Cpl HEBERT, Spr. LEDUC and Spr. DUBE. in the evening of First September 43. I interviewed these three men and Leduc made a statement which he signed admitting the offence. I then saw Spr DUBE. He also made a statement which he signed also admitting the offence. Also L/Cpl HEBERT made a statement which he signed admitting the offence. I saw GAUVIN again and he made a statement contradictory to his first one and he admitted the offence. The statements of L/Cpl HEBERT and Spr. DUBE were taken down in French and translated by Lt. A. CONTENT

All the accused were informed that a civil offence of larceny had been committed and that the matter would be reported to their Commanding Officer. The statements made above were signed by the accused, and are submitted herewith.

The accused declined to cross-examine

Frederick Foster
(Frederick FOSTER)

The Statements referred to by the witness, produced, read over to the accused, marked Exhibits C(a), C(b), C(c), C(d), C(e), signed by me and attached hereto.

Andre Content Lt.
(Andre Content) Lieut.RCE

SECOND WITNESS

Mr Owen Havilland BREACH, Detective-constable, Surrey Joint Police, GODALMING, Surrey, having been duly sworn states:-

On the afternoon of 2 Sep 43, I was called to investigate this matter, andabout 3 P.M. I, with temporary constable FOSTER , saw the accused sapper GAUVIN at Burningfold Hall, DUNSFOLD.I revealed my identity to him and told him the nature of my inquiry. He strongly denied all knowledge of the offence and after being cautioned he made a statement to this effect. The statement was taken down by Temporary Constable FOSTER in my presence. I then saw Spr LEDUC and I told him who I was and that I had reason to believe that he could assist respecting the larceny and damage from a telephone kiosk at Loxhill, HASCOMBE, the previous evening. He at first denied all knowledge of the offence, but after further questioning, he made a statement admitting being concerned with the other three accused in committing the offence. He made a statement to Temporary Constable FOSTER which was written down in my presence. I then saw Spr Dube. In this interview two of his officers were present Lt Lefebvre and Lt Content. They translated our questions to the accused and the statement made by LEDUC was shown to him. He was cautioned and he made a statement in being concerned with the others in committing the offence. The statement was taken down in French by Lt Content. I then saw the accused, L/Cpl HEBERT. The nature of our enquiry was explained to him in French by his officers. He strongly denied the allegation and he was allowed to leave the room. He later returned and asked if he could speak to us. He was cautioned and also made a tatement. I then saw the accused, Spr GAUVIN. I told him that I had reason to believe that the statement which he had made to Temporary Constable FOSTER was not true and that I should report him for being concerned with the other three accused in committing the offence. I cautioned him and he wished to make a statement, which I myself took down in writing and which he signed. His two officers were present on this occasion. In turn, they were all informed that the matter would be reported to their Commanding Officer. I have since examined the cash container ofthe telephone apparatus and have ~~found~~ formed the impression that a definite attempt had been made to obtain money from the container which was empty.

The accused declined to cross-examine.

Owen Breach

(Owen BREACH) Detective-constable
Surrey Joint Police,
GODALMING, Surrey.

THIRD WITNESS

Mr George EDWARDS - D.M.O.D. 102/2., 74, Denzil Road, GUILDFORD, Surrey. Post Officer Engineer, having been duly sworn, states:-

I am a Post office engineer and am stationed at Headquarters, GUILDFORD. My duties involve maintenance of all types of telephones. In consequence of what I was told, I went to the telephone kiosk at Loxhill Post Office, HASCOMBE. It is HASCOMBE No. 43. I arrived at the kiosk on the afternoon of 2 Sep 43. Upon examination of the kiosk, I found that the panel containing the apparatus and coin box were missing. There was nothing left in the kiosk except the bare wires.

On the afternoon of 3rd September 1943, I attended a Canadian Military Camp, where I was shown a panel containig damaged telephone apparatus and coin box. The apparatus which I was shown isidentical with that which is fitted in the Loxhill telephone kiosk.I do not know the cost of the damage done, but my examination of the coin box a definite attempt had been made to get at the money, the box being empty. I don't know how much it should have contained.

The accused declined to cross-examine.

(George EDWARDS)

FOURTH WITNESS

Miss Ivy May WHITTINGTON, Loxhill, HASCOMBE, Surrey, having been duly sworn states:-

I reside at the above address with my mother. During the night 1st and 2nd September 1943, I heard my mother call my father about a noise outside.

The next morning on 2nd September, 1943, I went into the park opposite our house. In the park, I found a soldier's pay book in the name of GAUVIN. The book was wet around the edges. Near the book, I found a piece of telephone apparatus. I handed the pay book to the policeman.

The accused declined to cross-examine.

(Ivy May WHITTINGTON).

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

D

15 Sep 43.

Third witness will state

I, George Edwards, D.M.O.D. 102/2, 74 Denxil Road, Guildford, Surrey, Post Office Engineer, have examined documents and records, the property of the Post Office, Guildford Telephone Area, and have ascertained that the estimated cost of repair and replacement of the damage to telephone and coin box at Loxhill Post Office, telephone number HASCOMBE 43, is seven Pounds (7), also the coin box of the same telephone box contained the sum of 3/4d (three shillings and four pence) at the time of the occurence in connection with which I gave testimony at a Summary of Evidence before Lieut Andre Content of the 3rd Bn, R.C.E., on 6 Sep 43. This has been confirmed by letter addressed to RSM Claridge, 3 Bn RCE, from the Chief Clerk, Post Office Guildford Telephone Area.

G. Edwards
(George EDWARDS)

Form of Certificate:

"I certify that in my opinion, the attendance of George EDWARDS is, owing to ~~exigencies of the service (in cases of military witnesses)~~, expense or loss of time involved ~~or illness~~ not readily procurable; a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as Exhibit "D". Letter reffered to above has been read to accused and is attached hereto as ~~X~~ Exhibit "D".

A. Content Lt
(Andre CONTENT) Lieut.RCE
3 Bn R.C.E.

FIFTH WITNESS STATEMENT OF ACCUSED

The accused, D 16883, Spr (A/L/Cpl) Achille HEBERT, having been duly sworn, states:-

J'ai passe la soiree du premier septembre au 'pub' 'White Horse' avec GAUVIN, LEDUC, et DUBE. Je ne me souviens pas exactement quand nous sommes partis. Je me souviens ensuite d'avoir ete malade en arrivant au camp de DUNSFOLD.

D.16883 Achille Hebert

(D16883 Spr (A/L/Cpl HEBERT A)

TRANSLATION OF ABOVE STATEMENT:

I spent the evening of September First at the 'White Horse Pub' with GAUVIN, LEDUC and DUBE. I do not remember exactly when we left. I only remember later being sick on arriving at DUNSFOLD Camp.

Certified true translation of above statement:

(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing~~ Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E) and (F) have been complied with.

(A CONTENT) Lt RCE
3 Bn RCE

In the FIELD,
6 Sep 43

~~FIFTH~~
WITNESS
STATEMENT
OF ACCUSED

The accused, B 29744 Spr Wilfrid GAUVIN, "C" Coy 3 Bn RCE, having been duly sworn, states:-

Je ne pourrais repeter sous serment les declarations precedentes car j'etais en boisson lorsque les evenements se sont produits durant la soiree du premier septembre.

(B 29744 Spr GAUVIN W)

TRANSLATION OF ABOVE STATEMENT:

I could not repeat under oath the statements already made because I was drunk when the events took place during the evening of September First.

Certified true translation of above statement:

(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing Summary of Evidence consisting~~ of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

(A CONTENT) Lt RCE
3 Bn RCE

In the Field,
6 Sep 43.

FIFTH WITNESS STATEMENT OF ACCUSED

The accused, D 15835 Spr Emile LEDUC, "C" Coy 3 Bn RCE, having been duly sworn states:-

Je ne pourrais repeter sous serment la declaration precedente car j'etais ivre lorsque les evenements se sont produits dans la soiree du premier septembre.

D15835 Emile Leduc

(D 15835 Spr Emile LEDUC)
"C" Coy 3 Bn RCE

TRANSLATION OF ABOVE STATEMENT:

I could not repeat under oath the statement already made because I was drunk when the events took place during the evening of September first.

Certified true translation of above statement:

(A COY EXT) Lt RCE
3 Bn RCE

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

(A CONTEXT) LT RCE
3 Bn RCE

FIFTH WITNESS STATEMENT OF ACCUSED

The accused, D 15734 Spr Marcel DUBE, "C" Coy 3 Bn RCE, having been duly sworn, states:-

J'Ai passe la soiree du premier septembre au "Pub" 'White Horse' avec GAUVIN, LEDUC, et HEBERT. Je ne me souviens pas exactement de l'heure a laquelle nous sommes partis ni ce qui est arrive ensuite.

D15734 Marcel Dube

(D 15734 Spr DUBE M)
"C" Coy 3 Bn RCE

TRANSLATION OF ABOVE STATEMENT:

I spent the evening of september first at the 'White Horse Pub' with GAUVIN, LEDUC and HEBERT. I do not remember exactly at what time we left nor what happened afterwards.

Certified true translation of above statement

(A CONTENT) Lt RCE
3 Bn RCE

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rule of Procedure 4 (C), (D), (E) and (F) have been complied with.

(A CONTENT) Lt RCE
3 Bn RCE

In the Field,
6 Sep 43.

I certify that the foregoing Summary of Evidence consisting of seven pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

(A. Content) Lt. RCE

In The Field
6 Sep 43

Trial of No. D-16883 Spr (A/L/Cpl Achille HEBERT

"C" Coy 3 Bn R.C.E.

I, D 16883 Spr (A/L/Cpl) Achille HEBERT, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Lt J M Jordan, if he is available)

16883 Achille Hébert
.....
(D 16883 Spr (A/L/Cpl HEBERT A.)

Trial of No. D-15734, Sapper Marcel DUBE,

3 Bn., R.C.E., CA(O).

I, D-15734, Sapper Marcel Dube, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Capt. V. Wermenlinger, if he is available.)

Signature: D-15734 Marcel Dube

(D-15734, Spr. Marcel Dube)

Trial of No. D-15835, Sapper Emile LEDUC,

3 Bn., R.C.E., CA(O).

I, D-15835, Sapper Emile Leduc, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Capt. V. Wermenlinger, if he is available.)

Signature: [signature]

(D-15835, Sapper Emile Leduc)

Trial of No. B-29744, Sapper Wilfrid GAUVIN,

3 Bn., R.C.E. , CA(O).

I, B-29744, Sapper Wilfrid Gauvin, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Lt. J. Jordan, if he is available.)

Signature: Wilfrid Gauvin

(B-29744, Spr. W. Gauvin)

In case of - D.16883 Spr.(A/L/Cpl) HEBERT, Achille,
B.29744 Spr. GAUVIN, Wilfrid E.
D.15835 Spr. LEDUC, Emile.
D.15734 Spr. DUBE, Marcel.

I intend, under RP 76, to call Lieutenant Gabriel LEFEBVRE, Lieutenant Andre CONTENT as witness for prosecution. They will state that they were present during, and assisted in the investigation into the alleged damage to the telephone apparatus, and theft of a sum of money from the coin box of this apparatus, said apparatus being in or from a telephone kiosk at Loxhill, HASCOMBE, SURREY, by

Mr Frederick FOSTER, Temporary Constable 328, Mare Lane, HASCOMBE, Surrey and

Mr Owen BREACH, Detective Constable, Surrey Joint Police, GODALMING, SURREY.

They will further testify that they corroborate the evidence of above witnesses

(A.E. DOWDEN) Lieut RCE
3rd Bn RCE

M.F.B. 355
TM—8-40 (6400-1)
H.Q. 1772-39-629
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 29744	Spr	Wilfrid GAUVIN	3 Bn ROE CA O

1. The following is a fair and true summary of the entries in the Regimental ~~Conduct sheets~~ Conduct Sheets of the accused ~~and of the Court Martial or Court of Inquiry~~ Air Force Act and of cases in which trial has been dispensed of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For 9 (2) AA	one (1) time	times
For 15 (1) AA	one (1) time	times
For 40 AA	one (1) time	times
For	times	times

Number of instances of gallantry or distinguished conduct

or, N/A

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act N/A A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in Air Force civil custody, and N/A 14 days in military custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~XXXXXXXXX~~ attestation paper is 28

6. The date of his ~~XXXXXXX~~ attestation specified in his ~~record of service~~ attestation paper is 11 Jul 41

7. ~~The accused was discharged already from~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~service~~ military decoration, ~~or~~ military

~~is entitled to wear the~~ N/A ~~or has applied for a~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

O'

W.A.E.

M.F.B. 355
TM—8-40 (6400-1)
H.Q. 1771-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 29744	Spr	Wilfrid GAUVIN	3 Bn RCE CA O

1. The following is a fair and true summary of the entries in the ~~Company Conduct Sheets of the accused~~ Regimental ~~or Court-Martial or Air Force Act~~ Conduct sheets of summary awards under Section 47 of the "Army Act" and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For 9 (2) AA	one (1) time~~s~~	times
For 15 (1) AA	one (1) time~~s~~	times
For 40 AA	one (1) time~~s~~	times
For	times	times

Number of instances of gallantry or distinguished conduct

or, N/A

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the "Army Act" ~~Air Force Act~~ N/A and dispensations with trial under "A A 73" ~~A F A 73~~ are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and ~~N/A~~ 14 days in military ~~Air Force~~ custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~xxxxxxxxxx~~ attestation paper is 28

6. The date of his ~~xxxxxxxx~~ attestation specified in his ~~record of service~~ attestation paper is 11 Jul 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~xx xx xxxx xxxxx xxx x~~ military ~~xx possession of or entitled to any air force decoration or reward~~ N/A military.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A ~~Air Force~~

NAME

No. B 29744 Name GAUVIN W E | Sqn., Battery, or Company | Corps RCE | Date of enlistment 11-7-41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 175M—7-41 (1919-20) H.Q. 1772-30-1882

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 2 | Signature O.C. Company, etc. Sgd. G.J.C. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET NO 1 DESTROYED ON COMPLETION OF 6 months SERVICE						11-1-42	Sgd. Gaetan J COTE Capt.		
Field	14 Jan 43	Spr		AA 9 (2). WOAS Disobeying a lawful command given by his superior officer.	Sjt Moore SC Cpl Hebert R Spr Nole A	10 days F.P. no 1	15 Jan 43	GW Smith Lt Col	10 days forf. pay - FR&I 149 (1) (b)
Field	13 Jun 43	Spr		AA 15 (1) WOAS AWL from 2359 hrs 13 Jun 43 till 1900 hrs 14 Jun 43 (Absent 19 hrs 1 min)	Sjt Miller R L/Cpl Boivin	3 days forf pay FR&I 149 (2)	15 Jun 43	GJ Cote Maj	1 day autom. forf pay FR&I 149 (1) (a) Total: 4 dp
Field	12 Jun 43	Spr		AA 40 WOAS "Conduct to..... travelling on train without auth.	Doc Evid.	5 days CB	23 Jun 43	GW Smith Lt Col	

Certified true copy
Of documents in my possession.

(JM MICHAUD) Capt
A/OC "C" Coy 3 Bn RCE

(P.T.O.)

O²

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 15734	Spr	Marcel DUBE	3 Bn RCE CA O

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court~~ Air Force Act ~~of summary awards under Section 47 of the Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	N/A	times	15(1) AA	~~Four~~ Three (3) ~~(1)~~ xcl times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct N/A

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act N/A and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and ~~N/A~~ 14 days in military custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Sep 49 AC

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..dated ....., and in his regiment (or corps), the rank of

..dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date —

Date of promotion.

In the rank of ..... years

In the rank of ..... years.

In the rank of ..... years

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

of convictions by a court-martial or civil court, of summary Awards under Section 47 of the Army

Act, and of cases in which trial has been dispensed with (if none so state). Number Rank

Name ..... Regiment

NOTE.—A certified extract from the regimental book stating these convictions and dispensations with trial must be inserted.

Date and Place of Trial	Charge (see words underlined)	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

signed this 7th day of Sept 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. D.15734 Name DUBE, M. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 12.7.41 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet: N/A — No. and date of last drunk: N/A — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sorel	17 Aug 41	Spr.		A.A.Sec.15(1) A.W.L. From 2359 hours, 17 Aug. 41 to 1830 hours, 25 Aug 41.(Abs. 7 days, 18 hours, 30 minutes)	Sgt.Bilodeau L/C Raymond	7 days C.B.	26 Aug 41	Lieut.D. Lahaie	Forf. 8 days pay under FR&I.149(1)(a)
Petawawa	28 Dec 41	Spr.		A.A.Sec.15(1) A.W.L. from 0700 hours, 28 Dec 41 to 0740 hrs. 5 Jan. 42 (Abs. 8 days, 40 min.)	Spr. Spence (Doc.Evid)	7 days pay	5 Jan 42	Capt.A. Laverdure	Forf. 9 days pay under FR&I.149(1)(a)
VERIFIED TO DATE AND RENEWED UPON COMPLETION OF 6 MONTHS SERVICE - 28 JAN.									
Petawawa	1 May 42	Spr.		A.A.Sec.15(1) A.W.L. from 0700 hrs. 1 May 42 to 1700 hrs. 5 May 42.(Abs. 4 days, 7 hours)	Cpl. Boulanger	Admonished	7 May 42	LM.Nantel, Major	Forf 6 days pay under FR&I.149(1)(a)

Certified True Copy — from records in my possession (H.C. EDWARDS) Lieut. RCE, A/Adjt 3 Bn RCE

O3

M.F.B. 355
TM—8-40 (6400-13
H.Q. 1772-39-629
A.F.B. 194

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 15835	Spr	Emile LEDUC	3 Bn FCE CA C

1. The following is a true and true summary of the service in the ~~XXXXXXXXXXXX~~ Regimental ~~XXXXXXXXX~~ of the above-named accused:

Current events

Service Character Marks of the accused: Accused was convicted by a CORPS Court Martial on 7 Dec 44 at [illegible] for [illegible]

Within last 12 months

For 15 (1)	AA	Two(2) times	15 (1)	AA	Four (4) times
For 3 (2)	A	One (1) time			times
For 22	AA	One(1) time			times
For		times			times

Number and date of previous convictions: N/A

~~[illegible]~~

Note: [illegible]

2. The accused has been [illegible] A A

Previous [illegible] N/A

3. The accused is not under stoppages [illegible]

The accused [illegible] N/A [illegible] day of

4. The accused has been in confinement [illegible] N/A days, and has forfeited [illegible] N/A days, with [illegible] N/A days [illegible] N/A days, leaving a balance of [illegible] days to [illegible] of which N/A days were spent in hospital.

5. The present age of the accused is ~~XXXXXXXXX~~ 21 [illegible] attestation paper is

6. The date of the ~~XXXXXXXX~~ attestation [illegible] attestation paper is 1 Sep -3

7. ~~The RCAF [illegible]~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~XX XXXX~~ decoration. ~~IF NOT GIVE PARTICULARS~~ military

~~IF POSSESSION OF OR ENTITLED [illegible]~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
dated , and in his regiment (or corps), the rank of
dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date —

Date of promotion

In the rank of years

In the rank of years

In the rank of years

Note.—If any matter in any of the above paragraphs cannot be given from the Regimental records, the paragraph must be struck through.

I hereby certify that the foregoing schedule of convictions and dispensations with true is a true extract from the regimental books in my custody

signed this [illegible] day of [illegible] 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

P3

No. D 15835 Name LEDUC E | Sqn., Battery, or Company | Corps RCE | Date of enlistment 1-9-41 | G.C. Badges Nil | Service or Proficiency Pay N/A | M.F.M. 6 (A.F.B. 122) (1936—7-41 (1933-36) H.Q. 1772-38-1632)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. Gaetan J Cote Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET NO 1 DESTROYED 1-3-42 LAST ENTRY 28-12-41 (Six months' service) Sgd Gaetan J Cote Capt.									
PETAWAWA MIL CAMP	17-3-42	Spr		AA sec 15 (1) AWL from 0600 hrs 17-3-42 till 0600 hrs 18-3-42. Total absence 1 day.	Sjt Metayer	1 day forf of pay FR&I 149 (2)	18-3-42	JM Michaud Capt	1 day autom. forf of pay FR&I 149 (1)(a) Total: 2 dp
PETAWAWA MIL CAMP	4-4-42	Spr		AA sec 15 (1) AWL from 2200 hrs 4-4-42 till 2200 14-4-42. Total absence: 10 days	Cpl Thibeau	18 days forf pay FR&I 149 (2)	15-4-42	JW Smith Lt Col	10 days autom. forf of pay FR&I 149(1)(a) Total: 28 dp
PETAWAWA MIL CAMP	2-5-42	Spr		AA sec 15 (1) AWL 2days 16 hrs	L/Cpl St Onge	2 days forf pay FR&I 149 (2)	7-5-42	C/L Fraser	2 days autom forf of pay FR&I 149(1)(a) Total: 4 dp

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-8-42	Spr		AA sec 15(1) AWL from 1500 hrs 27-8-42 till 0850 hrs 3-9-42 Total absence: 6 days 17 hrs 50 min	Sjt Nadeau Cpl St Onge	28 days FP	4-9-42	WJ Blais Major	7 days autom forf pay FR&I 149 (1)(a); 28 days autom forf pay FR&I 149(1)(b) Total: 35 dp
Field	15-10-42	Spr		AA sec 15(1) AWL from 2359 hrs 15-10-42 till 1810 hrs 16-10-42	Cpl Levis A/Cpl Rivard	2 days forf of pay FR&I 149 (2)	17-10-42	FX Chaballe Capt	1 day autom forf pay FR&I 149(1)(b) Total: 3 dasy'pay
Field	16-12-42	Spr		AA sec 22 Escaping from custody while under open arrest at 0715 hrs 16 Dec 42	Spr Malouin Spr Belisle Spr Desjardins	JP 27 days F.P.	22-12-42	GW Smith Lt Col	27 days pay FR&I 149(1) (b)
Field	9-12-42	Spr		AA sec 15(1) WOAS AWL 2 days 31 min	Sjt Moore L/Cpl Parent	10 days F.P.	22-12-42	GW Smith Lt Col	3 days aut.forf 10 days aut forf FR&I 149 (1)(a) &(b)
Field	10-6-43	Spr		AA sec 9(2) disobeying .... did not clean out his Bren gun as told by Sgt Miller	Sjt Miller L/Cpl Gosselin	3 days CB	11-6-43	JM Michaud Capt	

CERTIFIED TRUE COPY [signature]

OF DOCUMENTS IN MY POSSESSION. (JM MICHAUD) CAPT A/OC "Coy 3 Bn RCE

Trial of D.16883 Spr (A/L/Cpl) HEBERT, Achille
B.29744 Spr GAUVIN, Wilfrid, E.
D.15835 Spr. LEDUC, Emile
D.15734 Spr. DUBE, Marcel.

all of "C" Coy 3 Bn R.C.E.

LIST OF WITNESSES FOR PROSECUTION

Mr Frederic Foster, Temporary Constable 328
Mary Lane, HASCOMBE, Surrey.

Mr.Owen Havilland BEACH, Detective-Constable,
Surrey Joint Police,
GODALMING, Surrey.

Mr George EDWARDS - DMOD 102/2, Post Office Engineer,
74 Denzil Road,
GUILDFORD, Surrey.

Miss Ivy May WHITTINGTON, Loxhill,
HASCOMBE, Surrey.

~~Lieutenant Gabriel LaFLEUR, "C" Coy, 3 Bn. R.C.E.~~

~~Lieutenant Andre CONTENT,~~ "C" Coy. 3 Bn. R.C.E.

Dated at In the Field, this 6th day of September 1943.

(A. CONTENT) LT. RCE
"C" Coy 3 Bn R.C.E.

Trial of D.16883 Spr. (A/L/Cpl) HEBERT, Achille
B.29744 Spr. GAUVIN, Wilfrid, E.
D.15835 Spr. LEDUC, Emile
D.15734 Spr. DUBE, Marcel

all of "C" Coy 3 Bn R.C.E.

LIST OF EXHIBITS

"A" - Telephone apparatus, complete, with receiver, cash box and stand.

"B" - MBM I Part I, Soldiers Service and Pay Book, being the record of B.29744 Spr. GAUVIN, W., "C" Coy, 3 Bn RCE.

"C" - Statements made by:

(a) B-29744 Spr. Wilfrid GAUVIN, made in afternoon of 2 Sep 43; (taken down by Temp-Const. F. FOSTER)

(b) B.29744 Spr. Wilfrid GAUVIN, made in evening of 2 Sep 43 (taken down by Detec/Const. Owen Havilland BREACH);

(c) D-15835 Spr Emile LEDUC, made in afternoon of 2 Sep 43 and taken down by Temporary Constable Frederick FOSTER;

(d) D.15734 Spr. Marcel DUBE, made in French in evening of 2 Sep 43, taken down by Lt. A. CONTENT and certified true translation by same.

(e) D-16883 Spr.(A/L/Cpl) Achille HEBERT, made in French in evening of 2 Sep 43, taken down by Lt. CONTENT and certified true translation by same;
~~Originals in hands of Surrey Joint Police, GODALMING.~~

"D" -Statement of cost of damages to telephone equipment and sum of money in coin box at time of alleged theft.

Dated at In the Field, this 6th day of September 1943

(A CONTENT) LT.RCE
"C" Coy 3 Bn RCE

5'G-25

Pke. Leduc, F.C.

SUMMARY OF EVIDENCE

in the case of

D.16883 Spr. (A/L/Cpl) HEBERT, Achille
B.29744 Spr. GAUVIN, Wilfrid E.
D.15835 Spr. LEDUC, Emile.
D.15734 Spr. DUBE, Marcel.

all of "C" Coy, 3rd Battalion, R.C.E., soldiers of the Canadian Army Overseas, placed on active service.

CHARGES -

1. - Committing a civil offence; stealing.

2. - Committing a civil offence; malicious damage.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

Mr Frederick FOSTER, Temporary Constable 328, Mare Lane, HASCOMBE, Surrey, having been duly sworn, states:-

At 0845 hrs on Thursday 2 Sep 43, I received information of damage to a telephone kiosk situated at Loxhill, HASCOMBE, Surrey. I attended and examined the kiosk and found the whole apparatus was missing. I commenced enquiries and a soldier's pay book in the name of Wilfrid E GAUVIN, B.29744 was found. I searched the district and about half a mile away, I found this telephone apparatus damaged and no money was in the apparatus. I proceeded to Burningfold Hall and saw Spr Wilfrid E. GAUVIN, B.29744, I interviewed the man and he strongly denied all knowledge of the offence. He then said he was in company with L/Cpl HEBERT, Spr. LEDUC and Spr. DUBE. in the evening of First September 43. I interviewed these three men and Leduc made a statement which he signed admitting the offence. I then saw Spr DUBE. He also made a statement which he signed also admitting the offence. Also L/Cpl HEBERT made a statement which he signed admitting the offence. I saw GAUVIN again and he made a statement contradictory to his first one and he admitted the offence. The statements of L/Cpl HEBERT and Spr. DUBE were taken down in French and translated by Lt. A. CONTENT

All the accused were informed that a civil offence of larceny had been committed and that the matter would be reported to their Commanding Officer. The statements made above were signed by the accused, and are submitted herewith.

The accused declined to cross-examine

Frederick Foster

(Frederick FOSTER)

The Statements referred to by the witness, produced, read over to the accused, marked Exhibits C(a), C(b), C(c), C(d), C(e), signed by me and attached hereto.

Andre Content Lt.

(Andre Content) Lieut.RCE

SECOND WITNESS

Mr Owen Havilland BREACH, Detective-constable, Surrey Joint Police, GODALMING, Surrey, having been duly sworn states:-

On the afternoon of 2 Sep 43, I was called to investigate this matter, andabout 5 P.M. I, with temporary constable FOSTER , saw the accused sapper GAUVIN at Burningfold Hall, DUNSFOLD. I revealed my identity to him and told him the nature of my inquiry. He strongly denied all knowledgeof the offence and after being cautioned he made a statement to this effect. The statement was taken down by Temporary Constable FOSTER in my presence. I then saw Spr LEDUC and I told him who I was and that I had reason to believe that he could assist respecting the larceny and damage from a telephone kiosk at Boxhill, HASCOMBE, the previous evening. He at first denied all knowledge of the offence, but after further questioning, he made a statement admitting being concerned with the other three accused in committing the offence. He made a statement to Temporary Constable FOSTER which was written down in my presence. I then saw Spr Dube. In this interview two of his officers were present Lt Lefebvre and Lt Content. They translated our questions to the accused and the statement made by LEDUC was shown to him. He was cautioned and he made a statement in being concerned with the others in committing the offence. The statement was taken down in French by Lt Content. I then saw the accused, L/Cpl HEBERT. The nature of our enquiry was explained to him in French by his officers. He strongly denied the allegation and he was allowed to leave the room. He later returned and asked if he could speak to us. He was cautioned and also made a tatement. I then saw the accused, pr GAUVIN. I told him that I had reason to believe that the statement which he had made to Temporary Constable FOSTER was not true and that I should report him for being concerned with the other three accused in committing the offence. I cautioned him and he wished to make a statement, which I myself took down in writing and which he signed. His two officers were present on this occasion. In turn, they were all informed that the matter would be reported to their Commanding Officer. I have since examined the cash container of the telephone apparatus and have found the impression that a definite attempt had been made to obtain money from the container which was empty.

The accused declined to cross-examine.

Owen Breach.

(Owen BREACH) Detective-constable
Surrey Joint Police,
GODALMING, Surrey.

THIRD WITNESS

Mr George EDWARDS - D.E.O.D. 102/2., 74, Denzil Road, GUILDFORD, Surrey. Post Officer Engineer, having been duly sworn, states:-

I am a Post office engineer and am stationed at Headquarters, GUILDFORD. My duties involve maintenance of all types of telephones. In consequence of what I was told, I went to the telephone kiosk at Loxhill Post Office, HASCOMBE. It is HASCOMBE No. 43. I arrived at the kiosk on the afternoon of 2 Sep 43. Upon examination of the kiosk, I found that the panel containing the apparatus and coin box were missing. There was nothing left in the kiosk except the bare wires.

On the afternoon of 3rd September 1943, I attended a Canadian Military Camp, where I was shewn a panel containing damaged telephone apparatus and coin box. The apparatus which I was shewn is identical with that which is fitted in the Loxhill telephone kiosk. I do not know the cost of the damage done, but my examination of the coin box a definite attempt had been made to get at the money, the box being empty. I don't know how much it should have contained.

The accused declined to cross-examine.

G. Edwards

(George EDWARDS)

FOURTH WITNESS

Miss Ivy May WHITTINGTON, Loxhill, HASCOMBE, Surrey, having been duly sworn states:-

I reside at the above address with my mother. During the night 1st and 2nd September 1943, I heard my mother call my father about a noise outside.

The next morning on 2nd September, 1943, I went into the park opposite our house. In the park, I found a soldier's pay book in the name of CAUVIN. The book was wet around the edges. Near the book, I found a piece of telephone apparatus. I handed the pay book to the policeman.

The accused declined to cross-examine.

Ivy May Whittington

(Ivy May WHITTINGTON).

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

'D'

15 Sep 43.

Third witness will state

I, George Edwards, D.M.O.D. 102/2, 74 Denxil Road, Guildford, Surrey, Post Office Engineer, have examined documents and records, the property of the Post Office, Guildford Telephone Area, and have ascertained that the estimated cost of repair and replacement of the damage to telephone and coin box at Loxhill Post Office, telephone number HASCOMBE 43, is seven Pounds (7), also the coin box of the same telephone box contained the sum of 3/4d (three shillings and four pence) at the time of the occurence in connection with which I gave testimony at a Summary of Evidence before Lieut Andre Content of the 3rd Bn, R.C.E., on 6 Sep 43. This has been confirmed by letter addressed to RSM Claridge, 3 Bn RCE, from the Chief Clerk, Post Office Guildford Telephone Area.

G. Edwards
(George EDWARDS)

Form of Certificate:

"I certify that in my opinion, the attendance of George EDWARDS is, owing to ~~exigencies of the service (in cases of military witnesses)~~, expense or loss of time involved ~~or illness~~ not readily procurable; a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as Exhibit "D". Letter reffered to above has been read to accused and is attached hereto as Exhibit "D"

Andre Content Lt
(Andre CONTENT) Lieut.RCE
3 Bn R.C.E.

FIFTH WITNESS STATEMENT OF ACCUSED.

The accused, D 16883, Spr (A/L/Cpl) Achille HEBERT, having been duly sworn, states:-

J'ai passe la soiree du premier septembre au'pub' 'White Horse' avec GAUVIN, LEDUC, et DUBE. Je ne me souviens pas exactement quand nous sommes partis. Je me souviens ensuite d'avoir ete malade en arrivant au camp de DUNSFOLD.

P-16883 Achille Hebert
(D16883 Spr (A/L/Cpl HEBERT A)

TRANSLATION OF ABOVE STATEMENT:

I spent the evening of September First at the 'White Horse Pub' with GAUVIN, LEDUC and DUBE. I do not remember exactly when we left. I only remember later being sick on arriving at DUNSFOLD Camp.

Certified true translation of above statement:
Andre Content Lt
(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing~~ Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E) and (F) have been complied with.

JC Andre Content Lt
(A CONTENT) Lt RCE
3 Bn RCE

In the FIELD,
6 Sep 43

~~FIFTH~~ WITNESS STATEMENT OF ACCUSED

The accused, B 29744 Spr Wilfrid GAUVIN, "C" Coy 3 Bn RCE, having been duly sworn, states:-

Je ne pourrais repeter sous serment les declarations precedentes car j'etais en boisson lorsque les evenements se sont produits durant la soiree du premier septembre.

B 29744 Wilfrid Gauvin
(B 29744 Spr GAUVIN W)

TRANSLATION OF ABOVE STATEMENT:

I could not repeat under oath the statements already made because I was drunk when the events took place during the evening of September First.

Certified true translation of above statement:

André Content Lt

(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing Summary of Evidence~~ consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

André Content Lt

(A CONTENT) Lt RCE
3 Bn RCE

H/A

In the Field,
~~6 Sep~~ 43.

FIFTH WITNESS STATEMENT OF ACCUSED

The accused, D 15835 Spr Emile LEDUC, "C" Coy 3 Bn RCE, having been duly sworn states:-

Je me pourrais repeter sous serment la declaration precedente car j'etais ivre lorsque les evenements se sont produits dans la soiree du premier septembre.

D15835 Emile Leduc

(D 15835 Spr Emile LEDUC)
"C" Coy 3 Bn RCE

TRANSLATION OF ABOVE STATEMENT:

I could not repeat under oath the statement already made because I was drunk when the events took place during the evening of September First.

Certified true translation of above statement:

Andre Content Lt

(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing Summary of Evidence~~ consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) ~~and (F)~~ have been complied with.

A/A Andre Content Lt

(A CONTENT) LT RCE
~~3 Bn RCE~~

FIFTH WITNESS STATEMENT OF ACCUSED.

The accused, D 15734 Spr Marcel DUBE, "C" Coy 3 Bn RCE, having been duly sworn, states:-

J'Ai passe la soiree du premier septembre au "Pub" 'White Horse' avec GAUVIN, LEDUC, et HEBERT. Je ne me souviens pas exactement de l'heure a laquelle nous sommes partis ni ce qui est arrive ensuite.

D15734 Marcel Dube

(D 15734 Spr DUBE M)
"C" Coy 3 Bn RCE

TRANSLATION OF ABOVE STATEMENT:

I spent the evening of september first at the 'White Horse Pub' with GAUVIN, LEDUC and HEBERT. I do not remember exactly at what time we left nor what happened afterwards.

Certified true translation of above statement

André Content Lt

(A CONTENT) Lt RCE
3 Bn RCE

~~I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rule of Procedure 4 (C), (D), (E) and (F) have been complied with.~~

~~André Content Lt~~

~~In the Field,~~ ~~(A CONTENT) Lt RCE~~
~~6 Sep 43.~~ ~~3 Bn RCE~~

I certify that the foregoing Summary of Evidence consisting of seven pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

André Content Lt

In The Field
6 Sep 43

(A. Content) Lt. RCE

Trial of No. D-16883 Spr (A/L/Cpl Achille HEBERT

"C" Coy 3 Bn R.C.E.

I, D 16883 Spr (A/L/Cpl) Achille HEBERT, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Lt J M Jordan, if he is available)

D 16883 Achille Hébert
.....
(D 16883 Spr (A/L/Cpl HEBERT A.)

Trial of No. D-15734, Sapper Marcel DUBE,
3 Bn., R.C.E., CA(O).

I, D-15734, Sapper Marcel Dube, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Capt. V. Wermenlinger, if he is available.)

Signature: D15734 Marcel Dube

(D-15734, Spr. Marcel Dube)

Trial of No. D-15835, Sapper Emile LEDUC,

3 Bn., R.C.E., CA(O).

I, D-15835, Sapper Emile Leduc, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Capt. V. Wermenlinger, if he is available.)

Signature: D15835 Emile Leduc

(D-15835, Sapper Emile Leduc)

Trial of No. B-29744, Sapper Wilfrid GAUVIN,

3 Bn., R.C.E. , CA(O).

I, B-29744, Sapper Wilfrid Gauvin, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of Lt. J. Jordan, if he is available.)

Signature: B29744 Wilfrid Gauvin

(B-29744, Spr. W. Gauvin)

In case of - D.16883 Spr.(A/L/Cpl) HEBERT, Achille,
B.29744 Spr. GAUVIN, Wilfrid E.
D.15838 Spr. LEDUC, Emile.
D.15734 Spr. DUBE, Marcel.

I intend, under RP 76, to call Lieutenant Gabriel LEFEBVRE, Lieutenant Andre CONTENT as witness for prosecution. They will state that they were present during, and assisted in the investigation into the alleged damage to the telephone apparatus, and theft of a sum of money from the coin box of this apparatus, said apparatus being in or from a telephone kiosk at Loxhill, HASCOMBE, SURREY, by

Mr Frederick FOSTER, Temporary Constable 328, Mare Lane, HASCOMBE, Surrey and

Mr Owen BREACH, Detective Constable, Surrey Joint Police, GODALMING, SURREY.

They will further testify that they corroborate the evidence of above witnesses

(A.E. DOWDEN) Lieut RCE
3rd Bn RCE

O'

W.A.B.

M.F.B. 355
7M—8-40 (6400-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 29744	Spr	Wilfrid GAUVIN	3 Bn RCE CA O

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Regimental ~~[illegible]~~ Conduct sheets ~~[illegible]~~ of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For 9 (2) AA	one (1 time~~s~~	times
For 15 (1) AA	one (1) time~~s~~	times
For 40 AA	one (1) time~~s~~	times
For	times	times

Number of instances of gallantry or distinguished conduct

or, N/A

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act N/A Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and ~~N/A~~ 14 days in military Air Force custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 28

6. The date of his ~~[illegible]~~ attestation specified in his ~~record of service~~ attestation paper is 11 Jul 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~[illegible]~~ military ~~[illegible]~~ N/A ~~State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental Air Force rank of N/A

Name

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of September 1943

[signature]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

p1

No. B 29744 Name GAUVIN W E | Sqn., Battery, or Company | Corps RCE | Date of enlistment 11-7-41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 1235M—7-41 (1219-26) H.Q. 1772-19-1652

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 2 | Signature O.C. Company, etc.: Sgd. G.J.C. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET NO 1 DESTROYED ON COMPLETION OF 6 months SERVICE		11-1-42	Sgd. Gaetan J COTE	Capt.	
Field	14 Jan 43	Spr		AA 9 (2). WOAS Disobeying a lawful command given by his superior officer.	Sjt Moore SC Cpl Hebert W Spr Nole A	10 days F.P. no 1	15 Jan 43	CW Smith Lt Col	10 days forf. pay - FR&I 149 (1) (b)
Field	13 Jun 43	Spr		AA 15 (1) WOAS AWL from 2359 hrs 13 Jun 43 till 1900 hrs 14 Jun 43 (Absent 19 hrs 1 min)	Sjt Miller R L/Cpl Boivin	3 days forf pay FR&I 149 (2)	15 Jun 43	GJ Cote Maj	1 day autom. forf pay FR&I 149 (1) (a) Total: 4 dp
Field	12 Jun 43	Spr		AA 40 WOAS "Conduct to..... travelling on train without autz.	Doc Evid.	5 days CB	23 Jun 43	CW Smith Lt Col	

(P.T.O.)

Certified true copy Of documents in my possession.

(JM MICHAUD) Capt A/OC "C" Coy 3 Bn RCE

p2

No D.15734 Name DUBE, M. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 12.7.41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B.122) 40/P & /8136 (2065)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sorel	17 Aug 41	Spr.		A.A.Sec.15(1) A.W.L. From 2359 hours, 17 Aug. 41 to 1830 hours, 25 Aug 41.(Abs. 7 days, 18 hours, 30 minutes)	Sgt.Bilodeau L/C Raymond	7 days C.B.	26 Aug 41	Lieut.D. Lahaie	Forf. 8 days pay under FR&I.149(1)(a
Petawawa	28 Dec 41	Spr.		A.A.Sec.15(1) A.W.L. from 0700 hours, 28 Dec 41 to 0740 hrs. 5 Jan. 42 (Abs. 8 days, 40 min.)	Spr. Spence (Doc.Evid)	7 days pay	5 Jan 42	Capt.A. Laverdure	Forf. 9 days pay under FR&I.149(1)(a
				VERIFIED TO DATE AND RENEWED UPON COMPLETION OF 6 MONTHS SERVICE - 28 JAN.					
Petawawa	1 May 42	Spr.		A.A.Sec.15(1) A.W.L. from 0700 hrs. 1 May 42 to 1700 hrs. 5 May 42.(Abs. 4 days, 7 hours)	Cpl. Boulanger	Admonished	7 May 42	LM.Mantel, Major	Forf 6 days pay under FR&I.149(1)(a)

Certified true copy of records in my possession (H.C. EDWARDS) Lieut. RCE, A/Adjt 3 Bn RCE

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-8-42	Spr		AA sec 15(1) AWL from 1500 hrs 27-8-42 till 0850 hrs 3-9-42 Total absence: 6 days 17 hrs 50 min	Sjt Nadeau Cpl St Onge	28 days FP	4-9-42	WJ Blais Major	7 days autom forf pay FR&I 149 (1)(a); 28 days autom forf pay FR&I 149(1)(b) Total: 35 dp
Field	15-10-42	Spr		AA sec 15(1) AWL from 2359 hrs 15-10-42 till 1810 hrs 16-10-42	Cpl Levis A/Cpl Rivard	2 days forf of pay Fr&I 149 (2)	17-10-42	FX Chabalie Capt	1 day autom forf pay FR&I 149(1)(b) Total: 3 days pay
Field	16-12-42	Spr		AA sec 22 Escaping from custody while under open arrest at 0715 hrs 16 Dec 42	Spr Malouin JP Spr Belisle	27 days F.P.	22-12-42	CW Smith Lt Col	27 days pay FR&I 149(1) (b)
Field	9-12-42	Spr		AA sec 15(1) WOAS AWL 2 days 31 mins	Spr Desjardins Sjt Moore L/Cpl Parent	10 days F.P.	22-12-42	CW Smith Lt Col	3 days aut. forf 10 days aut forf FR&I 149 (1)(a) &(b)
Field	10-6-43	Spr		AA sec 9(2) disobeying .... did not clean out his Bren gun as told by Sgt Miller	Sjt Miller L/Cpl Gosselin	3 days CB	11-6-43	JM Michaud Capt	

CERTIFIED TRUE COPY OF DOCUMENTS IN MY POSSESSION. (JM MICHAUD) CAPT A/OC "C" Coy 3 Bn RCE

P3

No.D 15835 Name LEDUC E | Sqn., Battory, or Company | Corps RCE | Date of enlistment 1-9-41 | G.C. Badges N11 | Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1215-26) H.Q. 1772-39-1402

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 2 | Signature O.C. Company, etc.: Gaetan J Cote Major

Place	Date of offence	Rank	Cases of drunken ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	SHEET NO 1 DESTROYED 1-3-42 LAST ENTRY 28-12-41 (Six months' service) Sgd Gaetan J Cote Capt.								
PETAWAWA MIL CAMP	17-3-42	Spr		AA sec 15 (1) AWL from 0600 hrs 17-3-42 till 0600 hrs 18-3-42. Total absence 1 day.	Sjt Metayer	1 day forf of pay FR&I 149 (2)	18-3-42	JM Michaud Capt	1 day autom. forf of pay FR&I 149 (1)(a Total: 2 dp
PETAWAWA MIL CAMP	4-4-42	Spr		AA sec 15 (1) AWL from 2200 hrs 4-4-42 till 2200 14-4-42. Total absence: 10 days	Cpl Thibeau	18 days forf pay FR&I 149 (2)	15-4-42	JW Smith Lt Col	10 days autom. forf of pay FR&I 149(1)(a) Total: 28 dp
PETAWAWA MIL CAMP	2-5-42	Spr		AA sec 15 (1) AWL 2days 16 hrs	L/Cpl St Onge	2 days forf pay FR&I 149 (2)	7-5-42	C/L Fraser	2 days autom forf of pay FR&I 149(1)(a) Total: 4 dp

(P.T.O.)

O2

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 15734	Spr	Marcel DUBE	3 Bn RCE, CA O

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the~~ Air Force Act ~~Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment
For	N/A	times 15(1) AA	~~Four~~ Three (3) ~~(1)~~ times
For		times	times
For		times	times
For		times	times

Number of instances of gallantry or distinguished conduct N/A

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N)A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act N/A and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and ~~N/A~~ 14 days in military custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation paper is~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Sep 49 AC

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~9th~~ 21st day of Sept 43

Grow Smith Sec.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

O3

2 RCB

M.F.B. 353
7M—8-40 (6400-1)
H.Q. 1772-39-629
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 15835	Spr	Emile LEDUC	3 Bn RCE CA O

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Regimental ~~[illegible]~~ Conduct sheets ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	15 (1) AA	Two(2) times	15 (1) AA	Four (4) times
For	9 (2) AA	One (1) times		times
For	22 AA	One(1) times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or, N/A

~~[illegible]~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act (Air Force Act) N/A and dispensations with trial under A.F.A. 73 (A.A. 73) are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and ~~N/A~~ 14 days in military (Air Force) custody, making a total of 14 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 1 Sep 43

7. ~~[illegible]~~

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~[illegible]~~ military decoration, ~~[illegible]~~ military ~~[illegible]~~ military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental (Air Force) rank of N/A

[signature]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating those convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of Sept 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Trial of D.16883 Spr (A/L/Cpl) HEBERT, Achille
B.29744 Spr GAUVIN, Wilfrid, E.
D.15835 Spr. LEDUC, Emile
D.15734 Spr. DUBE, Marcel.

all of "C" Coy 3 Bn R.C.E.

LIST OF WITNESSES FOR PROSECUTION

Mr Frederic Foster, Temporary Constable 328
Mary Lane, HASCOMBE, Surrey.

Mr.Owen Havilland BREACH, Detective-Constable,
Surrey Joint Police,
GODALMING, Surrey.

Mr George EDWARDS - DMOD 102/2, Post Office Engineer,
74 Denzil Road,
GUILDFORD, Surrey.

Miss Ivy May WHITTINGTON, Loxhill,
HASCOMBE, Surrey.

~~Lieutenant Gabriel LEFEBVRE, "C" Coy, 3 Bn. R.C.E.~~

~~Lieutenant Andre CONTENT,~~ "C" Coy, 3 Bn. R.C.E.

Dated at In the Field, this 6th day of September 1943.

Andre Content Lt

(A. CONTENT) LT. RCE
"C" Coy 3 Bn R.C.E.

Trial of D.16883 Spr. (A/L/Cpl) HEBERT, Achille
B.29744 Spr. GAUVIN, Wilfrid, E.
D.15835 Spr. LEDUC, Emile
D.15734 Spr. DUBE, Marcel

all of "C" Coy 3 Bn R.C.E.

LIST OF EXHIBITS

"A" - Telephone apparatus, complete, with receiver, cash box and stand.

"B" - MBM I Part I, Soldiers Service and Pay Book, being the record of B.29744 Spr. GAUVIN, W., "C" Coy, 3 Bn RCE.

"C" - Statements made by:

(a) B-29744 Spr. Wilfrid GAUVIN, made in afternoon of 2 Sep 43; (taken down by Temp-Const. F. FOSTER)

(b) B.29744 Spr. Wilfrid GAUVIN, made in evening of 2 Sep 43 (taken down by Detec/Const. Owen Havilland BREACH);

(c) D-15835 Spr Emile LEDUC, made in afternoon of 2 Sep 43 and taken down by Temporary Constable Frederick FOSTER;

(d) D.15734 Spr. Marcel DUBE, made in French in evening of 2 Sep 43, taken down by Lt. A. CONTENT and certified true translation by same.

(e) D-16883 Spr.(A/L/Cpl) Achille HEBERT, made in French in evening of 2 Sep 43, taken down by Lt. CONTENT and certified true translation by same;
~~Originals in hands of Surrey Joint Police, GODALMING.~~

"D" -Statement of cost of damages to telephone equipment and sum of money in coin box at time of alleged theft.

Dated at In the Field, this 6th day of September 1943

A. Mc Content Lt

(A CONTENT) LT.RCE
"C" Coy 3 Bn RCE

5G-25

Pke. Leduc, F.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A 86867 Pte Florian Elzear LEDUC Calg Highrs - 11 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA40	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1) ~~To~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo 90 days Detention

(Sgd) ..... Judge-Advocate, if any. 12 Mar/45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused~~ be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 17 Mar 45 (Sgd) W S N Gostling Brigadier

Commanding 2 Can Base R'ft Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A-86867 Pte Leduc F.E.	19 Mar 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5-6-25.

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFAS1) 40/P & S/1698 (D144)

4/38B

Convened by Order of Brigadier C S N Gostling, ED Comd 2 CBRG dated 11 Mar 45

RECEIVED 9 MAY 1945 JAG 1 ARMY GP

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 86867	Pte		Florian Elzear	LEDUC	Calg Highrs - 11 CBR Bn

PROCEEDINGS REVIEWED

Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 12 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~ ~~The Interpreter is sworn.(1)~~ ~~Do you object to ..... as shorthand writer ? Ans .....~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	G G MacKENZIE, MBE	FGH - CAC 3 Cdn NSTD
Member	Capt	D L McJANNET	RCASC 9 CBR Bn
Member	Lieut	L LAPRADE	CIC 10 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	J M A LALONDE	CIC 10 CBR Bn
Defending Offr	Lieut	J E LOUGHLIN	CIC 11 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans Nil Is the Defending Offr a lawyer ? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused A 86867 Pte Florian Elzear LEDUC before arraignment make(s) (no) (a) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 16

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG. Vol. 5 Pg.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. no .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their)~~ plea(s) on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 90(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. no
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. yes .(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 662, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A86867 Pte Florian, Elzear, LEDUC (Calg H. 59 Coy 11 CBR Bn, a soldier of the Cdn Army Overseas is c with:

FIRST CHARGE
AA SEC 40

"WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJU OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he,

in the Field, in Belgium, at approx 1930 hrs 20 Feb 45 was improperly in possession of Government property, to wit

3 Blankets, G.S.
1 Greatcoat.

(R.G. YOUNG) Lt-col,
COMD, 11 CBR Bn

In the Field,
5 Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G S N Costling) Brigadier
Commander
2 Canadian Base Reinforcement Group

In the Field
11 Mar 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-86867	Pte		Florian Elzear	LEDUC	Calg Highrs, 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 11 MAR 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) G G MacKENZIE, MBE, FGH, X-9 List, att 3 CDN NETD (Unit.)
(Must be named. RP 106.)

MEMBERS.

Captain D L McJANNET, RCASC, 9 CBR Bn

Lieut (Rank.) L LAPRADE, CIC, 10 CBR Bn (Unit.)
(Named or detailed. RP 106.)

~~WAITING MEMBER.~~

(Rank.) *(Named or detailed, if any. RP 106.)* (Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.) *(Must be named, if any. RP 106.)* (Unit.)

On Active Service in the Fd

in BELGIUM (Country.) [signature] Brigadier (Rank.)
(Signed personally. RP 105 fn 2.)

Date 11 MAR 45 (G S N Gostling) Commanding 2 CDN BASE RFT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4921)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined A.86867 (No.)

PTE (Rank) LEDUC (Name) F.E. and in my opinion he is

~~fit~~ ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD

Date 12 Mar 45

(Sgd)
Medical Officer

11 CBR Bn
(Unit)

PLEA OF MITIGATION - A 86867 Pte LEDUC, F.E. 83.

Mr President and members of the court. The plea of guilty by the accused to the charge of being in improper possession of government property, to wit: three blankets and one greatcoat places this case at the mercy of the court in awarding punishment. The circumstances surrounding this case however indicate that there was no great crime committed by the accused. The only intention shown anywhere in the evidence and by the accused's own admission was merely to take his blankets and greatcoat out of barracks in order to sleep out for one night, which after reviewing Pte LEDUC's record of service, seems a perfectly logical desire and although we are not trying to lessen his crime of ~~leaving barracks~~ being in improper possession of government property we would submit that there is no evidence of intended theft, resale or unlawfull destruction of this property.

Pte LEDUC's record of service in this war is very good and we would ask the court to consider it very carefully in awarding punishment. The accused joined the army 30 June 1942 voluntarily when barely of age for military service. Barely one year later in July 1943 he arrived overseas. He landed in France on D day in the assaulting troops of the Highland Light Infantry of Canada of the 3rd Can. Division. Wounded in the field on the 25th of June he was sent to hospital. The first party August saw him returned to the field this time reported to the Calgary Highlanders of 2 Div. Here he served in a continuous fighting role until wounded again on 14th SEP. Again sent to hospital he was declared fit several weeks later and returned to Calgary Highlanders approximately 4 Nov. Served continuously again in the front line until the 25 Dec when he was wounded for the third time. He was sent to hospital again and after that to a convalescent home in January. He returned to 2 CBRG early in February. He has been told by a medical officer at one of the last hospitals he was in that his wounds were not serious enough to be sent home on the tri-wound scheme and he has pressed the case no further although he has a 1½ yr old daughter that he has never seen. Pte LEDUC was married in Mar 1943 and his wife served for over one year in the CWAC receiving an honorable discharge after marriage. She is now working and they own their home and furniture. Pte LEDUC has had no crime whatsoever in civil life and this is his first court martial in the army. He has had no leave to [illegible] and no [illegible] He has purchased victory bonds three times since the war started. The defence submits that this is an honorable and indeed an enviable record of service for anyone serving in the Canadian Army and asks the utmost clemency of the court in awarding punishment.

[illegible]

Ex B.
116

SUMMARY OF EVIDENCE

In the case of A86867 Pte Florian, Elzear, LEDUC (Calg Highrs) 59 Coy 11 CBR BN, a soldier of the Cdn Army Overseas is charged with improper possession.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

K57428 Sgt Weir, R.(Cdn Scottish) 48 Coy, 10 CBR BN (PE) having been duly sworn, states:

"At approx 1930 hrs 20 Feb 45 I was preparing a draft of men and together with the Orderly-Cpl was proceeding through our own company lines. I saw the accused, whom I now know and recognize as Pte Le Duc, acting in a very suspicious manner near the back stairs of 48 Coy lines. I accosted him and on searching him I found that the accused had one blanket under his pants and tunic, and also had in his possessiontwo more blankets wrapped in a great coat. This roll was tied with a pull through. The attempt to conceal the one blanket on his person and the suspicious way in which the other articles were wrapped, to my mind, warranted me placing him under close arrest."

Sgt R Weir
(K57428 Sgt Weir, R.)

The accused declines to cross examine this witness.

(RP 83(b) has been complied with)

SECOND WITNESS

F42573 Cpl Brannen, F.A.(MM) (Alg. Regt) 48 Coy 10 CBR Bn, having been duly sworn, states:

"At approx 1930 hrs 20 Feb 45 I was accompanying Sgt Weir in mustering a draft. On the third floor of "G" block which is 48 Coy lines, the accused whom I now know and recognize as Pte Le Duc, was approaching along the hallway heading for the back stairs. He was carrying something in his great coat and was looking very suspicious. Sgt Weir, R. and myself apprehended him for investigation. The accused was carrying one blanket wrappexd around his body under his uniform and two blankets in his great coat tied with a pull through. We then placed him under close arrest and turned him over to 10 Bn Guard Room. The accused refused to make any statement when we arrested him."

Sgt F.A. Brannen M.M.
(F42573 Cpl Brannen, F.A.)

The accused declines to cross-examine this witness.

(RP 83(b) has been complied with)

THIRD WITNESS

K66516 Pte Shillito, R.(Cdn Scottish) R.P. 11 CBR BN having been duly sworn, states:

"At approx 0900 hrs 21 Feb 45 I was instructed to take the accused, whom I now know and recognize as Pte Le Duc, over to his sleeping quarters and collect his equipment. We entered the room and Pte Le Duc went straight to a bed and started to put his equipment together. I returned with the accused and his equipment to the Unit Cell Block. I made a list of the equipment. I now produce this list of equipment."

R. Shillito
(K66516 Pte Shillito, R.)

Cross-examined by the accused:

Q. When we went into the room how do you know the bed I went to was mine ?
A. I took for granted that the bed you went to was your bed and the equipment you got together was your equipment.

Q. Did we bring the 3 blankets over ?
A. Yes.

(RP 83(b) has been complied with)

The list of equipment referred to in the evidence of the above witness is attached hereto as Exhibit "A"

FOURTH WITNESS

B79071 CQMS Marshall, A.H., CQ 59 Coy, 11 CBR Bn, having been duly sworn, states:

"On 9 Feb 45 the accused whom I now know and recognize as Pte Le Duc, was taken on strength 59 Coy. At that time along with other equipment he was brought up to the regular issue of 3 blankets."

"On the 21 Feb 45 Sgt Weir, of 48 Coy 10 Bn reported to me with 3 blankets and a great coat. I placed them in a kit bag with the label Pte Le Duc on it. Since then no other blankets have been issued to this man."

A.H. Marshall
(B79071 CQMS Marshall, A.H.)

The accused does not wish to cross-examine the witness.

(RP 83(b) has been complied with)

The accused was cautioned as follows:

Q. Do you wish to make any statement or give evidence on oath ? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence.
A. I want to make a statement.

Q. On oath or not on oath ?
A. On oath.

The accused sworn, states:

"On 2[illegible] Feb 45 at approx 1930 hrs I came into barracks to get my blankets as I was going to sleep out. I went through 48 Coy lines to get out the back way. As I got to the back stairs a Sgt and Cpl stopped me and examined me. They took away my three blankets and my great coat. They asked me where I got the blankets and I told them they were mine. I told them I was going to sleep out with them. That is all I said. On the following day 21 Feb 45 at approx 0930 hrs I along with an RP went to get my equipment. I was the first in the door of my room and went straight to my bed. My bed was the bottom portion of a double tier bed. ~~[illegible]~~ I transferred my equipment from the bottom to the top and then got some things which were underneath my mattress. On the top bed there were 3 blankets. They were not my blankets. When we brought over my equipment there were no blankets. They took a list of all my equipment and locked it up in one of the rooms of the cell block.

F.C. Leduc
([illegible])

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE, CONSISTING OF THREE (3) PAGES, WAS TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED AND THAT RP 4(c)(d)(e) AND (f) HAVE BEEN COMPLIED WITH.

R E Crouch

(R.E. Crouch) Lt
Officer detailed to take
SUMMARY OF EVIDENCE

In the Field,
5 Mar 45

21 Feb. 45

3 blankets
respirator
steel helmet
rubber boots. knee high
1 parcel
large pack
small pack
web
battle dress

Certified this is equipment
Leduc picked up this morning.

R. Shillito

Exhibit "A"

R. E. Crouch Lieut.
Off. detailed to take summary of
Evidence.

M.F.B. 355
223M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

E & C

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A56867	PTE.	LEDUC, F.E.	(CALG. HIGHRS)

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery / Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For TEMPORARY SHEET	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under the Air Force Act, A.F.A. 73, Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and ~~NIL~~ 21 days in ~~Air Force~~ military custody, making a total of ~~NIL~~ 21 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 22 YRS. / attestation paper is

6. The date of his ~~enlistment~~ attestation specified in his record of service is 30 JUNE 42 / attestation paper

7. The service which the accused is allowed to reckon towards discharge is 2 YRS. 9 MONTHS.

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

CVSM & CLASP

10. ~~If the accused is a warrant officer.—The accused before he was made a warrant officer had been ~~Air Force~~ the regimental rank of .....~~

DWS 11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ~~Permanent Force~~ ~~unit~~ ..... dated ....., ~~and in his regiment (or corps), the rank of~~ ..... dated .....

DWS 12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:~~

..... ~~Date of promotion~~

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

DWS

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of March 5 D J Stewart Capt 4 Sept 11 [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

TEMPORARY SHEET: 30 JUNE.42

No A.86867 Name LEDUC F. Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

NIL ENTRIES. A.W.

CERTIFIED TRUE COPY OF THE REGT DOCUMENTS IN MY POSSESSION

D.L. Stewart

(D.L. STEWART) CAPT & A/ADJT.
11 C.B.R. BN.

(PTO)

7 Mar 45
(DATE)

A86867 PTE. LE DUC F.E.
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me

8 Mar 45
(DATE)

2. (a). ~~I request that~~ .....
(NAME AND RANK)
~~if available, be appointed.~~ OR

(b). I request that an oficer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b)

(SIGNED) F. E. Leduc

I hereby certify that Lt. Ghoughlin was appointed to
(RANK AND NAME)
defend A86867 Pte Leduc F.E. at his forthcoming
(No Rank and Name of ACCUSED)
trial by Court Martial and that the said
Lt Ghoughlin was notified that
(RANK AND NAME OF DEFENDING OFFICER)
he was Defending Officer on 9 Mar 45
(DATE)

D. L. Stewart Capt
(ADJUTANT)

REQUEST FOR DEFENDING OFFICER

I wish to have an officer appointed at the discretion of the Commanding Officer, defend me at my trial.

F. C. Le Duc
(A86867 Pte Le Duc, F.E.)

LIST OF WITNESSES

PROSECUTION:

K57428 Sgt Weir, R.
F42577 Cpl Brennen, W.A. (MM)
K67516 Pte Shillito, R.
B79071 CQMS Marshall, A.H.

DEFENCE: NIL

LIST OF EXHIBITS

"A" Equipment Statement concerning accused.

HC-144

PTE LEDUC JA

"DWM" SCHEDULE. "DWM"

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.55629 Pte Joseph Andre LeDuc R 22e R

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

"DWM"

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 paras 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~———~~ AJA "DWM" beginning on (date) "DWM" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years.

(Sgd) ~~———~~ AJA ~~———~~ Judge-Advocate, if any. 11 Oct 44 Date awarded. (Sgd) "D W McAdam Maj" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(2), RP 128(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision to Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to Penal or Detention barracks until further orders.~~(1) DEB

(1. AA 57A. Delete if not used.)

(Sgd) "P E Bernatchez Brigadier"

Date 13 October 44

Commanding 3 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.55629 Pte Leduc J A R 22 R	14 Oct 44	"P W TREMBLAY Lt" Adjt R 22 R

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CERTIFIED TRUE COPY

RECORDED AT CMHQ IN AB 160 4C-144

CFA96 (In lieu of AFA3) 40/P & S/1698 (2804)

FIELD GENERAL COURT-MARTIAL

(D M Owen) Capt Cdn Sec GHQ 2nd Echelon AAI

Convened by Order of Brig P E Bernatchez DSO CHR 3 Cdn Inf Bde dated 10 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.55629	Pte		Joseph Andre	LeDuc	R 22e R

Proceedings Reviewed "DWM" 24 Oct 44 D.J.A. Cdn Sec GHQ 2 Ech AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) "DWM" 11 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2C 78

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E.4201 Pte Mainguy A as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to ---------NA--------- as shorthand writer? Ans NA

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D W McAdam	West N.S.R.
Member	Capt	G H Morris	C.Y.R.
Member	Lieut	M J L Rousseau	R 22e R
~~Judge-Advocate~~			
Prosecutor	Lieut	L A R Desrosiers	R 22e R
Defending Offr	Leiut	Fernand Turgeon	R 22e R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B.55629 Pte Joseph Andre LeDuc before arraignment make(s) (no) objection(s) to the ~~———~~ AJA ~~———~~ (1) plea "DWM"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Forms B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (one) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: ~~Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....

Do you intend to call witnesses on your behalf? Ans. .....

Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? (1) Ans. YES (BY MY DEF OFFR) (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~ (2) (TWO)
(1. *When several accused tried separately see RP 31(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RC 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"DWM"

CHARGE SHEET

The accused B55629 Private Joseph Andre LEDUC, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CF, is charged with:-

FIRST CHARGE
Section 12 (1) (a) Army Act

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, in ITALY, 14 September 1944, after being warned that his platoon would soon proceed to take part in active operations against the enemy, with intent to avoid so proceeding, absented himself from his platoon at approximately 1330 hrs 14 September 1944, until he returned to his platoon at approximately 1200 hours 23 September 1944.

(Total Absence:- 8 days, 22 hours, 30 minutes.)

"J V ALLARD"
(J V ALLARD) Lt Col
Comd Royal 22e Regiment

In the Field,
9 Oct 44.

TO BE TRIED BY FGCM

"J P E BERNATCHEZ"
(J P E BERNATCHES) Brigadier,
Commanding, 3 Cdn Inf Bde.

In the Field,
10 Oct 44.

"L J B"

"DWM"

FIELD GENERAL COURT-MARTIAL

CFA56 (In lieu of AFA8)
60/PAM/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B55629	PTE		JOSEPH ANDRE	LeDUC	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has (XXX committed the offence(s) set forth in the Charge Sheet(X) attached and on (*date*) 10 Oct 44 endorsed by me, (XXXXXXXXXXXXXXXXXX." To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; XXXXXXXXXXXXXXXXX

MEDICAL OFFICER'S CERTIFICATE "DWM"

I certify that I have this morning examined No B.55629
Rank Pte Name Leduc J A of R 22e R
and inmy opinion he is fit to undergo trial by Court Marital
Station In the field
Date 11-10-44

"Y Dandereult Capt"
(Medical Officer)

F.G.C.M. "DWM"

Plea for Mitigation 11 Oct 1944

B.55629 Pte Joseph Andre Leduc (Page 1)

Lieut F Trugeon.

I would like to ask the court the mitigation of punishment. The reason is that Pte Leduc has been through former battles such as the Hitler Line, the Gustav line and never failed to perform his duty. In the Hitler and Gustav lines he had for Pl Comm late Lt Cordin who certainly would be a witness of character. Leduc has a nice crime sheet and it is evident that he was a fool rather than a knave. The accused has long service and good character. He is a volunteer. Two days before his company went up to take position on the start line Leduc had been excused duty for stomach troubles. He was told by the MO not to eat any meat. In the morning before the attack at 0900 hrs a paper from the MO marked Medicine and Duty was given to Leduc and at the same time he was told to come back at the R.A.P. if he had some more stomach trouble. I would kindly ask the court to take into consideration the facts which have been mentioned and to give Pte Leduc mitigation of punishment and am sure the CO of his unit would like him back as soon as possible. That is all.

"DWM"

SUMMARY OF EVIDENCE Exhibit "A" "DWM"

In the case of,
B-55629 Pte Leduc Joseph Andre, Royal 22e Regt;
Cdn Army Overseas, C.M.F.

The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS for the prosecution

D-140564 Cpl Roy J. R. having been duly sworn states:

I am D.140564 Cpl Roy J.R. a section commander in the 11th platoon of B Coy Royal 22 Regt on active service C.M.F.
At about 1330 hrs on Sept 14, 1944 after having been told that we were going to attack, the platoon was ready to move. The platoon commander Lt Comeault J.A. sent me to see where Pte Leduc was - I went around the Platoon and Coy area but I could not find him, I didn't see him until he returned at 1200 hrs Sept 23 1944, after the attacks were over and after we had been relieved from front line duty.

Signed/ D-150564"Cpl Roy J R"

The accused declines to cross-examine the witness.

SECOND WITNESS for the prosecution

G.60965 Pte Bois R, having been duly sworn states/

I was and I am still the 11th platoon's runner in B Coy Royal 22e Regt. Cdn. Army Overseas.
At about 1330 hrs on Sept 14, 1944 the Coy received the order for the attack. After having been told that we were going to attack, the platoon was ready to move. The Platoon commander Lt J.A. Comeault sent me to find out for Pte Leduc J A because we were moving and Pte Leduc was not with us, so I went in the platoon and Coy area to, search for him but I could not find him and I have not seen him until he returned to the Coy at 1200 hrs on Sept 23, 1944 after the attacks were over and after we had been relieved from front line.

"Pte Bois R"

The accused declines to cross-examine the Witness.

THIRD WITNESS for the Prosecution

Lt J.A. Comeault having been duly sworn states:

I am and I was the Commander of 11th Platoon of B Coy Royal 22nd Regt C.M.F.
At about 1330 hrs on 14 Sept 1944 the Coy received the order for the attack, gathering the platoon, I noticed that Pte Leduc J.A. had no web on. I went to him and told him to put his web on. He answered Yes, I told him to hurry up. The

platoon left for the attack and I found out that Pte Leduc J.A. was not with us, so I sent Cpl Roy J.R. and Pte Bois, R to see if Pte Leduc J.A. was following, they could not find him. I didn't see Pte. Leduc J.A. until 1200 hrs on Sept 23, 1944. when our Coy had been relieved.

The accused declines to cross-examine the witness.

Page "2"

The accused was warned by me as follows:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but any statements you make or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.-
I have nothing to say, I reserve my defence.

"Pte Leduc A J B.55629"

I certify that the foregoing Summary of Evidence was taken down by me, in the presence of the accused and that Rules of Procedure 4 c) d) e) f) and g) have been complied with.

"M Aubert Capt"

In the field
23 Sept 44

LIST OF EXHIBITS
In the case of

B.55629 Pte Leduc Joseph Andre, Royal 22nd Regt
Cdn Army Overseas, C.M.F.

NIL

Exhibit "B"
ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only) "DWM"

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.55629	Pte	Joseph Andre Leduc	Royal 22e Regiment

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 15 (1) ..... 2 times.
For ..... times.
For ..... times.
For ..... times.

Date of first entry in Field Conduct Sheet .....
Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. "GL"

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for —— days in civil custody; and for 14 days in military custody, *i.e.*, —— days in open arrest, 14 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 25 years 3 months

6. The date of his attestation ~~calling up for military service~~ is 16-9-41.

7. The service which the accused is allowed to reckon is N/A.

8. The accused is in possession of† N/A.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4711. Forms/B.296(War)/2

"GL"

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		"GLN"		"GLN"

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9th day of Oct 44

"P W Tremblay Lt"
Offr i/c Records
R 22 R

Exhibit "C" MFM 6 "DWH"

No B.55629 Name LEDUC A J | Sqn, Battery, or Company | Corps R 22e R | Date of enlistment 16-8-41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert N.S.	27-21-41	Pte	N/A	A.A. Sec 15(1) AWL 3 days 4 hrs Furlough 2-4-43 TAA 342087	CQMS Simmons	14 days C.B.	31-2-41	Lt Col Stewart	4 days pay
Debert N.S.	15-4-43			AA Sec 15(1) AWL 15 days 19 hrs	Cpl Whalley	14 caus C.B.	13-4-43	Maj Scott	10 days pay

Certified true copy "P W Tremblay Lieut"
Officer i/c Records R 22 R
"J A Comeault Lt" 9 Oct 44

(PTO)

LIST OF WITNESSES FOR PROSECUTION

in the case of
B.55629 Pte Leduc Joseph Andre, Royal 22e Regiment
Cdn Army Overseas, C.M.F.

FOR THE PROSECUTION D.140564 Cpl Roy J.R.
G.60965 Pte Bois R.
Lieut J.A. Comeault

FOR THE DEFENCE N I L

I hereby acknowledge receipt of a true copy of Summary of Evidnece taken prior to my trial by F.G.C.M. I further more acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial:

I desire the services of an Officer to represent me at my trail.

I desire the services of one officer
If he is available:

"B.55629 Pte Leduc A J"

In the Field
13 Sept 44/

4N-32

Spr. Leduc L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th	GUILTY	GUILTY	
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which — days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : 180 days detention and Stoppages of pay to make good deficiencies of kit in amount of $17.84

(Sgd) ..... 18 Dec 44 (Sgd) A C Kavanagh

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

The decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) E. de. Burne Maj Gen

Date ..... Commanding Officer 1st Canadian Section, 21st Army Group. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-59288 Sp Leduc Leopold	Dec 27 44	[signature illegible] OC 3 Bn. R.C.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no ill-considered alterations to finally mutilated erasures or illegible words in this proceedings to the best of my knowledge and belief. 27 Dec 44 A/Capt

RECORDED AT CMHQ IN A6 100. 4N-32

RECEIVED 31 JAN 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA96 (To lieu of AFA9) 40/P & S/1008 (4950)

4/38B

Convened by Order of Maj Gen E.L.M. Burns Comd Can. Sec. dated 14 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
D.59288	SPR.		LEOPOLD	LEDUC	3 Bn Coy 3 Can RCE

PROCEEDINGS REVIEWED Modified Pte Pte

REVIEWING OFFICER, JAG BRANCH G.H.Q.

PROCEEDINGS REVIEWED Date 27 Dec 44 Confirming Officer G.H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 18 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

16/104

A1. The President, Members, waiting Member, ~~IA, if any, and Offrs under instr, if any,~~ acct. assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) acct. attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is acct. (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is acct. (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) acct. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. acct. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~ acct. ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~IA, if any, and Offrs under instr, if any,~~ acct. are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	A.C. KAVANAGH	CAMERONS OF CAN
Member	CAPT.	H. HOUSE	10 C.B.R. BN
Member	LIEUT.	M. LAMARCHE	10 C.B.R. BN
Judge-Advocate	—	—	—
Prosecutor	LIEUT.	J.O.R. ROCHON	3 BN. RCE.
Defending Offr	LIEUT.	R. COMTOIS	3 BN. RCE.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) acct. (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) acct. arraigned acct. (separately) on all charges in the charge sheet.(1) The accused does acct. (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3 or E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

for II p. 77

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes - Under oath. .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on all charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ ~~acts~~ ~~charge(s)~~. Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(See Next Sheets of Record.)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(F).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes - Witness as to character - (2)
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'B' and Ex 'C' respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court ~~on the Statement(s) and Conduct Sheet(s), and~~ in mitigation of punishment ?(1) Ans Yes - through my duty officer .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 230, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D59288 Sapper Leopold LEDUC, "B" Coy 3 Bn RCE, C.A., a soldier of the Canadian Army placed on Active Service, is charged with:-

1st Charge Sec 15(1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, on 3rd November, 1944, absented himself from "B" Coy 3 Bn RCE C.A., from 2200 hours on said 3rd day of November, 1944, until 0700 hours on the 8th day of November, 1944. Total absence 4 days 9 hours.

2nd Charge Sec 15(1) Army Act — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, on 10th November, 1944, absented himself while confined to camp from "B" Coy 3 Bn RCE, C.A., from 1330 hours on said 10th day of November, 1944, until 1730 hours on the 16th day of November, 1944. Total absence: 6 days 4 hours.

3rd Charge Sec 15(1) Army Act — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, on 16th November, 1944, absented himself from "B" Coy 3 Bn RCE, C.A., from 1736 hours on said 16th day of November, 1944, while confined to camp, until 0920 hours on the 1st day of December, 1944. Total absence: 14 days 15 hours 45 minutes.

4th Charge Sec 24(2) Army Act — WHEN ON ACTIVE SERVICE LOSING BY NEGLECT

in that he

in the Field, on 1st December, 1944, on inspection was found to be deficient of the following articles of WD property entrusted to him for his use.

			Vocab Valpe	75% Value
ARTICLES:-	Boots ankle pair	1 -$5.10	$5.10	$3.83
	Mess tin rect	1 - .35	.35	.26
	Drawers wool	2 -$1.20	$2.40	$1.80
	Shirts wool	2 -$1.20	$2.40	$1.80
	Towel	1 - .32	.32	.24
	Blankets	3 -$3.07	$9.21	$6.91
			$19.78	$14.84

(GEO.W. SMITH) LT.COL.RCE
COMMANDING OFFICER,
3 BN RCE,
C.A.(O/S)

5th DEC 1944
FIELD

To be tried by Field General Court Martial.

(E.L.M. Burns) Maj-Gen
OIC
Cdn Sec GHQ 1 Echn - 21 A Gp

In the Field
14 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 106-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(5).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-59288	Spr		Leopold	LEDUC	"B" Coy 3 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 14 Dec 44 endorsed by me, ~~[illegible]~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	A.C. Kavanagh, MC (Must be named. RP 106.)	QOC of C X-4, 11 CBR Bn (Unit.)	

MEMBERS.

Capt or Lieut (Rank.)	CAPT. H. HOUSE (to be detailed by OC 10 CBR Bn) (Named or detailed. RP 106.)	(Unit.)
Capt or Lieut (Rank.)	LT. M. LAMARCHE (to be detailed by OC 10 CBR Bn) (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.)	LT. W.E. PRICE (to be detailed by OC 10 CBR Bn) (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

--- (Rank.)	----- (Must be named, if any. RP 106.)	--- (Unit.)

On Active Service in the Fd

in Belgium (Country.)

Dat 17 Dec 44

E.L.M. Burns (Signed personally. RP 105 fn 21)

Commanding OIC Cdn Sec GHQ 1 Echn - 21 A Gp

Maj-Gen (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 10 (In lieu of AFA 3) 40-F & S-1697 (8163)

Approved.

[signature]
Maj.

MEDICAL OFFICERS' REPORT

I certify that I have this day examined.....

D.59288 SPR LEDUC, L. .....3 Bn RCE and in my opinion he is fit to undergo trial by Field General Court Martial.

Léonce Gaudreault Capt
Medical Officer 3 Bn R.C.E.

Station Field

Date 18-12-44

HH

actioning

Witnesses to Character

I E 47405 C. S. M. R. Nadeau, R.C.E., being duly sworn states:

"I say that Sapper Leduc whom I recognize as the accused has been with me for two years and I believe he was paraded only twice and never was it for A.W.L. Sapper Leduc is a very good worker but he is (prompt). I consider Sapper Leduc as a good soldier."

" Lt. P. E. Comtois, R.C.E. "B" Coy 3. Btn being duly sworn states:

I've been pln officer in #6 pln for over 3 months and as such I state that Sapper Leduc who is one of my men, has never given me any trouble whatsoever, even though he quick temper I consider him as a good soldier and I never witnessed any occasion where he misbehaved during the length of time I was his pln officer."

a Plea of Mitigation by Defense:

"His life was dragging. We'd been doing that ever since he left Canada except for short periods while transport were usefully used. At beginning October the Unit moved up to do a very urgent job and we had to work very often at night, especially for those in transport. We worked pin that for over 3 weeks having just a day off during that time and every body was quite tired out. Sapper Leduc who was a fairly good driver unfortunately had a poor eyesight at night. Owing to that he had two accident during October the last one being mostly due to his poor eyesight. He was grounded and evidently fell very sore about it considering that it wasn't completely his fault. Being quick tempered, tired & browned off after a month hard work he reacted the wrong way. He went out to have drinks to forget about it. He had been too many. He had no intention of going A.W.L. but in his state of drunkenness he met a woman who left him for the night. From then on he stayed there and returned after 4 days 9 hrs. His Unit had moved during that time. Then he was sent to this new

~~Location~~ Plea of Mitigation by Defense (following)

location. While he reported for ~~mar~~ tial there were no
troops personnel in the boy to provide ~~guard~~
duty. He was then placed under close arrest
and escorted to bathroom. That looks very good
like a hint by him and the temptation and two
strong ~~he~~ didn't resist of going back A.W.O.L. He then
reported back to days later. He was placed under
close arrest but he was only escorted to bathroom
by guard on the same reason as ~~he~~ originally
he was reported back. The same opportunity
was given to him that he was
[illegible] to ~~the~~ ~~the~~ ~~the~~ ~~the~~
[illegible] ~~the~~ ~~the~~

B2.

STATEMENT ~~IN MITIGATION OF SENTENCE~~ of accused.

by D 592[88] Spr Leduc L. duly sworn

I have always been a driver since back in Canada and used as such. I was quite happy about it and everything was going fairly well untill october when we had to work days and nights, weekdays and sundays. I did not mind working long hours or late at night but my eyesight is bad at night and on account of that I had two accidents during october. The day after my second and last accident, I was grounded. I felt very sore about it because I considered it was not completely my fault. I was also tired quite a bit after a month of hard work without rest and browned off. That night I got out to drink and got drunk. I had no intention of going A.W.L. then untill the time I met a woman while being drunk, who offered me to keep me there which I did to my deepest regret.

D. K. R. Leduc L.
D 592[88] Spr Leduc L.

R.P. 83(a) Complied with.

Exhibit 'A'

SUMMARY OF EVIDENCE

in the case of

D-592## SPR Leopold LEDUC, "B" Coy, 3 Bn RCE, C.A., a soldier of the Canadian Army placed on active service.

CHARGES:- 1. Absence without leave
2. Absence without leave
3. Absence without leave
4. Losing by neglect his clothing.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS D-121549 CPL LAFEBVRE, JE., "B" Coy 3 Bn RCE, C.A., having been duly sworn, states:-

On the 3 NOV 44 I was in charge of the guard party of whom spr Leduc was a member. His turn of duty was at 2200 hrs. At that moment when I changed the guard spr Leduc was absent. I looked for him and he could not be found in the camp. I reported ~~xx~~ him to the CSM on breakfast parade and I was given spr Lalumiere to replace him.

On the 9 NOV 44 I was Orderly Sgt and I witnessed the CSM placing spr Leduc under open arrest. I then took him to his room and told him that I would call for him.

At 1330 hrs 10 NOV 44 on the orders of the CSM I went to find spr Leduc to have him paraded in front of the OC. I made a thorough search of the billets and the camp but he was nowhere to be found. I reported the fact to the CSM.

Friday morning 1 DEC 44 at about 0920 hrs spr Leduc reported to the orderly room and I being the Orderly Sgt under orders of the CSM I placed him under close arrest with Spr Drolet as witness.

The accused declined to cross-examine.

Cpl Lafebvre J.E.
D-121549 CPL LAFEBVRE J.E.

SECOND WITNESS E-47439 L SGT CHAGNON, J.P., "B" Coy 3 Bn RCE, C.A., having been duly sworn, states:-

I was in charge of the rear party at LOPPEM after the company had left. On 5 NOV 44 at 0700 hrs spr Leduc reported to me. I placed him under open arrest. At noon on the same day knowing that Major Cote was going to the company I asked him to take spr Leduc with him and he did so.

The accused declined to cross-examine.

J.P. Chagnon J.A.
E-47439 L SGT CHAGNON, J.P.

A.C. Stevenson

THIRD WITNESS — E-47405 CSM NADEAU, R., "B" Coy 3 Bn R.C.E., C.A., having been duly sworn, states:-

The 9th NOV 44 between 0700 hrs and 0730 hrs I was walking from the Sgts Mess to the Orderly Room when I met the Orderly Sgt with Spr Leduc. The Orderly Sgt said:" spr Leduc is reporting, Sir." I then told spr Leduc that as the works was urgent, I had no men to guard him. I told him he was under open arrest and forbid him to leave the camp until he was told otherwise, and that he should be ready to be called at any time. On 9 NOV 44 the OC could not see the accused. Spr Leduc was then told that he would be paraded the next day. At 1330 hrs on 10 NOV 44 I called spr Leduc and he was nowhere to be found. I ~~xxxx~~ made a search in the company lines and spr Leduc had left. I then placed against him a charge of absence without leave while in custody.

The accused declined to cross-examine.

B. Nadeau C.S.M.
E-47405 CSM NADEAU, R.

FOURTH WITNESS — G-6205 CPL WHITNEY, J.A., "B" Coy 3 Bn RCE, C.A., having been duly sworn, states:-

On 16 NOV 44 I was Orderly Sgt. At 1730 hrs spr Leduc reported to me. I then called the CSM and told him that spr Leduc was reporting from AWL. He ~~xxxxxx~~ ordered me to take spr Leduc to the Orderly Room and place him under close arrest. I did so and in front of a witness, Cpl Millette, I told spr Leduc that he was under close arrest.

The accused declined to cross-examine.

Cpl Whitney J.A.
G-6205 CPL WHITNEY, J.A.

FIFTH WITNESS — C-32379 CPL MILLETTE, C., "B" Coy 3 Bn RCE, C.A., having been duly sworn, states:-

At approximately 1730 hrs 16 NOV 44 spr Leduc reported to the Orderly Sgt ~~xxx~~ in the Orderly Room where I was working. The Orderly Sgt placed him under ~~close~~ arrest in my presence and told him he was to be without guards but was to remain in camp.

The accused declined to cross-examine.

Cpl C. Millette
C-32379 CPL MILLETTE, C.

SIXTH WITNESS — E-47511 SPR DROLET, J.P., "B" Coy 3 Bn RCE, C.A., having been duly sworn, states:-

Spr Leduc L. reported to the Orderly Room 1 DEC 44 at 0920 hrs. I told him to wait until the Orderly Sgt came to the office. When he arrived I told the Orderly Sgt to take charge and I told him at what time spr Leduc had reported.

The accused declined to cross-examine.

Jean-Paul Drolet
E-47511 SPR DROLET, J.P.

SEVENTH WITNESS

D-121039 CQMS GINGRAS, C.E., "B" Coy 3 Bn R.C.E C.A., having been duly sworn, states:-

On 6 NOV 44 I asked storeman Nadeau to pick up spr Leduc's equipment being AWL. Storeman Nadeau C reported me that some of his equipment seemed to be lost in the move from billets. On the kit inspection made in front of the accused 1 DEC 44, same was deficient of articles listed below.

Boots ankle pair	1 - $5.10	$ 5.10
Mess tin rect	1 - .35	.35
Drawers wool	2 - $1.20	$ 2.40
Shirts wool	2 - $1.20	$ 2.40
Towel	1 - .32	.32
Blankets	3 - $3.07	$ 9.21
Total	10 articles	$19.78

The accused declined to cross-examine ~~but stated that he was issued with only two blankets.~~

C.E. Gingras CQMS
D-121039 CQMS GINGRAS, C.E.

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER OF THE ACCUSED

I have nothing to say.

I certify that the foregoing summary of evidence consisting of 3 pages was taken down by me in the presence of the accused at Field, this 5th day of December, 1944, and that Rules of Procedure 4(C)(D)(E) and (F) ~~and 19~~ have been complied with.

R. Rochon Lt
J.O.R. ROCHON LT RCE
3 Battalion RCE, C.A.

I, D-592##, Sapper LEOPOLD LEDUC, desire to have an officer assigned to represent me at my trial by ~~Exxx~~ Field General Court Martial.

(I desire the services of LIEUTENANT PAUL EMILE COMTOIS if he is available)

L. Leduc
D-592## Spr LEDUC L.

December 5th, 1944.

Trial of No D-592## Spr Leopold Leduc,
"B" Coy 3rd Battalion RCE, C.A.

List of Witnesses for the Prosecution

D-121549	Corporal	J.E.	LEFEBVRE,	"B" Coy 3 Bn RCE
E-47439	Lance Sergeant	J.P.	CHAGNON,	"B" Coy 3 Bn RCE
E-47405	C.S.M.	R.	NADEAU,	"B" Coy 3 Bn RCE
G-6205	Corporal	J.A.	WHITNEY,	"B" Coy 3 Bn RCE
C-32379	Corporal	C.	MILLETTE,	"B" Coy 3 Bn RCE
E-4#511	Sapper	J.P.	DROLET,	"B" Coy 3 Bn RCE
D-121039	C.Q.M.S.	C.E.	GINGRAS,	"B" Coy 3 Bn RCE

Dated at Field this 5th day of December, 1944.

(J.O.R. ROCHON) LT RCE
"B" Coy 3 Bn RCE, C.A.

Exhibit 'B'

M.F.B. 355
12M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.59288	Sapper	Leopold LEDUC	3 Bn RCE

1. The following is a fair and true summary of the entries in the [redacted] Regimental and Squadron, Battery [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AA Sec 15(1) one (1)	times	AA Sec 15(1) three (3)	times
For		times	AA Sec 25 one (1)	times
For		times	AA Sec 8(2) one (1)	times
For		times		times

Number of instances of gallantry or distinguished conduct NIL

or,

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted] A.F.A. 73 Air Force Act [redacted]

3. The accused is not under sentence at the present time

or,

[redacted]

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for [redacted] days in civil custody, and [redacted] days in military custody, making a total of [redacted] days in custody, of which [redacted] days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is [redacted]

6. The date of his [redacted] specified in his [redacted] attestation paper is 23 Oct 41

7. The service which the accused is allowed to reckon towards discharge is [redacted] N/A

8. The accused is entitled to reckon [redacted] service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [redacted] air force decoration, or air force reward (or is military military in possession of or entitled to). State any air force decoration or reward. CVSM & Clasp military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of n/a

[redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated n/a, and in his regiment (or corps), the rank of dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

n/a Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL	NIL	

666

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day day of December

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Exhibit "C"

No D-59288 Name LEDUC L. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 23 OCT 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 137) 40/PRS/DS (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No 1 destroyed on completion of 6 months service 23 Apr ~~41~~ 42									
Petawawa	4 May 42	Spr		AA 25 Knowingly and with intent to defraud, altered document which it was his duty to preserve	Doc Evid				
				AA 40 wearing Cpl stripes	Doc Evid	27 days detn	2 Nov 42	Geo.W. Smith Lt Col	
Field	3 Oct 42	Spr		AA 15(1) AWL from 1700 hrs 31 Oct 42 till 1045 hrs 1 NOV 42 Tota 1 absence 17 hrs 15 mins	LCpl Whitney Sgt Nadeau	7 days CB 2 Days pay	2 Nov 42	Vanknoughet Major	1 day pay FR&I 149(1)(a
Field	25 Aug 43	Spr		AA 8(2) Using threatening language to a superior officer	Lt Belanger Cpl Rochon Cpl Groulx	14 days FP 14 days pay FR&I 149(1) (b)	30 Aug 43	GEO W Smith Lt Col	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Regarding with trial	By whom awarded	Remarks
Field	30 Sep 43	Spr		AA 15(1) AWL from 1125 hrs 30 Sep 43 till 0800 hrs 1 OCT 43 Total absence 20 hrs 35 mins	Sgt Girard	6 days pay FR&I 149 (2)	2 OCT 43	SW Milnes Major	1 day pay FR&I 149 (1) (a)
Field	2 SEP 44	Spr		AA 15(1) AWL from 0700 hrs 2 Sep 44 till 1130 hrs 3 Sep 44 Total absence 1 day 4 hrs 30 mins	Sgt Girard LSgt Rochon	4 days pay FR&I 149(2)	3 SEP 44	SW Milnes Major	2 days pay FR&I 149(1) (a)

CERTIFIED TO BE A TRUE AND CORRECT EXTRACT FROM THE REGIMENTAL BOOKS IN MY CUSTODY

H.C. Edwards Capt

(H.C. EDWARDS) Capt RCE
Adjt 3 Bn RCE, CA(OS)

45-33.

Pte. Leduc. P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 33705 Pte Pierre Leduc 1 Bn 1 CBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~(a) present under sentence for ..... to~~ running on (date) ..... (1) 27m

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1) 27m

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year

(Sgd) ..... 25 Nov 44 (Sgd) L F Macdonald Mjr 27m

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings & sentence of the court but remit three months detention

I direct that the accused be not committed to prison or detention barracks until further ordered. (1) Dis

(1. AA 57A. Delete if not used.)

(Sgd) ..... A.L. Gibson Brig

Date 27 Nov 44 Commanding COMMANDER 1 CDN CASE RET GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-33705 Pte LEDUC, PIERRE	30 Nov 44	..... Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150, 4I-33

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (45-10) 4/38B

Convened by Order of Brig T.G. Gibson Comd 1 C BRGP dated 23 Nov 44

ACCUSED.

(When the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C33705	Pte		Pierre	Leduc	1 Bn 1 CBRD

PROCEEDINGS REVIEWED 18 Dec 44 JCdC F.C. Jarvis Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 25 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-79

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) 27m The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and 27m each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1045 hours trial commences. 27m

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) 27m ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ 27m

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 561. Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans 27m
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L.F. Macdonald	RCSigs	1 Bn 2 CBRD
Member	Capt	F.R. Greaves	CAC	5 Bn 2 CBRD
Member	Lieut	C. Major	CIC	1 Bn 1 CBRD
27m ~~Judge-Advocate~~				
Prosecutor	Capt	D.J. Price	CIC	1 Bn 1 CBRD
Defending Offr	Lieut	H.D. MacHattie	CIC	1 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~the~~ plea(s) 27m

..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (OB), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) 27m not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- 27m ceedings are continued on Record Form 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. MT

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (has) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ R 2 m R 2 m R 2 m
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex F., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3) R 2 m R 2 m R 2 m
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

L J Macdonald
Major

C H A R G E S H E E T

The accused, C.33705, Pte. Pierre LEDUC, 1 Canadian Base Reinforcement Bn, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec. 15 (1)
Army Act

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 0530 hrs. 8 Sept. 1944, absented himself without leave until being apprehended at 0830 hrs. 19 Sept. 1944. (Total absence, 11 days, 3 hours.)

Second Charge
Sec. 15 (1)
Army Act

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 0900 hrs. 8 October 1944, absent himself without leave until being apprehended at 1430 hrs. 9 Nov. 44. (Total absence, 32 days, 5 hours, 30 minutes.)

Lt-Col.
(VINCENT McKENNA,)
Officer Commanding,
1 Cdn Base Rft Bn, 1 CBRD.

In the Field,

21 November, 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
In Italy
23 Nov 44

(T.G. Gibson) Brig
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

L 2m

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C33705	Pte		Pierre	LEDUC	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 23 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L F MacDONALD (R C SIGS)	8 Bn 2 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F R GREAVES (CAC)	5 Bn 2 CBRD
Capt or Lieut to be detailed by the OC 1 Bn 1 CBRD		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 1 Bn 1 CBRD		

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) (T. G. GIBSON) Brigadier (Rank.)

Date 23 Nov 44

Commanding 1 Cdn Base Rft Gp-CMF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

L.F.M.

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined No. C33705 Rank Pte.

Name LEDUC, P. of H.B.M.C.B.R.D. and in my opinion he is

fit/~~unfit~~ to undergo trial by Court Martial.

M. Davis Lt Capt R Cam
(MEDICAL OFFICER)

In the Field
Date: 25 Nov 44.

A 7. Officer under instruction

LIEUT M. PRATTE C I C 1 BN 1 C BRD

B 1. R.P. 35 (B) complied with

E 3. Address in mitigation attached.

Case of C33705 Pte Leduc P.

L F Macdonald
Mgr

Plea in mitigation of sentence:

Pte Leduc's conduct sheet shows that he has had only one serious charge against him before, that of being AWL 104 days. I would now like to put before you the story of this man's life in the army and so show ~~this man's~~ you his reason for these three absences without leave.

In Nov 42 Pte. Leduc was stationed in British Columbia. He met a girl there and eventually became engaged to her. In Jul 43 he learned that she had become pregnant so naturally he applied for permission to marry right away. However before the necessary papers came through he was put on draft and sent overseas. In England in Oct 43 he learned that the baby had been born. He was on draft for North Africa at the time but he went to the paymaster and asked to have $15 a month assigned to his fiancée to help support her. He was advised to wait until he reached North Africa. When he got there he found that the problem was further complicated by the fact that he would have to reduce the $20 assignment he was making to his parents before $15 dollars could be assigned to his fiancée. Before this was straightened out Pte Leduc was sent to Italy and thence directly to the R22eR. He was in action for a week wounded and sent to hospital. He finally succeeded in making the $15 assignment when he was discharged from hospital and came to No 1 CBRD in Mar 44.

In May he had letters from his fiancée telling that his monthly assignments were not being received. She was in poor health and unable to work so needed the money badly. This was too

made for him after all the delay in getting the assignment made. So on 19 May 44 he went absent without leave hoping to make some money on his own. This he succeeded in doing and sent home in the neighbourhood of $120 during his 3 months absence. He became sick and on 31 Aug 44 he had to give himself up. He was sent to hospital and on his discharge on 8 Sep 44 he tried the same thing again. He did not succeed in making any more money and was apprehended on 19 Sep 44.

After that he was sent to 48 n/ CORD. While there he received more letters from his fiancée telling him that in all this time (Mar-Oct 44) she had only had one $15 assignment. On the other hand she had received with little delay the money he had sent during his absence without leave. This convinced him that the only way to help her was to try once more to make some money so he went AWL on 20 Oct 44 and remained absent until apprehended on 9 Nov 44. During this time he managed to send an additional $40 to his fiancée.

There is no doubt that this was a foolish course of action but this man had what seemed to him a very strong reason for doing so. He had found that his own methods could provide for his fiancée while his arrangements through the army had failed to do so. Therefore I ask the court for leniency in this case.

W. J. MacKattie Lt.
Defending Officer

Summary of Evidence 1300

in the case of

C-33705 Pte. Leduc Pierre, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution E-6144 Cpl. Dostie R. Orderly Room Clerk, 1 Bn, 1 C.B.R.D. having been duly sworn states

I am E-6144 Cpl Dostie R. Orderly Room Clerk, 1 Bn, 1 C.B.R.D. I present for evidence in the case of C-33705 Pte. Leduc P. "X" 21st Royal 22e Regiment Part I Order No. 100 dated the 23 Sept. 44 which states that C-33705 Pte. Leduc P. was illegally absent from 0530 hrs 8 Sept. 44, arrested at Quellins at 0830 hrs. 10 Sept. 44.

I present Royal 22e Regiment Part II Order No. 65 dated the 14 Nov. 44 which declares that C-33705 Pte. Leduc P. was S.O.S. as a Deserter 3 Nov. 44

Page 2 of the Summary of Evidence in the case of C-33705 Pte. Leduc Pierre.

having been declared illegally absent by a Court of Inquiry from 0900 hrs 8 Oct 44 and deficient in kit to the amount of L 3, 17, 10.

I further present Certificate of Arrest under the Army Act Sec 163 (i)(jj) which shows C. 33705 Pte. Leduc P. was arrested on the 9th of November 1944 at 1430 hrs at Torre Annunziata. The certificate of apprehension signed by Commanding Officer, 510 Provost Coy, C. M. Police.

The above documents came into my possession through normal channels.

[illegible]

The accused declines to cross-examine the witness.

The "X" List Royal 22nd Part II order No. 100 dated the 23 Sept. 44, Royal 22e Regiment Part II order 65 dated 14 Nov. 44 and Certificate in accordance with the Army Act Sec 163 (i)(jj) dated 9 November 1944 referred to by the witness, produced, read over, shown to the accused, marked Exhibits "A", "B" and "C" respectively and attached to the Summary.

[illegible]
Officer taking Summary of Evidence

Page 3 of the Summary of Evidence in the case of C-33705 Pte. Leduc P.

Question to the Accused

Do you wish to make a statement or to give evidence under oath. You are not obliged to do so but any evidence you give or any statement you may make will be taken down in writing and may be given in evidence.

Answer by the Accused

I reserve my defence.

I certify that the foregoing Summary of Evidence consisting of three (3) pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

W. Jas. Rinn Lieut
Officer taking Summary of Evidence

In the Field
20 Nov. 1944

This is Exhibit "A" referred to in the Summary of Evidence in the case of C-33705 Pte. Ledru P. taken before me this 20th day of November 1944.

L F Macdonald
Maj'r

Signature of Officer taking Summary

Last Order
No. 99
21 Sep 44

"X" LIST ROYAL 22e REGIMENT
Part II Orders issued by
CANADIAN SECTION, GHQ 2 ECHELON, A.A.I.

This Order
No. 100
23 Sep 44

"A" OFFICERS

1. STRENGTH INCREASE
   (a) T.O.S. X-3 List from Royal 22e Regiment 22 Sep 44
   Lieut F.S.J. Hogan

2. STRENGTH DECREASE
   (a) S.O.S. X-4 List (4Bn) to Royal 22e Regiment 15 Sep 44
   Auth - ARS/1 CD/162 d/14 Sep 44
   Capt L. Deniset
   Lieut J.M.L. Rousseau

"B" OTHER RANKS

3. STRENGTH INCREASE
   (a) T.O.S. X-3 List from Royal 22e Regiment

E47095	Pte	Allard,	R.	16 Sep 44
E6160	Pte	Boudreau,	A.	19 Sep 44
D62558	Pte	Coulombe,	J. Carpenter "C"	18 Sep 44
E108517	Pte	Durand,	J.P.	17 Sep 44
D143526	Pte	Dinelle,	R.	16 Sep 44
E4657	Pte	Frappier,	L.	18 Sep 44
E101604	Pte	Francis,	D.	19 Sep 44
E13084	Pte	Jacques,	B. Dr Mech MV "C"	17 Sep 44
E4538	Pte	Labbee,	O.	16 Sep 44
E5292	Pte	Moreau,	A.	17 Sep 44
E5572	Cpl(A/Sgt)	Plante,	R.	18 Sep 44
E41965	Pte	Renaud,	L.J.	16 Sep 44
E42591	Pte	Roy,	W.	17 Sep 44
C103260	Pte	Sarrault,	R.F.	17 Sep 44

   (b) T.O.S. X-3 List from X-9 List 19 Sep 44
   D150068 Pte Rousseau, L.

   (c) T.O.S. X-4 List (1Bn) on app from des 0945 hrs 13 Sep 44
   E5187 Pte Nicol, H.

   (d) T.O.S. X-3 List from HQ 3 Cdn Inf Bde 16 Sep 44
   E5710 Pte Gagnon, L.

4. INTERNAL POSTINGS
   (a) Posted from X-4 List (1Bn) to X-3 List

E5042	Pte	Gauthier,	J.	20 Sep 44
E10484	Pte	Leblanc,	H.	20 Sep 44
E28345	Pte	Poirier,	H.	18 Sep 44
G23579	Pte	Raymond,	L.	19 Sep 44
E5463	Pte	Sylvestre,	F.	20 Sep 44

   (b) Posted from X-3 List to X-4 List (1Bn)

E5150	Pte	Couture,	A.	20 Sep 44
E4319	Sgt	Daigle,	C. Clerk "C"	20 Sep 44
E4150	Pte	St.Onge,	J.	20 Sep 44
E4752	Pte	Sirois,	G.A.	19 Sep 44

4. INTERNAL POSTINGS(CONT'D)
(c) Posted from X-3 list to X-4 List (1Bn) 16 Sep 44
D126585 Pte Grenon, H.

(d) AMENDMENT: Part II Orders No 99 para 4(a) of 21 Sep 44 insofar as it refers to the u/n is cancelled
E59209 Pte Paquette, M.V.J.

5. ABSENT WITHOUT LEAVE
(a) A.W.L. from 1500 hrs 15 Sep 44 Still absent 1500 hrs 16 Sep 44 (1st day)
E5408 Pte Lacas, E. X-3 (15 CGH)

(b) A.W.L. from 2215 hrs 25 Aug 44 Still absent 2215 hrs 16 Sep 44 (22nd day)
D62526 Pte Hotte, M. X-3 (15 CGH)
E100228 Pte Rioux, W. X-3 (15 CGH)

(c) A.W.L. from 0530 hrs 8 Sep 44 Still absent 0530 hrs 16 Sep 44 (8th day)
E5597 Pte Dobitaille, A. X-3 (15 CGH)

(d) A.W.L. from 0530 hrs 8 Sep 44 Arrested at Aquilino at 0830 hrs 19 Sep 44
C33705 Pte Leduc, P. X-4 List (1Bn)

6. PUNISHMENTS
(a) On 21 Jul 44 awarded a forf of 10 days pay for an off under s. 11 Forfs 10 days pay under FR&I 149(2) (Extract from NWT H2 Ships Part III Order No. 1 d/26 Jul 44)
H92483 Pte Godard, J.E. X-4 List (1Bn)
D56427 Pte Valado, G. X-4 List (4Bn)

(b) Sentence of 2 yrs Imp with H.L. awarded 24 Jan 44 vide Part II Order No 6 of Royal 22e Regiment d/5 Feb 44 SUSPENDED 24 Sep 44 486 days pay recredited
Auth - Officer i/c Cdn Sec GHQ 1st Echelon A.A.I.
E4606 Pte Delisle, A.

(c) Sentence of 2 yrs Imp with H.L. awarded 20 Mar 44 vide Part II Order No 14 of Royal 22e Regiment d/31 Mar 44 SUSPENDED 20 Sep 44 545 days pay recredited
Auth - Officer i/c Cdn Sec GHQ 1 Echelon A.A.I.
E42012 Pte Pelletier, A.

(d) On 18 Sep 44 awarded a forf of 3 days pay for an off under s. 15(1) AWL from 2230 hrs 17 Sep 44 to 0600 hrs 18 Sep 44 (absent 7 hrs 30 Mins) Forfs 1 days pay under FR&I 149(1)(a) (Completely concurrent with award of 4 days pay 14 Sep 44 vide Part II Order No 97/44) Forfs 3 days pay under FR&I 149(2) Total Net forf of 3 days pay
D57365 Pte Blain, G. X-3 List

7. STRENGTH DECREASE
(a) S.O.S. X-3 List 15(CGH) as a des 19 Sep 44 having been dec illegally absent by Ct of Inq from 2215 hrs 25 Aug 44 Def in kit not stated
D62525 Pte Hotte, M.
E100228 Pte Rioux, W.

7. STRENGTH DECREASE(CONT'D)

(b) S.O.S. X-3 List to CAC Trng Unit 13 Sep 44
D41014 Pte Tessier, A.A.

(c) S.O.S. X-5 List to X-4 List CAC "D" CACTU 14 Sep 44
Auth - CECH/44/Trans Gen/14(A.7) d/20 Sep 44
H63945 Pte Desrosiers, M.W.

(d) S.O.S. X-4 List (1Bn) to X-9 List 18 Sep 44
Auth - DAAG(OPG) 2 Ech d/17 Sep 44
E5715 Pte Leclerc, J.M.
E4926 Pte Soucy, C.
E100582 Pte Woods, W.

(e) S.O.S. X-3 List to X-4 List (8Bn) RCAMC 10 Sep 44
Auth - CECH/44/Trans Gen/12(A.7) d/31 Aug 44
D56989 Pte Dufresne, J.

(f) S.O.S. X-3 List (Died of Wounds) 15 Sep 44
Auth - AFW 3014 Ser 366 P.6 d/16 Sep 44
C42593 Sgt Payette, O.E.

(g) S.O.S. X-3 List (Died of Wounds) 15 Sep 44
Auth - AFW 3014 Ser 368 P.48 d/19 Sep 44
E10309 Pte Langlois, L.

(h) S.O.S. X-3 List to 16 Cdn Spec Emp Coy
E4016 Pte Arsenault, A. 15 Sep 44
C42502 Pte Aube, L. 29 Aug 44
E9091 Pte Beaulieu, E. 16 Sep 44
D56774 Pte Larouche, J. 17 Sep 44

(i) S.O.S. X-5 List to X-4 List (7Bn) RCASC 26 Aug 44
Auth - Oversons R.O. 3470
B59209 Pte Paquette, M.V.J.

J.E. Campbell

(J.E. Campbell)Captain,
for Officer i/c
Canadian Section, GHQ 2 Echelon AAI

Certified true copy.

SHB

Wachinn Lieut.
Officer Having Custody of Regt'l Books.

This is Exhibit "B" referred to in the summary of evidence in the case of C-33705 Pte. Leduc P. taken before me this 20th day of November 1944.

L F Macdonald
Mgr.

[illegible signature]
Signature of Officer taking summary

Last Order No 64 11 Nov 44	ROYAL 22e REGIMENT PART II ORDERS ISSUED BY CDN SEC GHQ 2 ECH AAI	This Order No 65 14 Nov 44

"A" OFFICERS

1. HONOURS & AWARDS
   (a) Awarded 1939-43 Star - R.O 4630
   Major E.A.A. Doiron OBE

"B" OTHER RANKS

2. STRENGTH INCREASE
   (a) T.O.S. from Carlt & York Regt 5 Nov 44
   Auth - 2E/2044 d/3 Nov 44
   D131147 Pte Boisvert, J.P. Dr Mech MV"C"

   (b) T.O.S. from X-3 List R22eR dates shown
   Auth - 2E/2088 d/8 Nov 44

D57300	Pte	Belhumeur, O. Dr Mech MV"C"	6 Nov 44
D140406	Pte	Desjardins, J.F.J.J.	4 Nov 44
G7510	Pte(A/Cpl)	Gaudet, C.	4 Nov 44
E100649	Pte	Gilbert, N.	4 Nov 44
E6269	Pte	Hebert, G.	4 Nov 44
D62546	Pte	Ketsos, W.	5 Nov 44
E57854	Pte	Leclerc, R.	6 Nov 44
E4998	Cpl(A/Sgt)	Losier, W.	6 Nov 44
E4150	Pte	St-Onge, J.	4 Nov 44

   (c) T.O.S. from X-3 List R22eR 6 Nov 44
   Auth - CECH/1259 d/28 Jul 44
   D140460 Pte Dupuis, J.T.

   (d) T.O.S. from X-4 List R22eR 4 Bn 10 Nov 44
   Auth - Cdn O2E/ARS/1 CD/493 d/8 Nov 44

D57874	Pte	Bedard, O. Dr Mech MV"C"	
D127818	Pte	Blanchette, J.A.	
D106060	Pte	Cloutier, F.	
E105702	Cpl	Desjardins, A.G.	
E4694	Cpl	Magnan, L. Tech Storeman "C"	
G1376	Pte	Morais, A.	
E5136	Pte	Morel, G.	
D57115	Pte	Nadeau, L.	
D124731	Cpl(A/Sgt)	Poulin, P.E.	

3. STRENGTH DECREASE
   (a) S.O.S. to X-9 List 5 Nov 44
   Auth - CECH/A5/917 d/4 Nov 44
   D143906 Pte Gingras, R.

3. STRENGTH DECREASE (CONT'D)

(b) S.O.S. to X-3 List R22eR dates shown

D59283	Pte	Belanger, A. Carp "B"	5 Nov 44
E101061	Pte	Bouchard, Y.	9 Nov 44
E100996	Pte	Coude, H.	9 Nov 44
E4741	Pte	Gagnon, A.	10 Nov 44
D56096	Sgt	Garand, A.	5 Nov 44
E4098	Sgt	Gilbert, O.	8 Nov 44
D61347	Pte	Goyer, A. Dr Mech MV "C"	7 Nov 44
D114880	Pte	Masse, D.	10 Nov 44
E5027	Pte	Montaigny, E.	7 Nov 44
E101036	Pte	Piche, J.S.	7 Nov 44
E5337	Pte	Potvin, E.J.	9 Nov 44
D166071	Pte	Sicotte, J.G.A.	10 Nov 44
D138524	Pte	Trudel, P.	9 Nov 44

(c) S.O.S. to X-2 List R22eR committed to 1 Cdn Div FP Camp 8 Nov 44

E101446	Pte	St-Pierre, C.	Awarded 28 days FP 7 Nov 44
E23809	Pte	Wilson, C.	Awarded 28 days FP 6 Nov 44

(d) S.O.S. as a des 3 Nov 44 having been declared illegally absent by a Ct Inq from 0900 hrs 8 Oct 44 Deficiencies in kit to the amount of £3.17.10

C33705 Pte Leduc, P.

(e) S.O.S. as a des 3 Nov 44 having been declared illegally absent by a Ct Inq from 1900 hrs 12 Oct 44 Deficiencies in kit to the amount of £5.15.9

G56796 Pte Boudreau, G.

(f) AMENDMENT Part II Order No 63 para 6 (a) d/9 Nov 44 insofar as it refers to the u/m is amended to read "D121428"

D141428 Pte Beauchamp, P.E.

4. ATTACHED

(a) Att to 1 Cdn Div FP Camp f.a.p. 8 Nov 44

E5377 Pte Blais, J.
E4150 Pte St-Onge, J.

5. ABSENT WITHOUT LEAVE

(a) AWL from 0900 hrs 4 Oct 44 App by CMP 2200 hrs 2 Nov 44

D63571 Pte Bergeron, D.

(b) AWL from 0545 hrs 1 Oct 44 Ret 1800 hrs 29 Oct 44

E46523 Pte Beaulieu, S.
E23553 Pte Ouimet, L.

(c) AWL from 0800 hrs 20 Oct 44 Ret 2100 hrs 31 Oct 44

D139556 Pte Fontaine, J.L.

(d) AWL from 1900 hrs 18 Oct 44 Ret 1215 hrs 31 Oct 44

E101643 Pte Daigle, L.
C103500 Pte Potvin, C.R.

5. ABSENT WITHOUT LEAVE(CONT'D)

(e) AWL from 0630 hrs 10 Oct 44 Ret 0200 hrs 1 Nov 44
D63695 Pte(L/Cpl) Lapierre, G.

(f) AWL from 0630 hrs 13 Oct 44 Still absent 0630 hrs 4 Nov 44 (22 days)
E4065 Pte Lelievre, O.

(g) AWL from 1700 hrs 26 Oct 44 Still absent 1700 hrs 3 Nov 44 (8 days) App by CMP 0930 hrs 4 Nov 44
E23809 Pte Wilson, C.

(h) AMENDMENT Part II Order No 64 para 5 (f) d/11 Nov 44 is cancelled
D63695 Pte(L/Cpl) Lapierre, G.

(i) AMENDMENT Part II Order No 61 para 9 (a) d/31 Oct 44 is amended to read "AWL from 1900 hrs 12 Oct 44 Still absent 1900 hrs 20 Oct 44(8 days)"
G56796 Pte Boudreau, G.

6. APPOINTMENTS

(a) Appointed L/Cpl dates shown

G60965	Pte	Bois, R.	1 Nov 44
E5306	Pte	Leliberte, R.	3 Nov 44
D140609	Pte	Lavigne, J.A. C.R. d/6 Nov 44	25 Oct 44
G4655	Pte	Lanteigne, R.	3 Nov 44
E101462	Pte	Mineault, J.A.P.	3 Nov 44
D166071	Pte	Sicotte, J.G.A. CR d/6 Nov 44	25 Oct 44

(b) Relinquishes appt of L/Cpl and reverts to pte 10 Nov 44 (To draw daily regt'l rate of pay of 1.50)
D166071 Pte(L/Cpl) Sicotte, J.G.A.

(c) Relinquish appt of L/Cpl and revert to pte at own request dates shown(To draw daily regt'l rate of pay of 1.50)

E4756	Pte(L/Cpl)	Laberge, P.	2 Nov 44
C121512	Pte(L/Cpl)	Larocque, R.J.	19 Oct 44

7. PROMOTIONS

(a) To be A/WO II (CSM) 25 Oct 44 CR d/4 Nov 44
C42573 Pte(A/Sgt) Lefebvre, J.E.G.

8. CONFIRMATIONS

(a) Confirmed in the rank of CQMS 25 Oct 44 CR d/8 Nov 44
E4696 Cpl(A/CQMS) Boulet, E.

(b) Confirmed in the rank of Cpl dates shown

D11661	Pte(A/Cpl)(A/Sgt)	Ainsworth, H.	1 Nov 44
E6045	Pte(A/Cpl)	Gravel, M. (CR d/4 Nov 44)	21 Oct 44

9. REVERSIONS

(a) Reverts to pte at his own request 6 Nov 44 (To draw daily rogt'l rate of pay of 1.50)
E74226 Cpl Sylvestre, C.

10. PAY AND ALLOWANCES

(a) Granted daily rogt'l rate of pay of 1.50 22 Jul 43 having completed 6 months' proficient service (Auth - G.O 80/43)
D153210 Pte Michaud, R.

11. TRADESMEN'S QUALIFICATIONS

(a) Qual Clerk "C" 3 Nov 44 Auth - TTB Report 4/3 Nov 44
E11063 Pte Quesnel, A.

12. TRADESMEN'S RATES OF PAY

(a) Granted tradesmen's rates of pay Clerk "C" 3 Nov 44
E11063 Pte Quesnel, A.

13. PUNISHMENTS

(a) On 3 Nov 44 awarded 2 days CB for an offence under A. 15(1) AWL from 2300 hrs 2 Nov 44 to 0630 hrs 3 Nov 44 (absent 7 hrs 30 mins) forf 1 day's pay under PR&I 149(1)(a)
E5577 Pte Hinds, J.

(b) On 6 Nov 44 awarded 7 days CB and a forf of 3 days pay for an off under A. 15(1) AWL from 2000 hrs 19 Oct 44 to 0900 hrs 21 Oct 44 (absent 1 day 13 hrs) forf 2 days pay under PR&I 149(1)(a) forf 3 days pay under PR&I 149(2) total forf 5 days pay
D133601 Pte Fortier, A.A.

(c) On 1 Nov 44 awarded 7 days FP and a forf of 7 days pay for an offence under AA 15(1) AWL from 0400 hrs 16 Oct 44 to 2130 hrs 20 Oct 44 (absent 4 days 17 hrs 30 mins) forf 5 days pay under PR&I 149(1)(a) forf 7 days pay under PR&I 149(2) total forf 12 days pay
D61506 Pte Jeannotte, M.

(d) On 7 Nov 44 awarded 28 days FP and a forf of 28 days pay for an off under AA 15(1) AWL from 0800 hrs 2 Oct 44 to 0630 hr 20 Oct 44 (absent 17 days 16 hrs 30 mins) forf 18 days pay under PR&I 149(1)(a) forf 28 days pay under PR&I 149(2) total forf 46 days pay
E101446 Pte St-Pierre, E.

10

No 65
14 Nov 44

13. PUNISHMENTS (CONT'D)
(c) On 4 Nov 44 awarded 28 days FP and a forf of 28 days pay for an off under AA 15(1) AWL from 1700 hrs 26 Oct 44 to 0930 hrs 4 Nov 44 (absent 8 days 16 hrs 30 mins) forf 9 days pay under FR&I 149(1)(a) forf 28 days pay under FR&I 149(2) total forf 37 days pay
B23809 Pte Wilson, C.

(C.V. Allen) Lieut.,
for Officer i/c
Cdn Sec GHQ 2 Ech AAI

JRG/

Certified true copy.

Wilson Lieut
Officer Having Custody of Reg'l Books

EXHIBIT C
L.J. Macdonald
Maj.

Certificate in accordance with the Army Act Sec. 163 (d) (ii)

I certify that

No. C 33705 Rank PTE. Name LEDUC P.

of the ROYAL 22ND REGIMENT (OF CANADA).

was arrested at TORRE ANNUNZIATA at 14.30 Hrs.,

on the 9th day of NOVEMBER 1944

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest.

Rank

Appointment (if any)

Commanding 510 PROVOST COY., C.M.POLICE.

Date 9th Nov. 1944.

PSS A 3279 5M 9-44.

This is Exhibit "C" referred to in the Summary of Evidence in the case of C-33205 Pte. Ledue Pierre taken before me this 20th day of November 1944.

[illegible] Lieut

Signature of Officer taking Summary of Evidence

EXHIBIT H
J.F. Macdonald
Major

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C. 33705	Pte.	LEDUC, P.	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court when this statement (or not) is read to the proceedings.

† See para. 677, K.R., 1940.

* The entries herein stated should correspond with the number in each case in the conduct sheets, provision being given for the most serious offence in each entry, and for any recognized special acts of gallantry or distinguished conduct.

Interruption.—If the charge is for desertion state the entries for drunkenness from the stated period(s) and dated.

	*Within last 12 months.	*Since Enlistment.
For A.A. Sec. 24 (2)	2 times	2 times.
For A.A. Sec. 15 (1)	2 times	2 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

~~—or—~~

~~Entries in the conduct sheet of the accused~~

2. The accused has not been previously convicted, *or*

~~Previous conviction of the accused by a court martial or civil court, summary award under section 47 of the Army Act and dispensations with trial under section 77 of the Army Act. Details in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or the sentence passed at the latest time he was under sentence is as follows~~

~~———— by a ————~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 12 days in military custody, making a total of 12 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~enlistment~~ attestation paper is 21

6. The date of his ~~enlistment~~ attestation specified in his ~~enlistment~~ attestation paper is 16 Feb. 1940.

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or award*)).

11. (*If the accused is a warrant officer.*) The accused reckons he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

~~[illegible] 144 [illegible] A.C.I. [illegible]~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		WR		
		WR		
		WR		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of November 1944.

W. Jas Pinn Lieut & Adj.
Officer having Custody of Regt'l Books.

~~13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.~~

		Date of Promotion.
In the rank of	years.	
In the rank of	years.	
In the rank of	years.	

WR

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

WR

EXHIBIT G
L J Macdonald Maj

No C.33705 Name LEDUC, P. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 16 Feb.4[illegible] | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&M/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
M		Pte		AA 24 (2)		2 days pay	12 Nov 43		
						Forf 2 days pay under FR&I-149(2).			
						Stoppage of pay 2/9 under FR&I-158(2).			
M		Pte		AA 24 (2)		Stoppage of pay	19 Nov 43		
						$1.17 under FR&I- 158(2).			
M		Pte		AA 15 (1) (Absent 17 hrs 15 mins)		14 days C.B.	16 May 44		
						7 days pay			
						Forfs 7 days pay under FR&I- 149(2).			
						Forfs 1 days pay under FR&I- 149(1)(a).			
						Total forf - 8 days pay.			
M		Pte		AA 15(1) (AWL 104 days 14 hrs)		1 days F.P.	20 Sep 44		
						28 days pay			
					Forfs 28 days pay under FR&I - 149(2).				
					Forfs 105 days pay under FR&I - 149(1)(a).				
					Total 133 days forf of pay.				

(over)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	CERTIFIED TRUE EXTRACTS FROM MFM 4 TO DATE (20 NOV 44) .....(Signed) (W.H. Laughlin) Lieut. for Officer i/c., Cdn Sec GHQ 2 Ech AAI								
	CERTIFIED TRUE COPY FROM REGTLBOOKS is my custody. (Officer in Custody of Regtl Books)								

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 21 MAY 44.

P. Leduc

CHARGE SHEET

QQ-60
SPR LEDUC R.J.

Correspondence to be PINNED here.

QQ-60

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this eighteenth day of September, 1943

Whereas it appears to me, the undersigned, an officer in Command of HQ CE (Works) RCE First Cdn Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~;

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~I am unable to appoint~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely:—~~

10 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major.	G. A. McClintock	5 Cdn Const Coy RCE

Members.

Rank.	Name.	Regiment.
2 Lieuts	to be detailed by	CO. 1 Bn R.C.E.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed .....

Commanding ..... Col

C.E. Works, First Cdn Army

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B29243 Spr Ledue R.J. 3 Bn RCE	AA15 ~~11~~ First Charge Absence without Leave.	Guilty	Guilty	I confirm the finding and sentence of the court.
	The court directs that B29243 Spr Ledue R.J. undergo (120) one hundred and twenty days detention. 22 Sept 1943 G.A. McClintock Mgr RCE President.			[signature] C.E. Works, First Cdn Army 23 Sep 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) [signature] (*Signed*) [signature]

Commanding ..... Col C.E. Works, First Cdn Army *Convening Officer (e)* G.A. McClintock Mgr RCE *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22 day of Sep 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 22 day of SEP 1943.

G.A. McClintock Mgr RCE

President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this ~~1~~ day of 19 .

[signature]

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of Sep 1943.

[signature]

Confirming Officer. ..... Col C.E. Works, First Cdn Army

Promulgated and extracts taken in the case of B29243 Spr Ledue R.J.

(*a*) (Dated) 25 Sep. 43 (Signed) [signature] Lt Col A-3 Bn R.C.E.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.48179/850 50,000 2/43 A.& E.W.Ltd Gp.699
(24256) Wt.11192/71 100,000 5/43 " "

CHARGE SHEET

The accused, B.29243 Sapper LEDUC, R.J., "B" Coy, 3rd Battalion, R.C.E., Canadian Army (Overseas), placed on Active Service, is charged with:-

CHARGE

Army Act 15(1) WHILE ON ACTIVE SERVICE , ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the field, at ~~0745~~ 2000 hours, ~~21~~ 20 August 1943, absented himself without leave until 0900 hours, 3 September 1943.

(GEO. W. SMITH)LT.COL.
Commanding Officer,
3rd Battalion, R.C.E.

To be tried by Field General Court Martial

In the field

MEDICAL OFFICER'S REPORT

Anne

I certify that No. B.29243 Sapper LEDUC, R.J.
of 3rd Bn RCE is in a good state of health,
and fit to undergo Trial by Court martial.

P.U. Lachance Capt.
Medical Officer

Station In the Field

Date 22 Sep 43

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

PAGE 1.

Accused B29243 Spr RENE JOSEPH LEDUC 3 Bn RCE
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 22 Sept 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	G A McCLINTOCK	5 Cdn Const Coy RCE
MEMBERS:	LIEUT	A G SHORE	1 Bn RCE
	LIEUT	G REID	1 Bn RCE

JUDGE ADVOCATE: (If any) N/A

OFFICERS UNDER INSTRUCTION: N.A.

PROSECUTING OFFICER: LIEUT L P BELANGER Lawyer? Ans. No

DEFENDING OFFICER: LIEUT G LEFEBVRE Lawyer? Ans. No

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).) complied with

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49: R.P.105) and constituted; that the accused is/~~are~~ amenable to Military Law and that each charge discloses an offence. (R.P.106) complied with

The accused is/~~are~~ brought before the Court and at 1745 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/~~are~~ fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings. complied with

The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.110). Complied with

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(B)) Ans. NO SIR
complied with

The President, Members, ~~Judge Advocate and Officers under Instruction~~ are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.) complied with

President to accused:

~~Do you object to _____ as interpreter? Ans._____~~

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? Ans._____

~~The shorthand writer is duly sworn. (Forms of oath on Page 'D'.)~~

The Charge Sheet(s) is/~~are~~ initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (Rs.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

He pleads as follows:

First Charge	GUILTY	Sixth Charge	
Second Charge		Seventh Charge	
Third Charge		Eighth Charge	
Fourth Charge		Ninth Charge	
Fifth Charge		Tenth Charge	

~~(For procedure on alternative charges, see R.P.37, fn.2.)~~

Further proceedings are recorded on Pages hereto attached.

PAGE 'A'

(For use when accused pleads Guilty to all charges.)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President.)

1. R.P. 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge(s) (fn.3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)), and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto. complied with [illegible]

2. President to accused:
Q. Do you desire to make any statement of the circumstances in reference to the charge(~~s~~ [illegible])? (R.P. 37(B)) Ans. No Sir.

(Statement, if any, not on oath, is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon.)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the Proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the Proceedings (R.P. 37(B)). complied with [illegible]

4. President to accused:
Q. Do you wish to call any witnesses as to character? (R.P. 37(C)). Ans. No Sir

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President, and attached hereto.)

5. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A. 163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "J", and "K", initialled by the President and attached to the Proceedings. (R.P.46; Overseas R.O. 3131.) complied with [illegible]

6. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct, and in mitigation of punishment? (R.P. 37(C) and 46(D)) Ans. Yes (No cross-examination.) complied with [illegible]
Buying defending [illegible]

(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

7. President to accused:
The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated. (Overseas R.O. 3262.) complied with

(Record Finding and Sentence on Page 2 of A.F.A.3.)

(Punishments - A.A.44, K.R.(Can) 563-566; Sentence of F.G.Cs.M. - R.P.118; one sentence only to be awarded - R.P.48; sentence should be dated.) complied with [illegible]

[illegible] RCE
(Signature of President)

2 Amc

PLEA OF MITIGATION.

By Defending Officer Lt G. Lefebvre, 3 Bn RCE

B29248 Spr Leduc R J has been with a construction Unit for nearly thre years and in these units a spr is more or less acting as a civilian do; They start working at about eight o'clock in the morning to finish at five o'clock in the afternoon They have very few military duties such as drill, lectures, instructions, etc.

This summer this Const. Unit has reduced its personell and this man has been transferred to the 3Bn RCE without being asked ~~he~~ if he wished to do so or not. This spr was quite lost here after spending so many years with the same group of friends the same officers and N.C.Os, etc. He also came here at the time of intensive training which was entirely new to him.

I am positive that this man never received the proper lectures and instructions on Military Law and that the seriousness of the offence for being A.W.L. was never explained to him sufficien-tly, It will be obvious to the court upon studying his MFM6 that all his offences are of a very minor nature. He is not a criminal His record shows that this man has been in the Army since The 9 May 1941 and has been in this country over three years He is only 23 years of age which means that he was only 17 years of age when he enlisted. I sincerely believe that there was no grounds for a court-martial, had he been properly instructed in Military Law; The repetition of this offence on his MFM6 shows this neglect and that it was not considered a serious offence in his previous Unit. In conclusion, I hope the court will carefully consider these facts when passing sentence, and I strongly believe Spr. Leduc R.J. has been punished sufficiently (mentally) while awaiting his trial.

G. Lefebvre Lt
22 Sept 43

K A Miller Mr RCS President

PROSECUTOR
LIEUT LP BELANGER

SUMMARY OF EVIDENCE

in the case of:

B.29~~032~~ 243 RAMC, Sapper LEDUC, R.J. No.6 Platoon, "B" Coy 3rd Bn. R.C.E., a Slodier of the Canadian Army (Overseas) placed on Active Service.

Charge -

1. Absence without leave.

The Commanding Officer directs that evidence be taken on Oath.

1st WITNESS: E.19007 L/Sgt GAGNE, B., "B" Coy.,3rd Bn.,R.C.E., duly sworn states:

On the morning parade 0745 hrs, Aug.21st 1943, I called the Roll of No.6 Platoon. I checked up and found Spr. LEDUC R.J. absent and not to be seen I reported him to the Orderly Room.

Q.1. Did you check up the absence of Spr. LEDUC every day on your parade?

A.1 Yes Sir.

Q.2. When did you first knew of his return?

A.2 On the morning parade 0715 hrs. Sep 5, 1943.

B Gagni L/Sgt E19007
(E.19007, L/Sgt. Gagne, B.)

The accused declines to cross examine the witness.

2nd WITNESS: B.29290 Spr VILLENEUVE, A.A., "B" Coy., 3rd Bn.,R.C.E. duly sworn states:

I left my billets with Spr. Leduc And Coupal C.A. at 2000 hrs. on Friday Aug. 20th, 1943. I came back to camp on Aug. 24th, 1943.

Q.1. Were you with Spr. LEDUC all the time while you were away from your billets?

A.1. I left him at about 2200 hrs on the same day,

Q.2. Did you see him afterwards?

A.2. Yes.

Q.3. When?

A.3. I saw him the next morning.

Q.4. For how long?

A.4. About 15 minutes.

2nd WITNESS:

Q.5. Where?

A.5. At Richmond, Surrey.

Q.6. Did you see him after that?

A.6. I saw him when I came back from F.F. on the 14th on the 14th Sep 43 at the Bridge Site with his platoon.

A.R. Villeneuve B29290
(B.29290 Spr.VILLENEUVE, A.A.)

The accused declines to cross examine the witness.

3rd WITNESS: D.15720, Cpl. MICHAUD, J.G., "A" Coy., 3rd Bn. R.C.E. duly sworn, states:-

On Sep 3rd, 1943, I was on duty as Orderly Sergeant of "A" Coy.,3rd Bn. RCE. Sprs. COUPAL, C.A. and LEDUC, R.J. reported to the company at 0900 hrs the same day. I put them under close arrest and reported them to the C.S.M.

Q.1. Did you question the accused when they reported to you?

A.1. I asked them where they were coming from. The accused answered: "We reported to "B" Coy at Pickhurst, "B" Coy had changed billets, we are reporting here.

Q.2. Why did you put them under close arrest?

A.2. The accused told me he was AWL for 15 days.

Q.3. Did you check his service books?

A.3. Yes sir.

J.G. Michaud Cpl
(D.15720 Cpl MICHAUD, J.G.)
D 15720

The accused declines to cross examine the witness.

Question to the accused:

Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Accused answered:

No, I have nothing to say.

I certify that Rules of procedure 4(c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused in the Field, this 16th day of September 1943.

Laurent Lavigne Lieut
(L.A. LAVIGNE) Lieut RCE
"B" Coy., 3rd Bn. R.C.E.

LIST OF WITNESSES FOR THE PROSECUTION

In the case of:

B.29032, Sapper LEDUC, P.J., "B" Coy, 3 Bn.RCE.

B.19007	L/Sgt.	GAGNE, B.	"B" Coy, 3 Bn RCE
B.29290	Spr.	VILLENEUVE, A.A.	"B" Coy., 3 Bn RCE
D.15720	Cpl.	MICHAUD J.G.	"A" Coy., 3 Bn.RCE

"J"

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.29243	Spr.	LEDUC, R.J.	3 Bn R.C.E., C.A.(O)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Conduct sheets~~ Regimental and Squadron/Battery Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~No Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	A.A.Sec.15(1) A.W.L.	4 times	A.W.L. Sec. 15(1)	6 times
For	A.A.Sec.19 Drunkenness	2 times	A.A.Sec.19 Drunkenness	3 times
For	A.A.Sec. 10 (3)	1 times	A.A.Sec. 10 (3)	1 times
For		times	A.A.Sec. 40	1 times

~~Number of war services of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time~~ The accused is not under sentence at present time

~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for N.I days in civil custody, and ~~N.I~~ 9 days in military custody, making a total of ~~N.I~~ 9 days in custody, of which N.I days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper 9 May 40

7. ~~The service yet to be completed by the accused before he is entitled to his discharge~~

8. ~~The accused is entitled to reckon ... service for the purpose of determining his pension~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~no~~ military reward ~~in possession of or entitled to~~. ~~State any air force decoration or reward~~ ~~military~~

10. ~~(If the accused is a warrant officer) The accused before he was made a warrant officer last held the regimental rank of~~

Camel

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Sworn .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B29243 Rank Sworn S/or.

Name Leduc R. J. of 3 Bn. R.C.E. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Court	6 Oct 41 Kingston, Surrey	1. Using insulting words and behaviour to provoke a breach of the peace. 2. Unlawfully damaging a pedal cycle.	Fined £1-5-0	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of September 1943 S W Whitehead Oc-B coy-3 Bn RCE Otc Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "J" [illegible] signed by the president, and annexed to the proceedings.

Sheet No. 2

No. B.29243 Name LEDUC, R.J. Sqn., Battery, or Company R. C. E. Corps Date of enlistment 9 May 40 G.C. Badges N/A Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8025) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. S W Hillas Maj Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1.5.43	Spr.	2	A.A.Sec. 19 Drunkenness	Documentary	Fined $5.00	3-5.43		
Field	4.5.43	Spr.		A.A.Sec.15(1)WOAS A&L 2245 hrs 4 May 43 to 1330 hrs. 5 May 43 1 day 14 hrs. & 45 mins.	CSM. R.Nadeau	Admonished	7.5.43		2 days pay FR&I (1)(a)
Field	5-5-43	Spr.	3	A.A.Sec.19 Drunkenness	Documentary	Fined $10.	8.5.43	Geo.W.Smith Lt.Col.	
Field	5-5-43	Spr.		A.A.Sec. 10(3) WOAS resisting a Civil Police	Documentary	2 days pay FR&I149(2)	8.5.43	Geo.W.Smith Lt.Col.	Cost of Escort 6 shillings

(Certified true copy S W Hillas Maj o/c Records
S.W. Milnes, Major, R.C.E.

13 Sep 43

(P.T.O.)

B.29243 LEDUC, R.J. R. C. E.
No. Name Corps

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. S W Hillas Maj Character

Date of enlistment 9 May 40 G.C. Badges N/A Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8025) H.Q. 1772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No Entries on previous sheet. Old sheet destroyed on completion of 6 mos. svc. 9/11/40									
Marston Green	3-7-41	Spr.		W.O.A.B. A.W.L. from 2000 hrs 3-7-41 to 0020 hrs. 4-7-41 (4 hrs & 20 mins).	L/Sgt.Burn No.1(cdn) Gen.Hosp.	7 days C.B.	31-7-41	Lt.Col. L.F.Barnes	
Ramsgate	14-8-41	Spr		WOAS Cond. to 'rej. etc. - between 2100 hrs. and 2330 hrs. 14-8-41, at Ramsgate, did use a bicycle without permission, knowing same to be another person's property A.A.Sec. 40	Doc. Evidence	4 days pay	10 Sep 41		
Cove, Hants.	6 Oct 41	Spr.		Convicted in Civil Court at Kingston, Surrey: 1. Using insulting words & behaviour to provoke a breach of the peace. 2. Unlawfully damaging a pedal cycle.		Fined 1-5-0	6 Oct 41		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove, Hants.	18 Oct 41	Spr.		A.A. Sec. 19 Drunkenness..	L/Cpl. Fitzmaurice	168 hrs. Detention Fined $5.00	20 Oct 41	Lt.Col. Barnes	
Guildford	23.10.42	Spr.		WOAS. (1) In the town of Guildford without a pass, A.A.S.c. 15	Docum.	2 days C.B.	7-10-42		
Field	23.12.42	Spr.		A.A.Sec.15(1)WOAS. AWL from 2315 hrs. 23.12.42 to 1200 hrs. 24.12.42 (12 hrs. 45 mins.	L/Sgt.Smith	5 days C.B.	26.12.42		Forf. 1 day's pay
Field	2/1/42	Spr.		W.O.A.S. A.W.L. from 0730 hrs 2/1/43. to 1000 hrs. 3/1/43 Contrary to A.A.Sec.15(1) Total absence 1 day 2½ hrs.	L/Sgt.Smith	Deprived of 4 days pay A.A.S.c.46	4.1.43		Forf. 2 days pay FR&I 149(1)(a)
Field	17.1.43	Spr.		A.A.Sec.15(1)WOAS AWL from 2315 hrs.17.1.43 to 2115 hrs. 18.1.43 total absence 22 hrs.	L/Sgt.Smith	Deprived of 4 days pay FR&I (2)	20.1.43		Forf. 1 days pay FR&I 149(2)

I, B.29243 Sapper LEDUC, R.J. desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of LIEUTENANT NEFF of No. 1 Road Construction, R.C.E., if he is available.

13 Sep 43

(Signed) "R.J.LEDUC".

147M.

O. H. M. S.

TP. LEDUC, R.M.

M. F. B. 270
10000M-12-60 (8068-09-70)
H.Q. 1772-36-67

Correspondence to be PINNED here.

G C.H. Cook major

D3802 Carl Louis Fraser 17 D.Y.R.C.H. (7 Recce Reg)

D3506 Tpr Raymond Mathews LEDUC.

Army Form A.3.

147M

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 20 day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[~~I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

*~~(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—~~]

PROCEEDINGS REVIEWED.

G.M. Graham Capt
Reviewing Officer (5 B.G.) CAMHQ
21 Sep 42

President.

Rank.	Name.	Regiment.
Major	C.H. Cook	C.H. of Q

Members.

Rank.	Name.	Regiment.
Captain	J.W. Duncan	7 recce Regt (17 DYRCH)
Captain	E.A.Q. Bown	3 Cdn Div S'gs, R.C.C.S.

* Must be signed perso by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C.B. Price
C.B. Price Maj-Gen
Commanding 3rd Canadian Division.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
[illegible] Tpr. Raymond [illegible] LEDUC. 7th Recce Regt.	1st Charge A.A. Sec 15(1)	Guilty	Guilty ~~[illegible]~~ 90 days detention.	confirmed C.B.P.
	2nd Charge A.A. Sec 24(2)	Not Guilty	Guilty except that his liability is 75% of the value of the articles deficient. To be placed under stoppages of pay in the amount of £1:15:6½	
[illegible] Tpr. Carl Louis FRASER 7th Recce Regt.	1st Charge A.A. Sec 15(1)	Guilty	Guilty ~~[illegible]~~ 48 days detention.	confirmed C.B.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) C.B. Price C.B. Price Maj-Gen (Signed) C.H. Cook Major
Commanding 3rd Canadian Division
Convening Officer (e) President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of July 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
~~[illegible]~~ C.H.C.
~~[illegible]~~ C.H.C.
were duly sworn.

* Omit if not applicable.

Signed this 21 day of July 1942.

C.H. Cook Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~* See footnote (b) on page 762 M.M.L. 1929.~~

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ C.H.C.

~~Signed this day of C.H.C. 19~~

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further order.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23 day of July 1942

C.B. Price
Confirming Officer.

Promulgated and extracts taken in the case of B3506 Tpr. Leduc, R.E. B3806 " Fraser, C.L.

(a) (Dated) 22 Aug 42 (Signed) [illegible] Lieut & Adjt
Officer Commanding
[illegible] Duke of York's Royal Canadian Hussars (7th Rec'ce. Reg't.) A.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2 CH Cook mgr

CHARGE SHEET

The accused No. 3506 Trooper RAYMOND MATTHEW LEDUC of the 17th D.Y.R.C.Hussars (7th Rec'ce Reg't) a soldier of the Canadian Army (Overseas) is charge with:-

FIRST CHARGE SECTION 15(1) ARMY ACT.

Absenting himself without leave, in that he, in the Field, absented himself without leave from 2230 hours 6 May 42 to 2359 hours 28 Jun 42. Time absent, 53 days, 1 hour, 29 minutes. ~~Under close arrest from 2359 hours 28 Jun 42.~~ C.B.P.

SECOND CHARGE SECTION 24 (2) ARMY ACT

Losing by neglect his equipment, clothing and regimental necessaries, in that he was deficient of:-

	£	s	d
1 pair Anklets, Web.		3	5½
1 pair Boots, Ankle.	1	1	6
1 Cap Field Service		3	8
1 First Field Dressing		1	1
1 set Overalls Comb.		12	7
1 set Mess Tins		1	8
1 Mug, Enamel			5
2 Vests, Gym.		3	0
TOTAL	2	7	4½

C W Hugman

(V.W. Hugman) Lt.-Col.
Officer Commanding
17th D.Y.R.C.Hussars
(7th Rec'ce Reg't) CA (O/S)

To be tried by Field General Court-Martial.

C. B. Price

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

20 JUL 42

H
C H Cook
major

D-3501 Tpr. Raymond Matthew LEDUC
17th D.Y.R.C. Hussars,
(7th Rec'ce Reg't) CA (O/S)

1. The marginally named Trooper has been medically examined by me, this date, and I hereby certify that he is physically fit to undergo Trial by Field General Court-Martial.

J. Balfour Capt

(J. Balfour) Capt.
Medical Officer,
17th D.Y.R.C. Hussars
(7th Rec'ce Reg't) CA (O/S)

Date 21/7/42
FP

A Army Form A 9

FORM OF PROCEDDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Fld Gen Court Martial held at - Field on the 21 day of July 1942 by order of

Major General C.B.Price, D.S.O., D.C.M., V.D.

Commanding 3 Cdn Div.

dated the 20 day of July 1942.

President

Major C.H.Cook C.H.of O.

Members

Capt. E.A.Q.Bown 3 Cdn Div R.C.C.S.

Capt. J.W. Duncan 7 Recce Regt

Trial of D-3506 Tpr Raymond Matthew Leduc
17 D.Y.R.C.Hussars (7 Recce Regt)
Cdn Army (O/S)

The order convening the Court, the charge sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor Lieut H.MacDonald Logan 7 Recce Regt

Defending Officer Lieut. W.L.Hutton 7 Recce Regt

At 1130 o'clock the Trial commences.

The order convening the Court is read, and is marked "G", signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Question by the Pres. to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
Answer.... No

The President and members are duly sworn.

CHARGE - SHEET

The charge-sheet is signed by the President, marked B2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the first charge against you which you have heard read. — Question to the accused.

Guilty. — Answer

Are you guilty or not guilty of the second charge against you which you have heard read? — Question

Not guilty. — Answer.

The accused having pleaded guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Q.1 - Do you understand the nature of the charge against you? Do you realize that by pleading guilty no witnesses will be called by the prosecution and therefore you will not be able to cross-examine such witnesses? Further, you will not be permitted to call any witnesses, except as to character, in your own defence. Do you fully understand the seriousness of your plea?

A.1- Yes

Q.2- Do you still wish to plead guilty?

A.2 - Yes.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

[redacted]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

D-32 12 Cpl Giles, F.G. 7 Recce Regt.

being duly sworn, is examined by the prosecutor.

Q.1 - Where you in charge of the hut in which the accused was billeted?

A.1 - Yes.

Q.2 - On the morning of 7 May 42 did you supervise the collecting of the accused's kit?

A.2 - I did.

Q.3 - Did you collect all of the kit of the accused which could be found in the billet?

A.3 - I did.

Q.4 - Was the kit checked by S.Q.M.S. Lyons in your presence?

A.4 - Yes; it was.

Cross-examined by Defending Officer

Q.1 - How did you identify the kit of Tpr Leduc?

A.1 - All of the articles marked as his or left with his kit were picked up. His kit was identified by his regimental number.

C 2

Second Witness for Prosecution

D-3151 S.Q.M.S. Lyons, D. 7 Recce Regt

being duly sworn, is examined by the prosecutor.

Q.1- Will you give in your own words your story in connection with the kit of the accused?

A.1- On the day the accused was reported A.W.L. I inspected his kit which had been left behind and found it deficient in the amount of £7:9:1. What kit I found was kept in stores until the accused returned. On his return another kit inspection was held and it was found that he had brought back kit in the amount of £5:1:8½. The deficiency then was checked with the price list and found to be £2:7:4½. I turned this information in to the Squadron Ord. Room.

Cross-examined by the Defending Officer

Q.1- Did you check the actual articles deficient from the M.F.C.800 of the accused?

A.1- Yes

Q.2- Are the values of these articles as stated the full vocabulary prices?

A.2- Yes.

XXXXXXXXXXXXX
XXX
XXXXXXXXXXX

XXXX.

Lieut. H.MacDonald Logan, Prosecutor

being duly sworn, presents certified true copy of M.F.B. 375 Declaration of a Court of Inquiry which was read, marked "I", signed by the President and attached to the proceedings.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No.

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* No.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says† nothing.

[redacted]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

First Witness for Defence

Capt. G.D.deGrandpre, Adjt, 7Recce Regt

being duly sworn, is examined by the Defending Officer.

Q.1- Will you read to the Court the provisions of C.A.(O)R.O. 1398 dated 17 Dec 41.

A.1- LOSING BY NEGLECT - A.A.24(2) - VALUE TO BE CHARGED.
Where soldiers of the Cdn Army placed on active service is charged under Sec 24(2) of the Army Act with losing by neglect his equipments, clothing and regimental necessaries, the values of such articles which will be set out in the particulars of the charge will be seventy-five per cent of the vocabulary rate unless there is evidence available, which can be produced at the trial, that the actual value at the time of loss was greater or less, in which case the actual value will be charged. "Actual value" means the value to the Dept. of National Defence, and not the disposal value. It will be determined by assessing the article at some definite proportion of its vocabulary price. In no case will less than the worn out value be charged.

(Effective 12 Nov 41)

C C

PROCEEDINGS ON PLEA OF GUILTY

The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.

The accused D-3506 Tpr Raymond Matthew Leduc 7 Recce Regt is found guilty of an act against A.A. Sec 15(1)

The Summary of Evidence is read, marked "J", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer No.

Question to the accused.

Do you wish to give evidence yourself or to call any witnesses as to character?

Answer

No.

E

FINDING

The Court is closed for the consideration of the finding.

the Court find that the accused is Guilty

PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

The Court being re-opened the accused is again brought before it.

Lieut. H.MacDonald Logan is duly sworn.

Question by the President	Have you any evidence to produce as to the character and particulars of service of the accused?
Answer by the Witness	I produce these statements, being M.F.M. 6 and A.F.B. 296 The above statements are read, marked K and L respectively, signed by the President and annexed to the proceedings.
Question by the President.	Is the accused the person named in the statements which you have heard read?
Answer by the Witness	Yes.
Question	Have you compared the contents of the above statements with the regimental books?
Answer	Yes
Question	Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
Answer	Yes
Question to the accused	Do you wish to address the Court? Answer... No.

The Court is closed for the consideration of the sentence.

F

SENTENCE

The Court sentence the accused ~~XXXXX~~ D-3506 Tpr Raymond Matthew Leduc, 17 D.Y.R.C.Hussars (7 Recce Regt)

First Charge (a) Forfeiture of 54 days pay under Art 149 (1) (a) of P.R.& I. for the Cdn Army O/S.

(b) 90 days detention

Second Charge To be placed under stoppages of pay in the amount of £1:15:6½.

I. E.H. Cook Major

RECORD of the Declaration of a Court of Inquiry assembled at In The Field on the 8 day of June 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. D-3506 Tpr. Leduc. R.M. 17th. D. Y. R. C. Hussars. (7th Rec'd Bn) A.F. illegally absented himself without leave 23.59 hrs. 6. May 1942. at Field on the 6 day of May 1942., that he is still so absent, and that on the 27 May 1942. he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Anklets web. 1 pr	0.3.5½		
Battle Dress (Blouse)	1.7.8.		
(Trousers)	1.7.11.		
Field Service Cap.	0.3.8.		
2 pair Boots	2.3.0.		
1 pair Braces.	0.1.3½		
1 brush boot blacking	0.0.9.		
1 Twist Field dressing	0.1.1.		
Knife Fork Spoon set.	0.1.7.		
Overhalls combination	0.12.7.		
Mess tin set.	0.1.8.		
respirator complete	1.1.0.		
Mug enamel	0.0.5.		
2 Vests Gym.	0.3.0.		
Total	7.9.1.		

A.A. Hugman Major President

G.C. Lawsame Lieut Member

D.K. Jamieson Lt. Member

Signed at In the field this 10th day of June 1942

A.W. Hugman Lt. Col

Signature of Commanding Officer

G.D.G. Grandfield capt

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 113
11M-12-40 (8896-8)
H.Q. 1771-59-257

J.

Summary of evidence in the case of No. D 3506 Trooper Leduc, RAYMOND,M. of the 17th D.Y.R.C. Hussars (7th Recce Reg't) C.A.(O/S)

By direction of the Commanding Officer the summary of evidence is taken.

1st Witness for the Prosecution

D 3212 Cpl. Giles, F. G. of the 17th D.Y.R.C.Hussars (7th Rec'ce Reg't) CA(O/S) states:-

On the 6-5-42, I was in charge of the hut in which the accused was billetted. At 2230 hrs on that day, the Squadron Orderly Sgt., came to take the Tattoo Report and as the accused was missing from his billets I reported him absent without leave from that time and date.

The following morning I supervised the gathering up of his Kit and turned it over to S.Q.M.S.Lyons who checked same while I was present.

On the 28-6-42, at 2359 hrs, the accused reported to the billets of which I was in charge. I allowed him to sleep there that night, and the following morning turned him over to the Squadron Guard Commander, Sgt. Ross, and reported him as having returned 2359 hrs on the 28-6-42.

The Accused declines to cross-examine this witness.

F. G. Giles Cpl.

D 3212 Cpl. Giles, F. G.

2nd Witness for the Prosecution

D 3037 Sgt. Campbell, A. of the 17th D.Y.R.C.Hussars (7th Rec'ce Reg't) CA(O/S) states:-

On the 6-5-42, I was Squadron Orderly Sgt., and on taking the Tattoo Report, The Squadron Orderly Cpl., Cpl. Giles reported the accused absent without leave from 2230 hrs 6-5-42. This was entered in my Tattoo Report.

The Accused declines to cross-examine this witness.

A. Campbell Sgt.

D 3037 Sgt. Campbell, A.

3rd Witness for the Prosecution

D 3096 Sgt. Ross, D. O. of the 17th D.Y.R.C.Hussars(7th Recce Reg't) CA(O/S) states:-

At 0830 hrs on the 29-6-42 the accused was turned over to me by Cpl. Giles who reported him as having returned 2359 hrs on the 28-6-42. I immediately put him into the Squadron Guard Room and reported same to R.H.Q.

The Accused declines to cross-examine this witness.

D. O. Ross sgt

D 3096 Sgt. Ross, D.O.

4th Witness for the Prosecution

D 3151 S.Q.M.S. Lyons, S. of the 17th S.I.R.C.Hussars (7th Rec'ce Reg't) CA(O/S) states:-

At 0830 hrs on the 7-5-42 the Kit of the Accused was turned over to me by Cpl. Giles, J. G. I immediately checked same in the presence of Cpl. Giles and found it to be deficient to the value of £ 7-9-1.

On the 29-6-42 I was summoned to the Squadron Guard Room by Sgt. Ross, the Squadron Guard Commander and checked the Kit which the accused had brought with him and found it to be of a value of £5-1-8½.

This results in a total deficiency of Kit of £ 2-7-4½.

The accused declines to cross-examine this witness.

D 3151 S. Q.M.S. Lyons, S.

The Accused having been duly cautioned in accordance with Rule of Procedure 4 (E) "Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but whatsoever you say or any evidence you give will be taken down in writing and may be given in evidence", reserves his defence.

Certified that Rule of Procedure4(C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing ofthe accused this 9th day of July 1942, in the field.

G. Donaldson Lieut.

Lieut. G. Donaldson.

No. D.3506 Name LEDUC, R.H. Sqn., Battery, or Company B Corps ~~3RD CAN. MOTORCYCLE REGT. C.A.~~ Date of enlistment 13 Feb 41 G.C. Badges K Service or Proficiency Pay CH Cook major

M.F.M. 6 A.F.B. 122 50051—6-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. K. S. Bjorn Character (Major)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23-1-42	Tpr.	Nil	Absent without leave from 2230 hours 23 Jan 42 to 1800 hours 12 Feb 42 Time absent 19 days 19 hours 30 mins. A.A. Sec. 15(1)	Cpl. Giles Cpl. Baker Sgt. Shaw	Awarded 28 days F.P.	13 Feb 42	R. Thomson Major	Forfeits 28 days pay by Art. 149(1)(b) FR&I Forfeits 20 days pay by Art. 149(1)(a) FR&I Total Forfeiture 48 days pay.

Certified True Copy

[signature] capt

(P.T.O.)

L CH Cook maj

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D. 3506	Trooper	RAYMOND MATTHEW LEDUC	17th DUKE OF YORK'S ROYAL CANADIAN HUSSARS (7TH REC'CE REG'T) CA (O/S)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	A. A. Sec. 15(1) (1) time	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and Fifteen days in military custody, making a total of Fifteen days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 32

6. The date of his ~~commission~~ / attestation specified in his record of service / attestation paper is 13 Feb 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr. 15 days

8. The accused is entitled to deferred pay or gratuity in respect of NIL service.

9. The accused is entitled to reckon NIL service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~[illegible]~~).

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer [illegible] the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of [illegible] and in his regiment (or corps or department) the rank of [illegible]~~

(*16246) Wt.30246/902 75,000 12/40 A.& E.W.Ltd. Gp.688

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D.3506 Rank Trooper Name Raymond Matthew Leduc of 17 DYRCH Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of July 1942

R W Thugman Lt Col

Officer Commanding
17th Duke of York's Royal Canadian Hussars
(7th Reg'ce, Reg't.) A.F.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	NIL	years,
In the rank of	NIL	years
In the rank of	NIL	years,

(INSTRUCTION.—*Of any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such courses as are available and the paragraphs concerned amended accordingly.*)

22-145

PTE LEE A.S.

22-145

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (28654)

Convened by Order of P R Shields, Brigadier Comd "B" Gp.CRU dated 15 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F.47752	Pte.		Allen Spencer	LEE	1 CASCRU

PROCEEDINGS REVIEWED

29 Jan 44

REVIEWING OFFICER, JAG BRANCH

CLEARANCE NOTE B.G.H.Q. S-6-2/468

PROCEEDINGS OF TRIAL.

Held in the Fd in ~~XXXXXXX~~ England on (date(s)) 17 Jan.44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see fnrm for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn s. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1054 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn s. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans ~~The Interpreter is sworn.(1)~~ Do you object to Sgt Mucah as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and~~ Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.Col	F.D.Tweedie	HQ CRU
Member	Capt	E.E.Maltby	1 CSRU
Member	Lieut	A.C VANCE	1 CERU
Judge-Advocate			
Prosecutor	Lieut	R.D.Munnoch	1 CASCRU
Defending Offr	Lieut	R.D.Stuart	1 CASCRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~if~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~respectively~~ on all charges in the charge sheet.(1) The accused does ~~they~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~C~~ E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.47752 Pte Allen Spencer LEE 1CASCRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A A 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn s.)

~~to be present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for six (6) months. To be put under stoppages of pay until he has made good the sum of Two pounds, two shillings and six pence (£2-2-6) in respect of cost of apprehension and return to unit

(Sgd) Judge-Advocate, if any. 17 Jan 44 Date awarded. (Sgd) F.D.Tweedie Lt.Col President (RP 45, 58.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be~~ be not committed to prison or detention barracks, ~~until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) R.Rowe Brig.

Date 19 Jan 44 Commanding "B" Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
1647752 Pte Lee A.S.	20 Jan 44.	W.C.Tweedie Lt.Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Records 1 Cdn. A.S.C. Reinf. Unit.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No. (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~.....~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly~~.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 6.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused :~~ Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 55. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes. (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 70(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 309, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-47752 Pte. Allen Spencer LEE, on strength of 1 Cdn A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
A.A. Sec.
15 (1).

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

absented himself without leave from Blenheim Barracks, Farnborough, Hants., from 2200 hrs 14 September 1943 until 1400 hrs 10 January 1944 when he surrendered himself to the Corps of Military Police attached to 821 Coy, Pioneer Corps. (Total Time Absent 117 days and 16 hours) thereby incurring costs of apprehension in the amount of £2-2-6.

W.C. Fletcher

(W.C. Fletcher) Lt-col.
Comd No.1 Trg Wing.
1 Cdn A.S.C. Rft. Unit.

Farnborough, Hampshire.
14 January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R.Shields) Brigadier.
Comd "B" Gp.
Cdn Rft Units

15 January 1944

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.47752	Pte		Allen Spencer	LEE	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Jan 44 endorsed by me, (or by an offr of my staff or me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I accordingly appoint as President of the Court, the Officer President for the purpose named below.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	P.D.Tweedie	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by	1 CSRU
A Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 15 January 1944 Commanding "B" Gp.CRU (P.R.Shields) Brigadier
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No. K.47752.....

Pr..... Lee..... ~~[illegible]~~ A.S.....and in my opinion he is fit to ~~unfit~~
(rank) (name)

undergo trial by Court Martial.

Station:

Date: 17th Jan /44

A.D.T.

B. Wentzel Capt.
(Medical Officer)
1 Cdn A.S.C. Rft Unit

K 47752 FIELD 17 JAN. 44

Sir:

The accused Pte. Lee enlisted in the C.A.A.F. on the 4 Jul. 1940, he came overseas with the Royal Westminster Regiment in Nov. 1941. With this regiment he obtained qualifications as a motorcyclist. He was content and happy in this unit, all his friends and comrades whom he had joined up with were in this regiment. In June 1943 he was transferred against his wishes by unit reallocation to the R.C.A.S.C. He Knew nothing about the work of the A.S.C. and from June until the time he went absent he received no specific training along A.S.C. lines. He made several attempts to transfer to other branches of the service but these were continually turned down. He was told at the 1st September that he was being sent to No. 10 Coy. C.T.C. This transfer was again against his wishes and he felt that he wasn't being treated fairly. He was not allowed to soldier with some branch of the Army in which he had interest and ambition. He pleads guilty to the charge as read. He voluntarily surrendered hi self to the Corp. of Miltitary Police attached to 821 Coy Pioneer Corp. on Jan. 10. His AFM 6 shows that this is only the second time he has been absent for any great lenght of time.

After serving punishment as this court sees fit to award he wishes to obtain his transfer to some other branch of the service preferably the Infantry or Armoured Corps and to serve in the C.A.A.F. in any sphere of operations.

Lt

1 Cdn. A.S.C. Rft. Unit
Defending Officer.

EXHIBIT "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Blenheim Barracks on the 7th day of October 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-47752 Pte Lee, A.S.

DECLARATION.

The Court declare, that K-47752 Pte. Lee, A.S. absented himself without leave at Blenheim Barracks, Farnborough, Hants at 2200 hrs 14 Sep 43 and that he is still absent. That on 7 Oct 43 he was deficient articles of equipment and clothing as listed on M.F.B. 259 to the total value of £6-0-3½ of which 75% is £6-0-4½.

501.

T.N. Beaupré CAPT

PRESIDENT (T.N. Beaupre) Capt RCASC
1 Cdn A.S.C. Rft Unit.

R.H. Parkinson

(R.H. Parkinson) Lt, RCASC
1 Cdn A.S.C. Rft Unit.

MEMBERS

(J.N. Hutchison) Lt, RCASC
1 Cdn A.S.C. Rft Unit.

Names of President and Members

Signature of Commanding Officer

CERTIFIED TRUE COPY

1 CDN A.S.C. RFN UNIT.

Signature of Officer having custody of the Original Record.

(16958) Wt.38982/1365 120,000 1/61 A.& E.W.Ltd. Gp.498
(17936) Wt.11504/173 200,000 5/61

Forms/B115/56

EXHIBIT "B"

CERTIFICATE OF DESERTION

Section 163 (1) (d) [illegible]

I, MAJOR ALDOUS

certify that No. K 47752 Rank PTE

Name LEE A.S.

Coy C.R.H. In CANADIAN ARMY SERVICE CORPS

surrendered himself to No. 7656587 Rank SGT. Name JAMES

Unit Corps of Military Police on the 10TH day of JAN 1944 AT 1400 HRS

as a [redacted]/absentee without leave.

In Military Uniform

Arthur S Aldous MAJOR

821 (S) COY PICKEER CORPS

CHECK.

Date 10TH JAN 1944 [illegible]

Here insert particulars of the person to whom the absentee or deserter surrendered.

EXHIBIT "C"

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No K47752 Rank Pte Name Lee, A. S. Unit 1 CASC RU

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Creve

Date	Particulars	Amount		
11 Jan 44	Escorts return fare from LONDON To Creve	1	4	4
	Prisoners single fare to LONDON From Creve		12	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		6	0
	Total £	2	2	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense [illegible]
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/485(1287)

LIST OF EXHIBITS

(a) A.F.B. 115 Certified True Copy of Record of Declaration of a Court of Inquiry on the illegal absence of a soldier.

(b) Certificate of Arrest in Accordance with A.A. Sec. 163(1)(j)

(c) Form C.M.H.Q. 1000:55 Expense Voucher, costs of apprehension.

DD

I the accused, K-47752 Pte. Lee, A.S. desire the convening authorities to appoint a competent Officer to defend me at my forthcoming Trial by Field General Court-Martial.

(K-47552 Pte. Lee, A.S.)

BDT

SUMMARY OF EVIDENCE

K-47752 Pte. Allen Spencer LEE, of 1 Cdn A.S.C. Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

I am Lt. R.D. Munnoch of 1 Cdn A.S.C. Rft Unit and produce the following documents:-

(a) A.F.B. 115 Certified True Copy of Record of the Declaration of a Court of Inquiry, declaring that K-47752 Pte. Lee, A.S. absented himself without leave from Blenheim Barracks, Farnborough, Hants. from 2200 hours 14 September 1943. (marked Exhibit "A")

(b) Certificate of Surrender under A.A. Sec 168 (1)(j) certifying that K-47752 Pte. Lee, A.S. surrendered himself to the Corps of Military Police, attached to 821 Coy, Pioneer Corps, at 1400 hrs 10 January 1944. (marked Exhibit "B")

(c) Form C.M.H.Q. 1000:55 Expense Voucher, certifying that expenses were incurred in the apprehension and return to Unit of K-47752 Pte. Lee, A.S. in the amount of £2-2-6. (marked Exhibit "C")

The accused was cautioned as follows, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of one page was taken down by me in writing on the 14th day of January 1944 at 1 Cdn A.S.C. Rft Unit in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

R.D. Munnoch

(R.D. Munnoch) Lt.
Offr detailed to take
Summary of Evidence.

Farnborough, Hampshire.
14 January 1944.

Ex A

Sheet #1 destroyed 11/11/42

No K47752 Name Lee, A.S. | Sqn., Battery, or Company | Corps Westminster Regt (M) | Date of enlistment 4-7-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	Effective Date 4-1-41 OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	1-9-41	Pte		Sec 15(1)AA AWL 1 day 7 hrs 30 mins.	Cpl.Tully	5 days C.B.	2-9-41	Maj.Eckardt	FR&I149(1)(a) 2 days pay
Camp Borden	7-10-41	Pte		Sec 15(1)AA AWL 23 hours	L/C Andrade	5 days C.B.	8-10-41	Lt.Douglas	1 days pay FR&I 149(1)(a)
~~Camp Sussex~~	~~30-10-41~~	~~Pte~~		~~Sec 15(2)AA Failure to appear at a place of parade~~	~~Sgt Davis~~	~~5 days C.B.~~	~~31-10-41~~	~~Lt.Douglas~~	"
~~Field~~	~~9-2-42~~	~~Pte~~		~~Sec 15(1)AA AWL 2~~ hrs.	~~Sgt McIntyre~~	~~5 days C.B.~~	~~10-2-42~~	~~Capt.Catherwood~~	"
Field	11-2-42	Pte		Sec 40 AA Neglect to Prej.	Cpl Ballam	5 days C.B.	13-2-42	Capt.Catherwood	
Field	5-9-42	Pte		Sec 15(1)AA AWL (4 hrs)	CSM Miller	FR&I149(2) (AA46 2d)5 days C.B.	7-9-42	W.T.I.B.Butt Major	
Field	16-9-42	Pte		Sec 15(1)AA AWL (2 hrs 30 mins)	L/C Weir AJ	7 days C.B.	17-9-42	T.W.Hall Maj	FR&I149(1)(a) 1 days pay
Field	20-12-42	Pte		Sec.15(1)AA AWL 1330 hrs 20-12-42 till 1210 hrs 21-12-42(22 hrs 40 mins)	Cpl Salsbury	FR&I149(42(2) d AA 5 days pay	22-12-42	JE ??????	FR&I149(1)(a) 1 days pay FR&I 149 AA 46(2)d 5 dys pay.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13Feb 43	Pte		Sec.15(1)AA AWL from 1345 hrs 13 Feb 43 until 1545 hrs 13 Feb 43 (Total 2 hrs absent)	Sgt Grinsted Pte Weir AJ	7 days C.B.	15 Feb 43	Lt.C. Hall	7 extra fatigues
Field	23May 43	Pte		AA Sec 15(1)AWL from 2300 hrs 23 May 43 until he returned at 0740 hrs 24 May 43(8 hrs 40 mins)	Sgt Grinsted	Forf 7 days pay (FR&I149(2) 14 days C.B.	24 May 43	R.S.Tindall Lt.Col.	Forf 1 days pay FR&I 149(1)(a)
Field	18 Jul 43	Pte		AA Sec 15(1) Absent from 2300 hrs 18 Jul 43 until 1800 hrs 2 Sep 43. (TTA 45 days 19 hrs)	Documentary	28 days F.P.	7-9-43	Lt.Col WC Fletcher	Forf 46 days pay FR&I 149(1)(a). Forf 28 days pay FR&I 149(1)(b) Forf 4 days pay FR&I 149(1)(c)(ii)

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT.

Officer having custody of original document.

dated 19 Jan 44

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-47752	Private	Lee,A.A.	1 Cdn A.S.C. Rft. Unit

1. The following is a fair and true summary of the entries in the [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 15(1) Three (3)	times	AA Sec 15(1) Eight (8)	times
For		times	AA Sec 40 One (1)	times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted [redacted]

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22 years

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 4 Jul 40

7. The service which the accused is allowed to reckon towards discharge is Nil

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. military N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of Nil

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of N.C. APPLICABLE years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K-47752 Rank Pte
Unit
Name Lee, A.S. of 1 Cdn A.S.C. Rft. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL.		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 Jan 44 day of Officer having custody of original document.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

AAA·22

PTE LEE B.J.

M-10627 PTE BENJAMIN JOSEPH LEE

5 Bn 2 CBRD

AAA-22

C70

Correspondence to be PINNED here

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this twenty eigth day of December, 1943.

A Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Base Rft Group on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ; ~~[illegible]~~ Ewh

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~[illegible]~~

Ewh

JUDGE ADVOCATE

Rank		Name	Regiment
Major	K G	MORDEN	CIC GHQ 1st Ech

President

Rank		Name	Regiment
Major	L A	GERRY	CAC 5 Bn 2 CBRD

Members

Rank		Name	Regiment
Captain	A	ROBINSON	RCA 6 Bn 2 CBRD
Captain	J	BURTON	RCOC 8 Bn 2 CBRD
WAITING MEMBER :-		Captain R. GALE	CAC 5 Bn 2 CBRD

PROCEEDINGS REVIEWED
[illegible]
12 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the Composition of the Court to be initialled by him.

*Signed Ewhaldenby
(E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group
Convening Officer.

[illegible]

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-10627 Private Benjamin Joseph LEE, 5 Bn, 2 CBRD	First Charge: A.A. 41 (5)	Not Guilty	Not Guilty	
	Second Charge: A.A. 6(3) (d) (Alternative)	Not Guilty	Guilty	
	Third Charge: A.A. 6(3) (d)	Not Guilty	Guilty	
	Fourth Charge: A.A. 41 (5)	Not Guilty	Not Guilty	
	Fifth Charge: A.A. 6(3) (d) (Alternative)	Not Guilty	Guilty except that he did not take the money 391 Lire and that the strong was valued at 146 lire and postage stamps at no lire.	
	Sixth Charge: A.A. 40	Not Guilty	SIXTH CHARGE – Guilty, except that he did not improperly enter the dwelling house of Maramo Luigi	
			To undergo detention for a period of nine months 24 Dec 43 Lyle Gerry Major	Confirmed E W Haldenby Brig 1 Jan 44

For detail of charges see att Charge Sheet.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):— No

(Signed) E W Haldenby (E W Haldenby) Brigadier
Commanding 1 Cdn Base Rft Group
Convening Officer (e)

(Signed) Lyle Gerry major
Kg Lundin Major
Judge Advocate President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

DATE

159.

CHARGE SHEET

The accused, M-10627 Private Benjamin Joseph Lee, on strength 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A. A. 41 (5)

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY WITH AGGRAVATION CONTRARY TO SECTION 23 (1) (a) of the LARCENY ACT 1916.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy in company with C-1459 Private Arthur Lewis Fronce robbed Marano Luigi, Marano Cesare and other Italian civilians of the town of Avellino of a sum of money in the amount of (40) Forty Lire.

SECOND CHARGE
(Alternative)
A. A. 6 (3) (d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PROPERTY OF INHABITANTS OF A COUNTRY IN WHICH HE WAS SERVING.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy took without colour of right from Marano Luigi, Marano Cesare and other civilians, inhabitants of Italy, a sum of money in the value of (40) Forty Lire.

THIRD CHARGE
A. A. 6 (3) (d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PROPERTY OF AN INHABITANT OF A COUNTRY IN WHICH HE WAS SERVING.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy without cause broke and destroyed one wall mirror of a value of (25) Twenty Five Lire, the property of Marano Luigi, an inhabitant of Italy.

FOURTH CHARGE
A. A. 41 (5)

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, HOUSE BREAKING AND LARCENY CONTRARY TO SEC 26 (1) OF THE LARCENY ACT 1916.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy did break and enter the dwelling house of Marano Luigi, of the town of Avellino and did steal therein 3 decks of playing cards of the value of (240) Two Hundred and Forty Lire; one ruler of the value of (20) Twenty Lire; one door lock of the value of (1) One lire; two leather punches of the value of (100) One Hundred Lire; two bundles of string of the value of (50)Fifty Lire; various postage stamps of the approximate value of (170) One Hundred and Seventy Lire; and money in the total sum of (391) Three Hundred and Ninety One Lire, the property of the said Marano Luigi.

CHARGE SHEET

In the case of M-10627 Private Benjamin Joseph Lee, continued.

FIFTH CHARGE
(Alternative)
A. A. 3 (3) (d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PROPERTY OF AN INHABITANT OF A COUNTRY IN WHICH HE WAS SERVING.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy took without colour of right the articles set forth in particulars of the ~~Fifth~~ Fourth Charge, the property of Marano Luigi, an inhabitant of Italy.

SIXTH CHARGE
A. A. 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

at approximately 1920 hours on 4 Dec 43 in the field in Italy did improperly enter the dwelling house of Marano Luigi, and did create a disturbance therein.

CANADA BARRACKS
Avellino Italy
10 December 1943.

F B Conrad
(F. B. Conrad) Lt. Col.
Commanding
5 Bn 2 C. B. R. D.

APPROVED ON BEHALF OF JUDGE ADVOCATE GENERAL PURSUANT TO K. R. (CAN) 540.

1 Cy. Mordin Maj
DFA Cdn Sec 8 Ang 1 Ech

To be tried by F.G.C.M

28 Dec 43

C W Haldenby Brig

MEDICAL OFFICER'S CERTIFICATE

(K. R. (Can) Para 557)

I certify that I have this morning examined No.M-10627 Pte. Lee B. J. of 5 Battalion 2 C. B. R. D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

STATION....Field....

DATE....24 Dec '43....

C H O Bohen Cone
(Medical Officer)

A.G.

PAGE 1

Accused M. 10627 Pte Benjamin Joseph Lee 5 Bn 2 CBRD
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Italy on 29 Dec 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	L A Gerry CAC	5 Bn 2 CBRD
MEMBERS:	Capt	A Robinson RCA	6 Bn 2 CBRD
	Capt	J Burton RCOC	8 Bn 2 CBRD
JUDGE ADVOCATE: (If any)	Major	K G Mnden CLC	Can Sec GHQ 1 Ech
OFFICERS UNDER INSTRUCTION:	Lieut	D F Smith	6 Bn 2 CBRD
	Lieut	C P Dowds	2 Bn 1 CBRD
	Lieut	J J Moffat	2 Bn 1 CBRD
	Lieut	H Bookbinder	2 Bn 1 CBRD
	Lieut	J W Thealston	2 Bn 1 CBRD

PROSECUTING OFFICER: Lieut D G Blair Lawyer? Ans "no" "yes" KGM

DEFENDING OFFICER: Lieut John A Brooks Lawyer? Ans "yes" KGM

(The following procedure must be actually carried out) KGM

The President produced the Convening Order, Charge Sheet(~~s~~) and Summary of Evidence. (Rs P 17(E), 22(A)).

KGM The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(~~s~~) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence. (R.P.106) KGM

KGM The accused is (~~are~~) brought before the Court, and at 1130 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (~~are~~) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings. KGM

President to accused:
Do you object to W.H. Hunston as interpreter? Ans no

The interpreter is duly sworn.

~~Do you object to KGM as shorthand writer?~~

~~The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.~~
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans no

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

KGM The Charge Sheet(~~s~~) is (~~are~~) initialled by the President.

19th

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such plea and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	Not Guilty	Fifth Charge	Not Guilty
Second Charge	Not Guilty	Sixth Charge	Not Guilty
Third Charge	Not Guilty	Seventh Charge	
Fourth Charge	Not Guilty	Eighth Charge	

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans NO.

2. The Prosecutor's opening address (if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans YES
Q. Do you intend to call any other witness in your defence? Ans NO
Q. Is he a witness as to character only? (R.P.40(B)) Ans N/A.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "N", and "O", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D). Ans YES No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3) Overseas RO 3262 complied with
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.46); sentence should be dated.

The sentence is not announced to the accused by the Court.

Tyler Lacy, major
(Signature of President)

PAGE 'A'

(For use when accused pleads guilty to all charges)

(all printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.36(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans _____

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans _____

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans _____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.K.6), signed in the manner required by A.A.A.163(1)(n) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3311)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans _____ (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, M.R.(Can)563-566; one sentence only awarded, R.P.46). Sentence should be dated)

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans NO.

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans YES
Q. Do you intend to call any other witness in your defence? Ans no
Q. Is he a witness as to character only? (R.P.40(B)) Ans n/a.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "N", and "O", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D). Ans YES No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3) Overseas Ro 3262 complied with
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

Lylet Terry major
(Signature of President)

Evidence.

First Witness: F 40277 L/Cpl. Nelson, K.S. Cdn Pro Corps. 1 Cdn L of C Pro Coy, having been duly sworn, is examined by the Prosecutor:

I recognize the accused. On 4 Dec 43 at about 2015 hrs I was on duty in Avellino in company with L/Cpl Walton. We saw a group of people. On investigating we found the accused and another soldier and a group of Italians. They seemed to be arguing. We asked them all to accompany us to the police station. On the way there something came from under accused's great coat - something was thrown away. On picking it up I found it to be a carpenter's rule and a door book. On picking up what came from under accused's coat, I found it to be a pack of Italian playing cards. We proceeded to the station and turned accused over to Sgt Barbon. I identify the rule (marked Ex "A". I identify the door book (marked Ex "B". I identify the pack of cards (marked Ex "C". " " " "

Cross examination

I didn't consider him drunk. ~~In my~~ ~~Opinion~~ a drunken man cannot walk straight. If a man can walk a straight line he is not drunk to my mind. I didn't notice his eyes. It was dark. It wasn't awfully dark but not light ~~not~~ enough to see his eyes. I have seen quite a few drunken men in my career. They all staggered.

Questions by Ja.

On way to station the accused dropped a bottle. I don't know what kind of a bottle it was.

RP 83(B) complied with

Witness withdraws

Second Witness. H 3519 Sgt Barbon. T. 1 Cdn L of C Pro Coy. having been duly sworn, is examined by the Prosecutor.

I recognize the accused. At approx 2030 hrs 4 Dec 43, the accused was brought into Provost office at Avellino along with Pte France and 8 Italians

civilians. After questioning the civilians through an interpreter, we searched Pte Lee and found on him, Two leather punches, one leather stamp initials Pte, a collection of Italian stamps, a bunch of loose Italian money in his pocket about 390 lire, a butcher knife, 2 decks of Italian playing cards. The articles were identified and marked as exhibits as follows:

Ex D. playing cards
Ex E. Knife
Ex F. leather punch
Ex G. leather punch
Ex H. stamp
Ex I. money.
Ex J. stamps

L/Cpls Walter and Nelson also turned over to ~~you~~ me one pack playing cards, and a latch off a door.

Cross examination

I don't recall the Sgt Major saying anything to the accused. I don't remember him saying to the accused get off that table and put out that cigarette. I can't remember whether Sgt. Major was present. I was there. The accused had been drinking but he was not drunk. I know a drunken man - one incapable of conducting himself in an ordinary manner. A person acting in an ordinary manner - sprull when spoken to and do as he was told. Accused did this. The accused claimed he went into one house - where he bought a moon and they entered the second house - and were just talking to the civilians - and had bought the above articles from them except the stamps which he acquired as a stamp collector after coming to this country. He ~~[illegible]~~ said ~~the money~~ he played poker to replace the money. I have been drunk. I ~~[illegible]~~ believed I behaved myself while drunk.

Re: examination

I have been in Pro Corps three years - I have had to deal with drunken people a great deal. I have expressed my opinion on whether a man is drunk or not but we are not authorities on this.

RP 83(B) complied with.

Witness withdraws.

Third witness: K 99132 Pte Morelli, A. 1 Cdn H of C

Pro Coy, having been duly sworn, is examined by the prosecutor.

I recognize the accused. On 4 Dec 43 at 2000 hrs, I was out on patrol with L/cpl Nelson and Walton, when we heard a noise - shined only lights on group - some soldiers and civilians. ~~that~~ The accused was in the group. One of the Italians in answer to my questions said that the soldiers had been in his house and stole a broom. Another Italian said he had been in his house and wanted 40 lire for wine - scared them with a knife - and then cleaned up the place - stole a bunch of stuff. We took them all along to the provost office. On the way the accused dropped a bottle, then a pack of cards, then a key and a rule. The Sgt took them over for questioning when we arrived at the office. I searched the accused. He had bottle punch and other articles in leg of his pants. I went back to Italians house and on the way back we found a ball of string on the road over which we had walked earlier with the accused. Also found another rule on the street. Ball of string identified Ex "K". Rule identified Ex "L", we found some broken ~~glass~~ mirror outside the house - and the wooden part inside the house. Identified - Ex "M".

Cross examination

The accused refusing to come into provost office. I went inside and got the Sgt to bring him in. He didn't put up any fight. His condition was normal. He was not drunk. He spoke clearly - he didn't stagger. He said they bought the broom, then

Some one else had stolen it - so they took another. He came quietly but objected to being brought inside provost office. The walk was about 5 mins. I don't remember Sgt. Major being present. Sgt Barbour was there. I have seen people drunk. I have been drunk myself. It's hard to say how I acted. After consuming certain amount of liquor, a man loses control, passes out. The accused was able to walk and talk - therefore in my opinion he was sober

RP 83(B) complied with

Witness withdraws.

Fourth Witness: Marano Luigi, of the Town of Avellino, Italy having been duly sworn, is examined by the prosecutor through the interpreter:

I recognize the accused. About a month and half go about 7.30 in the evening. I was the time with a few friends in the evening in my shop where knives edged tools are sharpened. The door was suddenly and violently opened and two soldiers, the accused and a companion entered. The accused had in his pocket a long knife which he drew and with which he made threatening gestures towards everybody present. They said they wanted vino, that's all they asked for. He I said I had no wine - none for myself. Then the two soldiers dragged forth two bottles from their pockets saying that they had paid 40 lire for them. The bottles were empty. Then myself and my friends gave the two men 40 lire convinced that they would then leave. In the meantime my wife, who was in her room with the children, became afraid and she tried carassessing them to leave. The soldiers then began to use irrelevant words such as Mama, papa and bambini. My wife was very much

afraid withdrew into the other room with the children. Then one of the two men, which I do not know, took a kick at the door of inner room and burst it open. In the meantime, the other man held the door leading outside so that no one could leave or enter. Then the accused's companion flung open the door and ordered them to ~~leave~~ enter the inner room using the word ~~"Gi nare"~~ - ~~"Get it out"~~ "Gi nare" (Get out). At this time the accused seized the mirror which broke and which he threw into the street. Then the people in the inner room convinced that the men had left, tried to leave the inner room for the outer one - found the door held by the companion of the accused. In view of this, ~~the~~ I sent a neighbour from the inner ~~the~~ room through the garden to call the car police. We then entered the outer room - the two men had gone. I noticed that there were papers projecting from cash drawers in which ~~no money remained~~ only 1-5 centime piece remains. We then followed the men and caused them to be arrested by the car police - and found on them the missing property.

Ex A. [illegible] value about 20 lire
Ex B. door hook - normal value 1 lire
Ex C. pack of cards. 80 lire
Ex D. " " " 80 lire
~~Ex D.~~ " " " 20 lire
(Ex E. can't identify it.)
Ex F. leather punch. 30 lire
Ex G. leather punch. 30 lire
Ex H. stamps. 100 lire
~~Ex I.~~
There was in the cash box between 600-800 lire - but I am not sure on that point.
Ex J. stamps - only counterfeits - no value at all.
Ex K. balls of string - 40 lire.

Ex L. rubs. worth 50 lire
Ex M. mirr. worth 25 lire.
When I was in the mess room I could not see what was happening in other room.

Cross-examination

I gave them 40 lire because they insisted on having it. The soldier didn't ask me to sharpen a knife. The soldier made menacing gestures with the knife but it may have been a joke. I didn't see the soldiers take money from the cash box. The soldiers appeared to be drunk, and from their gestures they were drunk. They were not laughing.

Re-examination

They may have been joking with the knife but I thought they were serious.

RP 83(B) complied with
~~with~~ witness withdraws
The Defending Officer does not require other witnesses
Prosecution closed. On summary of E

Defence.

First witness: M 10627 Pte Lee, B.J. 5 Bn
1 CBRD, having been duly sworn is examined by the Defending Officer.

I had a bit over 600 lire in my possession the when I left the barracks on night of 4 Dec. Most of it was my pay and some I wore playing cards. I went to a restaurant with Pte Evans with the intention of getting drunk. We bought wine and kept on drinking - felt gayer all the time - we bought wine at different places. Later went to a house with a light showing - knocked on a door. It was opened by the last witness. We stopped right in as he stepped back as if to let us in. We asked him for wine. He said he

had none for sale. In exchange of conversation I noticed some grinding stones - I drew my knife and asked him if he could sharpen it for me. He made motions - he couldn't do it then - but to come to-morrow. I turned to leave - I remember opening the door and then I didn't remember anything until Sgt Major in Provost Office told me to get off a table, stand at attention and put out my cigarette. My pants weren't in my gaiters - there was a big pile of junk in front of me on the Sgt's table. I don't drink much ordinarily. About 4 or 5 glasses of vino would make me drunk. ~~Two to~~ We had two bottles in a cafe - bought one to take with us - went off to another place came back and bought another bottle. That is how I had the two bottles. We had some vermouth as well. It was Capri I remember buying with the bottles. I have no use for the exhibits in my wall in the army.

Cross examination:

I identify 5 & "5" as my knife. It is not as sharp as I want it. We went downtown some time before 3. I am sure we were in 3 wine shops - before we came to Marano Luigi's house. I bought 3 bottles of Capri and some vermouth and at another place some red eye. I didn't drink it all myself. I remember going to house, asking for wine - ~~being down~~ told there was none. I made signs with my hands that I wanted my knife sharpened. I don't

Remember having the house. I got my great coat back - and was put under ~~address~~ arrest. Remember Sgt. Major's address. I don't remember being searched or my great coat being taken off. I got back to Camp around 10 O'clock.

RP 83(B) complied with.

Closing address of Prosecutor.

Intent is germane to all charges. I am not concerned accused was so intoxicated not to have sufficient intent. He didn't drink so much. He gave detailed description of events up to a point - and then claims to remember nothing. He was a lot soberer than he would like us to believe. Evidence of provosts. Drunkenness - a question of fact in each case. Provosts are good judges. Goes over charges. Evidence to support them.

Defending officer's address.

The accused was too drunk to form intent to deprive from permanently of his property. Attacks provosts. Italian witnesses said he was not drunk. He is just a kid. Trying it out - fear liquor - sold in these shops. Had no use for the articles. Asking to have knife sharpened might have scared the Italian. Fruit malization that he was under arrest. Provosts couldn't remember Sgt Major was in the room.

Summing up by J.A. Dealt with duty of J.A. and then with following points.

(a) onus of proof

(b) reasonable doubt

(c) Ingredients necessary to be proved to support each charge

(d) alternative charges.

(e) defence of drunkness - MAL p. 106

(f) onus of proof and reasonable doubt in conclusion

Court closed to consider findings

Court re-opened

The accused is brought before the Court

Pursuant announced findings of not guilty

Plea in Mitigation

We are dealing with a human being. He enlisted 4 Sept 43 at age of 17½ years. Left behind a mother, 4 sisters and 2 brothers. Education only up to Grade 8 - rest of his education was in Army - only his superior officers to guide him. In 39 and 40 they were more concerned with state of war than he. Took up with wrong people. He has a bad crime sheet - the reason is his youth. Those formative years were formed in the Army. Mind open to suggestions and examples. He was the oldest - to earn leaving - he had to lie about his age - handed in Eng in '41 - came to Italy in '43. No charge of drunkness or serious DWL on his crime sheet. Most charges were in Canada. He has been told he is a Canadian soldier - and is invincible. Italy was a conquered country. He acted like a conquering hero. He knows he has done wrong and is sorry - little sentence don't turn out of attention to arrestees an unbothered soldier

Lyle Terry major

List of Exhibits

FGCM - 29 Dec 43

~~Pte~~ M-10027 Pte Lee B.J.

Ex A - Ruler
Ex B - door hook.
Ex C - Pack of cards.
Ex D - 2 packs playing cards
Ex E - Knife
Ex F - leather punch
Ex H - Stamp
Ex I - money
Ex J - Stamps
Ex K - Ball of string
Ex L - Rule
Ex M - Broken mirror
Ex N - MFB 355
Ex O - Certified copy of MFMG.

K Glendenman
J.A.

LIST OF WITNESSES FOR THE PROSECUTION

FIRST WITNESS: F-40277 L/Cpl Kenneth Stanley Nelson,
Canadian Provost Corps.

SECOND WITNESS: H-59112 Lance Corporal Edward Stanley Walton,
Canadian Provost Corps.

THIRD WITNESS: H-3519 Sergeant Thomas Barbour,
Canadian Provost Corps.

FOURTH WITNESS: Marano Luigi, Via Uruberto Primo No. 122
Avellino, Italy.

FIFTH WITNESS: Marano Cesare, Via Uruberto Primo No. 122
Avellino, Italy.

SIXTH WITNESS: Carullo Pellegrino Via Uruberto No. 144
Avellino, Italy.

SEVENTH WITNESS: K-99132 Private Arthur Morelli,
Canadian Provost Corps.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

A. Italian Playing Cards.

B. Rule.

C. Door Hook.

D. Two Decks of Cards.

E. Knife.

F. One Leather Punch.

G. One Leather Punch.

H. Leather Stamp (bearing initials P.M.)

I. Loose Italian money in notes of the following denomination.

1 - 2/6 note.
3 - 50 Lire notes.
9 - 10 lire notes.
13 - 5 lire notes.
9 - 2 Lire notes.
12 - 1 lire notes.
and silver to the value of six lire, total 591 lire.

J. Various Italian Stamps.

K. Mirror

L. Two Bundles of String.

M. One Ruler.

N. Portion of one broken wine bottle.

O. Portion of one broken wine bottle.

P. Pair of Pliers.

Summary of Evidence in the case of M-10627 Pte Lee, Benjamin Joseph, on strength Five Battalion, 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army, Overseas.

By direction of the Commanding Officer, this summary is taken under oath.

FIRST WITNESS
(For the Prosecution)

F-40277 L/Cpl Kenneth Stanley Nelson, Canadian Provost Corps, on strength No. 1 Canadian Line of Communication Provost Company, a soldier of the Canadian Army Overseas, having been duly sworn states:

At approximately twenty fifteen hours, fourth of December, 1943, I was on duty in Avellino in company with L/Cpl Walton, I saw Pte. Lee the accused, whom I recognize, in company with Pte Fronce. They seemed to be arguing with a group of Italions on the street, and on investigating, I found the argument to be over a broom. I asked the accused and Pte Fronce to accompany us to the Provost Police Station, also the Italians. I was walking behind Pte Lee, the accused and something dropped from under his great coat, which was a pack of Italian playing cards. As they were being picked up, the accused threw something against the building. On picking it up we found it to be a rule and a door hook. We proceeded to the police station where the accused and Pte. Fronce were turned over to Sgt. Tippett and Sgt. Barbour.

Pack of Italian playing cards identified and marked as exhibit "A", Rule identified and marked as exhibit "B", Door hook identified and marked as exhibit "C".

The accused had been drinking but I would not say he was drunk.

As we were going to the police station, the accused dropped a bottle. The bottle appeared to be empty when broken.

The accused declined to cross examine this witness.

K. S. Nelson

Signed: K. S. Nelson

F-40277 L/Cpl Nelson K.S.
No. 1 Can L. Of C. Provost Coy.

SECOND WITNESS
(For the Prosecution)

H-59112 Lance Corporal Walton, Edward Stanley, Canadian Provost Corps, on strength No.1 Canadian Line of Communication Provost Company, a soldier of the Canadian Army, Overseas, having been duly sworn states:

On the night of Dec 4, 1943, while patrolling the streets of Avellino in Company with Lance Corporal Nelson, we heard some loud talking, and upon investigating, we found the accused, Pte Lee, whom I now recognize, in company with Pte Fronce. There were a few Italians, also two other patrols from fifth Battalion.

We could not make head nor tail of the argument so we escorted the accused and Pte Fronce, along with the Italians, to the police station. On the way to the police station, the accused dropped a bottle which broke. There was also something else thrown or dropped which I heard but did not see. We proceeded to the police station and turned the accused and Pte Fronce over to Sergeant Tippett and Sergeant Barbour.

The accused was argumentative and did not wish to proceed to the police station for questioning. He did not offer resistance in proceeding to the Police Station.

The accused had been drinking but I would not say he was drunk. He was a little farther gone than Pte Pronce.

The accused declined to question the witness.

Signed: E. S. Walton

H-39112 L/Cpl Walton E.S.

THIRD WITNESS
(For the Prosecution)

H-3519 Sergeant Thomas Barbour, Canadian Provost Corps, on strength No. 1 Canadian Lines of Communication Provost Company, a soldier of the Canadian Army Overseas, having been duly sworn states:

On the fourth of December 1943, I was on duty in the Provost Company Office in Avellino, when at approximately twenty thirty hours, Lance Corporal Nelson and Lance Corporal Walton escorted the accused whom I now recognize in company with Pte Pronce, together with a group of Italian civilians. The civilians were interrogated through an interpreter and from what we learned from them we had occasion to search the two prisoners. The accused had in his possession, two decks of cards, identified and marked as exhibit "D", a knife, identified and marked as exhibit "E", two leather punches, identified and marked as exhibits "F" and "G" and a leather stamp bearing initials "P.M." identified and marked as exhibit "H", and loose in his pockets Italian money to the value of 385 Lire in notes of the following denomination:

1 - 2/5 note
3 - 50 Lire notes.
9 - 10 Lire Notes.
13 - 5 Lire notes.
9 - 2 Lire notes.
12 - 1 Lire notes.

and silver to the value of six lire, total 391 Lire, identified and marked as exhibit "I" and various Italian stamps identified and marked as exhibit "J".

The accused also had a house key which I returned to a civilian, Carmillo Pellegrino, the said key being for his house.

The two corporals turned over to me a pack of cards, identified as exhibit "A", a rule identified as exhibit "B" and a door lock identified as exhibit "C".

The accused and Pte. Pronce were put under arrest and escorted to the guard room of Fifth Battalion 2 Canadian Base Reinforcement Depot.

The accused had been drinking but I would not state that he was drunk.

The accused declined to question the witness.

T Barbour

Signed: T. Barbour

H-3519 Sgt Barbour T.

INTERPRETER SWORN

I, B-76544, Pte Joseph Stephen, Pasquino, on strength Five Battalion, 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, swear by Almighty God, that I will to the best of my ability, truly interpret and translate, as I shall be required to do, touching the matter in this Summary of Evidence.

Signed: J. Pasquino

B-76544 Pte Pasquino J.S.

~~Page Three~~

FOURTH WITNESS
(For the Prosecution)

Marano Lingi, Via Uruberto Primio No. 128, in the town of Avellino, kingdom of Italy, electrician, having been duly sworn, states:

At approximately 1920 hours fourth of December 1943, while at my home playing cards with some friends, two soldiers entered my house, after opening the door, the accused whom I now recognize, and Pte Fronce, and demanded wine. The big fellow, (Witness pointed out Pte Fronce)was guarding the door. The small fellow was pointing at me with a knife which I now identify and is marked as exhibit "E".

One of my friends tried to get up from the table to persuade them to stop doing this. They pushed him back and pointed a knife at him. Then my wife came in and the tall one of them remarked, "Mouma, Poppa, and Son". We all were standing up and the accused told us to sit down, still making threatening motions with the knife. In the meantime one of my friends, whose name is Carnello Critide ran out looking for the police. My wife got scared and ran into the back room and locked the door. The accused ran to the door where my wife had gone in and kicked the door open.

While all this was going on the big soldier, at every noise of a car going past, ran out of the door and had a look. Then the ppeple at the place he had been before and taken the broom, came back and took the broom which was leaning against the door.

This made the big soldier more angry than ever, and he ran down and got the broom back. The little soldier ran down and got the broom back. The little soldier was still amusing himself with the knife. They said they had no money and wanted (40) forty lire with which to buy wine. We then took up a collection and made up (40) forty lire which we gave to them.

The little soldier then looked at the mirror on the wall and asked how much it cost, receiving no answer tore it from the wall and threw it into the street, smashing it. One of my friends who could speek a little English, went up to the little soldier and said "Good fellow, go home". The little fellow then dropped the knife on the floor. As my friend tried to get it and disarm him, the big soldier threatened to hit him with his fist, and then herded us all, with threats and curses, into the back room. While he held the door, the little one broke into the cash box and stole money, the exact amout of which I do not know, which I identify and is marked as exhibit "I" and stamps which I identify and are marked as exhibit "J". He also took other articles which I identify as exhibit "A", one deck of cards, exhibit "B", a ruler, exhibit "C", a door lock exhibit "D", two deck of cards exhibits "F" and "G" two leather pumches, exhibit "H", a leather stamp bearing the initials P.M. and all of which belong to me.

As soon as they cleaned out the place, they ran out the door with all us following them. As we ran up the road we ran into the oplice, whom were later identified as picquets. I and my friends tried to explain to the police what had happened, but they didn't seem to understand. We walked up the road and found the accused and Pte Fronce in a doorway. When we accused them, they denied it all. We stood there and argued until the Canadian Provost arrived. We then proceeded to the Canadian Provost Office, where we identified the accused and Pte Fronce and all our belongings.

The accused acted as though he had been drinking but I do not know whether he was drunk or not.

Cross examined by the accused.

Q. Is it not true that when I entered your house I asked you to sharpen my knife?

A. No.

Q. You have two large stones for sharpening knives in your house?

A. Yes.

Marano Luigi
Signed: Marano Lingi
Marano Lingi

FIFTH WITNESS
(For the Prosecution)

Marano Cesare, Via Uruberto Prinio 122, in the town of Avellino, in the kingdom of Italy, electrician, having been duly sworn, states:

I recognize the accused and his friend, Pte Fronce. At approximately 1920 hours on the fourth of December 1943, I was at my father's house sitting at the table when the accused and Pte Fronce entered. The little fellow, Pte Lee(points to him) asked for wine, and whenwe told him we didn't have any he brandished his knife, which I now identify and is marked as exhibit "E" at everybody and demanded wine. The big soldier had no knife.

My mother came into the room and the big soldier said "Momma, Pappa and Son". My mother then left the room and closed her door. The little soldier followed her and kicked the door open. In the meantime the big soldier was guarding the door through which they entered, to let no one in or out.

We took up a collection of forty lire in order to get rid of them. The small fellow smashed a mirror, which I identify and is marked as exhibit "K" and the big fellow herded us all into another room, and held the door closed. I couldn't see what the little soldier was doing. They then left and we followed them. At the police station I recognized articles belonging to my father. My father's cash drawer had been closed and when the soldier had left it was disordered and papers were sticking out of it.

Identifies two bundles of string marked exhibit "L" and one ruler marked as exhibit "M" as belonging to his father.

I got the impression from the actions of both soldiers that they were drunk.

The accused declined to cross examine the witness.

Marano Cesare
Signed: Marano Cesare
Marano Cesare.

WITNESS RECALLED
(Prosecution)

Marano Lingi having been duly sworn, continues his testimony as follows:

I place the following values on my property.

Exhibit "A"	1 deck of cards	80	lire
Exhibit B	One ruler	20	"
Exhibit C	One door lock	1	"
Exhibit D	Two decks of cards	160	"
Exhibit F	One leather punch	30	"
Exhibit G	One leather punch	30	"
Exhibit J	Stamps		Face value
Exhibit H	One leather stamp initials F.M.	1 00	Lire

I identify two bundles of string marked as exhibit "L" as being similar to two bundles I had in my possession worth 33 Lire each, and exhibit "M" as an American ruler belonging to me and worth 50 Lire.

Identifies exhibit "K" as his mirror broken by the small soldier, worth 25 Lire.

Marano Luigi

Signed: Marano Lingi

Marano Lingi

SIXTH WITNESS
(For the prosecution)

Carullo Pellegrino, Via Uruberto No. 144, in the town of Avellino, in the kingdom of Italy, fruit seller, having been duly sworn, states:

At approximately 1900 hours, fourth of December 1943, I was in my store with my son, and my two young daughters. The door was closed and locked when there was a knock on the door. I did not open the door until the banging was so hard that I thought the door would be broken down. On opening the door, two Canadian soldiers entered, whom I now identify as the accused, the small one, and Pte Fronce, the large one.

They asked me for "Vino Vino". The big man knocked over a basket and when it hit the floor it made a noise, so he pulled his coat over his head and said, "The bombs are dropping," and made a noise like "boom, boom". When he said this, he grabbed hold of me and pretended he was scared, and then ran into the corner and still pretended he was scared.

The little man grabbed an orange, and peeled it, and shared with his partner. The big man picked up a broom, of no value to me. I opened the door and tried to make them go out, when the big one dragged me away, and took the key from the lock. While all this was going on, the little soldier had a knife, which I identify and is marked as exhibit "E". They left taking the broom.

From the actions of the accused and Pte Fronce, I believed they were drunk. I did not think they were threatening me but were just fooling around.

The accused declined to cross examine the witness.

Carullo Pellegrino

Signed: Carullo Pellegrino

Carullo Pellegrino.

SEVENTH WITNESS
(For the prosecution)

K-99132 Private Arthur Morelli, Canadian Provost Corps, on strength, one Canadian Lines of Communication Provost Company, a soldier in the Canadian Army, Overseas, having been duly sworn states:

On the fourth of December 1943 I was on patrol with Lance Corporals Walton and Nelson. We were attracted by noise from a group of people which included, the accused whom I recognize and Pte Fronce whom I now recognize and members of another picquet, and several Italian civilians.

We escorted the accused and Pte Fronce, together with the civilians to our office. On the way the accused, Pte Lee, dropped various articles, some of which we picked up then. After they had

been brought to the office I retraced our route and picked up Exhibits "L" and "M" which I then identified on the street. I picked up the mirror Exhibit "K" which I now identify, in front of the house of Marano Lingi, and the portions of two broken wine bottles, identified and marked as exhibits "N" and "O" respectively about 200 yards from the house.

The following day the pair of plyers, identified and marked as exhibit "P" were turned into the office by Marano Lesare, having been found along the route.

The accused declined to cross examine the witness.

A. Morelli

Signed: A. Morelli

K-99132 Pte Arthur Morelli

The accused was then asked,"Do you wish to make any statement, or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence.

The accused elected to give evidence under oath and having been duly sworn states:

On Saturday 4th December 1943 I entered, upon knocking a fruit shop in Avellino and asked for wine and found they had noe for sale. I left this shop and went to another door, where a light was showing, and knocked on the door, and the door was opened and a large man with glasses, answered the door. I asked him for wine. He said he had none. In exchanging conversation, I saw two stones used for sharpening knives, and asked him to sharpen a knife for me. He made signs saying he could not do so right then, but to call tomorrow. I made my way towards the door. I do not remember anything that followed until I came to in the Police Office in Avellino.

B. J. Lee

Signed: B. J. Lee

M-10627 Pte Lee B. J.

I certify that I have taken down the foregoing Summary of Evidence, consisting of six typewritten pages in the presence, sight and hearing of the accused, and in accordance with Rules of Procedure 4 (c) (d) (e) and(f).

C. P. Dowds

Signed: C. P. Dowds

C. P. Dowds Lieutenant.
The Officer detailed to take down the Summary of Evidence.

No M-10627 Name Lee B. J. | Sqn. Battery or Company | Corps 191/1 | Date of enlistment 4 Sept 39 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3488)

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc Geo.B.Buchanan Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Barracks	1-6-41	Pte		Cond. to the prej. being out of bed after lights out.	Cpl Budd J.	1 days C. B.	2-6-41	Major Fleming P.J.	
"	8-7-41	Pte		(1) Using threatening language to his sup.off.	Cpl.Crowe F.				
				(2) Disobeying a lawful command	L/Cpl Godin G.				
				(3) Breaking out of Barracks	" "	14 days det'n	10-7-41	Major Fleming	
				(4) A.A. Sec. 15 (1) A.W.L. 5 hrs 45 min.	L/Cpl Calderwood				
				(5) Malingering	Documentary				
"	12-8-41	"		Absent from Coy. Fatigue parade 1745 hrs	Sgt Jorgensen	7 days C. B.	13-8-41	Major Evans J.O.R.(M.C.)	
"	18-8-41	"		Whilst a defaulter failed to report to guard room at 2000 hrs and at 2100 hrs	Cpl Bloomfield	3 Days C.B.	18-8-41	Capt J.T. Grass	
"	1-10-41	"		Failing to comply with a lawful command given by his superior officer	Capt J.T.W. Grass Cpl Bayon	3 Days C.B.	1-10-41	Major Evans J.O.R.(M.C.)	
In the Field	11-9-42			A.A.Sec 40 In that he appeared on parade for guard mounting in a very dirty cond. and was deficient in A/C equipment	Sgt Swartz M.	7 days Field P. 7 days forf. of pay	14-9-42	C.A.Domine Lt.Col.	

OTC

No M-10627 Name Lee B. J. | Sqn. Battery or Company | Corps 191/1 | Date of enlistment 4-Sept-39 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3488)

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc Geo B. Buchanan Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Bks	18-5-40	Pte		A. A. Sec 15 (1) A.W.L. 5 hrs	Sgt.McDonald	3 days C. B.	18-5-40	Lt. Col. Harvey	
"	19-5-40	"		Absent from duty & ab. from def. parade	Sgt Beattie	10 days C.B.	19-5-40	Lt. Col. Harvey	
"	18-6-40	"		Not complying with Standing Orders	Sgt. Hartley	7 Days C. B.	19-6-40	Major Fleming	
"	21-6-40	"		Being in bed after Rev.abs.from def.parade	Cpl McDonald & Mott	5 days C.B.	21-6-40	Major Fleming	
"	5-7-40	"		Creating disturbance(fighting in mess hall)	L/Cpl Levis	5 Days C. B.	5-7-40	Major Fleming	
"	22-7-40	"		Not complying with a lawful command given by his superior officer	Cpl Willard Pte James W.H.	3 Days C. B.	23-7-40	Major Fleming	
"	14-8-40	"		(1) Using insulting language to Sup.Off. (2) Failing to comply with an order	Sgt. Kane Pte Laforge	4 Days C. B.	14-8-40	Major Fleming	
"	9-1-41	"		Absent from parade at 1345 hours	C.S.M.Lloyd	7 days C.B.	7-1-41	Lt. Watts	
"	28-1-41	"		A. A. Sec 15 (1) A.W.L. 2 hrs 20 min.	L/Cpl Eastman B. L/Cpl Hughes C.	2 days C. B.	29-1-41	Major Fleming	
"	27-2-41	"		(1) Inattentive on parade (2) Not complying with a lawful command given by a superior officer.	Sgt. Patridge Cpl Wigmore	3 Days C.B.	29-2-41	Lt. Grass	

OTC

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	10-11-42	Pte		A.A. 40 Neg. to the prej.(dirty bayonet	C.S.M. Kidd	4 days CB	11-11-42	Maj. Matthews	
In the Field	21-11-42	Pte		A.A. 40 Neg. to the Prej.(dirty amm.)	Cpl. Murray	7 days det. 3 day C.B.	23-1142	Lt.Col.F.A.Cleft	
Field	29-5-43	Pte		A.A. 15(1) A.W.L. 9 hrs 51 min.	L/Cpl Perquet	3 days CB	31-May 43	Lt. Col.F.A.Cleft	Forf 1 dys pay FR&I 149(1)(a) Forf 3 dys pay FR&I 149(2)
Field	4-6-43	Pte		A.A. Sec 40 Cond. to the pred. etc., (refused to obey orders & Insubordination	L/Cpl Miles S.A. Pte Goodwin B.R.	28 days Den't	4 May 43	F. A. Cleft	Lt. Col 28 days Pay FR & I 149 (1)(b)
Field	5-nn-43	Pte		A.A. 40 Conduct to the prejudice of good order and military discipline, fighting and creating a disturbance in officer's Mess.	Cnr. Jamieson Pte Cook Cpl Wilks.	14 Dys F. P.	6-Nov-43	Maj. L.F. Macdonald	Aut. Forf.14 dys. pay FR&I 149 (2)

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

Capt. C.S. Gillespie, Company Commander, 28 Dec 43.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Bks	17-3-41	Pte		Con.to the prej.of good order & Dics. absent from parade at 1350 hours	L-Cpl Graham L/Cpl Davidson	5 Days C. B.	17-3-41	Major Fleming	
"	4-5-41	"		(I) Being improperly dressed (II) Not acting as a sentry should i.e. leaving his rifle in the sentry box and picking it up only when cars approached the main gate. (III) Cond. to the prej. of good order & military disc. in that he at Currie Bks on 4-5-41 whilst on sentry duty did stand in a slovenly manner i.e. hands in pockets & did pass remarks about Lady visitors to the barracks to passers by. (IV) Not complying with a lawful command given by his sup. off. i.e. when ordered to report to his C.S.M. failed to do so.	S/sgt Devlin S/Sgt O'Brien Cpl Allan	6 Days C. B.	5-5-41	Major Fleming	
Currie Bks	11-5-41	Pte		A. A. Sec 15(1) A.W.L. 1 hr 15 min.	L/Cpl Baisley J.C.	3 Days C.B.	30-5-41	Major Fleming	

M.F.B.[illegible]

N
[illegible]

STATEMENT AS TO CHARACTER AND PARTICULARS

OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or Unit)
M-10627	Pte	Lee N.J.	5 Bn. 2 C.B.R.D.

1. The following is a fair and true summary of the entries in the Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Conduct or Neglect to the prej. AA 40	2 times	A.A.40	17 times
For	A.W.L.	1 times	A.W.L.	6 times
For	Failure to obey command	Nil times	Failure to obey command	6 times
For	Breaking Barracks	Nil times	Breaking Barracks	1 times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 25 days in military custody, making a total of 25 days in custody, of which nil. days were spent in hospital.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of December 1943.

[illegible]
5 Bn 2 C.B.R.D.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to th proceedings.

Evidence and Charge Sheets (if necessary) to be PINNED here

B Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of December 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and Judge Advocate [illegible]
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable

Signed this 29 day of December 1943

[illegible] major
Judge Advocate.

[illegible] major
President of the Court Martial.

* See footnote b) on page 762 M.M.L. 1929

C Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this [illegible] day of 19~~

~~*President of the Court Martial.*~~

D Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ [illegible]

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 1 day of Jan 1944

[illegible] Brig
Confirming Officer.

Promulgated and extracts taken in the case of M10621 Pte Lee. B.J.

(a) (Dated) 3 Jan 44 [illegible] (Signed) [illegible] Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

[a] When several cases are promulgated in one unit on the same day the Officer need only sign once.



54-90 L/gal Rev, 3. 2.

RECORDED AT CMHQ IN AB 160 5Y-90

FIELD GENERAL COURT-MARTIAL

CFAFS (In lieu of AFAS) 40-2 R.S./1000 (6144) 4-43/38B

Order of LT COL LJ FLYNN T/Comd 2 CBRGp dated 28 JAN 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M3099	L/CPL		FRANCIS WILLIAM	LEE	C Pro Corps ATT HQ 2 CBRGp

PROCEEDINGS REVIEWED 20 Feb 46 Approved, Mal

ASSISTANT ADJUTANT GENERAL, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Pd ~~in (country)~~ HOLLAND on (date(s)) 30 JAN 46 +31 and 2 FEB 46 B

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. B

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3) B.

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1015 hours trial commences. B.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~ B B B

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to PTE HILLER RW as interpreter? Ans NO SIR

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~ B B

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: B

President	MAJOR	FA BAILLARGEON	GEN LIST HQ 2 CBRG
Member	LIEUT	JC ALLARD	CIC PE 13 CBR BN
Member	LIEUT	JH WATSON	CIC PE 13 CBR BN
~~Judge Advocate~~			
Prosecutor	LIEUT	DR SAUNDERSON	CAC PE 13 CBR BN
Defending Offr	LIEUT	DR ABBEY	RCE PE 13 CBR BN

B

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused M3099 L/CPL LEE FW before arraignment make(s) ~~made~~ (a) plea C

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. C

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFs to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 2 CBR G
Vol II Page 18

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alter* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withd for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to les etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusi to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*E*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "B", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMSO CL 175)

I certify that I have this day examined M 3099 (No.)

L/Cpl Lee, F.W. (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

Station In the Field

Date 2 Feb 1946

[signature] (Sgd),
Medical Officer
(Date)

MEDICAL OFFICER'S CERTIFICATE

(KM(Oen) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M-3099 (No)

L/Cpl Lee F W (Rank) (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

XXXXX

Station Field

Date 31 Jan 46

Royston J W Smith capt (Sgd),
Medical Officer

(Unit) 1 Coy 13 C B R B D

B.

I certify that I have this day examined M-3099 (No.)

L/Cpl LEE, F.W. (Rank) (Name)

and in my opinion he is fit to undergo trial by Court-Martial.

Station Field

Date 30 Jan 46

(Sgd),

(Unit) 13 CBR Bn.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 3099	L/CPL		Francis Willian	LEE	C Pro Corps Attached HQ 2 CBR Gp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 28 JAN 46 endorsed by me, ([illegible]), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj	F A BAILLARGERON	Gen List HQ 2 CBR Gp
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	R P STEWART	CIC PE 13 CBR Bn
Lt	J C ALLARD	CIC PE 13 CBR Bn
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lt	J H WATSON	CIC PE 13 CBR Bn
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.) L J Flynn Lt-Col (Rank.)

(L J FLYNN)

Dat 28 JAN 46

[illegible] T/Comd - 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, M.3099 L cpl Francis William LEE, Cdn Provost Corps, Cdn Provost Detachment HQ 2 Cdn Base Rft Gp, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in NIJMEGEN, Holland, at approximately 1945 hrs on the 16th Jan 46, created a disturbance in the NAAFI, by swearing, knocking beer glasses off the counter and fighting.

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in NIJMEGEN, Holland, at approximately 2020 hrs on the 16th Jan 46, created a disturbance at 16 Spaen Straat, by striking a civilian policeman and damaging the house and brandishing a pistol.

THIRD CHARGE
Sec 19
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the Field, in NIJMEGEN, Holland, at approximately 2030 hrs on 16 Jan 46, was drunk.

In the Field
27 Jan 46

(G T R Fitzsimon) Major
DAA & QMG
HQ 2 Cdn Base Rft Gp

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
28 Jan 46

(L J Flynn) Lt col
T/Comd
2 Cdn Base Rft Gp

Capt R.P. Stewart a member named in
the convening order being absent on duty
the waiting member takes his place.

A Baillargeon
Pres

FGCM 1. M3099 L/Cpl Lee F.W. AB
C Pro C. ATT HQ CBRG p.

Before arraignment accused makes special plea that the third charge in the charge sheet should not be tried by Court Martial. The charge is bad in law in that accused is being charged twice for the same offence

Objection by Defending Officer p 1A.
Reply by Prosecutor p 1B.

Court is closed to consider the objection.

Court is re-opened and the President announces that the objection by the Defending Officer is disallowed and that the trial will proceed accordingly on all charges.

Pleas. (1) not guilty
(2) not guilty
(3) guilty.

Submission pertaining to the Objection to the Third Charge

The accused has objected to the third charge.

Mr President, Members of the court. I submit that the accused is not liable for the third charge because it is a direct contravention of K R Can 430 and the principles outlined in Chapt III paras 44 and 46.

I shall not be presumptious and read the law to the court. I shall merely state the reasoning based on these principles on which I submit that under the law the accused is not liable.

K R Can 781 states "a private soldier will not be by court-martial for an act of simple drunkenness." Simple drunkenness is defined by the paragraph and I submit this is simple drunkenness.

K R Can 430 states that if with the drunkenness is in connection with an offence liable by FD court-martial he should not be charged with drunkenness before the court-martial and directs that the case shall be disposed of under these conditions.

Para 44 chapt III MM+ states that even if the OC refuses to deal with a case as he is entitled under AA 46(3) the court still has the right to try the accused under sec 13 for simple drunkenness but I submit it is offset by para 47 which states that generally discipline will be upheld by charging "either for drunkenness (if he is liable to be tried) or for an offence under sec 40."

I submit that the charge sheet is out of order in that a charge under sec 13 should have been dealt with by the OC under the provisions of sect 46(3) of K R Can 430 and that the accused is being charged twice for the same offence.

J Robbins Lieut

1B.

Reply by Prosecution

I maintain that this charge of drunkenness, the third charge, against the accused, L/Cpl F.W. Lee is not only one that may be tried by court martial but rather one that should be. For this I advance the following reasons: 1. Paragraph 487 of King's Regulations & Orders states, "A private soldier will not be tried by court-martial for an act of simple drunkenness - that is to say, an act of drunkenness committed when not on active service, when the soldier was not on duty, or ...., &c." But in this case the salient fact is that the accused was on active service and not [illegible] he was on duty. Therefore he should be tried by court-martial.

2. According to paragraph 490 of K.R.&O. since the accused has committed the offence of drunkenness combined with a more serious crime, they should both be tried by the same court-martial.

In such cases the precedent established by court-martials agrees with my submission.

D.R. Sanderson Lieut.

1st witness prosecution

B138828 L/Cpl McConnell W
Cdn Pro Corps having been duly sworn states

I recognize accused. I took him to the NAAFI. On 16 Jan I was in my billets and accused asked me to take him to 2CBRG. Hh and I did. Later we started for NAAFI. He said he would like a cup of coffee so I took him there. We got inside and queued up like rest of them and accused started to swear and NAAFI girl told him to be quiet or go out and requested me later to take him out. Before I could take him out he had knocked the beer glasses off counter and started to break down a small partition at

the end of the counter. With help of some other troops I finally got him outside.

Cross-examination

The accused was in a drunken condition when I brought him to RAA 71. I brought him outside & GP under face and he quieted down. One minute he'd go wild and next minute settle down. He was mobile. When he knocked beer glasses off counter ~~to~~ it seemed to be a sweep of his arm. (Witness demonstrates) I would not like to say he threw them. I was not watching him all the time. He had his back to me. During course of evening I saw pistol removed from accused. after we got him outside the RAA 71.

HB

Re examination

Just before going into NAAFI accused was drunk but "mobile" It seemed to hit him in streaks. At that time he was he was drunk but not troublesome.

By Court.

I do not recall the hour we were in the NAAFI. He did not fight in there he only struggled to get away. I don't think any blows were struck.

RP 83(B) complied with.

2nd witness prosecution

Miss E M Barker, employed at NAAFI having been duly sworn states:-

I recognise the accused. I was serving at beer bar at NAAFI in Nijmegen. He came in drunk and stood at counter. He was using bad language. I asked him

to refrain from swearing or go outside. He then picked a glass up and threw it at me, and that was all. The glass hit me on the ~~head~~ head. I didn't see any other disturbance around there.

Cross-examination

I was not knocked unconscious. I was just walking into kitchen and glass hit me on back of head. I did not see accused throw it.

By Court

The incident took place at appx 2000 hrs 16 Jan 46. There was another servant with accused when he was standing at counter. There was no one else.

RP 83(B) complied with.

3rd witness prosecution

Miss D McCormack employed at NAAFI ~~being~~ having been duly sworn states.

I recognize the accused On night of 16 Jan 46 I entered canteen about 8 p.m. I saw accused and a Cdn soldier go up to the bar. I thought they were fighting but Cdn was trying to get Provost from canteen because he was intoxicated. I saw broken glasses on the bar. I went straight through into kitchen and found my assistant had been cut on head. I rang up for C M P. immediately also F D S. There was a long queue. I thought the two were just knocking about when I first went in. The canteen is quite long. It was when I arrived at the counter and saw the broken glass and my assistant that I realized something

had happened. The accused was at counter when I last saw him and the Cdn was trying to reason with accused and probably shaking him. The accused was doing nothing but it looked as though he was trying to get behind the bar. The accused was standing perfectly still in gangway during this and Cdn soldier had hold of him.

Cross-examination

The broken glass was spread all over and partition broken. That is the partition along the end of the bar.

By the Court

My assistant is Miss E. Parker Canteen is in Nijmegen.

RP 83(B) complied with

4th witness prosecution

B 49336 L/Cpl Bank 10 R Can Pro Corps. Can Pro Det HQ 2 C BK Gp having been duly sworn states;

I recognize accused L/Cpl Lee. We got him in the jeep and started to take him to his girl friends as he asked us to do. This was approx 2030 hrs 16 Jan 46. He was very quiet going up. We got to 16 Spaen Straat he got out of jeep and proceeded to door of house where girl friend lived and entered house very quietly but was staggering quite a bit. We just left him then and returned to NAAFI to examine extent of ~~injuries~~ damage as a result of report by Lt Blom we went up to 16 Spaen straat. We went into house and on 3rd floor saw L/Cpl Lee laying on the bed

very sick. We waited a couple of minutes. asked a few questions and then told him he would have to come with us. L/Cpl McDougall is the one I refer to when I say we. As we came downstairs L/Cpl McDougall left with Lieut Blouin and I proceeded with L/Cpl Lee down the stairs. I was first L/Cpl Lee second and his girl friend third. As we got on stairs on last floor I motioned to a civilian police to move back out of the way. I did not want accused to see him. He did not move. As we got onto the floor I asked girl to tell civilian police to get out of the way. She spoke to him in Dutch but he did not move. As we arrived at bottom there are double doors leading out about 4 or 5 feet apart. Just as I reached

the inside door accused gave me a push and I landed on the outside steps. I came back to the inside door but could not get in because of L/Cpl Lee holding it. I could only open it 5 or 6 inches. During that time I could see civilian police had his club raised as though to strike L/Cpl Lee. The door was banged shut then and the glass broken. Just as glass broke I could see policeman step back with his club down by his side. As the glass broke I also heard a thud. It sounded solid. I asked accused to come outside. He got out from the door and opened it. He came out on street. We started towards the jeeps. Just as we got onto the sidewalk. He started to walk towards the centre of road. I told him

come back and get into the jeep which he did. I got in myself and proceeded to take him to police station. We arrived at Police station and shortly after Sgt Ogg came in. I did not see policeman make any movement towards accused before I was pushed outside. When we arrived at house we found a door broken on 3rd floor, chair broken. It was flimsey construction and when picked up fell apart. The policeman was about 7 ft away from accused when I was pushed through the door. I think ~~on way down~~ accused said something about not wanting to see any civilian when going down stairs. I got back in between the two doors after 3 or 4 seconds. The outside door was open. The inside door is one glass was

broken. After I called the accused he came out. I could not see what happened before glass broken. I could see after but nothing happened. Accused was in corner and policeman about 6 ft away.

Cross-examination

I saw a pistol taken from accused and it was handed to me. L/Cpl Mac Dougall took the pistol from him after he came out of NAAFI. When the pistol was handed to me I proved it took magazine out and felt to see if any rounds in it. There were no rounds in the chamber. I gave pistol back to McConnell he held the pistol until we got over to the jeep and gave it to me and I put it in my jeep coat pocket. I later turned it over to Sgt Ogg. I at no other time saw a pistol in accused's possession.

L/Cpl Lee was not quiet at all times he was with me but would listen to reason and gave me no trouble. I was starting to come out inner door when I received my push. At the time I was looking out door to see if anything I might trip over. Policeman was back inside house at that time. I do not remember seeing policeman at exact time I was pushed. Seemed as though L/Cpl Lee pushed his elbow and body at same time. Momentum carried me out to first step a distance of about 6 ft. When L/Cpl Lee came out of house as far as I can remember policeman was still inside. I did not see policeman hit accused with his "billy" outside house. He must have come outside house right after us. I remember him running past the jeep. As far as I can remember there was no

JB

by play or scuffling between the policeman and accused outside the house. I could not swear I heard a shot fired. It sounded like a tire. That was after the policeman had run past the jeep. The jeep was facing West policeman ran East and report came from East. At that time Cpl Lee was just ~~just~~ in front of jeep coming around to get in. He was ~~in view of headlights and~~ causing no trouble at the time. The headlights of jeep were off. JB

Re-examination

I think L/Cpl Mac Dougall searched accused at the NAAFI: I am not sure. When I went to the house I had my jeep coat on. I am prepared to swear that the pistol was in my pocket all the while this fuss was going on. When I was pushed I more or less stopped myself by putting my hand on door

When we came out of house I walked beside accused. I was more or less first on his right till we were about 12 ft from steps. Slightly ahead of him. Then as I walked towards jeep he walked towards centre of road. I called him back and he was about 6 steps away from me when he turned to come back. The accused was temporarily out of my ~~sight~~ sight after we left the sidewalk when I walked in front of him

By the Court

At no time was a pistol found on accused after he got in the jeep and at no time was he again searched for a weapon. It was about 2100 hrs when we went back to house 2nd time. Accused had pistol in his hand at NAAFI. I did not see him strike a certain

policeman, damage the house or brandish a pistol. I do not remember if accused wore a white holster when pistol taken from him. He may have been wearing a white belt.

Pros. through Court.

I could not say who broke glass on inner door. L/Cpl Lee was standing nearest to door after the glass was broken.

Defence through Court.

The girl came out on the street afterwards.

R P 73(B) complied with.

5th witness for prosecution Lieut J.P. Blouin Can Pro C OC Can Pro Det HQ 2 C B R Gp having been duly sworn states:-

I recognize accused L/Cpl Lee I believe on 16 Jan 46 at night while roving around Nijmegen for purpose of checking Provost patrol. I happened to have one in front of HAFI as

BB

soon as I stopped to ask if any trouble when civilian and civilian policeman came along and reported trouble at 16 Spaen Straat. I then instructed L/Cpl Bush to go to place and civilian accompanied. I instructed L/Cpl Bush to follow with his jeep and civilian showed us the way. Arriving at place L/Cpl Bush went inside and was followed by L/Cpl MacDougall. The civilian police was at the door at the time. L/Cpl Bush reported to me that one of our own men was in the house. I went inside at the time L/Cpl Bush was coming downstairs. They were having no trouble with him although he was under the influence of liquor so I told L/Cpl Bush to ~~go take~~ get

accused's battle dress and coat and take him back to the billets. L/Cpl Lee said he would go back with him. Everything appeared to be under control I left with L/Cpl Mac Dougal on my tour of duty. When accused and L/Cpl Bush were coming down stairs the civilian policeman was at the door

Cross-examination:

During the time I was in the house I saw no sign of ~~accused~~ damage nor did I see accused do any. If he had had a pistol on him I would have noticed it because he had on only ~~shirt~~ vest and battle dress trousers. the bottle produced in court with white cap was given to me by CMP. The white bottle was given to me by L/Cpl Bush.

When a man has had intoxicant to drink he is under influence of liquor. If he passes out or starts to fight, or can't stand up I consider him drunk.

RP 93(B) complied with.

Court adjourns until 1000 hrs. 31 Jan 46.

Court re-assembles pursuant to adjournment same members present

6th witness prosecution

C102189 L/Cpl MacDougall H D Can Pro Corps. Can Pro Det HQ. 2 C B R Gp having been duly sworn states.

I recognize accused L/Cpl Lee. On 16 Jan 46 I arrived at HAAFI. found L/Cpl Lee outside with L/Cpl McConnell was holding him by both arms. Accused was holding army issue pistol in his left hand. We jumped on accused. I jumped on his arm and took pistol away

from him and handed it to L/Cpl Bush who was with me. He proved the weapon and handed it to L/Cpl McConnell. He took magazine out, there were no rounds in it. The pistol was empty. We got accused standing up, I took one arm, and one of the other 2 L/Cpls took his other arm and we started taking him to the jeep. We took him to his girl friends place at 16 Spaen Straat. Left him there and went back to HAAFT to investigate. We went back to 16 Spaen Straat later with Lt Blomin and found accused lying on his stomach in a bed there. He seemed to be pretty sick. I told him he would have to come with us and he said "yes" he would. He followed me downstairs very quietly and we left him there with L/Cpl Bush while Lt Blomin and I left to investigate some

trouble at waterfront. On our return we woke up Lt Ogg and instructed him to place accused under close arrest. I did not search accused for other weapons at the HAAFL. I did not see anyone else search him. I did not search him later. I did not notice any damage to 16 Rpaen Stuat the second time I went there accompanied by Lt Blonin. I saw no damage the first time I was there.

Cross-examination

At the HAAFL I did not see a bottle of liquor on accused's person. I remember no conversation in civilian police station about a pistol. Accused was wearing a white belt and holster at HAAFL. I made no record of no of pistol I took from accused but it was an issue 9 mm Browning

AB.

By Court

RAAF is near roundabout on Nijmegen. It was appox 2020 hrs when I arrived there. It might have been around 2100 hrs when we went back to 16 Apaeon Straat the second time. I did not see accused with pistol in his possession on either occasion at 16 Apaen Straat. I did not see civilian policeman at 16 Apaen Straat when I was there the second time. I left L/Cpl Bush and the accused in room on the top floor.

D.O. through Court

I did not see a civilian policeman in room on top floor 16 Apaen Straat when I was there on the first occasion.

R.P. 93(B) complied with. (The witness on his evidence being read to him makes the following correction) I did not say that I left accused with L/Cpl Bush in a room on the top floor but

that I left them on the landing at the bottom floor

R.P 83(8) complied with

No further examination by Prosn.
No further examination by Defence.

Due to the absence of the interpreter, and none other available Court adjourns until 1400 hrs.

at 1400 hrs Court adjourns sine die

Court re-assembled at 1400 hrs 2 Feb 46. Same members present.

17th witness Miss Leni, Sgt 16 Spaarnehaat prosecution Nijmegen having been duly sworn states.

I recognize the accused L/Cpl Lee. I saw him on 16 Jan 46. On that night he came ~~to~~ up stairs — he was very drunk. He told me he wanted to go to ADAF? for cup tea between 1900 hrs and 1915 hrs. He went away and came back appros 1 hr later.

I took him upstairs to my room and washed out his wound. Then he wanted to go to NAAFI again. He was in Van Spaendonck. He saw a soldier there whom he presumed to be an Englishman but the fellow was a Can. The fellow went upstairs of house No. 16 where I live --- and struck the accused.

The defending officer objects to any evidence along these lines because it is irrelevant and has no bearing on the charges.

Court is closed to consider the objection.

The court is re-opened and the President announces that the objection is disallowed. However the right of the defending officer is reserved in the event that the evidence forthcoming is not part of the Res Gestae

The soldier went into ~~my room~~ his room in my home and locked the door. He kicked the door in and started to fight. When I say "he" I mean the accused. He began to fight with fellow whom he had taken for an Englishman. The soldier went away and I brought accused into my room for second time. The only damage was the door kicked in. The second time in my room he was very calm and quiet and sick. Then the Pro and Dutch Police arrived and asked for accused. The Dutch policeman came upstairs with the Provost. The accused went downstairs quietly. First they were all upstairs and then went downstairs. I did not see who ~~of~~ went downstairs first. Then Lee asked me who

the Dutch policeman was. I told the constable to go away from Lee. He didn't want to go away because he said he was not scared. Then they were suddenly fighting and I don't know how it started. The Cdn Pro was also downstairs. He tried to stop it but couldn't. I ran up the street. The Dutch policeman and Lee too. Lee came up the street first and the Dutch policeman after. I did not see Cdn Pro then. I was away when I heard Lee say "Come on. Let's fight man to man." Then they started again and I told Dutch policeman, who was carrying a rubber stick to go away from Lee, three times. The Dutch policeman did not want to go. I did not see any blows struck. I think I only heard the "whistle" of the rubber stick and the sound of the stick hitting Lees face. Then Frank (Lee) asked for me and I told him to get into the jeep now. He went in the jeep with the Pro and the jeep went away. Just before he went to jeep I did not hear a shot fired. I only heard the

yelling of other girls.

No cross examination.

By the Court

The panel of the door was broken out. The door was broken down the second time he came back.

R.O. through the Court

I did not see the accused drinking. I saw him with a bottle and took it away from him after he came back the second time from the HAFT. From three bottles, I produce this one as the one I took from accused.

Bottle with liquid produced to Court and marked exhibit "A"

RP 83(B) complied with

8th witness for prosecution — H 16653 Sgt Agg HM. Can Pro Corps. Can Pro Det Hq 2 C B R G P having been duly sworn states,

The prosecution does not require this witness but the defence does for cross examination

Cross-examination

I recognize this as the pistol

as the one I got from ~~accused~~ Produced and marked exhibit "B" L/Cpl Mac Dougall I believe, at the gd room at 4 Bn. On night of 16 Jan 46, I was at guard room at 4 Bn. to put L/Cpl Lee under arrest. L/Cpl Mac Dougall, L/Cpl Bush and L/Cpl Lee were there. Accused was searched at the civil police station. I did not find a weapon on him.

RP 83 (B) complied with.

9th witness prosecution Hendrikus van Gemert, Municipal Police, Nijmegen, having been duly sworn states,

On night of 16 ~~Jan~~ "Jan" 46 I came to 16 Spaanstraat with 2 jeeps and 3 provosts. I followed them, and went upstairs with 2 of them. The two provosts went to the accused whom I recognize. The accused was lying on the bed in the room and the young lady was there too. Her first name was Helena. The provost spoke to the soldier and I went downstairs with them. I asked the lady for her

papers in the room upstairs. JHB
and then I went downstairs.
Downstairs in the hall Lee
was standing with two Provost
I was standing downstairs too
and the young lady was standing
halfway up the stairs. Lee
called young lady by her name
and she came downstairs. Lee
spoke to young lady about a few
things and I understood there
was something about me. Suddenly
Lee put the young lady on the
side and hit me with all his
might. My head hit the wall. I
pulled my rubber stick out of
my pocket and hit Lee with it
once. Lee continued to attack
me and I hit him a few more
times with my stick. I grabbed
him from behind and pushed
him out the door. In doing
this the glass door in the
hall fell to pieces. I still stood
inside for a few moments. After
that I went outside and found
Lee standing outside with the 2 Provost.

When I came outside Lee advanced to me and wanted to fight again. I was ready for him and had stick in my hand again. Lee was standing approx 1½ metres in front of me. He pulled a revolver out of his pocket and aimed it at me. Using my stick I struck the gun out of his hand. One of the Provost and Lee tried to pick up the revolver. I went back about 15 metres and shot in the air with my pistol once. Lee was still running back and forth near the jeep. The two other Provost were sitting on other side of jeep. They were 'ducking'. I was standing a little ways off when Provost got Lee to step into jeep. I wrote down names of two witnesses. I went to my main office and found Lee and the 2 Provost sitting in my officers room. I understood one of Provost to say (in presence of the accused) that he had Lee's ~~had a~~ revolver in his pocket. (The Court tests witness and considers he has enough knowledge of the English

• English language to allow that statement in evidence.

Cross examination

When I checked the girls papers I was in room where Lee was lying on the bed. I went downstairs alone. I stayed downstairs because Lee and 2 Provost were standing in the door. They went downstairs before me and did not go back up again. First of all Lee and Provost went downstairs. Then I, and after the girl. I did not see Provost warn me to keep out of way as they came downstairs. The girl did not warn me to keep out of the way when she came down stairs. I ~~to~~ know nothing about ~~girl~~ telling girl I was not afraid. I did not speak with the girl downstairs. I understood what Lee said to the girl downstairs which I think was "What was the civilian police doing with you?" I do not know if exhibit "B" was the kind of pistol accused

pointed at me. Yet I saw the pistol. It was a small calibre pistol something like a Browning. I heard the Provost said they had Lee's pistol. Lee asked for his pistol and the Provost said "I have it in my pocket" That is what lead me to belive that it was the pistol. I saw the pistol when he was aiming it at me.

By Court

Whether Lee or one of Provost recovered the weapon when it was dropped I do not know. I did not actually see any one pick it up. I do no know make of pt. B."

RP. 83(B) complied with.

Prosecution sums up first p. 32A

Defence replies. p 32B

The prosecution does not propose to call L/Cpls Tombs, Whitehead and Pte Dams witnesses in the summary and the defence does not require their attendance for cross-examination.

Summing up for Prosecution

In my opinion the evidence advanced in more than sufficient to prove the guilt of the accused, W/Cpl F.W. Lee on all three charges.

1st charge - To begin with let us deal with the first charge. Now testimony has been offered by W/Cpl McConnell as to (1) the fact that the accused was smoking loudly in the NAAFI and making such a nuisance of himself that he had to be asked to leave.

(2) the fact that the accused suddenly knocked a number of beer glasses from the bar, one of which struck Miss Barker.

(3) the fact that W/Cpl McConnell tried to get the accused to leave the NAAFI as requested, a scuffle ensued since the accused refused to leave peacefully and so caused a struggle.

(B) Miss Barker as to (1) the fact that the accused caused such a disturbance, that he first attracted her attention by swearing that she had to ask him to leave.

(2) the fact that the accused knocked a number of beer glasses off the bar before he was taken outside.

(C) Miss McConnell as to (1) the fact that the accused knocked a number of beer glasses from the bar.

(2) the fact that the accused was generally disorderly and refused to leave as requested, thereby precipitating a scuffle.

The defence will probably make much of the fact that there is no direct evidence that any blows were struck in the NAAFI. But as I see it there must be in my opinion that the struggle which

ensued might be called a fight. Because for one thing we have the evidence of L/Cpl McConnell and Mrs McCormack that L/Cpl McConnell was holding the accused arms and might therefore have prevented him from striking any blows. Moreover, since L/Cpl McConnell could not get the accused out by himself but had to have assistance from some other soldiers, I maintain that the accused must have been fighting them.

Therefore I submit that it has been definitely established by the testimony of the aforenamed witnesses that the accused did cause a disturbance in the NAAFI on 16 Jan 46 at approx. 1945 hours (1) by swearing (2) by knocking beer glasses off the counter and (3) by fighting.

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2nd charge. Let us deal now with the second charge. Testimony has been proffered by (A) L/Cpl Bush to the fact that (1) when he returned to 16 Spaenstraat the second time damage had been done to the house to the extent that a chair and a door had been broken, and at that time only the accused and Miss Lein Mol, who lived in the flat, were present. & here, too, when L/Cpl Bush was pushed out through the inside door on the ground floor and the glass in that door subsequently broken the accused was the nearest person to said door immediately after the glass broke. (2) L/Cpl Bush saw the policeman make no movement toward the accused to precipitate a fight. (3) The accused was out of L/Cpl Bush's sight for a while after they had left the house on Spaenstraat previous to going to police station. (4) L/Cpl Bush could not state whether the accused had come out of the house of his own volition, or whether the policeman, Van Dement had pushed him out.

(B) Both L/Cpl Bush and L/Cpl MacDougall stated that to their knowledge after having had his pistol taken from him at the NAAFI, the accused was not searched again.

(C) Sgt Ogg testified that the accused was again searched at the civilian police station but not before.

(D) Miss Lenie Mol to the fact that: (1) The accused kicked in the door to the room right next to here when he tried to get at this other soldier. (2) She saw Van Gemert and the accused fighting on the ground floor of the house and if L/Cpl Lee had not been striking the constable he would not have gone outside the house and said, "Come on and fight, man to man!" and then continued fighting. The accused only stopped this last time because Miss Mol asked him to do so for her sake. He only had an attitude toward the policemen from first seeing him and that was a very belligerent one toward said Van Gemert.

(E) Van Gemert to the fact that: (1) The accused hit him on the face with all his might first without any provocation. That was in the house. Then the accused kept up his attack until Van Gemert threw him outside. This is substantiated by L/Cpl Bush in effect since he testified that the constable was still inside when the accused emerged from the house. (2) The glass door in the hall was broken by the constable putting the accused outside in order to prevent any further damage to the inside of the house. The accused caused the door to be broken by starting the fight with the constable who was only defending himself. (3) The accused approached Van Gemert outside the house again and wanted to fight once more. Then the accused pulled a pistol out of his pocket and aimed it at the constable, who knocked it to the ground with his billy. (4) Then Van Gemert went back a few paces, drew his pistol, and fired once into the air. This is substantiated in effect by L/Cpl Bush who stated that at this time he heard what sounded to him like a back-fire of a car.

As to the pistol, the accused was never properly searched, after having been relieved of his issue pistol at the NAAFI, until he reached the civilian police station. I submit that L/Cpl Bush did not see the incident of the pistol outside 16 Spaenstraat since I maintain that said incident took place at the time when L/Cpl Bush walked over to his jeep and at that time L/Cpl Bush has testified that he was not watching the accused. Therefore we must accept the statement of Van Gemert that the accused at that time did brandish a pistol at him. All the contributory evidence by L/Cpl Bush and Miss Mol points to this fact. I maintain that the accused could quite easily have had a small calibre pistol secreted on his person all this time since he was not searched for such.

The entire fight outside 16 Spaenstraat took place while L/Cpl Bush went over to the jeep and was not watching the accused. By Lieut. Blouin's statement the fact has been established that the jeep was immobilized and L/Cpl Bush must have replaced the wires before getting in to start it, and that would provide sufficient time for the fight. Miss Mol has stated that the Provost was over beside the jeep during this fight between Van Gemert and the accused. We have the statements of Miss Mol and Van Gemert as to all details of the fight that took place and these agree perfectly while L/Cpl Bush was at the jeep and says he saw nothing — and indeed since he was at the jeep he could be expected to see nothing. Finally I should like to point out that Miss Mol's evidence should be given special weight since she might obviously be expected to be prejudiced slightly in favour of the accused.

AB

I think the court will realize that there are bound to be certain small immaterial inconsistencies in an affair that took place so quickly and is of such importance, but in the main essential points the statements of Van Gement, Miss Mol, & L/Cpl Bush all agree. This is the more to be expected that certain small difficulties should arise since the two main witnesses Miss Mol & Van Gement speak little English. Unfortunately, I have been unable to obtain the two witnesses of the fight mentioned by Van Gement since the notice was too short. As far as the details are concerned, it is simply a matter for the court to decide as to which statements are to be given the most weight: that of L/Cpl Bush who is admittedly vague on many points, or those of Miss Mol and Van Gement, which are much more detailed and which agree in every respect.

Therefore, gentlemen, on the basis of the statements put forth by the previously mentioned witnesses and on the grounds I have set forth, I ask the court to find the accused guilty on the second charge of creating a disturbance at 16 Spaenstraat in that he did (1) strike a civilian policeman (2) did damage said house and (3) did brandish a pistol.

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And so since the evidence has been so definitely established on every point of both the first and second charges, I ask the court to find the accused guilty of every phase of both charges.

DR Saunderson Lieut.

Summing Up for the Defence

On the first charge, I submit, gentlemen, that the prosecution has only proved that Cpl Lee swore and knocked beer glasses off the counter. There is no evidence as to fighting on the part of the accused. Only the natural struggle of a drunken man being forcibly ejected from a premises at which he was no longer welcome. The prosecution has shown no evidence of fighting.

On the second charge the prosecution has shown nothing to be definitely proved. The charge is that he struck a policeman, damaged the house, and brandished a pistol.

I submit that the prosecution has entered no reliable evidence that Lee struck the policeman without provocation. The only definite statement, that of the policeman, is not in my opinion reliable.

L/Cpl Bush states as walked down the stairs he waved the policeman aside. The policeman says he does not remember this. Cpl Bush asked Miss Mol to ask the Dutch Policeman to go in order to avoid trouble. Miss Mol states that she had warned the policeman to go and he stated that he was not afraid. I submit that he was not afraid because he was standing there with his hand on his billy and expected and hoped for trouble.

And gentlemen, may I remind the court that there is no evidence, besides the policeman's as to who struck the first blow. The policeman states that Cpl Lee pushed Miss Mol away and struck him. Miss Mol doesn't even mention being pushed away and states that she did not see the first blow struck. L/Cpl Bush said that he received a push that sent him hurtling out the front door, a push that he described as being a push with the whole arm rather then the hand alone. I submit that this was rather a lunge on the part of the accused. A lunge that might have been caused ny the policeman.

The policeman states that the accused pointed a pistol at him. The policeman could in court swear that he saw the pistol and that he recognized a small calibre pistol and that it was probably a Browning. At the range of 1½ meters on a dark Dutch night the policeman could do this but in a well lighted court-room at about the same range he could not recognize a standard Broning pistol when it was shown him. I submit that the incident of the brandished pistol was a figment of the policeman's imagination to make up for the unwarranted injuries he had inflicted on the accused, injuries that he himself desired to inflict by his belligerent attitude.

The damage to the house, as alleged in the charge, is referring to, in my opinion, the damage to lower hallway. And the policeman in his own statement says that in pushing the accused out of the house that he damaged the door. L/Cpl

Bush stated that the door was broken while he heard a blow struck and that through the broken door he saw the policeman standing back with his billy by his side when just before the sound of what he thought was a blow the policeman had his billy upraised. I submit that the policeman did the damage, not Cpl Lee.

The only other damage that was done was the damage in the room on the third floow which I submit is an incident entirely seperate and which the prosecution has completely neglected to establish the full story of.

So, gentlemen of the court, in conclusion I submit that Cpl Lee has swore in the Naafi, knocked beer glasses off the counter with a sweeping motion of his hand, but that he DID not fight in the NAAFI, that he did not strike the policeman, the he did not do the damage ~~xxx~~ to the house alleged in the charges, and that he did not brandish a pistol.

E1 33

The accused M3099 L/Cpl Lee F W. having been duly sworn states,

On 16 Jan 46 I was on duty until 1700 hrs. After relief I went down town. I don't remember coming back. ~~I had~~ B
~~downtown~~ I had 2 or 3 drinks while downtown S.
before leaving 2 Gp. I met a
lad I knew in town. He
gave me a bottle which smelled
very much like our issue rum.
I recognize the bottle in
court. I produce the bottle
and contents as exhibit "C". AB
I took one drink from the
bottle and the next I
remember being in the police
station. I have a vague
recollection of talking to Sgt
Agg there but cannot
recall what was said.
I have never drank so
much before that I could

E1.

not remember what happened or that I went out of my mind. The usual effect liquor has on me is to make me sleepy. What I have been drinking here in Holland usually makes me sick to my stomach.

RP 83(B) complied with.

K1445 Pte Kauffman EC 13 CBR Bn. having been duly sworn states;

Two days ago I was shown a bottle now produced to me and marked ex "D" The contents of which I came to conclusion were "German White Rum". Over indulgence in that drink would make one lose self control. I have seen soldiers drink it, and have drank it myself. It causes a man to go berserk.

RP 83(B) complied with.

Plea in mitigation p. 35

E3

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PLEA OF MITIGATION

Gentlemen of the Court. Now that this trial has progressed to the stage of the consideration of sentence, I would like to bring before the court the following circumstances of mitigation.

The accused enlisted on the 8 Sept 1939 and after service in Canada with the Canadian Provost Corps he was posted to 8 Cdn Pro Coy, the Coy with which he remained until it was repatted.

The accused came overseas on 6 Oct 42 and landed in the Advance section with the 4 Div Provosts, as it was the 4 Div that the 8 Coy was attached to.

During the period of action and up to the time that the Company disbanded the accused was in charge of distributing rations and mails throughout the Company. This gentlemen was an employment that was essential and [illegible] the reward for the accused faithfulness to his duty was a C-in-C's Cert for Service in NWE which the accused received this summer.

The accused was one of the last men to leave 8 Pro Coy as he wished to stay in this country until he could be married. I submit, gentlemen that accused crime's were done under the influence of alcohol. He was not an habitual drinker and he was not aware of the potency of the drink that had been given him and was well into the effects of the liquor before he could realize its effects and then gentlemen it was too late.

The inherent good character of the accused was shown by the quiet way that he normally acted even though drunk and the disturbances were only caused when something irritated his alcohol fogged brain. I submit gentlemen that there are strong circumstances of mitigation and know that the court will give the accused the benefit of all the leniency which it can give.

Ex "A"

A bottle nearly full of a white liquid.

I certify that the above is a true description of exhibit "A" which was returned to the Legal Officer 13 Bn.

H Baillargeon
Pte.

Ex "B" PISTOL

"One Browning Pistol
No. 2T7880."

I certify that the above
is a true description of
exhibit "B" returned to
Legal Officer 13 Bn.

[signature]
Pte

3 Feb 46

I acknowledge receipt of
the above mentioned pistol

[signature]

Ex "C" BOTTLE

"Dark Bottle with white stopper containing liquid."

I certify that the above is a true description of exhibit "C" returned to Legal Officer 13 Bn.

J Baillargeon
Pres

EXHIBIT "D-B."

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M3099 L/Cpl LEE, F W, Cdn Provost Corps, Cdn Provost Det - HQ 2 CBR Gp, charged with:

1. Drunkenness (AA Sec 19)
2. Causing a disturbance (AA Sec 40)
3. Improper use of a weapon (AA Sec 40)
4. Resisting arrest (AA Sec 40)
5. Damage to barracks (AA Sec 40)

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS B138828 L/Cpl McCONNELL, W [illegible], Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp, having been duly sworn, states:

I am B138828 L/Cpl McCONNELL, W [illegible], Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp. At approx 1900 hrs I was in my room at the billets getting ready to go out when L/Cpl Lee came in and asked if he could get a ride down to HQ 2 CBR Gp. Thinking that he left something there I brought him down there. When he got there he went straight through the hall so I took it for granted that he was up to no good, so I called the guard and went after him. Before we got there he had upset the desk in one of the rooms. The guard and I grabbed him, wrestled with him on the floor and finally got him outside and put him in the Jeep, by that time he had quietened down. I was going to take him home but he said he would like a cup of coffee, so figuring that it would do him some good I took him down to the NAAFI. We went inside and when he got to the counter he started swearing. The NAAFI girl said that he would have to stop swearing or leave and requested me to take him out. Before I could do so he had knocked the beer glasses off the counter and started to break down the little partition at the end of the counter. I tried to stop him but to no avail, then with the help of some other troops I finally got him out. He broke loose again and started to fight some English soldiers and Dutch civilians. He pulled out his pistol and threatened anyone who came near him that he would shoot him. I pleaded with him personally but he refused. By that time the patrol arrived there, L/Cpl Bush and L/Cpl MacDougall, and they helped me to take the pistol away from him, put him in a Jeep and take him away.

QUESTIONS TO THE WITNESS

Q 1 At approx what time did this affair in the NAAFI take place?
A 1 Approx 19:30 and 19:45 hrs.

Q 2 Did you take L/Cpl Lee direct from HQ 2 CBRGp to the NAAFI?
A 2 Yes sir.

The accused declines to cross-examine this witness.

L/Cpl McConnell

B138828 L/Cpl McConnell, W [illegible]

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SECOND WITNESS B49336 L/Cpl BUSH, IOR, Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp, having been duly sworn, states:

On the night of 16 Jan 46 at approx 2020 hrs trouble was reported at the NAAFI. We went down and found L/Cpl Lee there and he had a pistol in his hand. L/Cpl McConnell was trying to calm him down because he was very drunk. L/Cpl McConnell then managed to get hold of him from behind and he and myself threw him to the ground. We took the pistol away from him and found it was empty, no shells in it. He quietened down then so we took him to the Jeep. He asked us to take him down to his girl-friends place and if we did this he would be quiet, so we took him to his girl-friend's place at 16 Spaenstraat. We left him with his girl-friend and returned to the NAAFI to find out the extent of the damage and to see if the NAAFI girl had been hurt. We found out she had been taken to the MIR and the MO stated that it was nothing serious. We then met Lt Blouin and proceeded to 16 Spaenstraat where the civilian police had reported that a drunken soldier was causing a disturbance. There we found that L/Cpl Lee had done some damage to the house. We saw L/Cpl Lee and he had quietened down considerably so we started to leave for our Jeep. We proceeded to the civilian police station and waited there. Sgt Ogg arrived and placed him under close arrest, proceeded to take him to the MO to get his wounds dressed on his head. Took him back to the Guard Room at 4 CBR Bn and left him in charge of the NCO at the Guard Room.

Cross-examined by the accused:-

Q. Would you mind telling what happened when I was coming down the stairs at 16 Spaenstraat?

A. L/Cpl Lee came slowly quietly and when we had reached the foot of the stairs on the first floor a civilian policeman was there and I motioned for him to get back out of the way. L/Cpl Lee came down stairs and his girl friend followed him. At the foot of the stairs she asked the civilian police to leave before causing some more trouble, but he would not leave. As we were going out of the door I was on L/Cpl Lee's right side, just as we got to the first door the policeman said something and L/Cpl Lee more or less pushed me out and closed the door. I had difficulty getting in as L/Cpl Lee was against the door trying to defend himself as the civilian policeman hit him with the stick. Finally I managed to get L/Cpl Lee outside and I was on the road when the civilian policeman came out and went down to the corner. I managed to get L/Cpl Lee quietened down and L/Cpl MacDougall and I helped him into the Jeep and proceeded to take him to the Guard Room at 4 CBR Bn.

QUESTIONS TO THE WITNESS

Q 1 Was L/Cpl Lee hurt when you took him to the guard-room?
A 1 Yes sir, he had a few abrasions on the eye and also on the back of his head.

Q 2 In your opinion, were these caused by the civilian police?
A 2 Yes sir.

Q 3 Have you any idea of what started the fracas between L/Cpl Lee and police?
A 3 No sir, but something was said - don't know exactly what.

J O R Bush

B49336 L/Cpl Bush, IOR

THIRD WITNESS C102189 L/Cpl MacDOUGALL,KD, Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp, having been duly sworn, states:

I am C102189 L/Cpl MacDOUGALL, KD, Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp. At approx 2020 hrs 16 Jan 46 while on Roving patrol duty in Nijmegen with L/Cpl Bush we were informed that there was a disturbance being caused by a Canadian soldier at the NAAFI. We went there immediately and in a compound in front of where the NAAFI theatre used to be we found L/Cpl Lee being persuaded by L/Cpl McConnell to quieten down. L/Cpl Lee was very much under the influence of liquor and was waving a pistol around threatening to shoot all the Limeys that he had seen. We immediately jumped on him and disarmed him and as we were taking him back to the Jeep two CMP's happened to walk too close to him and he kicked one in the chest and the other in the face. When we got him to the Jeep he told us he would be quiet if we took him to his girl-friend's place, which we did. We then returned to the NAAFI and saw a Miss Barker who was employed there and she told us that L/Cpl Lee had hit her over the head with a glass, she had her head treated at the MIR, and the MO told her it was nothing serious. We then saw Lt Blouin, our Det Offr, and he told us of the trouble at the water front but before we could get started for there the civilian police reported that there was trouble at 16 Spaenstraat. We went there immediately and found that L/Cpl Lee was in bed lying on his stomach and before we got there he had done damage to this house. I went up and told L/Cpl Lee to come out with us and he said "yes, I'll come". He had quietened down a lot. Just as we were going down stairs Lt Blouin said we would go down to the waterfront to investigate the trouble there, so we left L/Cpl Bush to look after L/Cpl Lee. We found no trouble at the waterfront so we went to get Sgt Ogg to place L/Cpl Lee under close arrest. When we came back to the house L/Cpl Lee had gone with L/Cpl Bush down to the civilian police station and we found them there in the police inspector's office. We then took L/Cpl Lee to the MIR at 4 CBR Bn, had his wounds dressed and put him in the Guard Room at 4 CBR Bn under close arrest.

QUESTIONS TO THE WITNESS

Q 1 When you took the pistol away from L/Cpl Lee was it loaded or not?
A 1 No sir, it was not loaded.

Q 2 Did he have his holster on or was the pistol carried?
A 2 He had a holster on.

Q 3 Was L/Cpl Lee on duty at the time?
A 3 No sir, he was not on duty at the time.

The accused declines to cross-examine this witness.

K D MacDougall
C102189 L/Cpl MacDougall, K D

FOURTH WITNESS Lt BLOUIN, Cdn Provost Corps, OC Cdn Provost Det, HQ 2 CBR Gp, having been duly sworn, states:

I am Lt Blouin, Cdn Provost Corps, OC Cdn Provost Det, HQ 2 CBR Gp. On the night of 16 Jan 46 around 2100 hrs while checking the roving patrol in town I noticed a fight on the waterfront so I came back to get my roving patrol to help me. I ran into one of the roving patrol and informed him of this disturbance. But before we could go down and investigate, the civilian police informed us that a Cdn soldier was creating a disturbance at 16 Spaenstraat, the Cdn soldier said to be drunk. We went down to the above mentioned address and there I found it was one of my own men under the influence of liquor. I told my roving patrol to put him under arrest. L/Cpl Lee was quiet and came down the stairs without

FOURTH WITNESS (cont'd)

help so I did not see any use for staying around so I got L/Cpl MacDougall to come down with me to the waterfront to check the trouble down there and L/Cpl Bush was left to bring L/Cpl Lee to the Guard Room. On my way down L/Cpl MacDougall told me that L/Cpl Lee was the soldier that caused all the trouble at the NAAFI the same night. As we did not see any trouble on the waterfront I came back to HQ 2 CBR Gp to contact Sgt Ogg and put him in the picture of the whole story and told Sgt Ogg to see that the man was put in the Guard Room under close arrest.

QUESTIONS TO THE WITNESS

Q 1 What time did you first see L/Cpl Lee?
A 1 About 2130 hrs.

Q 2 Did L/Cpl Lee have a weapon with him at that time?
A 2 No sir. At the time I saw L/Cpl Lee he had on only his battledress trousers and shirt.

The accused declines to cross-examine this witness.

Lt Blouin J P

FIFTH WITNESS H16653 Sgt OGG, H M, Cdn Provost Corps, Cdn Provost Det, HQ 2 CBR Gp, having been duly sworn, states:

At approx 2000 hrs 16 Jan 46 Lt Blouin, Offr in charge of the Det here, came down when I was in bed at the time and he stated that one of the Provost was in trouble down town and he wanted me to go down and find him and place him under close arrest. So as soon as I got dressed I proceeded down town and looked around town as much as possible, then went down to the civilian police station where I found L/Cpl Lee. He was being held by two of our provost, L/Cpl Bush and L/Cpl MacDougall. The appearance of L/Cpl Lee was very bad as his face was all covered with blood. He had quite a few cuts on the head and seemed under the influence of liquor, and as to whether he was drunk or not I wouldn't swear. I placed L/Cpl Lee under close arrest and ordered L/Cpls Bush and MacDougall to escort him to 4 Bn Guard Room, where before being placed in the guard room he was taken to the MIR for medical treatment.

The accused declines to cross-examine the witness.

H16653 Sgt Ogg, H M

SIXTH WITNESS No 6286436 L/Cpl TOMBS, I A, Corps of Military Police, Nijmegen Det, having been duly sworn, states:

On Wed 16 Jan 46 at approx 1950 hrs I was instructed by Sgt Pugh, CMP, to proceed to the NAAFI beer bar where a soldier of the Cdn army was said to be causing a disturbance at the beer bar. On arrival at the beer bar with L/Cpl Whitehead and Pte Davis at about 2005 hrs I saw the manageress and she stated that a L/Cpl of the Cdn Provost had been drinking at the bar and causing a disturbance. I left the NAAFI and was immediately joined by two Cdn Provost Corps men who were also informed of the trouble. We went into the compound adjoining the Wintergarden and there we saw

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SIXTH WITNESS (cont'd)

L/Cpl Lee and he was brandishing a pistol and shouted to me as I approached "Limey bastards" and also said "I will shoot the first Limey that tries to get me". The two Cdn Provosts eventually seized L/Cpl Lee and overpowered him and we rushed in to assist them. During the struggle I received a kick in the chest from L/Cpl Lee who was being held by the two Cdn Provost men. Pte Dams was struck on the mouth by the pistol which the accused was in possession of. L/Cpl Lee was drunk.

The accused declines to cross-examine this witness.

No 6286246 L/Cpl Tombs, I A

SEVENTH WITNESS No 4699726 L/Cpl WHITEHEAD, W, CMP, Nijmegen Det, having been duly sworn, states:

On the night of 16 Jan 46 at about 1950 hrs a disturbance was reported at the NAAFI beer bar. I accompanied L/Cpl Tombs and Pte Dams and it would be about 2005 hrs when we got ther. We went into the beer bar and the manageress called us and told us about a little trouble with a Cdn soldier and she said he had gone outside. We went outside into the compound adjoining the Wintergardens and I heard the accused shouting and brandishing a revolver. I got behind a tree and looked to see that the civilians and others were kept out of the way. The Cdn provost who had joined us finally managed to seize L/Cpl Lee and take him away.

The accused declines to cross-examine this witness.

No 4699726 L/Cpl Whitehead

EIGHT WITNESS No 5784045 Pte DAMS, W, CMP, Nijmegen Det, having been duly sworn, states:

I was detailed with L/Cpl Tombs and L/Cpl Whitehead to proceed to the Wintergarden Canteen where there was trouble caused by a Cdn soldier. We arrived there about 2010 hrs and looked in the Canteen. We couldn't see the Cdn soldier mentioned so we went outside and in the compound adjoining the Wintergarden we saw a Cdn who was in my opinion mad drunk and did not know what he was doing. We tried to persuade him to be sensible but he wouldn't hear of that. He brandished his revolver and it wouldn't fire. There were two Cdn provost trying to persuade him to quieten down. Then the Cdn provost finally seized him and threw him to the ground. We rushed in to help and while so doing I was hit in the mouth by the pistol he held. The Cdn provost finally subdued him and took him away.

QUESTIONS TO THE WITNESS

Q 1 Did your injury need medical treatment?
A 1 No sir, it was nothing serious at all.

The accused declines to cross-examine this witness.

5784045 Pte Dams, W

NINTH WITNESS Miss D McCormack, employed at NAAFI, having been duly sworn, states:

When I came into the beer bar I saw L/Cpl Lee with another Can provost who was trying to get him outside. It seemed as though there would be some trouble so I phoned for the CMP. When I returned L/Cpl Lee was gone.

The accused declines to cross-examine this witness.

D. McCormack
Miss D McCormack

TENTH WITNESS Miss E M BARKER, employed at NAAFI, having been duly sworn, states:

I saw L/Cpl Lee at the end of the beer bar and I thought he was very drunk. He was swearing so I asked him to stop or else go outside as he was making me embarrassed. He threw a few glasses off the counter and one of them hit me, but it was nothing serious.

The accused declines to cross-examine this witness.

E M Barker
Miss E M Barker

ELEVENTH WITNESS Miss Leni Mol, 16 Spaenstraat, Nijmegen, having been duly sworn, states:

L/Cpl Lee came to my home at about 1930 hrs and he was drunk. He left and told me he would be back in about 15 minutes. When he came back about 2030 hrs he was injured in the head so I took him upstairs and washed the wound. Then he went downstairs and saw someone else in the street, I think it was an Englishman and he came the second time upstairs and he slapped the boy he saw on the street. Then I put L/Cpl Lee in bed again and he was quiet and sick. Then the Provost and Dutch civilian policeman came and he came down stairs still quiet and he asked me who the Dutch policeman is. I told the Dutch policeman to go away and the Dutch policeman said no, he wouldn't go. This Dutch policeman slapped L/Cpl Lee in the face and I go away in the street. The Dutch policeman hit L/Cpl Lee about five times in the face with his police stick. I told the policeman to go away many times on the street but he wouldn't. Then Lee was taken away by the boys in a Jeep.

QUESTIONS TO THE WITNESS

Q 1 Did L/Cpl Lee damage the house?
A 1 Some damage done, don't know whether Dutch police or L/Cpl Lee did it.

Q 2 Would you say that L/Cpl Lee was drunk both times he was there?
A 2 Yes.

The accused declines to cross-examine this witness.

Leni Mol
Miss Leni Mol

XB

TWELFTH WITNESS Hendrikus van GEMERT, policeman of the Municipal Police, Nijmegen, having been duly sworn, states:

The night of 16 Jan 46, my chief gave me orders to go down to the NAAFI along with the English provost to 16 Spaenstraat because there was trouble with a soldier there. When I came there with the provost I went upstairs because the house-lady said the soldier lived upstairs on the top floor. The provost took him down and I asked the girl who was in the same house for her identification papers. I went down stairs too and when I came down in the hall the Provost was there with the soldier. The soldier called the girl and talked with her. I had not said any words to him and then suddenly he put the girl away and hit my cheek. I fell against the wall still standing upright. Again he kept attacking me and I took my stick and hit him sometimes. Then I grabbed him in his neck and brought him outside the house. When I came outside he said to me "put the stick away, I want to fight you". Then he drew his pistol and pointed it at me saying some words I didn't understand. Then I hit his hands with my stick and the pistol fell down and after that I didn't hit him again. Then I walked back about twenty metres in the darkness. One of the provost took his revolver and after they took him away in the Jeep. Then I went back to the police station, told my chief what happened, made the report and brought it to the inspector. The Provost and the soldier had been there already.

I fired my pistol once in the air. To warn the soldier.

H. v. Gemert.

QUESTIONS TO THE WITNESS

Q 1 What time did this take place at 16 Spaenstraat?
A 1 Between 2030 and 2115 hrs.

Q 2 What happened to his pistol after you knocked it out of his hand?
A 2 When the soldier dropped the revolver one of the provost and the said soldier tried to pick it up again but I don't know who has got it, but later on in the police station I heard something about the provost having it in his pocket.

Q 3 Where was the Provost who was with L/Cpl Lee while you were fighting with him?
A 3 They were in the front door or on the road just in front of the door.

Q 4 Did this Provost attempt to stop L/Cpl Lee from fighting?
A 4 Not inside because the hall was very narrow and no room. He couldn't get there but outside he did.

Q 5 Were you asked to leave the house while L/Cpl Lee was coming down stairs?
A 5 The girl did not ask me to leave the house before the fighting started but when outside she did and I am not sure whether she asked me when I was still inside.

The accused declines to cross-examine this witness.

H. v. Gemert.
Hendrikus van Gemert

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? Your are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make any statement.

F. M. Lee
M30099 L/Cpl Lee, F W

THE UNDERMENTIONED WITNESSES WERE RECALLED

C1082189 L/Cpl MacDOUGALL, K D

Q. When you took the gun from L/Cpl Lee at the Wintergarden at approx 2020 hrs what did you do with the weapon?

A. I took the weapon out of his hands and handed it to L/Cpl Bush, L/Cpl Bush examined the weapon and handed it to L/Cpl McConnell who pulled out the magazine to prove the pistol was empty and after that my main concern was to get L/Cpl Lee to the Jeep and take him away. Cannot say what happened to the pistol after that.

K D MacDougall
C1082189 L/Cpl MacDougall, K D

B49336 L/Cpl MUSH,IOR

Q. What happened to the pistol after it was taken from L/Cpl Lee at the Wintergarden, at approx 2020 hrs, 16 Jan 46?

A. The pistol was taken from L/Cpl Lee by L/Cpl MacDougall and handed to myself. When I got the pistol, I looked at it to see if it was loaded, and found that it had no rounds in the magazine or chamber at all. I replaced the magazine and handed the weapon to L/Cpl McConnell. He took the magazine out when I handed it to him, and put the weapon in his pocket. We proceeded to the jeep, and just before we left, he gave the weapon back to me. I put it in my pocket. I turned it over to Sgt Ogg at 4 Bn, when we took L/Cpl Lee there for custody. I have not seen it since.

A O A Bush
B49336 L/Cpl Bush, I O R

B136828 L/Cpl McCONNELL, W

Q. What happened to the pistol after it was taken from L/Cpl Lee at the Wintergarden, at approx 2020 hrs, 16 Jan 46?

A. One of the patrol took the pistol. I am not certain as to which one it was. I removed the lanyard from L/Cpl Lee's shoulder. I have not seen the weapon since.

L/Cpl Wm McConnell

H-16653 Sgt Ogg, H M

Q. What happened to the pistol after it was taken from L/Cpl Lee at the Wintergarden?

A. The pistol (2T7880) was handed to me at 4 CHR Bn. I in turn brought the pistol to HQ 2 CHRG, where it was turned over to Lt Blouin the next morning. I had it in my possession overnight.

H16653 Sgt Ogg, H M

I certify that the foregoing Summary of Evidence, consisting of nine pages, was taken down by me in the presence of the accused and that RP 4 (c), (d), (e), and (f) have been complied with.

In the Field
20 Jan 46

(D J MacMillan) Capt
4 Bn, 2 CHR Gp, CAO.

Offr detailed to take the Summary of Evidence.

LIST OF WITNESSES

PROSECUTION

B138828 L/Cpl McCONNELL	W	Cdn Provost Det HQ 2 CBRG
B49336 L/Cpl BUSH	IOR	Cdn Provost Det HQ 2 CBRG
C102189 L/Cpl MacDOUGALL	K D	Cdn Provost Det HQ 2 CBRG
Lieut J BLOUIN		Cdn Provost Det HQ 2 CBRG
H16653 Sgt OGG	H M	Cdn Provost Det HQ 2 CBRG
No 6286436 L/Cpl TOMBS	L A	CMP Nijmegen Det
No 4699726 L/Cpl WHITEHEAD	W	CMP Nijmegen Det
No 5784045 Pte DAMS	W	CMP Nijmegen Det
Miss D McCORMACK		NAAFI Employee
Miss E M BARKER		NAAFI Employee
Miss Leni MOL		Dutch Civilian
Hendrikus Van GEMERT		Municipal Policeman NIJMEGEN

DEFENCE — NIL

LIST OF EXHIBITS

FOR THE PROSECUTION — NIL

FOR THE DEFENCE — NIL

CERTIFICATE OF ACCUSED

I, M3099 L/Cpl Francis William LEE, hereby acknowledge that I have received, free of charge, a copy of the Summary of Evidence and a copy of the charge sheet therein.

I also request that an officer be appointed to act as my Defending officer at my forthcoming trial by FGCM.

26 Jan 46

F.W. Lee

(M3099 L/Cpl LEE, F.W.)

Exhibit "E" [signature] Army Form B.296 (War).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
173099	L/Cbl	Lee, FW	Cdn Provost Det HQ 2 Cdn Bde Office

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Sec 15 (1) 5 times.

For Sec 24 (2) 1 times.

For Sec 40 1 times.

For ..... times.

Date of first entry in Field Conduct Sheet 29 Jun 40

Date of last entry in Field Conduct Sheet 19 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ DB ~~beginning on the~~ DB ~~day of~~ DB

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for ~~10~~ 17 days in military custody, *i.e.*, ... days in open arrest, ~~10~~ 17 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 29

6. The date of his attestation / calling up for military service is 8 Sep 39

7. ~~The service which the accused is allowed to reckon is~~ DB

8. The accused is in possession of† CVSM + Clasp France Germany St 39-45 Star Defence Medal

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

~~Date of Promotion~~ DB

~~In the substantive rank of~~ DB

~~In the war substantive rank of~~ DB

~~In the acting rank of~~ DB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

of Summary award under Sec 47 AA and of cases in which trial has been dispensed with of accused

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 30 ~~16~~ th day of Jan 1946

[signature]
Staff Capt 9 Cdn Base Rft Gp

EXHIBIT "F"
6" "
[illegible] Pres

Place	Date of offence	Rank	Cases of drunkenness		Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	16Jan42	Pte		A.W.L.	Sgt. Easton	14 days C.B. & forfeit 1 days pay	21Jan42	Capt. G.F. Mackie	
Field	18Jun43	L/Cpl		AWL from Roll Call, 2359 hrs 18 Jun 43 to 0130 hrs 19 Jun. Total absence 1 hr 41 Min. AA Sec 15 (1)	Cpl Baskerville	Reverts to Pte	19 Jun42	(LA Whittington)	
	Awarded the Cdn Volunteer Service Medal and Clasp, w.e.f. 15 Jan 44. Verified (Auth: ORO 4167)								
Field	25Feb44	L/Cpl		WOAS, Absent without leave AA Sec 15 (1)	L/Cpl Yeoman	Reverted to grade of pte	26Feb44	(JP Stewart)	A/Capt
Field	19Apr44	Pte		WOAS. Contrary to Coy Standing Orders, in that he did leave his post of guard without being properly relieved at 2400 hrs 18 Apr 44	RSM W.H. Knight	Forfeits 7 days pay under FR&I 149 (2)	20Apr44	(JP Stewart)	Capt

CERTIFIED TRUE COPY [signature]

No M-3099 Name LEE, F W | Sqn, Battery, or Company | Corps Cdn Pro Corps | Date of enlistment 8Sept39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAM/156 (1443)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature GC Company, etc | 'J.P.Stewart' (J.P. Stewart)A/Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order determining with trial	By whom awarded	Remarks
Shilo Camp	29 Jun 40	Gnr		1st charged with absenting himself without leave, in that he at Shilo Camp without possession of a pass, absented himself without leave from 0540 hrs 29 Jun 40 to 2100 hrs 18 Jul40 (Absent 19 days 17 hrs, 55 mins.	BSM Wilson	14 days detention	19Jun40	Col F.C.	Forf 20 days pay FRAI 149 (1) (a) 1 days pay by FR & I
Edmonton Alberta	4 Aug40	Gnr		Losing by neglect clothing equipment & regtl necessities	Documentary		30Jun41	A.Helliott.	Stop pay $719
"	4Aug40	Gnr		Absenting himself without leave at Camp Shilo 4 Aug 40 until apprehended by RCMP at Wainwright Alberta 23 Apr 41, cost of arrest and escort by RCMP $1900	Documentary	28 days detention	30Jun41	A.Helliott	Stop pay $1900

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) B
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court~~ B
~~is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission~~ B
~~is disallowed on the charge(s), and allowed on the~~ A
~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on~~ B
~~the latter charge(s).(4)~~
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence saying on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. DO NEITHER. Do you intend to call witnesses on your behalf? Ans. NO SIR. ~~Are they witnesses as to character only? Ans.~~ B
(1. RP 115. 2. RP 40(A), see BO(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, (iii)(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened. B
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST AND SECOND charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~ B
~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. TO GIVE EVIDENCE AS WITNESS AND TO CALL ONE WITNESS. B
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(extract)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3) B B B
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES THROUGH MY DEFENDING OFFICER. (2) B
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the Judge Advocate~~. B
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M3099 L/Cpl Lee Francis William C Pro Corps Att HQ 2CBBGp.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	NOT GUILTY	GUILTY	WITH THE EXCEPTION OF THE WORDS "AND FIGHTING"
2nd AA 40	NOT GUILTY	GUILTY	WITH THE EXCEPTION OF THE WORDS "AND BRANDISHING A PISTOL"
3rd AA 19	GUILTY	GUILTY	
~~4th~~			
B. ~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) B.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Forty Five (45) days

(Sgd) [signature] Baillargeon Major
President. (RP 45, 50.)

2 FEB 46
Date awarded.

B. ~~(Sgd)~~ ~~Judge-Advocate, if any.~~

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ AB

(1. AA 57A. Delete if not used.)

(Sgd) H F Baker Lt Col

Date 7 Feb. 46 Commanding 1 Cdn Demob. Depot.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M3099 L/Cpl Lee F.W. Cdn Pro Corps Att HQ, 2 CBBGp	7 Feb 46	H A Rose Major 3 Cdn Transit Camp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : M3099 L/Cpl LEE FRANCIS WILLIAM C Pro Corps ATT HQ 2C BBGp.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	NOT GUILTY	GUILTY	WITH THE EXCEPTION OF THE WORDS "AND FIGHTING"
2nd AA 40	NOT GUILTY	GUILTY	WITH THE EXCEPTION OF THE WORDS "AND BRANDISHING A PISTOL"
3rd AA 19	GUILTY	GUILTY	
~~4th~~			
B. ~~5th~~			
~~6th~~			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... ~~(1)~~ B.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for Forty Five (45) days.

B ~~(Sgd)~~ ..... 2 FEB 46 ~~(Sgd)~~ [signature] Baillargeon Major

~~Judge-Advocate, if any.~~ Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ HB

(1. AA 57A. Delete if not used.)

(Sgd) H F Baker Lt. Col

Date 7 Feb. 46

Commanding 1 Cdn Demob. Depot

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M3099 L/Cpl Lee F.W. Cdn Pro Corps att'd HQ, 2 C BR Gp	7 Feb 46	H A C Rose Major 1 Cdn Transit Camp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SSS 91

GNR LEE H J

14

39

RECEIVED 25 Feb 44 JAG BRANCH A.H.Q. RECORDED AT [illegible] IN [illegible] 555-91

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1658 (2864)

Certified Trn copy of the original proceedings [illegible] the [illegible] Amie [illegible]

Convened by Order of Lt-Col. D.F. [illegible] A/Comd 1 Cdn AGRA dated 19 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-43678	Gnr		Harold James	LEE	5 Cdn Med Regt RCA

PROCEEDINGS REVIEWED "Evan Wannan" Capt 4 Oct 44 REVIEWING OFFICER, JAG BRANCH A.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 24 Jun 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1315 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

Q-1 A5. President to accused: Do you object to Sgt W. Schwed as interpreter? A-1 Ans No sir

Q-2 The Interpreter is sworn.(1) Do you object to Cpl D F McLeod as shorthand writer? A-2 Ans No sir. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

Q-3 President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

A-3 Ans No sir(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	W.C. Leggat	2 Cdn Med Regt
Member	Capt	H.G. Crocker	11 Cdn A Fd Regt
Member	Capt	E. Taylor	1 Cdn Med Regt
Judge-Advocate	Capt	A.P.L. DesRosiers	HQ 1 Cdn Corps
Prosecutor	Capt	A.S. Dewar	5 Cdn Med Regt
Defending Offr	Capt	S.B. Sheps	5 Cdn Med Regt

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DC p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision.* *See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 2 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CM/607/J

9 Jul 44

Officer i/c,
Cdn Sec GHQ 2 Ech (AAI)
AVELLINO

FGCsM - 23-24 JUN 44
F-97230 Gnr A.L.Gero
B-43678 Gnr H.J.Lee
5 Cdn Med Regt, RCA

Herewith original and certified true copy of proceedings in the m/n cases.

2. Your attention is directed to the cases of Fus MacKenzie & Powell, PLF, forwarded this date, who were tried on a similar charge. The great disparity in sentences will be noted. However it is considered that especially in view of the age of the girl incolved in the m/n cases a considerably more severe sentence is warranted in these cases than in the former.

(SGD) "G.M.MORRISON"
(G.M.Morrison) Major
D.J.A.
for G.O.C. 1 Cdn Corps.

GMM/A
POST/ELS

CHARGE SHEET

The accused, B-43678 Gunner Harold James LEE, 23rd Medium Battery, 5 Canadian Medium Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 41
Army Act

WHEN ON ACTIVE SERVICE, WHEN IN A PLACE NOT WITHIN HIS MAJESTY'S DOMINIONS, COMMITTI A CIVIL OFFENCE, THAT IS TO SAY RAPE,

in that he

in the Field in ITALY, on 5 Jun 44 had carnal knowledge of Signorina FIORINI FILOMENA, without her consent.

(M.E. Reiner) Major
A/Comd.
5 Canadian Medium Regiment RCA

In the Field
12 Jun 44

Approved on behalf of JAG Canadian Army Overseas pursuant to KR (Can) 540 for trial by Court Martial.

(A DesRosiers) Captain
ADJA 1 Cdn Corps

In the Field
14 Jun 44

To be tried by Field General Court Martial

(D.K. Todd) Lt-Col.
A/Commander
1 Canadian Army Group RCA.

In the Field
Jun 44.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1697 (286C)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-43678	Gunner		Harold James	LEE	5 Cdn Med Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 19 Jun 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Col. (Rank.)	W.C. Leggat (Must be named. RP 106.)	2 Cdn Med Regt (Unit.)

MEMBERS.

Capt	To be detailed by 11 Cdn A Fd Regt	
Capt (Rank.)	To be detailed by 1 Cdn Med Regt (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lieut (Rank.)	To be detailed by 5 Cdn Med Regt (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	A. DesRosiers (Must be named, if any. RP 106.)	HQ 1 Cdn Corps (Unit.)

On Active Service in the Fd

in Italy (Country.) (D.K. Todd) (Signed personally. RP 105 fn 2.) Lt-Col. (Rank.)

Date 19 Jun 44 A/Commanding 1 Cdn Army Gp RA
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

23 Jun 44

This is to certify that B-43678 Cnr Lee, H.S. and F-97230 Cnr Cero, A.L. have been medically examined by me today and are fit to undergo trial by court martial.

"M W C Feeney"
(M.W.C. Feeney) Capt
MC USNR.

24 Jun 44

This is to certify that B-43678 Cnr Lee, H.S. and F-97230 Cnr Cero, A.L. have been medically examined by me today and are fit to undergo trial by court martial.

"M W C Feeney"
(M.W.C. Feeney) Capt
MC USNR

Record of FOCM proceedings in the case of B-43678 Gunner James Lea, 23 Med Bty, 5 Canadian Medium Regiment, RCA, a soldier of the Canadian Army Overseas.

Harold

At 1315 hours, 24 Jun 44 the trial commences.

The prosecuting officer makes no opening address.

First Witness for the prosecution - Signorina FIORINI FILOMENA, Colle Rosau, No. 35, FERENTINO, ITALY.

Questioned by the JA

Q- How old are you?
A- 13 years old.

Q- Have you gone to school?
A- Yes.

Q- How many years did you go to school?
A- 3 years.

Q- Can you read and write?
A- Yes.

Q- Have you been taught in school what an oath is?
A- Yes.

Q- What happens when you do not tell the truth?
A- No ans.

Q- Have they taught you at school what is to say something under oath? Have they taught you this in church? Do You know what the penalty is?
A- The witness does not answer this question.

Q- What is the penalty if one does not tell the truth? We want to find out if you understand the nature of giving evidence before a court - that you understand your oathto tell the truth and what it is to swear on the holly book that you will tell the truth?
A The witness does not reply to this question.

The court is closed to consider whether the witness fully understands the nature of giving evidence before a court on oath and of the nature of perjury and the penalty therefore in order to determine whether to take her evidence on oath or not on oath.

The court re-opens and the president announces that the court have decided that the witness does not fully understand the nature of giving evidence before a court martial on oath and the nature of perjury and the penalty therefor and directs that the evidence of this witness be taken NOT on oath.

Examined by the Prosecution NOT on oath:

Q-5 What is your name?
A-5 FIORINI FILOMENA.

Q-6 Where do you live?
A-6 FERENTINO.

Q-7 How old are you?
A-7 13 years old.

Q-8 Did you go to school?
A-8 Yes.

Q-9 How long?
A-9 3 years.

Q-10 Can you read and write?
A-10 Yes.

Q-11 Do you know the accused?
A-11 Yes.

Q-12 Where did you meet him?
A-12 On the street and at my house.

Q-13 When?
A-13 I can't remember the date.

Q-14 What happened when you met him on the road?
A-14 I was walking on the road with the cow. The soldiers were coming behind me and they passed me. They came back and tried to take the cow away from me.

Q-15 Was there anyone with them? How many soldiers were there?
A-15 There were two soldiers.

Q-16 What happened when the soldiers came back?
A-16 The soldiers came back and one of the soldiers grasped me from behind by the should and put m the ground, and put some grass in my mouth.

Q-17 The white soldier?
A-17 That one (indicating the accused).

Q-18 What happened after that?
A-18 After that the black one got on top of me.

the black one tore open my clothes from the waist down.

Q-19 Then what did he do? Tell us what happened in detail? Did he do anything?

A-19 E doppo lui metto il cazzo alla natura dentro. (The answer is taken down verbatim as translated by the interpreter in view of the fact that the girl speaks a dialect peculiar to the region in which she lives. The literal translation according to the interpreter would be "and then he put his penis (cazzo)into my vagina (natura).)

Q-20 How long did he leave it there?

A-20 Two or three minutes.

Q-21 Did it hurt? Did you feel any pain?

A-21 Yes, I felt pain.

Q-22 What happened after that?

A-22 After that I was crying and a civilian came and the two soldiers ran away?

Q-23 What was the name of the civilian who was coming?

A-23 ITALIANO FULVIO.

Q-24 Did you fight with the black soldier?

A-24 I fought with the white one.

Q-25 Did you bite him?

A-25 Yes.

Q-26 When the black soldier was on top of you did you struggle with him or did you let him stay on top of you?

A-26 I kicked him with my feet and hit him with my hands.

Q-27 What did you do to the white soldier?

A-27 I hit him here. (Indicating her neck).

Q-28 Did you bite him on the neck?

A-28 I bite him on the hand with my mouth and with my two fingers I pinched him on the neck.

Q-29 Where on the hand did you bit him?

A-29 Here. (Witness indicates the top of the hand.)

Q-30 Which hand?

A-30 I do not remember which hand?

Q-31 Who did you first tell about this?

A-31 My father.

Q-32 How long after it happened?

A-32 ½ an hour later.

Q-33 What time was it when the black soldier was on top of you?

A-33 Three or four o'clock.

Q-34 In the afternoon?

A-34 In the afternoon.

Q-35 How did you feel after it was over?

A-35 Pain.

Q-36 Was there anything else? Was there blood on you at all?

A-36 Yes.

Q-37 Where?
A-37 On my nose and on my vagina.

Q-38 Did a doctor come to see you?
A-38 Yes.

Q-39 What doctor?
A-39 A military doctor.

Q-40 What did he do?
A-40 He visited me.

Q-41 What did he do to you?
A-41 He treated me.

Q-42 Do you know where the white soldier is now who put you on the ground?
A-42 Yes, here. (Witness points out the accused.)

Q-43 When did you see him again?
A-43 Probably the same evening.

Q-44 Where?
A-44 At my house.

Q-45 What was the soldier doing when he was at your home?
A-45 Nothing.

Q-46 Who was he with? Was he with someone else or was he alone?
A-46 With other soldiers -- a Captain and a policeman.

Q-47 What happened there? Were you asked any questions?
A-47 Yes.

Q-48 What did you do? What questions were you asked?
A-48 They asked me whether it was the white soldier or the other soldiers.

Q-49 Did he ask you any other questions?
A-49 No.

Q-50 What did you answer to this question?
A-50 I said that the white soldier was the one that stopped me on the road.

Q-51 Were there any other soldiers at your house when the Captain was there?
A-51 Yes.

Q-52 How many?
A-52 About 10.

Q-53 What were they doing?
A-53 The soldiers were lined up for me to recognize and after that the soldiers left.

Q-54 Were the white soldier and the black soldier in that line?
A-54 Yes.

Cross-examined by the Defence

Q-55 Where is this road where the two soldiers came up to you?
A-55 A little distance from my house.

Q-56 Was their a camp of soldiers near anywhere close to this road?
A-56 No but there is in the distance.

Q-57 At what distance?
A-57 About two kilometers.

Q-58 What kind of soldiers did you see in that camp?
A-58 White soldiers.

Q-59 Were there two or three black soldiers in this camp?
A-59 I do not know. The white soldier was the friend of the black one.

Q-60 Did you see any coloured soldiers anywhere near the road?
A-60 No.

Q-61 Was there another camp in that area where there were any black soldiers?
A-61 I do not know. I found only the black soldier with the white soldier.

Q-62 When you bit the hand of the white soldier how hard did you bite it?
A-62 I bit him so that I could only see the tooth marks after.

Q-63 Did you try to bite him hard?
A-63 Yes.

re-examined by the prosecution

Q-64 Did you see any blood on the hand of the soldier when you bit him?
A-64 No.

Q-65 What did the white soldier to to you when the black soldier was on top of you?
A-65 The white soldier filled my mouth with grass with his hand.

Q-66 What did he do with the other hand?
A-66 With the one hand he filled my mouth with grass and put his hand over my mouth, with the other hand he threatened me. (The witness/a gesture of a raised clenched fist over her face).

Questioned by the Court

Q-67 Which soldier put you on the ground?
A-67 The white soldier.

Q-68 Did the white soldier get on top of you?
A-68 No.

Q-69 Was it only the black one?
A-69 Yes.

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness for the prosecution: - ITALIANO FULVIO, Tofe Vado del Ciero, FERENTINO, ITALY, having been duly sworn is examined by the prosecution:-

Q-70 What is your name?
A-70 ITALIANO FULVIO.

Q-71 Where do you live?
A-71 FERENTINO, ITALY.

Q-72 How old are you?
A-72 23 years.

Q-73 Did you go to school?
A-73 Yes.

Q-74 How many years?
A-74 Five years.

Q-75 Can you read and write?
A-75 Yes.

Q-76 Will you tell us what you know of this case of FIORINI FILOMENA?
A-76 I was working near where I live. I heard a noise. I went to see what was happening. I saw FILOMENA on the road leading a cow. Her face and legs were covered with blood and her clothes were in disorder.

Q-77 Whose face?
A-77 FILOMENA's.

Q-78 What happened next?
A-78 I aksed her what had happened but she was crying and crying and she told me nothing. Behind the girl I saw the other civilian DONOFRIO AMEDEO. The other civilian told me the direction in which the soldiers were running. I ran behind the two soldiers. I arrived by the soldiers near the the barracks of a military camp. I asked very politely if the two soldiers would go with me to the Camp Commandant Then the white soldier said "Buono Italiano" and the black soldier punched me twice. I went off alone to the Commandant. I saw a Lieutenant and I told him in a few words what happened.

Q-79 What day was this?
A-79 The sixth or seventh of this month, I am not sure which.

Q-80 What time?
A-80 Afternoon, about three or four o'clock.

Q-81 Could you recognize the two soldiers?
A-81 Yes.

Q-82 Do you know where they are now?
A-82 One is here. (Indicating the accused.)

Q-83 When did you next see the two soldiers after that day?
A-83 I saw the two soldiers twice since I saw them the first time.

Q-84 Tell us about the next time you saw them.
A-84 I saw them at the house of FILOMENA.

Q-85 What happened there?
A-85 The soldiers were interogated and the interpreter was in the house.

Q-86 Were you asked any questions?
A-86 Yes.

Q-87 Were the two soldiers present when you were asked these questions?
A-87 Yes.

Q-88 Could they hear the questions?
A-88 Yes, they could hear.

Q-89 What were the questions?
A-89 I can't remember the exact questions.

Q-90 Were there any other soldiers there?
A-90 Yes, there were.

Q-91 How many?
A-91 The Captain who sleeps downstairs here, the interpreter, I am not sure but I think the soldier on the motorbike. There was one other soldier I think?

Q-92 Were there other soldiers when you saw them the next time?
A-92 Yes.

Q-93 How many?
A-93 I do not know exactly, but I think there were five soldiers.

Q-94 What happened this time?
A-94 They were tied by the hands. The interpreter asked questions of FILOMENA and then me. I was not present. The soldiers called me and I came into the room.

Q-95 What happened the other time you met the two soldiers?
A-95 The interpreter asked me questions. It was outside. After they asked questions I went away.

Cross-examined by the Defence

Q-96 Could you tell the court on what road you saw FIORINI FILOMENA with the cow?
A-96 A Road in the country about 100 meters from where I live.

Q-97 Is this the road that runs south from Highway Six to the river SACCO?
A-97 I don't know.

Q-98 Do you know the river SACCO?
A-98 There is a river here but I do not know what it is called.

Q-98 Which way does it run?
A-98 I don't know.

Q-99 I have a map of this area. Where is FERRENTINO ON this map? Is it one the main Highway from Naples to Rome.
A-99 I don't know.

Q-100 How far from the bridge is this road?
A-100 200 to 300 meters.

Q-101 Is there another road that joins with this road near this bridge?
A-101 Yes, there are small country roads.

Q-102 When you first saw the two soldiers on this day in what direction were they going?
A-102 They were going in the direction near where there are soldiers camped. I could not tell you exactly on paper where it is.

Q-103 Is it in the direction of the mountain or is it in the direction of the road to Rome.
A-103 It was in the direction of the camp.

Q-104 What soldiers were in the camp?
A-104 Soldiers like this. (Indicating soldiers in court-room.)

Q-105 Were there any coloured soldiers in this camp?
A-105 Yes, there were black and white soldiers.

Q-106 After you left the girl and were running up to the two soldiers, what were they wearing?
A-106 They were dressed like they were dressed today and yesterday. It is the same colour that the soldiers are wearing today and yesterday.

Q-107 Did you see anything on the hand of either of these two soldiers.
A-107 I saw on the hand of the white soldier blood.

Q-108 Was there anything else on his hand?
A-108 Only one soldier has blood on his hand, the other nothing.

Q-109 Did you see any tooth marks on the hand of either one of these two soldiers?
A-109 I saw only blood running from the hand of one of the soldiers. I did not see tooth marks.

Re-examined by the prosecution:

Q-110 What soldier had the blood on his hand?
A-110 It was the white soldier.

Q-111 Was there much blood?
A-111 A little.

Q-112 Where abouts on the hand?
A-112 It was on the back of the hand but I do not know whether it was the right or the left hand.

Q-113 Would it appear to be running from a wound?
A-113 I do not know. I could not tell you how It happened.

Questioned by the Court

Q-114 Was the blood on the hand dry?
A-114 It was fresh.

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Third Witness for the Prosecution: - DONOFRIO AMEDEO, Contrada Colerosari #38, Ferentino, ITALY, having been duly sworn is examined by the prosecutor:

Q-115 What is your name?
A-115 DONOFRIO AMEDEO.

Q-116 Where do you live?
A-116 In the country near FERENTINO.

Q-117 How old are you?
A-117 18 years.

Q-118 Do you know FILOMENA FIORINI?
A-118 Yes.

Q-119 Tell us your story about this affair.
A-119 I was going down the road when I heard shouts. I went and looked to see what was happening. I saw a girl whose name is FIORINI FILOMENA, who was crying. She was leading a cow on the road. I looked in her face and saw that her face was covered with blood and her legs too.

Q-120 What did you do then?
A-120 At that time FULVIO arrived. I saw at a distance of about 50 meters two soldiers running and I and FULVIO ran after the two soldiers. He caught up to them. I was about 10 meters away from the soldiers. FULVIO called the two soldiers. They did not reply. After he came up to the two soldiers and asked them to go with him to the Camp Commandant.

Q-121 Who asked the two soldiers?
A-121 FULVIO asked the two soldiers. The two soldiers did not want to go. The white one said "buono italiano" and the black one gave him two blows.

Q-122 Who did he give the punches to?
A-122 FULVIO. After that I saw FULVIO go to the camp to look for the Camp Commandant. I stayed on the road. I then left for my house and know nothing further.

Q-123 Describe the appearance of FIORINI FILOMENA when you first saw her? Her clothes and anything else?
A-123 ~~Her clothes~~ I saw a girl leading a cow and I saw that her face was covered with blood and her legs also. I did not see anything else.

Q-124 Could you recognize the two soldiers?
A-124 Yes.

Q-124 Where are they now?
A-124 That is one here. (Witness indicates the accused.)

Q-125 Is the other one here?
A-125 No.

Q-126 What time of day did this happen?
A-126 At about 5:00 or 5:30. I have no watch.

Q-127 What day?
A-127 I could not tell you exactly but I think it was the 6th of June.

Q-128 How far away were the two soldiers when you first saw them?
A-128 Running about 50 meters away.

Cross-examined by the Defence

Q-129 Do you know where the river SACCO is.
A-129 Fumo SACCO is past MORELLO.

Q-130 Could you tell us on what road you saw the girl with the cow?
A-130 I do not know the name of the road. It was a small road in the country.

Q-131 Do you know the road that goes from Highway Six to MORELLO Station?
A-131 Yes.

Q-132 Is this road the one on which the girl was with the cow?
A-132 No, I did not see the girl on this street.

Q-133 In what direction were the two soldiers running when you first saw them?
A-133 In the direction of a military camp.

Fourth Witness for the Prosecution: Captain S.B. Shepps, 5 Cdn Med Regt RCA (Defending Officer) being duly sworn states:

I am familiar with the area in which the regiment was concentrated on 5 Jun 44 through having passed through one a reconnaisance to find a regimental concentration area, as FOO previously. I know produce before this court the Maps ITALY 1/25,00 sheets 151 (II) SW and 151 (III) SE. (The maps are marked Exhibit "A" and introduced into the proceedings.) Shown on these maps on square 3243 I point to the area on which the regiment was concentrated and mark it with a square. A track runs from this area and joins with a second class road which runs west from Morollerstation which is not shown on the map, to join Highway Six in Square 3346. There hills north of the SACCO rever South of the regimental area east of regimental area on the other side of the second class road. There is a canal crossed by a track in Square 3442 leading to joining tracks and some farm houses. The river running NW-SE below the railroad shown on the map is the River SACCO.

No cross-examination

The Third Witness retakes the stand and the cross-examination is continued by the Defence on his former oath:

Q-134 Do you know the river ELABRO?
A-134 No, I do not.

Q-135 Can you read a map?
A-135 I have never seen one.

(From the map the witness points out the position of the girl when he first saw her on the road, the position of this small road in relation to the other roads and the Highway six as well as its relation to the girls house, the road to Morello Station, the camp to which the soldiers went and the river SACCO.)

Q-136 In this camp which you have pointed out - what soldiers were in this camp?
A-136 Black and white soldiers.

Q-137 How many black soldiers?
A-137 I was never near this camp before. This time I saw five or six soldiers.

Q-138 Did you see anything on the hand of these two soldiers?

A-138 I did not pay any attention to the black soldier but I saw on the hand of the white soldier a mark from teeth. The soldier was rubbing his hand.

Re-examined by the Prosecution

Q-139 Were these marks on the hand of the soldier cuts or just marks?
A-139 They were only marks.

Q-140 What nationality were the soldiers who lived at this camp?
A-140 I could not say what country these soldiers came from.

Questioned by the Court

Q-141 How long were you at that camp?
A-141 About one minute.

Q-142 Did you leave the camp then?
A-142 I was waiting in the middle of the road for the other Italian. I stayed two or three minutes and then went home.

Q-143 Where were these black soldiers you saw?
A-143 I was in the camp and saw them in the camp.

Q-144 Are you sure of the number you saw?
A-144 I am not sure but in my opinion there were four or five.

Questioned by the JA

Q-145 When you were on the road and you saw FIORINI FILOMENA did you notice her dress?
A-145 I was about one meter from the girl and I only asked her what happened.

Q-146 Did you see her dress?
A-146 Yes, I saw her clothes. Her clothes were squashed up.

Fifth Witness for the prosecution:- Captain Michael William Cornelius FENNEY, RAMC, 5 Cdn Med Regt RCA,

Q-147 What is your name?
A-147 Michael, William Cornelius FENNEY,

Q-147 Your rank?
A-147 Captain RCAMC.

Q-148 What are your qualifications?
A-148 I have the degree of Doctor of Medicine and Master of Surgery.

Q-149 Do you know a girl by the name of FIORINI FILOMENA?
A-149 Yes, a girl by that name has been identified to me.

Q-150 Have you ever examined her?
A-150 Yes, I examined her on the evening of 5 Jun 44.

Q-151 Will you tell us about her condition and what you did?
A-151 She had a laceration of the vagina which I dressed. She was semi-hysterical and I left with her people a sedative to be given to her.

Q-152 Could you determine any cause for this laceration of the vagina? Tell us what in your estimation caused it? Will you tell the court what sort of thing might have caused the injury like that?
A-152 One of direct violence. The striking of the vagina with a hard object. The other way could have been by stretching of the vagina.

Q-153 Was this cut inside or outside?
A-153 Inside.

Q-154 How long was this cut?
A-154 I would estimate about 1" long.

Q-155 Are cuts like that a common thing or do they happen to women accidentally very often?
A-155 Not in my experience.

Q-156 Have you ever attended a similar case?
A-156 I have treated many lacerations of the vagina in child-birth, but accidental injuries - none.

Q-157 Would the cut itself be sufficient to cause the semi-hysterical condition in the girl?
A-157 The wound was a minor one. The laceration was a minor physical injury.

Q-158 What sort of pain would there be from it?
A-158 Little.

Q-159 Would a wound of that nature cause a girl to become semi-hysterical?
A-159 The hysteria would depend to a great deal on the individual.

Q-160 What would be your opinion in this particular case?
A-160 No knowing this individual I would not be able to give an opinion of that that nature.

Q-161 Would you expect it?
A-161 No.

Q-162 Did you notice anything else about the girls body?
A-162 I saw no other injury. There was blood on her vagina and on her legs.

Q-163 Where did the blood come from?
A-163 The laceration of the vagina;

Q-164 When did you next see the girl?
A-164 The next morning in the camp lines.

Q-165 What did you do at that time?
A-165 I looked at the girl to see if it was the same one I had treated the previous night. I did not examine her. I asked her father if the serum I had left for her had put her to sleep. I had no conversation with the child.

Q-166 Have you ever examined Gar Lee?
A-166 I have examined Gar Lee, yes. Several times. I looked at his hand on 6 June and also his face. I have examined him several days before this incident.

Q-167 What did you examine him for on 6 June.
A-167 To give an opinion as to the lacerations on his fingers as to whether they were teeth marks. My opinion as to the lacerations on his fingers was that they were not bite

Q-168 Were there any other lacerations, bruises, contusions or marks?

A-168 There were some very minor scratches or abrasions on his face, and there were some little spots of infection which I had treated a few days previous. There were marks on the front of his neck.

Cross-examined by the Defence

Q-169 The marks on the neck -- could you tell us or rather describe them more fully?

A-169 They were very small scratches like what might be made by a razor nick.

Q-170 Were they concentrated in one place or were they scattered over his throat?

A-170 There were only two and they were on his neck. They were two small scratches.

Q-171 How far apart were they or were they close together?

A-171 I think they might have been 1" apart.

Q-172 Was there any teeth marks on the throat or scratches which which might have been caused by human fingers?

A-172 These did not look like finger nail marks.

Re-examined by the Prosecution

Q-173 Is it possible that they could have been finger marks?

A-173 Yes, it is possible.

Questioned by the Court

Q-174 You said this damage to the vagina might have been caused by a hard object or stretching of the vagina. In your opinion could forceful sexual intercourse have caused this injury to the vagina?

A-174 Yes.

Q-175 How was this girl insofar as physical developement is concerned?

A-175 The child was under the age of puberty. She had no pubic hairs and her breasts were not developed. One thinks of pubprty coming from 12 to 14 years.

In the opinion of the Court and the JA is is not considered necessary to comply with RP 83(3).

THE WITNESS WITHDRAWS.

Sixth Witness for the Prosecution:- Captain P.L. Ainley, 23 Bty, 5 Cdn Med Regt RCA, having been duly sworn ~~xxx~~ is examined by the prosecution:

Q-176 Do you know the accused, Gnr Lee?
A-176 Yes.

Q-176 Do you know an italian girl called FIORINI FILOMENA?
A-176 Yes.

Q-177 What investigation have you made in connection with this case?
A-177 On 6 Jun 44 at approx 1200 hours, I witnessed an identification parade at which the Italian girl FIORINI FILOMENA without hesitation picked Gnr Lee from approximately 12 Canadian Soldiers. At about 1600 hours one the same day there was another identification parade at the house of the girl FIORINI FILOMENA at which she again picked out Gnr Lee from approximately 8 Canadian soldiers.

Q-178 Were there any other people at the identification parade who were asked to identify Gnr Lee at either parade?
A-178 No.

Q-179 Did you know anyone else who did identify the accused at any time?
A-179 Yes, ITALIANO FULVIO came to the house of the girl FILOMENA just after the identification parade at 1600 hours. He came rushing in and pointed to Gunners Lee and Gero saying these are the men.

Cross-examined by the Defence

Q-180 At the time that ITALIANO FULVIO pointed at the accused what other Canadian soldiers were there?
A-180 I can not answer this question definitely. I do not remember for certain. There was another man in Canadian uniform who was with the provost as interpreter. There was I think several -- possible four or five who had been used in the identification parade. Some of them had started to go back to the truck.

Q-181 Would these four or five constitute a separate group when the accused was identified by ITALIANO FULVIO?
A-181 I could not answer that.

Q-182 Am I correct in saying that the identification parade was broken off and that they were not in the same position as they were when FILOMENA identified the accused?
A-182 Yes, that is correct. The parade as such had been broken off.

~~Q-183~~

Re-examined by the Prosecution.

Q-183 If they were separate from the rest of the soldiers who had been in the identification parade how far away from them would they be?
A-183 I could not answer that question. I am not certain.

Questioned by the Court

Q-184 Can you remember whether the group contained all Canadian soldiers or had they split up and were standing in different parts of the ground in front of the house?
A-184 I think they had split up. They were not together.

Q-185 Can you remember if the accused and the other soldiers were separate from the remainder of the identification parade or were they still with some of the soldiers used on the identification parade?
A-185 I think with the exception of the interpreter they were separate from the rest.

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS

Seventh Witness for the Prosecution:- C-32262 L/Cpl Cooper, J.K., 1 Can Pro Coy, RCMP, having been duly sworn is examined by the prosecution:

Q-186 Will you give the court your particulars?
A-186 I am C-32262 L/Cpl James K. Copper, 1 Can Pro Coy, RCMP.

Q-187 Do you know an Italian girl FIORINI FILOMENA?
A-187 Yes.

Q-188 Will you tell us what investigation you carried out in this case?
A-188 On the afternoon of 6 Jun 44 in company with Captain Ainley I held an identification consisting of 10 ORs and the two suspects, Gnrs Lee and Gero, which was formed up at the house of FIORINI FILOMENA. FILOMENA, without hesitation, approached the parade and picked out Gnrs Lee and Gero, as the two soldiers who had assaulted her the previous afternoon A further witness ITALIANO FULVIO also came to the parade and identified Lee and Gero as the two soldiers whom he had seen leaving FILOMENA lying on the ground crying and in a shocked condition. This was stated in the presence of the accused.

Q-189 Will you describe the relative positions of the accused at the time of the identification in relation to the remainder of the men who had been on the identification parade?
A-189 Previous to FULVIO coming to the identification parade it had been dismissed and the two suspects were taken from the parade and standing in close proximity to the other ORs.

Q-190 Could you indicate to the court how far away that it would be from the nearest soldier?
A-190 I think it would not be more than three yards.

Q-191 What were the people doing then?
A-191 At the time that FILOMENA identified the two soldiers the girls mother went into hysteria and started crying and everyone that was in the vicinity was observing the commotion and attempting to see what was happening.

Q-192 In this parade how many negroes andhow many white soldiers were there?
A-192 There were nine white soldiers and one other negro and the two suspects, Gero and Lee.

Cross-examined by the defence

Q-193 Could you tell us where ITALIANO FULVIO WAS when the girl identified the accused?
A-193 The parade itself was held in an area between two buildings. ITALIANO FULVIO came around one building immediately the parade was dismissed but he out of the way or the parade.

Q-194 Did you see where he was?
A-194 No.

Q-195 On the 5th of June were you stationed in the VERENTINO area?
A-195 Yes.

Q-196 Could you tell us if there were any other encampments near there?
A-196 There was an english unit down the road.

Q-197 Did you see any South African units in that area?
A-197 No, sir.

Q-198 Did you see any coloured troops in that area?
A-198 No. I believe at that time they had moved in the morning. I came in the evening. That is on the 6th of June.

Questioned by the Court

Q-199 How do you know there was South African units in that area?
A-199 I made inquiries and found out that there was a SA camp near to the road on which the girl was found crying. I understood that there were negroes encamped there.

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Submission of the Defence that a Prima Facie case has not been established.

Sir, at this time I should like to move for dismissal of the charge against the accused on the ground that this being a case which involves the evidence of a child of 13 years, the statutory requirements is such as to require that her evidence must be corroberated in some material aspect from some independant source directly implicating the accused with the offence. I point out to the court that at this time there is no physical evidence adduced before this court in corroberation of the evidence of the girl and implicating this accused. There is only one witness who gives evidence of this nature - any evidence of this nature. That is the evidence of ITALIANO FULVIO who is actually on the parade held for the identification of the two accused on 6 Jun 44. I would submit to the court that this identification cannot be given credence, that there is the possibility that FULVIO may have seen, and I would suggest that he did see in fact, the girl point to the two accused. In any case I would suggest that ITALIANO FULVIO saw the accused with persons whom he recognized to be in an official capacity, that is, an MP and a Captain, prior to his identification and that his identification was based on these circumstances.

I would submit that the identification of the girl is one of a child who was in a semi-hysterical condition and had been for some hours prior to the investigation, or rather the identification. I submit that there is the possibility that she had seen the accused in another connection and on seeing a familiar face, probably only familiar in the subconscious mind, connects it with an entirely different occasion.

Other than the questionable identification of ITALIANO FULVIO there is a statement of the boy who since the occurance has seen the accused three times in connection with the investigation of this case, and it is quite naturally possible that by these contacts with the accused there becomes indelibly impressed, but erroniously, in his mind that he is the person connected with the offence.

There is positive evidence of a witness for the prosecution that in his opinion as a medical expert the marks on the hand of the accused were not caused by tooth marks and the girl has given evidence that she bit the hand of one of the men. The boy says he saw tooth marks and ITALIANO FULVIO says he saw blood on the hand of the man he spoke to. There is evidence of the same witness that the marks on the throat of the perron had the appearance of finger marks ~~and in his opinion~~. The girl gave evidence that she pinched the throat of the white soldier who had her down. In this connection Captain Feeney gives evidence as a professional man that in his opinion they marks were not caused by human finger nails although he honestly adm its of the possibility but there i a big difference between a possibility and an opinion as t what he would consider actually did happen.

On the ground that the evidence of the prosecuti does not provide the necessary corroberation of the off I move for the dismissal of the charge.

Submission by the Prosecution that a Prima Facie Case has been estabblished.

The evidence contains the record that the accused was identified without hesitation by FIORINI FILOMENA the day after the offence. The defence has suggested that she was in a semi-hysterical condition at that time. The medical evidence is to the effect that that morning the girl was seen by Captain Feeney, and he gave her no further treatment. I suggest therefore the she was on the 6th of June in a more or less normal condition and not in the condition of a semi-hysterical girl, and I submit that her evidence can be given full weight, and full weight can be placed on the identification which she made that afternnon.

ITALIANO FULVIO's identification I also submit can be given a good deal of weight. Even though the identification parade was not carried out in a normal manner, the evidance records that it was unlikely that FULVIO saw the girl pick the accused from the parade.

The tooth marks on the hand of Gnr Lee were stated by the girl to be only marks not cuts and there is no blood flowing from them. DONOFRIO AMEDEO said the same thing. It is possible for tooth marks of that nature to disappear as any normal pinch of the skin might do. The blood on Gnr Lees hand can be explained. He held one hand over the mouth of the girl during the offence and witnesses have stated that the girl's face was covered with blood. The hand could easily have come in contact with the blood on her face.

The evidence records a definite act which constitutes the offence, and the circumstances at that time indicate definitely that Gnr Lee, the accused, was present when the offence was committed and that he was the only soldier who could possibly have been the accomplice in this offence.

I suggest therefore that there is sufficient evidence for the court to consider a conviction.

////----------/////

The JA quotes RP 40 fn 1; MML p. 72, paras 12 - 14; p. 81, para 42.

The Court is closed to consider the motion of the defending officer that a prima facie case has not been established.

The court re-opens and the court announces that the submission is disallowed and that accordingly the trial will proceed.

The Defence does not with to bring any witnesses at this time.

Summing up of the Defence

In addition to what I have submitted in my move for dismissal of this case, I would ask the court again to consider that there is a possibility of the girl seeing the accused in some other connection and seeing him on the identification parade connect him with this event.

I point out the evidence of the boy that in a camp reasonably close to the spot where the offence occured he saw at least four to six coloured troops. I would ask the court to consider intheir judicial knowledge and their knowledge of the campaign that South African Troops passed through the Canadian Forces in the continuation of the attack and their were know to be coloured troops with the South African Forces in this area at the time this offence was committed, and that it may have been these and not the accused who were implicated in the offence.

Summing up of the Prosecution

I have nothing further to add to my submission in reply to the defence's motion that a Prima Facie case had bot been established.

For summing up of Court see following page.

The Court is closed to consider the finding.

The Court re-opens and the president announces the findings being subject to confirmation, will be promulgated later. The finding is entered in Part one of the schedule.

Summing -Up by the JA

Mr. President and Gentlemen:

May I briefly point out our respective functions in this court. You are the absolute masters of the facts and if in the course of this trial I have expressed any opinion as to the facts of this case, you should disregard such opinion.

My duty is to advise you on points of law and on that score you should be guided by my opinion. You may disregard that opinion but should not do so unless for very weighty reasons.

The charge in this case is laid under AA Sec 41 which makes civilian offences triable by Court-Martial under certain conditions.

The charge against the accused is that he had carnal knowledge of FIORINI FILOMENA without her consent, thereby committing rape.

There is one principle of law I wish to explain first , that is the theory of a principle in the first degree and one in the second degree.

A principal in the first degree is the person who actually perpetrates or takes part in the perpetration of the felony.

A principal in the second degree is one who is present at the commission of a felony and without taking any part in its actual perpetration, aids and abets the commission.

In order to constitute a person a principal in the second degree it is essential that he should by his countenance and conduct in the proceedings, being present, aid and assist the principal in the first degree. There must be some participation in the act, either by actual asistance or by countenance or encouragement ; if a man is present whilst a felony is being committed, but takes no part in it and does not act in concert with those who commit it, he will not be aprincipal in the second degree merely because he does not endeavour to prevent the felony or apprehend the felon.

Trial and punishment of principals ; Unless by any statute the punishment of a principal in the second degree is different from that of a principal in the first degre , he may be indicted and punished as if he were a principal in the first degree, and the indictment may be supported by evidence that he was a principal in the second degree.

(Harris and Wilshere's Criminal Law, 16th Edition)
(pp-39 - 40)

There are two essential elements in rape;

(a) Carnal knowledge.
(b) Absence of consent.

On the first instance there must be evidence of penetration even of the slightest kind. In the second instance there must be evidence of force or fear of bodily harm.

The question of corroboration I will go into later on.

The principal witnes brought by the prosecution is the girl FIORINI FILOMENA. The evidence shows that she is a country girl of 15 years. The medical evidence states that she is underdeveloped and has not yet reached the age of puberty. On

interrogation prior to her examination-in-chief she states she has bee in school for three years and can read and write but she said she did not understand the nature of an oath. You have decided to take her evidence NOT on oath. Under the provisions of the Childrens and young Persons Act, 1933, Sec 38, it is within your power to receive such evidence, though not given on oath, if in your opinion, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth. Such unsworn evidence is to be deemed a deposition though not taken on oath, but no person can be covicted upon such testimony unless it is corroborated by some metial evidence. (Harris & Wilshere's Criminal Law, 16th Edition p. 458).

You saw and heard this girl and you will have to decide whether to accept or disregard her testimony. Should you accept it, still you cannot convict under such evidence unless such testimony is corroborated in some meterial fact.

The corroborated must be some independent evidence which affects the accused by connecting him with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particular not only that the crime has been committed, but also that the prisoner committed it. There may be corroboration in the circumstances of the case, and it need not be some witness to the offence.

The girl FILOMENA tells you that on a certain afternoon some days ago she was leading a cow on the road in the country near FERENTINO. Two soldiers, one white and one black passed her, came back, and tried to take the cow away from her. Then she states the white one threw her on the ground, filled her mouth with grass, held on hand on her face, and menaced her with the closed fist of his other hand while the negro raped her. She stated that the black soldier then put his penis - which she called "casso" in her vagina - which she termed "naturea". She yelled and two Italian civilans DONFORIO AMEDEO, who was working in a nearby field, arrived on the scene, closely followed by FULVIO ITALIANO, another civilian. These two cigilians state that the girl was crying and that her face and legs were covered with blood. Both say that they saw about 50 meters away, two soldiers running in the distance. They went in pursuit and caught up with the soldiers. Both state they recognize the accused as being one of these soldiers.

FULVIO states he saw a wound on the hand of the white soldier which was bleeding. DONAFRIO say he noticed bite marks on the hand of the same white soldier. In her evidence, the girl FILOMENA had stated that she bit the hand of the white soldier.

If you should believe them still you have to decide whether this evidence constitutes corroboration, ie. does it confirm in some material particular that a crime was committed and also that the accused committed it.

The medical evidence reveals the girl suffered from internal laceration of the vagina, which may have been caused by an accident or by forceful sexual intercourse.

The accused did not give evidence on oath nor did he make a statement not on oath. You must remember that he is in no way obliged to do so.

It is up to the prosecution to prove beyond any reasonable doubt that the accused is guilty, and if it fails to do so the accused must be acquitted without being obliged to say a word in his defence. The accused must be given the benefit of the reasonable doubt by which I mean not a doubt based on fancy, undue sympathy, or by imagination, but a doubt based on common sence and arising out of the evidence.

As to the finding of lesser offences, you may, if the evidence satisfies you, find the accused guilty of attempted rape, if you believe that penetration has not been proved (Arch 1038 - 1032) or you may find him guilty of indecent assault.

DEFENCE

Evidence as to Character

First Witness for the Defence:- Captain P.L. Ainely, 23 Med Bty, 5 Cdn Medium Regt RCA, is examined on his former oath by the Defence:

Q-200 You understand that you are still under oath before this court?
A-200 Yes.

Q-201 Do you know this accused?
A-201 Yes.

Q-202 In what connection and how long?
A-202 He has been in my troop for some time - since Sep 43, I believe.

Q-203 In your experience what is your opinion as the his character and military conduct?
A-203 He has a good record. He has never been any trouble at all. He is quiet and never steps out of line.

Q-204 In your experience with the accused have you noticed any aspect of viciousness in his make-up?
A-204 No, he would never harm anyone.

Q-205 What is your estimation of him as a soldier and as a man?
A-205 I would say that he was of a real inoffensive character and he will do anything willingly.

No cross-examination.

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness for the Defence: C-914 Sergeant A.C. Matthews, 23 Med Bty, 5 Cdn Med Regt RCA, having been duly sworn is examined by the Defence:

Q-206 Will you give the court your particulars?
A-206 I am C-914 Sergeant A.C. Matthews, of 23 Med Bty, 5 Cdn Med Regt, RCA.

Q-207 Do you know the accused?
A-207 Yes, the accused has been attached to my section. He the troop machine-gunner.

Q-208 Are you familiar with the personal record of the
A-208 Yes.

Q-209 Do you know from the regimental records whether accused is married or not?
A-209 From ~~which~~ ~~xxx~~ living with the accused for I know him to be single

Q-210 Will you tell the court your opinion of the character and military conduct of the accused?

A-210 Gnr Lee was troop machine gunner and was attached to my section when we went into action. He done everything that was asked of him, never stepped out of line, he never caused any trouble whatsoever, in fact, he was just one of the boys. He has never given me any trouble.

Q-211 In your experience, has he ever given any indication of anything vicious in his make up at all?

A-211 No, nothing whatever.

Statement in Mitigation of Punishment by the Defending Officer

I would ask the court to consider that they have before this court a young man who was serving an active campaign -- a man whose character you have heard described as being primarily inoffensive. As his troop commander has said, "He would not harm anyone". He has performed his duties in action to the complete satisfaction of his troop commander and his No 1. He has never given anyone any trouble.

I would ask the court to consider the emotional background that surrounded the fifth of June as it concerned the accused. There is the impact of an intensive military campaign just terminated, as far as the accused was concerned. There is during the course of such an intense military campaign a reaction on the part of the participants to have a coarsening of their moral fibre which would be pronounced in a young person. One of the aspects of war both historically and currently is a tendancy on the part of troops to think in terms of rape and looting. I ask the court in their judicial and military knowledge to appreciate at this time the stories that were prevalent about that time of wholesale rape on the part of certain troops. Such information at such a time imbeds itself in the sub-conscious mind. I would ask the court to consider that the offence as charged by the prosecution is not of the vicious criminal type. That in fact what happened as far as the offence was concerned is that a girl was knocked down on her back on the ground and at that moment with the emotional background the thought of rape enters the mind. I would ask the court to consider that you have not before you a hardened criminal who requires correction but a young person of a decent character who unfortunately has committed, as you have decided, a most unfortunate act.

The Court is closed to consider the sentenc

The president announces that the sent
awarded by the court, being subject to confi
not be announced, but will be promulgated)
proceedings in open court are accordingly

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE in the case of B 43678 Gnr. LEE, H. J., and F 97230 Gnr. GERO, A. L.

FIRST WITNESS - Signorina **FIORINI FILOMENA**, Collo Rosau No. 35, Ferentino, Italy, deposes as follows:

Una sera, parecchi giorni fa, conducevo io ai campi una vacca nostra; due soldati, l'uno nero e l'altro bianco, mi hanno incontrato. Il bianco mi ha colpito alla faccia, ha messo dell'herba sopra la mia bocca, e poi mi ha messo a terra. Dopo questo il bianco mi ha tenuto ferma mentre che il nero mi ha violata.

Fiorini Filomena

One evening, several days ago, I was taking one of our cows to the field. Two soldiers, one black and the other white met me. The white one struck me in the face, held some grass over my mouth, and then put me on the ground. After this the white one held me still while the black one raped me.

INTERPRETER - 5829175 Sgt. ELWES, D. M. C., 8th Army Pool of Interpreters, attached 9th F. S. S. (Canadian), having been duly sworn, certifies that the above is a true record and translation of the statement of **FIORINI FILOMENA**.

D. Elwes

Q. **By** accused B 43678 Gnr. Lee, H. J. -
Did you bite me on the hand?

A. Yes.

SECOND WITNESS - ITALIANO FULVIO, Tofe Vado del Giero, Ferentino, Italy, deposes as follows:

Parecchi giorni fa lavoravo io presso la mia casa. Ho sentito dei gridi distanti e ho corso verso il suono. Ho incontrato la ragazzina Fiorini Filomela, chi aveva i vestiti in disordine, piangeva, e fu coperta di sangue al naso ed alle gambe. È arrivato subito un altro ragazzo chi mi ha detto che Fiorini Filomela era stata presa da due soldati. Ho visto due soldati ad una distanza di quasi 100 metri. Li ho seguito e li hanno pregato di accompagnarmi al commandante militare. L'uno di questi soldati chi era nero mi ha colpito, e l'altro chi era bianco mi ha detto 'Buoni Italiani'. Sono andato solo ad un campo militare chi stava vicino, ed ho parlato con un tenente chi mi ha detto di non essere il commandante di questi due soldati.

Italiano Fulvio

Several days ago I was working near my house. I heard distant cries and ran towards the sound. I met the girl Fiorini Filomela, whose clothes were in disorder, who was weeping, and had her nose and legs covered with blood. At this point a boy arrived who told me that Fiorini Filomela had been taken by two soldiers. I saw two soldiers at a distance of about 100 metres. I followed them and asked them to come with me to the military commander. One of these soldiers, who was black, struck me, and the other, who was white said 'Buoni Italiani'. I went alone to a nearby military camp and spoke with a lieutenant who said that he was not the commander of these two soldiers.

Question by F 97230 Gnr. Gero, A. L.
Q. Was the girl lying on the ground when you met her?
A. No. She was walking and leading a cow.

Question by Officer recording evidence:
Q. Are the two soldiers you refer to in your statement present now?
A. Yes. Those are the two (indicating accused).

Certified the above is a true record & translation of I. Fulvio's statement.

D. Elwes

THIRD WITNESS - DONOFRIO AMEDEO , Contrada Colerosari #38, Ferentino, Italy, deposes as follows:

Quasi sette giorni fa camminavo in una strada nella contrada Colerosari. Ho visto due soldati chi correvano via. Ho incontrata la ragazzina Fiorini Filomela, chi camminava verso la sua casa; aveva sangue alla faccia ed alle gambe. Fra appena un minuto e arrivato un gionanotto che conoscevo essere di nome Italiano Fulvio. Ho mostrato a lui i due soldati chi pure allora correvano. Fulvio ha comminciato correre verso i soldato.

D'Onofrio Amedeo

About seven days ago I was walking in a street in the Contrada Colerosari. I saw two soldiers who were running away from me. I met the girl Fiorini Filomela, who was walking towards her house. She had blood on her face and on her legs. Scarcely a minute afterwards a young man arrived whom I knew to be called Italiano Fulvio. I pointed out to him the two soldiers who were still running. Fulvio began to run towards the soldiers.

Question by officer recording evidence:

Q. Can you positively identify the two soldiers.
A. Yes. I am quite certain they are the two present.

Certified to be a true record and translation of the statement of DONOFRIO AMEDEO.

D. Elvers.

Both the Accused decline to cross-examine the above witness.

FOURTH WITNESS — Capt M. W. C. Feeney, RCAMC., R.M.O., 5 Cdn Medium Regt., R.C.A., having been duly sworn deposes as follows:-

"Iam Capt M. W. C. Feeney, R.M.O., 5 Cdn Medium Regt., R.C.A. On the evening of the 5th of June near FERENTINO an Italian asked me to see a sick child. I went with him, examined a girl of apparent age 12. She had a laceration of the vagina, which I dressed. This wound could have been caused by an accident or by forceful sexual intercourse. I next saw this girl with Capt Ainley on the morning of June 6th in our camp lines. When I dressed the girl's wound I gave her a nerve sedative".

M.W.C. Feeney Capt

QUESTIONS BY ACCUSED GNR GERO

Q.1 — What time was it when you were asked to go to see the child?

A.1 — About 2000 hrs.

Q.2 — Would you recognize the Italian that asked you to come to see the child?

A.2 — I would and I did see him with the girl in our lines next morning.

FIFTH WITNESS — Capt P. L. Ainley, 23rd Medium Battery, 5th Cdn Medium Regt., R.C.A., having been duly sworn deposes as follows:-

"I am Capt P. L. Ainley, 23rd Medium Battery, 5th Cdn Medium Regt., R.C.A. On 6 June 44 at approximately 1500 hrs at the house of the plaintiff, Signorina Filomena, in company with C32262 L/Cpl Cooper, J. K., "E" Section, No. 1 Pro Coy, I witnessed an identification

FIFTH WITNESS (continued)

parade consisting of 2 negroes and 8 white ers. The girl Filomena did identify B43678 Gnr Lee, H.J.E. and F97230 Gnr Gero, A. L. without hesitation. The R.M.O. on the morning of 6 June 44 saw the girl Filomena in my presence and made enquiries from her regarding her condition at the time. At about 1200 hrs., 6 June 44, I witnessed another identification parade at RHQ in our unit lines. The girl Filomena without hesitation identified B43678 Gnr Lee, H.J.E. from 12 white soldiers. Gnr Gero was not in the parade."

Both the Accused decline to cross-examine the above witness.

SIXTH WITNESS C32262 L/Cpl Cooper, James K., "E" Section, No. 1 Pro Coy, Cdn Pro Corps, having been duly sworn deposes as follows:-

"I am C32262 L/Cpl Cooper, J. K. No. 1 Pro Coy, Cdn Pro Corps. On the afternoon of 6 June 44 accompanied by Capt P. L. Ainley, 5 Cdn Medium Regt., R.C.A., and two suspects Gnrs Lee and Gero we proceeded to the home of Signorina Filomena. An identification parade consisting of 10 O.Rs. and Lee and Gero was held. Signorina Filomena approached the parade and without hesitation identified Lee and Gero as the two soldiers who had raped her the evening before. A further witness, I. Fulvio, came up at this time and also identified Lee and Gero as the two soldiers whom he saw leaving Signorina Filomena lying on the ground and crying. Two coloured men were in the identification parade, Gero and one other".

Both the Accused decline to cross-examine the above witness.

Gnrs Lee and Gero are cautioned as follows:- "Do you wish to make any statement or to give evidence under oath. You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

The Accused reserve their statement.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the Field this 12th day of June 1944.

Dewar

(A. S. Dewar) Capt
Adjutant 5 Cdn Medium Regt., R.C.A.

No. B-43678 Name Lee, H.J.E. Sqn, Battery, or Company RCA Corps Date of enlistment 25-8-42 GC Badges N/A Service or Proficiency Pay N/A MFM 6 (AFB 122) 40/PAM/156 (5428)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc J.M. Robertson Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	OLD SHEET DESTROYED AFTER SIX MONTHS SERVICE 15-6-43 LAST ENTRY 8-2-43 DRUNKENNESS NIL								
Field	23 Aug 43 GNR			AA Sec 15 (1) WOAS absent from parade 0755 hrs 23 Aug to 0800 hrs 23 Aug 43 (Absent 5 Min)	Sgt. Mattila R	3 days CB	23 Aug 43	Capt. J.F. MacKay	
				AA Sec 15(1) WOAS absent from 2359 hrs 27 Aug until 0930 hrs 28 Aug 43 (Absent 9 hrs 31 min)	Sgt. Mattila Documentary	7 days C.B.	7 Sep 43	Lt. D.H. Gillis	
Field	1 Oct 43			AA Sec 40 Neglect to the Good order etc., in that he failed to clean a Bren MG on his charge	Gnr Adams, R.	7 days C.B.	1 Oct 43	Lt. D.H. Gillis	Ex "C" "AD"

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Oct 43	Gnr		AA Sec 15-3 WOAS was found beyond the limits set by his Commanding Officer, in that he was a prehended in London at approx. 1950 hrs 18 Oct 43 without a pass . Cost of apprehension - 1/6.	Documentary Sgt. Williams	7 days C.B.	19 Oct 43	Major N. Darling	
Field	19 Nov 43	Gnr		A.A. Sec 15-1 WOAS AWL from 2130 hrs 19 Nov to 2200 hrs 19 Nov 43 (Absent 30 mins)	Lt. R.J. Giles Sgt. Bone Bdr Anderson	21 days FP 21 days Pay FR&I 149-2	20 Nov 43	Lt.-Col E.R. Suttie	
Field	18 Jan 44	Gnr		A.A. Sec 15-3 WOAS being Out of Bounds i.e., in a brothel	Documentary	28 days Det forf 28 days pay FR&I 149-2	29 Jan 44	Lt.Col E.R. Suttie	

CERTIFIED TRUE COPY TAKEN FROM REGT'L BOOKS IN MY POSSESSION.

"A.S. Dewar Capt. RCA
Adjutant 5 Cdn Medium Regt RCA.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

Q—4
A—4

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. RP 39(B), 60(A), (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s), and that accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~, and the President announces that the submission is disallowed on the charge(s).(2) The Court is re-opened, and the President announces that the submission is allowed on ~~the~~ charge(s).(3) The Court finds the accused ~~is~~ (are) found Not Guilty on ~~the latter charge(s)~~.(4)

(1. RP 40 fn 1. See NJML p 72 paras 12-14 and p 81 para 42. 2. Arguments on submission, answer and reply are recorded per Notes. 3. Delete remainder of this para. if submission not made. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. No neither

Do you intend to call witnesses on your behalf?

Ans. No

Are they witnesses as to character only? Ans. Yes

(1. RP 45. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. AP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces ~~that the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. Call witnesses as to character.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) purporting to be as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~nos~~ and Ex nos respectively.(2)

(1. MFB 355 or AFB 294. 2. MFM 6. 3. RP 46. KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. My defending officer will.

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 37(D). One sentence only, comprised of the punishment or punishments awarded in each case, may be awarded to cover all charges in all charge sheets on which accused found guilty and dealt with at same sitting, see AA 44, 44 and its proviso, as to

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-43678 Gnr Harold James Lee, 5 Cdn Med Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 41	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for the term of fifteen years and to be discharged with ignominy from his Majesty's Service.

(Sgd) Aime Des Rosiers Capt — Judge-Advocate, if any.
24 Jun 44 — Date awarded.
(Sgd) W.C. Leggat, Lt-Col. — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding & sentence for confirmation by Superior Authority.

Date 1 Jul 44 (Sgd) W.E. Hucksale Brig — Commanding 1 Cdn Army Group R.A.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: "I confirm the finding and sentence."

~~[illegible]~~ (1. AA 57A. Delete if not used.)

(Sgd) "P J Montague"
Major-General i/c Administration
CANADIAN MILITARY HEADQUARTERS.
Confirming Officer.

Date LONDON 1 AUG 44 — Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. B-43678 Gnr LEE HJ 5 Cdn Med Regt.

Date. 5 Aug 44. — Signature of Offr. J.M. Christie Colonel
Commandant, 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-43678 Gnr Harold James Lee, 5 Cdn Med Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 41	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To suffer penal servitude for the term of fifteen years and to be discharged with ignominy from his Majesty's Service.

(Sgd) Aime Des Rosiers Capt — Judge-Advocate, if any.
24 Jun 44 — Date awarded.
(Sgd) W.C. Lergat, Lt-Col. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding & Sentence for confirmation by Superior Authority

Date 1 Sept 44 (Sgd) T.B. Macaulay Brig Commanding 1 Can Army Group R.A.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : "I confirm the finding and sentence."

~~XXXX

COUNTER NUMBER 20472

HOUR 1225

OPERATOR'S INITIALS GMB

RELIEVING OPERATOR LS

4J-135

PTE LEE HM.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D26340 Rfn Harold Michael LEE. Perth R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd	guilty	guilty	
3rd	guilty	guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be imprisoned with hard labour for one year.

(Sgd) W.M.D. Shaw Capt. 20 Nov 44 (Sgd) [signature] Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Lt-Col
Date 21 Nov 44 Commanding 1 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D26340 Rfn Harold Michael LEE	21 Nov 44	[signature] Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 JAN JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 4- 4J-135.

FIELD GENERAL COURT-MARTIAL

CFA90 (In lieu of AFA3) 40/P & S/1608 (2804)

Convened by Order of Brig I S Johnston, DSO., ED Comd 11 Cdn Inf Bde dated 15 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183 fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D26340	Rfn	Harold Michael	LEE	Perth R

REVIEWED PROCEDURE OFFICER JAG BRANCH C.M.H.Q.

Verdict guilty on all charges
Sentence 1 year H.L.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 20 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-148

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ~~as interpreter ?~~ Ans
~~The Interpreter is sworn.(1)~~ Do you object to as shorthand writer ? Ans
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	F.S. Walker	Perth
Member	Capt	S McKinnon	CBH
Member	Capt	J R Hanley	HLI
Judge-Advocate	Capt	W.M.D. Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lt	G.A. Gallagher	Perth
Defending Offr	Lt	R.M. Story	Perth

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No, Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No, Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Sir we def offr.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D. 26340 Private Harold Micheal LEE, The Perth Regiment C.A., a soldier of the Canadian Army (CMF) is charged with:-

CHARGES
Section 15 (1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

In The Field, absented himself from the Perth Regiment C.A. (CMF), from approximately 0900 hrs 16 September 1944, until surrendering himself to the Unit Regimental Police at 1230 hrs 17 October 1944.

Total Absence 31 days, 3 hrs, 30 min.

2.
CHARGE
Section 15(1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

In The Field absented himself from the Perth Regiment C.A..(CMF) when under close arrest from 2000 hrs 21 October 1944 until apprehended by the C.M.P. in VIA G. D'ANNUNZIO, PESCARO on about 1000 hrs 23 October 1944.

Total absence 1 day 14 hrs.

3.
CHARGE
Section 15(1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

In The Field, absented himself from the Perth Regiment C.A. (CMF), when under close arrest from approximately 1815 hrs 25 October 1944 until surrendering himself to the C.M.P., at ANCONA at about 2100 hrs 6 Nov 1944.

Total absence 12 days, 2 hrs, 45 min.

In The Field
15 Nov 44

(M.W. Andrews) Lt. Col.
Comd Perth Regt.

"To be tried by Field General Court Martial".

Field
16 Nov 44

(I S Johnston) Brig
Comd 11 Can Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAM/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D26340	Pte		Harold Michael	LEE	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~x~~ named above as the accused, being subject to military law, has (~~xxx~~ committed the offence(s) set forth in the Charge Sheet(~~x~~ attached and on (*date*) 10 Nov 44 endorsed by me, (or ~~xxxxxxxxxxxxxxxxxx~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~x~~ and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint a Judge Advocate thereat and I hereby request the Judge Advocate General to appoint a Judge Advocate thereat.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	P S Walker (*Must be named. RP 106.*)	Perth R (*Unit.*)

MEMBERS.

Capt	S McKinnon	GGH
Capt (*Rank.*)	J R Handley (*Named or detailed. RP 106.*)	IEC (*Unit.*)

WAITING MEMBER.

Capt (*Rank.*)	R L Simmonds (*Named or detailed, if any. RP 106.*)	PLF (*Unit.*)

JUDGE-ADVOCATE.

Capt (*Rank.*)	W M M Shaw (*Must be named, if any. RP 106.*)	HQ 5 Cdn Armd Div (*Unit.*)

On Active Service in the Fd

in Italy (*Country.*) (I S Johnston) (*Signed personally. RP 105 fn 2.*) Brig (*Rank.*)

Date 16 Nov 44 Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for words and notes for use on trial.*)

I

Def. offr in mitigation:-

With regt since Can - 2 yrs in Eng & now in Italy. Was a batman to an offr who was killed. He asked to be sent to front but was kept at X area as DR. Browned off & went loose. Maintains that if request granted would have done job.

All crimes prior to arrival in theatre of ops shows intends to settle down. Give him chance to do the job.

W.M.W. Shaw
Capt

I certify that I have this morning examined No. D26340
Rank. Pte Name. Lee H.M. Unit. Perth
and in my opinion he is Fit/~~Unfit~~ to undergo trial by court martial.
Station. Field
Date. 7-20th/44
W.M.W.S.
Sgt. Potter Capt.
Medical officer

SUMMARY OF EVIDENCE

The Perth Regiment C.A.

15 November 1944

R. P. 4.

Summary of Evidence in the case of D.26340 Pte. Harold Michael LEE, The Perth Regiment C.A., a soldier in the Canadian Army (CMF), is charged with:-

1. While on Active Service, Absent without leave. A.A. 15 (1)

R. P. 4F. The Commanding Officer demands that all evidence be taken on oath.

1st Witness A11066 Cpl. Hurss, R.C. "A" Company, The Perth Regiment C.A. having been duly sworn states:-

"Sir, I am A11066 Cpl. Hurss, R.C., "A" Company, The Perth Regiment C.A. (CMF). At approximately 0900 hrs 16 Sep 44, when ordered by the C.S.M. Marquis, R.C. (Deceased) to find Pte. Lee, I searched the Company area and was unable to find him. On making further inquiries I was unable to find anyone who had seen Pte. Lee recently in the area. I then reported him to the C.S.M. as absent without leave. I did not see him again until after he had surrendered to the Regimental Police."

The accused declines to cross examine the witness.

R.C. Hurss
(A11066 Cpl. Hurss, R.C.)

2nd Witness A11588 Sgt. Minzen, C., The Perth Regiment C.A. having been duly sworn states:-

"Sir, I am A11588 Sgt. Minzen, C., Regimental Provost Sgt., The Perth Regiment C.A. (CMF). On 17 October 1944 at approximately 1230 hrs., Pte. Lee, H.M., surrendered himself to me in front of the Regimental Guard Room as an absentee. I took him inside and placed him under close arrest.

The accused declines to cross examine the witness.

C W Minzen
(A11588 Sgt. Minzen, C)

"A" Coys

3rd Witness — H8152 L/Cpl. Hoben, V.W. Perth Regiment C.A. having been duly sworn states:-

"Sir, I am H8152 L/Cpl. Hoben, V.W. of The Perth Regiment, Regimental Police. On the 21 October 1944 Pte. Lee, H.M. whom I now recognize, while under close arrest was employed at H.Q. Company kitchen under the charge of cooks, Ptes. Ballantyne and Anderson. At 2000 hrs 21 October 1944, I went to H.Q. Company kitchen to take him back to the Guard Room, at which time the cooks reported that he was not present. I searched H.Q. Company area and also "A" Company area but was unable to find Pte. Lee. I then reported him as absent without leave.

The accused declines to cross examine the witness.

V W Hoben.
(H8152 L/Cpl. Hoben, V.W.)

4th Witness — Lieut. G.A. Gallagher, "A" Company, The Perth Regiment C.A. having been duly sworn states:-

"I present herewith documents purporting to be a signed statement under Army Act 165 (1) (j), of the evidence of the O.C.Det. 231 Provost Company C.M.P.
It has been read over to the accused marked Exhibit "A" and attached hereto.
~~I certify that in my opinion owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the Summary of evidence cannot be readily procured.~~

G A Gallagher.
Signature of Officer taking Summary.

5th Witness — A11455 C.S.M. Weaver, E., "D" Company The Perth Regiment C.A. having been duly sworn states:-

"Sir, I am A11455 C.S.M. Weaver, E. "D" Company, The Perth Regiment C.A. (CMF). On October 25th, 1944, I was W.O. in charge of a draft of reinforcements proceeding to the Perth Regiment C.A. At approximately 1330 hrs at 4 Km., C.B.R.D. the accused Pte. Lee, H.M., whom I now recognize, was handed over to me by the Military Police for transportation to the Perth Regiment. That night at approximately 1800 hrs in Pesaro we debussed and moved into billets for the night. They were without lights and it was quite dark. Approximately fifteen minutes later, on obtaining a candle, I noticed that Pte. Lee was not present. I searched the premises and was unable to find him. The accused was not present when we proceeded to the unit the following morning. On reaching X Echelon, at approximately 1830 hrs 26 October 1944, I reported Pte. Lee, as absent without leave from 1815 hrs 25 October 1944.

"A" WITNESS

The accused declines to cross examine the witness.

E E Weaver
(A11455 C.S.M. Weaver, E.)

6th Witness Lieut. G.A. Gallagher "A" Company, The Perth Regiment C.A. having been duly sworn states:-

I present herewith documents purporting to be a signed statement under Army Act Section 163 (1) (j), of the evidence of Lieut. O.M. Cuttell, Commandin No 509 Provost Company C.M.P.

It has been read ovet to the accused, marked Exhibit "B", and attached hereto.

~~I certify that in my opinion owing to the exigencies of the service including the time and expense involved, the attendance of the witness at the taking of the Summary of evidence cannot be readily be procured.~~

Signature of Officer taking Summary.

F.G.C.M. The accused was warned as follows:-

Do you wish to make any statement or to gibe evidence on oath ? You are not obliged to say anything at to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence.

Answer by the accused "I do not wish to say anything or to give evidence at this time, Sir".

The accused declines to call witness in his behalf.

(B36340 Pte. Lee, H.M.

I certify that R.P. 4 has been complied with.

Taken by me In The Field in the presence and hearing of the accused this fifteenth day of November 1944.

"A" Coy

(G.A. Gallagher, Lieut.

A

CERTIFICATE IN ACCORDANCE WITH THE
ARMY ACT SEC. 163 (I) (jj)

I certify that

No. D 26340 Rank Pte Name LEE. H. M

of the Perth Regt

was arrested at PESCARA at 1000 ~~27~~ hours

on the 23 day of Oct 1944

Signature of P.M., A.P.M., or other officer) into whose custody the above named person was taken on arrest.) Faraway

Rank LIEUT

Appointment (if any) i/c DET PROVOST COMPANY CORPS OF MILITARY POLICE

Commanding

Date 24/oct/44 194 .

Exhibit "A" WMWS

B.

CERTIFICATE OF SURRENDER UNDER A.A. SEC 163 (1) (J).

I, LIEUT. O.M. CUTTRAL certify that No. 01/26840 Rank STE

Name LEE H.M. Unit R. COY PERTH REGT. 11th I.B.

surrendered himself to No. 7689667 Rank CPL Name ELLIS T.

at ANCONA on the 6.11.44 at about 21.00 hrs as a

~~deserter~~/absentee.

[signature]

Commanding PROVOST DETACHMENTS C.M. POLICE

Commanding Officer of the person or portion of his Majestys Forces to whom surrender was made.

Exhibit "B"

WMWS

Substitute for AFB 296
or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. D.26340 Rank Private Name Harold Michael LEE Unit Perth Regt.

Age 22 Married or Single Married No. of Dependents Two (wife)

Date of Attestation 2 Jul 40

Number of days in Close Arrest awaiting trial Four 18

Civil NIL Military NIL Hospital NIL Total Four 18

Dates of appointments, promotions etc (if any)

NIL

Decorations C.V.S.M. and Clasp

In the Field

20 Nov
~~21 Oct~~ 44
Date

(Officer i/c Regtl Books)

The Perth Regiment C.A.(CMF)
(Unit

Note: certified true copy of MFM 6 must accompany this form.

"B"

MFM 6
(AFB 122)
40/P&S/156 (3438)

No D-26340 Name Lee, H N L | Sqn, Battery, or Company H/A | Corps G. I. C | Date of enlistment 2/7/40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet H/A | No and date of last drunk H/A | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden, Ont	21/1/41	Pte		A.W.L. while under quarantine	Cpl Findleton Sgt Cawston	10 days detention	7/10/40	Maj Griffith	
Camp Borden, Ont	21/1/41	Pte		A.W.L. from 0630-Hrs 21/1/41 to 0300-Hrs 22/1/41 Total time A.W.L. 20-Hrs 30-Mins.	Cpl Hanks Cpl Lawson	Reprimanded	22/1/41	Maj Bastier	1 day pay
Camp Borden, Ont	31/1/41	Pte		A.W.L. from 2300-Hrs 30/1/41 to 2300-Hrs 31/1/41 Total time A.W.L. 24-Hrs	Cpl Findleton Pte Rice	5	27/2/41	Maj Griffith	Automatically forfeits 15 days pay
Camp Borden, Ont	1/2/41	Pte		A.W.L. from 2300-Hrs 31/1/41 to 2300-Hrs 1/2/41 Total time A.W.L. 24-Hrs	Cpl Findleton Pte Rice	5			Costs of apprehension $5.00
Camp Borden, Ont	2/2/41	Pte		A.W.L. from 2130-Hrs 1/2/41 to 2130-Hrs 2/2/41 Total time A.W.L. 24-Hrs	Cpl Findleton Pte Rice	5			
Camp Borden, Ont	3/2/41	Pte		A.W.L. from 2130-Hrs 2/2/41 to 2130-Hrs 3/2/41 Total time A.W.L. 24-Hrs	Cpl Findleton Pte Rice	5			

(PTO)

No D-26340 Name Lee, H N L | Sqn, Battery, or Company H.Q. | Corps G.I.C. | Date of enlistment 2/7/40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 23/4/42 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	4/5/42	Pte		A.W.O.L. and 2200-Hrs May 6/42 to 0645-Hrs May 7/42 (7-Hrs 45-Mins) and from 1300-Hrs May 7/42 to 2100-Hrs May 7/42 (8-Hrs) 15 (2) Conduct to the prejudice, etc Breaking barracks while under open arrest (2-42)	Cpl Turnbull Cpl Spencer Cpl Bell, HC	7 Days F.D.	11/5/42	Gullen, H	Forfeits 1-days Pay
"	4/7/42	"							
"	27/7/42	"		A.W.O.L. from 1700-Hrs 1/8/42 until 2200-Hrs 2/8/42 (16-Hrs) 15(1) Conduct to the prejudice etc in that he was acting en route. A.W.O.L. from 200-Hrs 2/8/42 until 2230-Hrs 7/8/42 (5-Days 30-Hrs) 15 (2) (1).	Smith, F Cpl Hunt, HC	Forfeits 4-days pay FAI 142(2) Forfeits 5-days pay FAI 142(2)	9/8/42 9/8/42	Lt-Col Lind Lt-Col Lind	Forfeits 1 days pay FAI Forfeits 6 days pay FAI 142
"	2/9/42	"							

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier, Que	26/3/41	Gds		A.W.L. from 2215-Hrs 26/3/41 to 1110-Hrs 28/3/41 Total time AWL 1-Day 12-Hrs 55-M	L/Cpl Dunn Cpl Pellatt Sgt Warr	20 Days	1/4/41	Lt-Col Peiler	Forfeits 26-days pay plus costs of apprehension
Citadel, Halifax, N.S.	26/7/41	Gds		While driving at an excessive speed he drove through a red traffic light at corner of Spring Garden & Victoria Roads at 0900-Hrs 26/7/41	Cpl Lawson	10-Days CB	26/7/41	Lt-Col Peiler	
In the Field	1/2/42	Pte		A.W.L. from 2200-Hrs 1/2/42 to 1230-Hrs 2/2/42 Total 14-Hrs 30-Mins.	Cpl Ross JK	3-Days forfeiture of pay	3/2/42	Lt-Col Little, GW	Automatically forfeits 1-days pay F.R.I.
"	3/2/42	"		AA-40 Conduct to the prejudice etc - giving improper reply to an NCO.	Sgt Hadon, L	7-Days C.B.	3/2/42	Lt-Col Little, GW	
"	20/2/42	"		Conduct to the prejudice, etc. Damaging Gov't property AA-40	Cpl Welch, J	Grounded for 10-Days	21/2/42	Shelley, EC	
"	23/4/42	"		AWL from 2359-Hrs 22/4/42 until 0129-Hrs 23/4/44 - 1-Hr 30-Min)	Cpl Pendle	3-Days CB	23/4/42	Bullock, E	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	14/9/42	Pte		(1) AWL from 2200-Hrs 14/9/42 until 0700-Hrs 20/9/42 (5-Days 9-Hrs) AA-15 (1) (2) AWL from 0930-Hrs (Church Parade) to 0945-Hrs 13/9/42 (15-Mins) AA-15 (1)	CSM Smith, F	28-Days Det.	21/9/42	Major Tindall, RI	Forfeits 6-days pay FR&I 149 (EMH Capt)
"	16/4/43	Pte		AA Sec 40 - Neglect to the pry etc - Neglect to obey an order.	Sgt Baird, A	7-days CB	19/4/43	Capt C M Swartz.	
"	19/2/43	"		AA Sec 15 (1) AWL from 2400-Hrs 18/2/43 until 1200-Hrs 28/2/43 (9-days 12-Hrs). AA Sec 15 (1) AWL from 1900-Hrs 7/3/43 until 0730-Hrs 9/3/43. (1-day 12½-Hrs).	CSM Smith	Forf 12-Days pay FR&I 149 (2).	17 Mar 43.	Lt-Col Lind	forf 10-days pay FRI 149 (1)(a). Forf 2-Days pay FRI 149.

MFM 6
(AFB 122)
40/P&S/136 (3438)

No D-26340 Name Lee, H ML | Sqn. Battery, or Company "A" | Corps C. I. C | Date of enlistment 2/7/40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 19/2/43 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	3/5/43	Pte		AA Sec 15 (1) AWL from 0800-Hrs 3/5/43 until 1145-Hrs 10/5/43 (7 Days 3-Hrs 45-Mins)	CSM Smith, F	14-Days F.P. Forf 13-7-9 cost of apprehension & return FRI 172 (8)	12/5/43	Lt-Col HET	Forf 8-Days pay FRI 149
"	17/11/42	"		(1) AA 15 (1) AWL from 1330-Hrs 17/11/42 until 1045-hrs 18/11/42 (11-Hrs 15-Mins) (2) AA 15 (1) AWL from 1600-Hrs 18/11/42 until 1000-Hrs 19/11/42 (18-Hrs) (3) AA 15 (1) AWL from 1200-Hrs 19/11/42 until 0300-Hrs 20/11/42 (15-Hrs.	Cpl Handley Sgt Farzer Sgt Welch	28-days detention	21/11/42	Lt-Col JSH Lind	Forf 3 days pay FRI 149

(PTO)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No D-26340 Name Lee, H M L | Sqn. Battery, or Company "A" | Corps C. I. C. | Date of enlistment 2/7/40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 4/7/43 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 4 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	9/11/43	Pte		AA Sec 40 WOAS conduct to the prejudice etc in that he was absent from Coy Lines without permission.	Lt Twist, Sgt Carter	Forf 7-Days pay under FRI 149 (2)	10/11/43	Lt-Col WS Rutherford	
"	5/11/43	"		AA Sec 11 Neglecting to obey standing orders in that he opened and used a portion of emergency rations without orders from an Offr	CSM Marquis, RO	Forf 3-Days pay FRI 149 stoppages of 1s FRI 158 (2)	15/11/43	Lt-Col Rutherford	

I certify that this a true copy of the original document held in my possession as offr i/c regt'l docs.

(P.J.F. Baker) Capt

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	17/11/42	Pte		(Continued) (4) Con duct to the prejudice etc falling out of parade without permission AA 40					
"	20/6/43	Pte		(1) AA 40 Neglect to the pry inthat he thru his rifle against a barbed wire fence and then fell to the ground. (2) AA 15 (1) AWL from 0900-Hrs till 1015 20/6/43 (1-Hr 15-Min)	Sgt Ross " Halliday	7-Days CB	21/6/43	Capt J Bell	
"	4/7/43	Pte		AA sec 15 (1) AWL from 2230-Hrs 3/7/43 until 0630-Hrs 4/7/43 (8-Hrs)	Cpl Baird	14-days CB	9/7/43	Lt-Col HET Doucet	Forf 1-days pay AA 149

F G C M

D.26340 Private Harold Michael LEE
The Perth Regiment C.A.(CMP)

LIST OF EXHIBITS

Exhibit 'A'	Certificate of surrender under AA Sec 163(1)(j) purporting to be a signed statement of Lieut G.H. Cottell, Comd Provost Detachments, C.M.Police.
Exhibit 'B'	Certificate of apprehension under AA Sec 163(1)(j) purporting to be a signed statement of Lt Callaway, C.C. Det 231 Provost Coy, C.M.P.

F G C M

D.26340 Private Harold Michael LEE
The Perth Regiment C.A.(CMP)

I do/do not desire the Convening Officer to appoint an officer to represent me at my forthcoming trial by FIELD GENERAL COURT-MARTIAL.

I desire the services of Capt L. Chamberlain

If he is available.

H. M. Lee
(D.26340 Pte Lee H.M.)

42-17

Pte Lee J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-11165 Pte JOHN J LEE, Calg Highrs, 3 Cdn Reallocation Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 110 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 3 months

(Sgd) ..... Judge-Advocate, if any. 23 Jan 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. ~~MINUTE~~ WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding but mitigate the sentence to read "To forfeit all ordinary pay for a period of three months."

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

(Sgd) [signature] (G S N Gostling) Brig
Commanding 2 CDN BASE RFT GP
Confirming Officer.

Date 29 JAN 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M-11165 Pte Lee, J. Calg Highrs, 3 CRC	3 Feb 45	[signature] Maj. OC 3 Cdn Reallocation Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 MAR 1945 WAR BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 42-19.

FIELD GENERAL COURT-MARTIAL

CPAMP (In lieu of AB 40) 40/F & B/1000 (6644) 41368

Convened by Brig G S N Gostling Comd 2 CBRG dated 20 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-11165	Pte	JOHN J	LEE	Calg Highrs, 3 Cdn Reallocation Centre

RECEIVED
[illegible] Feb 45
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 23 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22/16.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 90 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	~~G S LALONDE~~ R C YOUNG	CIC,	~~11 CBH Bn~~ 3 RCTD
Member	Capt	G C WATTS	CIC	11 CBH Bn
Member	Lieut	G G MOSS	RCOC	2 CBH Bn
Judge-Advocate				
Prosecutor	A/Major	W C GREEN	Gen List	3 CRC
Defending Offr	Capt	F G DOUGAN	RCAMC	3 CRC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 2.)

A8. The accused M-11165 Pte LEE J J before arraignment makes(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol III P-23

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides not to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 46(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I ask the Court to take into consideration my family.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 60, 757-759. already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. M 11165 Pte LEE JJ, Calgary Highlanders of Canada, attached to 3 Cdn Reallocation Centre, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE

in that he

In the Field, absented himself without leave from 0815 hrs 30th August 1944 until he surrendered to DAPM, 108 Provost Company, Corps of Military Police, in the Field, at 1330 hrs 5th October 1944. (Absent 35 days, 19 hours 15 minutes)

(N M Swaffield) Major
Commanding
3 Cdn Reallocation Centre

In the Field
10 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
20 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-11165	Pte		John X	LEE	Calg Highrs, 3 Cdn Reallocation Centre,

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 20 JAN 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R.G. YOUNG ~~G L LALONDE~~	3 CDN. N.E.T.D CIC, ~~11 CBR Bn~~

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut	to be detailed by OC ~~11~~ 9 CBR Bn	~~11~~ 9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be de tailed by OC 11 CBR Bn	11 CBR Bn

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) (G S N Gostling) Brigadier (Rank.)

Date 20 JAN 45

Commanding 2 CDN BASE RFT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3) 40/F & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M 11165 (No.)

Pte Lee J. (Rank) (Name) and in my opinion he is

~~fit~~ / ~~unfit~~ to undergo trial by Court-Martial.

Station 3.C.R.C.

Date. 23 Jan 45

W J Bell Capt (Sgd)
Medical Officer
(unit) # 3 C R C

M.11165 Pte. Lee, John E 3

Having been duly sworn states:-

Sir, I was with Can. Expeditionary Forces in the last war from 1916-1918. I joined the Can Army this war two weeks after war broke out, in Sept 39 & enlisted with Calgary Highlanders. I remained with this unit continuously until evacuated to 121 Can Hospital at Bayeux. During this time with the Calgary Highlanders I had a clean record but my duties consisted of publishing the regimental journal. This paper came out every month & was considered to be a great asset to the Regiment.

I joined 13th Inf. Bn. in the last war, on arrival in England transferred to C.A.V.C. remount section with which I proceeded to France with duties as rough rider.

Q What is your present age.

A. My age is 46.

Q When did you come to France.

A July 7th

Q In what capacity did you serve.

A As a rifleman.

Q. Tell the court the circumstances leading to your going to evacuation hospital.

A. I had a tough time around Caen & was hit with a splinter & later at Buttville I was evacuated to hospital. I was never A.O.B. & was with my company every attack.

From hospital I was taken to H Bn C.O.R. Bn.

Q Were you given any information regarding

your future.

A. Yes I was put on draft but was taken off by the M.O. on account of my age & was informed that I was going to Reallocation Centre.

Q. On arrival what was the condition of your health

A. My nerves were in bad condition & I could not sleep

Q. How did you feel about being kept from your unit.

A. At that time the Germans were on the run.

Q State any reasons as to why you went A.W.L.

A. The prospects of being left at the base did not appeal to me in the state I was then in. I was obsessed with the idea that I should be with my unit so I left with that idea of rejoining my unit.

Q Describe briefly what happens from the time you went A.W.L. until you surrendered.

A. By means of hitch hiking arrived at Brussels approx. Sept. 13 reported to the Town Majors Office asking for the Can. Army. Was put up to Transit Camp told to go to Antwerp & given a ride to Antwerp. Reported to Can. Signals. I was advised to return to Brussels there met some Americans who said if we would help them for a few days they would see we got to the Can. Army. A few days later in the vicinity of Diest we assisted the F.F.I. in capturing some germans who were hiding in the village. (Exhibit 'C')

Later we came across three germans

EXHIBIT

living in a barn. we took them prisoner turned them over to the British Division which was then at Ghent. (produced a signed recipt as evidence). exhibit 'D'

Q. when + how did the Americans dispose of you.

A. At Malmedy I informed an American officer of our situation he took us to Corps H.Q. (American) at Rotegen. We were there two days and they had a truck going north to the British sector which he got us a ride in thinking that the British had more facilities for helping us than the Americans.

Q. When did you go following that.

A. To Eindhoven.

Q. What did you do there.

A. Reported to the British and captors were told they wanted return us to the Can army within two or three days.

Q. Did you surrender to British provost.

A. Yes, we asked for assistance.

Q. From what date were you detained by military police.

A. I think on Oct 5th. (Exhibit G. produced)

Q. When were you sent from Eindhoven.

A. To Second Army guard room at Englein later were taken to Diest.

Q. Was that a new unit.

A. The unit was moved.

Q. How long were you detained in that unit.

A. Until approx Dec 18th.

Q. While in the guard room what treatment did you receive, what were your duties.

A. We were with prisoners awaiting Court

Martial & also one who had been sentenced to penal servitude. The conditions & regulations were severe.

Q ~~Where~~ y. were you allowed to smoke

A. No sir.

Q What activity did you have during the day.

A. We did marching on the square.

Q How long each day.

A From two to four hours.

Q During your stay in confinement were you ever paraded to an officer in regard to your detention.

A. No sir.

Q. Was a charge sheet ever read before you.

A. No sir.

Q. Are you most certain, on your oath of those two statements

A. Yes sir.

Q On what date did you leave that unit.

A Dec 18th

Q. Describe to the court your circumstances that brought about the transfer from that unit.

A. Two Calgary Highlander officers, Capts. Clark and Gordon came to collect a prisoner belonging to the Calgary Highlanders. ~~The C.O. of the guard room implored the officers, as related to me by the R.S.M.~~ GCW.

Q In whose company did you leave the guard room.

A. With Capt Gordon.

Q Where did he take you.

A To 11. C.B.R. Bn.

Q When was the first time you were

paraded before an officer regarding your detention.

On my arrival at 3 C.R.C. on approx. Jan. 5th

[signature]

As taken down by me, as member of the court; according to the words of the accused on this day the 23 Jan. 45.

[signature] Capt.

[signature]

Plea of Mitigation for M 11165 Pte Lee J.

Sir.

The ~~prisoner~~ accused has already pleaded guilty to the charge brought against him. He admits that during the period stated in the charge he was absent without leave from 3 Cdn. Reallocation Centre.

However this is a most unusual case in some respects and it is felt that certain facts should be brought to the attention of the court for their consideration in establishing the punishment.

Before this court is a prisoner who states he is actually 46 yrs. of age. He has served ~~[illegible]~~ two wars, with the 137 Inf. Bn. in the first world war, and in the present war from Oct. '39 ~~[illegible]~~ from which date till Aug '44 he served with his former unit the Calgary Highlanders.

During most of this period he served as editor of a unit paper until he came to France with his unit in July 44. The length of service in this capacity sposes well for the quality of his work, and the fact that he was permitted to proceed into action at his age indicates his worth to his unit.

This prisoner, in spite of his good post record now faces the consequences of being AWL from 3CRC for a period of approximately 35 days + after having spent already 109 days under ~~[illegible]~~ arrest as ~~under~~ in ~~[illegible]~~ confinement.

I draw the attention of the court to the circumstances leading to the departure of the prisoner from 3CRC.

After having seen service with an Infantry unit this 46 yr. old soldier was evacuated to a hospital suffering from a wound and exhaustion. He was detained in hospital some ten days and returned to 11 Bn 2CBRG. as a reinforcement. The then MO of this unit removed him from the draft to the field because of over-age and the prisoner was subsequently sent to 3CRC for disposal.

Here then is a man, a relatively old man, who has been told he can never return to his unit - a unit which to him has been home for almost 5 years. It is reasonable

that he should feel homesick. At this age it is not an easy to adjust to a new life as it is for younger men. But he was not himself. His physical constitution had taken a beating, he was tired, he could not sleep well - and his mind was unhappy. The break through around Falaise had occurred - and he felt that now he could do something more substantial than he had done - he felt he could not stand to spend the rest of the war in a base unit so he decided to return to his old unit if possible.

I ask the court to consider the sentimental factors involved.

This soldier did not go AWL to avoid dangerous duties - on the contrary he went AWL to face them.

During his absence he did not shun military units - he went to research for advice in finding the evacuation Army.

It will be remembered that at that time - the latter part of August and early September, things were on the move, and it was not an easy task to locate any formation. As it has been stated, military units did attempt to direct the prisoner to the Can. Army - although the attempts were unsuccessful. But the possibility should be considered that had not been such confusion at the time the accused might have reached his old unit - given further service and risked his life in his country's defence. I do not feel that this possibility can be discounted.

However, even though his primary objective was not attained he did - according to his statement and according to the records he carries - valuable service to this country in the capturing of German prisoners on two occasions.

It is therefore evident that although technically AWL he was still performing a military duty - and one of which any soldier could well be proud of and for which he should be commended.

It will be observed by this Court that the accused surrendered himself to the British Provost on Oct. 5. 1944. He was not apprehended. He surrendered.

From the 6th of Oct '44 until the 15th of Dec 44 he was under arrest and unfortunately suffering punishment in a

Forfeit — Amt 36 ✓

Forfeit — Amount 90 ✓

75

141

236
141
95

236
76
160 = deep = 5 mos.
36
124 =
90
34 = 34 days and [illegible]

Recommend remit

Forfeiture = 236

~~Remit~~
Should forfeit — 36 [illegible]
90 [illegible]
Normal [illegible]
Amount [illegible]
(Jany) 25 [illegible]

Remit — 85
deep Jany.

236
126
110
[illegible]
[illegible]

III

guard room with other individuals who were stated to be convicted and sentenced for various crimes.

It is further pointed out that during this period - according to sworn statement the prisoner was not paraded before an officer in regard to the cause of his detention - nor was a charge sheet read before him.

~~I refer the court to A.A. Sect 45. para (5) and Note I. P461 and 468.~~

~~I also refer the court to K.R. Con. Para 482. Sec (d) p 83.~~

which states -

~~The method of his transfer to Canadian Authorities is also to be noted. According to statement it would appear to have been as much due to accident as to anything else.~~

During a period of further arrest at 2CBRG. And in fact not until the accused arrived at 3CRC on 5 Jan 45 was a charge ever read to him nor was he ever paraded before an officer in regard to the cause of his detention - according to his own statement.

In Summary: Here is a prisoner, a man of 46 who has seen service in two wars. He has not a bad crime sheet. He is charged with being AWL for approximately 35 days - a charge to which his plea is guilty.

During his absence he has shown that he did not attempt to avoid unpleasant or dangerous duties. In fact he rendered valuable service.

He surrendered to the Provost and is now before this court after having served 104 days in detention or under arrest.

I ask the court to consider the hardships and uncertainties which this prisoner has undergone - the length of time he has been detained - ~~and that~~ AAD. I plead that these facts be taken into consideration in establishing the punishment and in view of the accused's previous record that the maximum leniency be shown.

A A Douglas Capt.
O/Co for the defence.

Exhibit A

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No M 11165 Pte LEE, J., Calgary Highlanders of Canada, attached to 3 Cdn Reallocation Centre, charged with Absenting himself without leave (AA Sec 15 (1))

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS Lieut G W Lovett, RCASC, Administration Officer of No 3 Cdn Reallocation Centre, sworn, states:-

I am Lieut G W Lovett, Administration Officer of No 3 Cdn Reallocation Centre, Cdn Army Overseas and I produce Declaration of a Court of Enquiry dated 21 Sep 44 regarding the illegal absence of M 11165 Pte LEE, J., Calgary Highlanders attached to No 3 Cdn Reallocation Centre (marked Exhibit "A") and I further produce copy of X 9 List Part II Order No 34 dated 5 Nov 44, also X 9 List Part II Order No 39 dated 11 Nov 44 as amendment to Part II Order No 34 showing the accused as having been absent from 0815 hrs 30 Aug 44 (marked Exhibit "B"). I further produce a certificate of surrender from DAPM 108 Provost Coy dated 5 Oct 44 (marked Exhibit "C").

G W Lovett

(G W Lovett) Lieut
Administration Officer
3 Cdn Reallocation Centre

The accused declines to cross-examine the witness

The accused was warned in accordance with Rules of Procedure 4E.

He made the following voluntary statement

I am M 11165 Pte LEE, J., Calgary Highlanders of Canada, attached to No 3 Cdn Reallocation Centre. I came to No 3 Cdn Reallocation Centre about 28 Aug 44. I had been told that because of my age I could not return to my Unit. My nerves were bad and I had difficulty sleeping. This was my first separation from my Unit since Sep 39. I consider that I was in an abnormal condition at the time of my arrival at No 3 Cdn Reallocation Centre, felt I was getting worse. I went AWL with the intention of rejoining my Unit. After wandering around for some time and incidentally, assisting in the capture of 3 Germans, I surrendered to DAPM 108 Provost Coy on the 5 Oct 44. I was held in the 2 Army guard room until about 18 Dec 44 when I was sent to Leopold Barracks under guard and turned over to RP there. The first 2 days there I was under close arrest. I was then under open arrest until about 3 Jan 45 when I was taken to 20 Cdn Special Employment Coy. I stayed there for 2 days and then was brought to No 3 Cdn Reallocation Centre under close arrest.

John Lee

(M 11165 Pte LEE, J)

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that RP 4 (c) (d) (e) (f) and (g) have been complied with.

W C Green

(W C Green) A/Major
Selection of Personnel Officer
3 Cdn Reallocation Centre

LIST OF EXHIBITS

EXHIBIT	SUBJECT
A	Declaration of a Court of Inquiry
B	Part II Orders No 34 d/5 Nov 44 and No 39 d/11 Nov 44
C	Certificate of surrender

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EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 21st day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M 11165 Pte LEE J

DECLARATION

The Court declare that No. M 11165 Pte LEE J

illegally absented himself without leave

at In the Field on the 30th day of August 1944,

that he is still so absent, and that on the 21 September 1945 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	As per Vocab	VALUE 75%	ARTICLES		VALUE
1 Blouse Battle Dress	$5.25	3.93	1 Spoon Dessert	$ .07	.05
1 Trousers " "	5.39	4.03	1 Knives Clasp	.86	.65
1 Greatcoat	11.55	7.91	1 Blanket 1098	3.07	2.20
2 Shirts Angora	4.06	3.05	1 Ground Sheet	2.94	2.19
2 Vest Cotton	.72	.54	1 Cape A/G	2.76	2.07
2 Drawers Cotton	.86	.65	1 Pack WE	1.84	1.38
2 Towels Hand	.64	.48	1 Haversack WE	1.79	1.34
3 Socks Worstead	1.11	.83	1 Brace WE Right	.30	.22
1 Anklets Web prs	.99	.74	1 Brace WE Left	.30	.22
2 Boots Ankle prs	10.92	8.19	2 Straps Web Support	.26	.19
1 Jersey Pullover	1.79	1.34	2 Straps Shoulder Hav	.64	.48
1 Braces prs	.28	.21	2 Pouches Basic 111	2.38	1.78
1 Brush Hair	.34	.26	2 Ointment AG No 5	.30	.22
1 Brush Shoe Polish	.28	.21	6 Eyeshields	.45	.34
1 Brush Shaving	.37	.28	2 Detectors Individual	.12	.09
1 Brush Tooth	.11	.09	1 Razor Safety	.06	.04
1 Tins Mess	.35	.26	1 Cap Comforter	.34	.25
1 Knives Table	.07	.05			
1 Fork NS	.07	.05	Total	#63.71	$46.87

Capt W C Green — President

Caot A A Dougan — Member

Signed at In the Field

Lieut G W Lovett — Member

this 21st day of Sept 1944

X Signature of Commanding Officer W C Greenfield

Certified true copy G W Lovett

(G W Lovett) Lieut
Administration Officer
3 Cdn Reallocation Centre

Signature of Officer having custody of original record

A.F.B. 171
A.F.B. 113
20M—8-44 (7261)
H.Q. 1171-29-247

EXHIBIT "B"

X-9 LIST

Last Order No 38 10 NOV 44 — PART II ORDERS Issued By CANADIAN SECTION G H Q 2nd ECHELON - 21 ARMY GROUP — No 39 11 NOV 44

"A" OFFICERS

1. ATTACHMENTS
(a) Ceases att to C&n Sec GHQ 2 Ech 21 A Gp wef 2 NOV 44
Auth - EMS2/320 d/31 OCT 44
CAPT CA DEAN Nth NS Highrs

"B" OTHER RANKS

2. STRENGTH INCREASE
(a) TOS from X-3a List units shown wef dates shown
Auth - Reallocation
G22686 Pte DRISCOLL D 28 OCT 44 N Shore R
C53182 Pte ROSS TJ 19 OCT 44 Gen List

(b) TOS from X-4 List units shown wef dates shown Auth - EARS/
110 d/8 OCT 44
F36065 Pte MacINNIS CS 10 OCT 44 RHLI
L107799 Pte THOMPSON AJ 10 OCT 44 RHC

(c) TOS from 1 C&n Army Car Coy RCASC wef 1 NOV 44
Auth - EA7x/9139 d/26 OCT 44
D61346 Pte SMART C RCASC

(d) TOS from 20 C&n Special Unp Coy wef 22 OCT 44
Auth - Reallocation
H40760 Pte LAUCHER WN R Wpg R

(e) AMENDMENT: Part II Order No 34 para 3(b) d/5 NOV 44 insofar as it refers to the u/n is amended by deleting "Cpl" and substituting "Pte"
K60483 Cpl DANIELS M 2 OCT 44 RHC

(f) AMENDMENT: Part II Order No 29 para 3(h)d/24 OCT 44 insofar as it refers to the u/n is amended by deleting "N Shore R" and substituting "Linc & Welld R"
A22434 Pte HOLLY HC 26 AUG 44 N Shore R

(g) AMENDMENT: Part II Order No 29 para 3(f) d/24 OCT 44 insofar as it refers to the u/n is amended by deleting "S sjt" and substituting "Sjt"
F35246 S sjt KNOWLES GA Fitter AFV"A" RCEME

(h) AMENDMENT. Part II Order No 30 para 2(m)d/27 OCT 44 insofar as it refers to the u/n is amended by deleting "Project "D"
D29899 Pte FLEMING GM Project "D" Gen List

3. ATTACHMENTS
(a) Att to 9 Bn 2 CDNG from 25 OCT 44 to 2 NOV 44
K7074 Pte KEMP W ST C Calg Highrs

4. PUNISHMENTS
(a) On 4 NOV 44 awarded 5 days FP and a forf of 5 days pay for an off under AA 11 Forfs 5 days pay FM&I 149(2)
F29674 Tpr SMITH DT Gnr Op "C" CAC(C)

(b) On 1 NOV 44 awarded a forf of 10 days pay for an off under AA 11 Forfs 10 days pay FM&I 149(2)
D82434 Pte [illegible] FJ Gen List

(c) On 1 NOV 44 awarded 7 days FP and a forf of 7 days pay for an off under AA 15(1) AWL from 0915 hrs 29 OCT 44 to 1445 hrs 31 OCT 44 (absent 2 days 5 hrs 30 mins) Forfs 3 days pay FM&I 149(1) (a)Forfs 7 days pay FM&I 149(2) Total forfs 10 days pay
C94294 Pte HAWKINS IR RCOC

(d) On 4 NOV 44 awarded 5 days FP and a forf of 5 days pay for an off under AA 11 Forfs 5 days pay FM&I 149(2)
C53502 Pte FREDERICK HA SD&G Highrs

(e) On 1 NOV 44 forfs 3 days pay for an off under AA 15(1) AWL from 0815 hrs 30 OCT 44 to 1445 hrs 31 OCT 44 (absent 1 day 6 hrs 30 mins) Forfs 2 days pay FM&I 149(1)(a) Forfs 3 days pay FM&I 149(2) Total forf 5 days pay
G22686 Pte DRISCOLL D N Shore R

5. STRENGTH INCREASE
(a) SOS to X-4 List CAC(B) (9 Bn) wef 25 OCT 44
Auth - EA7x/9235 1/30 OCT 44
D81467 Sjt RIDDOCK J CAC(B)

(b) SOS to X-4 List (Gen List (12 Bn) wef 31 OCT 44
Auth - EA7x/9138 1/26 OCT 44
D3594 Tpr SAULT JYMT CAC(B)

(c) SOS to X-4 List CAC(C) (9 Bn) wef 26 OCT 44
Auth - Reallocation
D36417 Sjt NIGHTINGALE FE CAC(C)

(f) SOS to X-4 List RCA(A)(12 Bn) wef 25 OCT 44
Auth - EA7x/9197 1/28 OCT 44
L65216 Gnr BAKER ED RCA(A)

(g) SOS to X-4 List RCA(A) (12 Bn) wef 25 OCT 44
Auth - Reallocation
M3745 Gnr BINGHAM I Motor Mech "D" RCA(A)

(h) SOS to X-4 List RCA(D)(12 Bn) wef 31 OCT 44
Auth - Reallocation
F80709 Gnr ARMSTRONG DF Dvr Mech MV"C" RCA(D)

5. STRENGTH DECREASE(CONT'D)

(i) SOS to X-3L List RCE wef 28 OCT 44 (Att 20 Cdn Special Emp Coy) Auth - Reallocation
K51504 Spr KILLIPS GR Pioneer "C" RCE

(j) SOS to X-4 List RCE(12 Bn) wef 25 OCT 44
Auth - S.7x/9219 d/28 OCT 44
L64016 Spr HALL WCT Painter "C" RCE

(k) SOS to X-4 List RCE(9 Bn) wef 27 OCT 44 on being trans from CIC to RCE Auth - Reallocation
H40760 Pte LAMEMA WW R Wpg R

(l) SOS to X-4 List RCE(9 Bn) wef 25 OCT 44 on being trans from CIC to RCE Auth - Reallocation
D142185 Pte LOYER JAH S Sask R

(m) SOS to X-4 List RCE(9 Bn) wef 25 OCT 44 on being trans from CIC to RCE Auth - Reallocation
F36065 Pte MacINNIS GS RHLI

(n) SOS to X-4 List RCE(9 Bn) wef 25 OCT 44 on being trans from CIC to RCE Auth - Reallocation
L107799 Pte THOMPSON AJ RHC

(o) SOS to X-4 List RC Sigs (9 Bn) wef 25 OCT 44 Auth-Reallocation
D3026 Signn DAY WJ RC Sigs

(p) SOS to X-4 List RC Sigs (9 Bn) wef 2 NOV 44 on being trans from CIC to RC Sigs Auth - S.7x/8464 d/28 SEP 44
K7074 Pte KERR W ST C Calg Highrs

(q) SOS to X-4 List RHLI(9 Bn) wef 25 OCT 44
Auth - S.7x/9235 d/30 OCT 44
D46864 Pte SIM RG RHLI

(r) SOS to X-4b List Essex Scot wef 30 OCT 44 (att HQ 2 CDNG)
Auth - S.7x/9267 d/31 OCT 44
H15512 Sjt CLARK J Essex Scot

(s) SOS to X-4 List Essex Scot (11 Bn) wef 26 OCT 44
Auth - S.7x/9196 d/28 OCT 44
A71009 Sjt JENNINGS JF Essex Scot

(t) SOS to X-4 List R.R(11 Bn) wef 26 OCT 44
Auth - Reallocation
D81473 Pte FOSTER D Gov List

(u) SOS to X-4 List Calg Highrs (11 Bn) wef 24 OCT 44
Auth - S.7x/8826 d/16 OCT 44
K65729 A/Cpl SLAGTON CA Calg Highrs

(v) SOS to X-4 List Calg Highrs wef dates shown
Auth - Reallocation
G49557 Pte HARDING HR 25 OCT 44 (11 Bn) Calg Highrs
M8625 Pte HAND HW 25 OCT 44 (12Bn) Calg Highrs

5. STRENGTH INCREASE(CONT'D)

(w) SOS to X-4 List Regina Rif (11 Bn) wef 25 OCT 44
Auth - BA7x/9195 d/28 OCT 44
B64791 Rfn BUTLER JE Regina Rif

(x) SOS to X-4 List 1 C Scot R (11 Bn) wef 31 OCT 44
Auth - Reallocation
L2998 Pte McLACHLAN CR 1 C Scot R

(y) SOS to X-4 List QOR of C(13 Bn) wef 1 OCT 44
Auth - Reallocation
B149744 Rfn CURNEW GR QOR of C

(z) SOS to X-4 List Lorne Scots R(12 Bn) wef 25 OCT 44
Auth - BA7x/9198 d/28 OCT 44
L34017 Cpl CARLSON N Lorne Scots

(aa) SOS to X-4 List RWR(10 Bn) wef 29 OCT 44 Auth - Reallocation
B144550 Pte SIMPSON H Clerk "C" RWR

(bb) SOS to X-4 List RCAMC(12 Bn) wef 26 OCT 44 Auth-Reallocation
M17039 Pte COLLINS AJ Op Room Asst"B" RCAMC

(cc) SOS to X-4 List RCAMC(12 Bn) wef 25 OCT 44 on being trans from CIC to RCAMC Auth - Reallocation
K15930 Pte ERICKSON JR N Shore R

(dd) SOS to X-4 List RCAMC(12 Bn) wef 27 OCT 44 on being trans from RCE to RCAMC Auth - Reallocation
B29590 Spr SUTHERLAND J Stone Mason"B" RCE

(ee) SOS to X-4 List Cdn Dental Corps(12 Bn) wef 29 OCT 44 on being trans from CIC to Cdn Dental Corps Auth - Reallocation
B63015 Pte MCREAD R R de Chaud

(ff) SOS to X-4 List Gen List(12 Bn) wef 25 OCT 44
Auth - Reallocation
C53182 Pte ROSE TW Gen List

(gg) SOS to 3 Cdn RSTD(FS) wef 26 OCT 44 Auth - BA7x/8782 d/14 OCT 44
B11447 Pte PATE RW Cook "C" RCASC

(hh) AMENDMENT: Part II Order No 34 para 6(a)d/5 NOV 44 insofar as it refers to the w/n is amended by deleting "20 SEP 44" and substituting "21 SEP 44"
M11165 Pte LEE J Calg Highrs

(ii) AMENDMENT: Part II Order No 34 para 6(b) d/5 NOV 44 insofar as it refers to the w/n is amended by deleting "20 SEP 44" and substituting "21 SEP 44"
M104707 Pte JENSEN JJ Calg Highrs

(G C STEWART-PATTERSON) LIEUTENANT
for Officer It
CANADIAN SECTION G H Q 2nd ECHELON - 21 ARMY GROUP

/AM

EXHIBIT "B"

X-9 LIST

PART II ORDERS

Last Order No 33 — Issued By — No 34

2 NOV 44 — CANADIAN SECTION G H Q 2nd ECHELON -21 ARMY GROUP — 5 NOV 44

"A" OFFICERS

1. STRENGTH INCREASE

(a) TOS from Cdn Sec GHQ 2 Ech 21 A Gp wef 26 OCT 44 Auth - EMS2/206 d/21 OCT 44 CMSC

LIEUT W RACINE

(b) TOS from 15 Cdn Fd Regt wef 20 OCT 44 Auth - EM31/159 d/18 OCT 44 RCA(A)

LIEUT DB RIDSOUT

2. STRENGTH DECREASE

(a) SOS to X-8 List wef 25 JUN 44 Auth - CMHQ MS2372 d/26 JUN 44 RCA(A)

LIEUT M HOLLENBURG

"B" OTHER RANKS

3. STRENGTH INCREASE

(a) TOS from X-3L List units shown wef dates shown Auth-Reallocation

B147735	Pte	GRAVELLE	O	20 SEP 44	R de Mais
B137553	Rfn	JACK		20 SEP 44	R Wpg R
B12077	Pte	LABOCQUE	P	20 SEP 44	R de Chaud

(b) TOS from X-4 List units shown wef dates shown Auth-Reallocation

L36428	Tpr	BERGERON	RA Dvr Mech Tk"C"	22 SEP 44	CAC(A)
B60640	Tpr	JOHNSON	RS Dvr Mech MV"C"	21 OCT 44	CAC(B)
B60714	Tpr	BULLOCK	HLI	24 OCT 44	CAC(C)
B133250	Gdsm	FLYNN	JT Gnr Op "C"	24 OCT 44	CAC(C)
K4084	Pte	O'LEARY	J	20 SEP 44	R Regt C
B8464	Pte	PRANDUF	OC	19 OCT 44	R Regt C
M15512	Sgt	BLANK	J	19 OCT 44	Essex Scot
M60483	Cpl	DANIELS	M	2 OCT 44	RHC
B82603	Pte	CHARRON	A	2 OCT 44	R de Mais
K11163	Pte	GOSSELIN	L	19 OCT 44	R de Mais
C101588	Pte	MAHER	JP	14 SEP 44	Calg Highrs
L13175	Rfn	AUBE	CKW	22 OCT 44	Reg Rif
A28647	Pte	TURNER	JB Dvr Mech"C"	2 OCT 44	Nth Shore R
B115670	Pte	WHITE	J	19 OCT 44	Nth ShoreR
A37859	Pte	LAW	HG	18 SEP 44	HLI of C
F51799	Pte	POTTIER	FVW	24 OCT 44	Nth NS Highrs

(c) TOS from X-10 List CAC(C) wef 25 OCT 44 Auth - EA7x/8987 d/21 OCT 44 CAC(C)

B106519 Tpr SYLVESTRE HA

(d) TOS from 14 Cdn Fd Aux Serv Sec wef 24 OCT 44 Auth - EA7x/8655 d/11 OCT 44 Gen List

B84273 Pte ARRIGO J

4. ABSENT WITHOUT LEAVE
(a) AWL from 1500 hrs 12 OCT 44 Still absent 1500 hrs 20 OCT 44 (8th day)
F35925 Pte ARSENAULT G N Shore R

5. PUNISHMENT
(a) On 10 OCT 44 awarded 28 days FP and a forf of 28 days pay for an off under AA 15(1) AWL from 1330 hrs 4 OCT 44 to 1600 hrs 7 OCT 44 (absent 3 days 2 hrs 30 mins) In close arrest from 1600 hrs 7 OCT 44 to date of trial Forfs 4 days pay FR&I 149(1)(a) Forfs 28 days pay FR&I 149(2) Forfs 2 days pay FR&I 149(c)(ii)Total forf 34 days pay
F35925 Pte ARSENAULT G N Shore R

6. STRENGTH DECREASE
(a) SOS as des wef 20 SEP 44 having been dec illegally absent by a Ct Inq from 0815 hrs 30 AUG 44 Deficiencies in kit $46.87
M11165 Pte LEE J Calg Highrs

(b) SOS as des wef 20 SEP 44 having been dec illegally absent by a Ct Inq from 0815 hrs 30 AUG 44 Deficiencies in kit $46.87
M104707 Pte JENSEN JJ Calg Highrs

(c) SOS to X-34 List (att 20 Cdn Special Emp Coy)units shown wef dates shown Auth - Reallocation

C101588	Pte	MAYER	JP	14 SEP 44 Calg Highrs
A37859	Pte	LAW	HG	18 SEP 44 WLI of C
M60483	Cpl	DANIELS	M	2 OCT 44 RHC
D82603	Pte	CHARRON	A	2 OCT 44 R de Mais
B147735	Pte	GRAVELLE	O	28 SEP 44 R de Mais
B137553	Rfn	JACK	S	28 SEP 44 R Wpg R
B12077	Pte	LAFOGUE	P	28 SEP 44 R de Chaud
A28647	Pte	TURNER	JB	2 OCT 44 N Shore R

(d) SOS to X-4 List R Regt C (11 Bn) wef 24 OCT 44 Auth - Reallocation
H8464 Pte PHANEUF OC R Regt C

(e) SOS to X-4 List SD&G Highrs (12 Bn) wef 24 OCT 44 Auth - EA7x/9308 d/1 NOV 44
B32912 Pte REICHELT W Carpenter "B" SD&G Highrs

(f) SOS to X-4 List RCAMC(12 Bn) wef 20 OCT 44 Auth - EA7x/8837 d/16 OCT 44
B98619 Pte MORRIS SG RCAMC

(g) SOS to X-4 List RCEME (12 Bn) wef 31 OCT 44 Auth - Reallocation
K98293 A/S sjt SOMMAY R Inst Mech "A" RCEME

6. STRENGTH DEMAND SE(CONT'D)

(h) SOS to X-4b List Cdn Pro C wef 23 OCT 44 Auth - EA7x/8489 d/29 SEP 44 att Cdn Sec GHQ 2 Ech 21 A Gp

M60102	Pte	AARSBY		RC	Cdn Pro C

(i) SOS to X-8 List wef 26 OCT 44 Auth - Reallocation

C50811	Gnr	BAGNALL	JA		RCA(A)
B8276	Gnr	HUTCHINSON	TH	Dvr Op "C"	RCA(C)
B34568	Cpl	LANGTON	G	Lineman "B"	RC Sigs
D81864	Pte	KEAN	R		RHC
D81728	Pte	WARD	R		RHC
B155098	Pte	BOYER	LJ		SD&G Hq hrs
B24919	Pte	LAUZON	LAJ		Line&Weild
C12698	Pte	LEBEL	C	Cook "C"	RCASC
H67050	Pte	NAPIER	S	Cook "C"	RCASC
B119465	Pte	SHIELDS	KG		RCASC
K70981	Pte	FINDLAY	R		RCAMC
B50124	C sjt	PALMER	WR	Clerk "C"	RCEME
G17237	Pte	KNOWLTON	RD	Postal Sorter "B"	C Post C
C120813	Pte	TOWE	JH		C Pro C

(j) SOS to X-8 List wef 22 SEP 44 Auth - Reallocation

L36428	Tpr	BENNINGER	RA	Dvr Mech Tk"C"	CAC(A)

(k) SOS to 10 Bn 2 CBRG wef 23 OCT 44 Auth - EA7x/8781 d/14 OCT 44

B110967	Gnr	LOCKYER		RF	RCA(C)

(l) SOS to HQ 1 Cdn Forestry Gp wef 28 SEP 44 on being trans from CIC to CFC Auth - EA7x/8426 d/26 SEP 44

K4084	Pte	O'LEARY	J		R Regt C

(m) AMENDMENT: Part II Order No 32 para 4(n) d/30 OCT 44 insofar as it refers to the u/m is cancelled

M60102	Pte	AARSBY		RC	Cdn Pro C

(G C STEWART-PATTERSON) LIEUTENANT
for Officer IC
CANADIAN SECTION G H Q 2nd ECHELON - 21 ARMY GROUP

/AB

6-JAN 1945

EXHIBIT "C"

Certificate of Surrender under Section 163 (I) (j), AA.

I, CAPT. T.A. NICOL ..... certify that No. M. 11165 .....

Rank... PTE ..... Name..... LEE J. .....

Coy... "D" COMPANY ..... Bn..... CALGARY HIGHLANDERS .....

Surrendered himself to No..... 7686840 ..... Rank..... SGT.

Name..... KENNENOR E.A. ..... Corps of Military Police,

on the... 5th ...day of...October.....1944 as a deserter (or absentee without leave).

Capt.,
DAPM, 108 Provost Company,
Corps of Military Police.

12 Corps.
In the Field.
5th Oct 44.

ARMY FORM C2135 (Small)

MESSAGE FORM

Register No.

Call	Srl. No.	Priority	Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator | Date-Time of Origin | Office Date Stamp

Exhibit B

For Action

P.T.

TO

(W) For Information (INFO)

Message Instructions | GR

ARMY LXD 11 IX 44. SERIALS

14 Sept 44

Originator's No.

This is to certify that the undermentioned men reported at H.Q. 7 BSA on 13 Sept. 44

M104707 Pte Jensen J.J.

M11165 Pte Lee J.

Sgt Owen P.J.

(GV352) Wt. 9532-194 2,000,000 Pads 5/43 B. & S. Ltd. 51-6745-6

This Message may be sent AS WRITTEN by any means (except) wireless

Signed

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Signed

Originator's Instructions Degree of Priority

Time	System	Op
THI or TOR		
Time cleared		

6-JAN 1945

EXHIBIT "C"

Certificate of Surrender under
Section 163 (I) (j), AA.

I, CAPT. T.A. NICOL ..... certify that No. M. 11165 .....

Rank PTE ..... Name LEE J. .....

Coy "D" COMPANY ..... Bn. CALGARY HIGHLANDERS .....

Surrendered himself to No. 7686840 ..... Rank SGT. .....

Name KEMMENOE E.A. ..... Corps of Military Police,

on the 5th day of October .....1944 as a deserter (or absentee without leave).

Capt.,
DAPM, 108 Provost Company,
Corps of Military Police.

12 Corps.
In the Field.
5th Oct 44.

ARMY FORM C2106 (Small)

MESSAGE FORM

Register No.

Call	Sel. No.	Priority	Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) — Originator — Date-Time of Origin — Office Date Stamp

Exhibit B

For Action

TO

(W) For Information (INFO)

ARMY LXD 11 IX 44

Message Instructions — GP

14 Sept 44

Originator's No.

This is to certify that the undermentioned ran reported at H.Q. 7 BSA on 13 Sept 44.
M104707 Pte Jensen J.J.
M11165 Pte Lee J.

Sgt Owen P.J.

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS { EXCEPT } WIRELESS

IF LIABLE TO BE INTERCEPTED OR TO FALL INTO ENEMY HANDS, THIS MESSAGE MUST BE SENT IN CIPHER

ORIGINATOR'S INSTRUCTIONS DEGREE OF PRIORITY

Time	System	Op
THI or TOR		
Time cleared		

SIGNED

SIGNED

Sept. 18, 1944

This is to certify that the under-
mentioned soldiers helped us to
capture 5 German soldiers who
were hiding in our village.
We thank them very much.

M 11165 - J. LEE - Pte
M 104707 - J. J. JENSEN Pte

Signed.



1 – 10

10 – 12

12 –

1 – 2 turned of on wrong road. East

2 – 5 [illegible]

5 – 10 [illegible]

10 – 12 looking [illegible]

13 – 23 captured [illegible]

24 – [illegible] English

25 " " "

26 " " "

27 [illegible]

Sept 19. - 1944

This is to certify that 3 German prisoners were delivered to day by the undermentioned

M11165 - J. LEE Pte
M 104707 - Pte J J Jensen
19 11 00 - B

Exhibit D
P.V.

Subject - Conduct of Soldier while in Army Area Guard Room.

6-JAN 1945

To whom it may concern.

M.104707 Pte. JENSON J. CALGARY H'LDRS.
M.11165 Pte. LEE J. CALGARY H'LDRS.

The above named soldier have been held in this Guard Room from the 6 October 1944
Their conduct whilst in this Guard Room has been very satisfactory.

D.H. Lawood Lt.

B.L.A.
13 Nov. 44.

O.C. Army Area Guard Room
c/o. 2218 P.O.W. camp

Ex "G"

& "E"

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M 11165	Pte	LEE J	Calg Highrs att 3 Cdn Reallocation Centre

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For nil	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~ ~~4~~

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~ ~~N~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~4~~ ~~4~~ beginning on the ~~4~~ day of ~~4~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/C days in civil custody, and 3 months 5 days in military custody, making a total of 3 months 5 days, of which N/C days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 44 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 23 Sept 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 3 months

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 3 months service.

9. The accused is entitled to reckon 5 yrs 3 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward))~~ ~~4~~

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer but held the regimental rank of~~ ~~4~~ ~~4~~

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ ~~4~~ dated ~~4~~ and in his regiment (or corps or department) the rank of ~~4~~ dated ~~4~~

(*Firm*) W.L.24459/1720 20,000 10/42 A.& E. W.Ltd. Gp.698
(*Instr*) W.L.25004/1439 12,000 2/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

NIL

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

N. M. Dwyfield
Major

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No M 11165 Name LEE J | Sqn, Battery, or Company | Corps Calg Highrs of Canada | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No document available for compilation of MFM 6					

H A Edwards Lt

(H A Edwards) Lieut
A/Admin Officer
3 Cdn Reallocation Centre

E & F

(PTO)

QQQ-7

A/L/BDR LEE JA.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-31133 Gnr (A/L/Bdr) John Alfred LEE, RCA, 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 9(2)	Not Guilty	~~Not Guilty~~ Dismissed	
2nd	AA 9(2)	Not Guilty	~~Not Guilty~~ Dismissed	
3rd	AA 8(2)	Not Guilty	Guilty	
4th	AA 8(2)	Not Guilty	Guilty	
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Sixty Days Detention

~~Forfeiture of seniority of rank of Gunner~~

(Sgd) ... Judge-Advocate, if any. 26 June 44 Date awarded. (Sgd) ... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 26 June 44 (Sgd) ... Commanding (G. Francoeur) Brig Comd 2 Cdn Base Sub Area, CASF Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

A-31133 Gnr (A/L/Bdr) Lee J.A. 26 June 44 ... OC, 12 Bn, 2 C.B.R. Group Lt-Col

2 Bn. 2 CBR Gp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 5 JUL 1944 DJAG BRANCH C.M.H.Q.

2 CBRG Vol 1 p 122. RECORDED AT CMHQ IN AB 160 4 0 0-7

FIELD GENERAL COURT-MARTIAL

(Additional Issue of AFASI 40/D & S/1698 14/9/43) 4/38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 23 JUN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent and confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit, Fmn, Sec G H Q or Army Gp
A-31133	Gnr	A/L/Bdr	John Alfred	LEE	12 CBR Bn

PROCEEDINGS REVIEWED 5 Jul 44 ... Lt-Col and Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 5 July 44 DJAG 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 26 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (amenable) to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (present) brought before the Court. At 0935 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (fit) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ... as interpreter? Ans ...
The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nr (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J D HANNEN	13 CBR Bn
Member	Capt	BM Baugh	12 CBR Bn
Member	Lieut	FA MacKay	11 CBR Bn
Judge-Advocate			
Prosecutor	Capt	GG McKnight	12 CBR Bn
Defending Offr	Capt	FF Rofail	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Nr Is the Defending Offr a lawyer? Ans Nr (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused A 31133 Gnr (A/L/Bdr) LEE JA before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (present) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(1) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is sworn and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court ~~is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly,~~ the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Yes — as a witness Do you intend to call witnesses on your behalf? Ans Yes Are they witnesses as to character only? Ans No
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ are (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the third and fourth charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service(1), and certified true copy [ies] of Conduct Sheet[s](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier[s] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement[s] and Conduct Sheet[s], and in mitigation of punishment?(1) Ans Yes — address by defending offr (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(3), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3) (*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1004

CHARGE SHEET

The accused, A-31133 A/L/Bdr. Lee, John Alfred, RCA, on strength of 12 Bn. 2 C.B.R. Group, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
AA Sec. 9(2)

WHILE ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER

In that he

In the field on 18 June 44 at about 2315 hrs, when ordered by Lieut. H.E. Harrison to produce his paybook for identification did not do so.

SECOND CHARGE
AA Sec. 9(2)

WHILE ON ACTIVE SERVICE, DISOBEY A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER

In that he

In the field on 18 June 44 at about 2315 hrs, when ordered by Lieut. H.E. Harrison to halt, did not do so.

THIRD CHARGE
A.A. Sec. 8(2)

WHILE ON ACTIVE SERVICE, ~~STRIKING~~ VIOLENCE TO A SUPERIOR OFFICER

In that he

In the field on 18 June 44 at about 2315 hours did ~~strike~~ violence to Lieut. H.E. Harrison ~~by striking up on iron pipe and later~~ by grasping Lieut. Harrison by the collar of his battle-dress blouse.

FOURTH CHARGE
A.A. Sec. 8(2)

WHILE ON ACTIVE SERVICE, USING THREATENING LANGUAGE TO A SUPERIOR OFFICER

In that he

In the field on 18 June 44 at about 2315 hours when being escorted to the guard room, said to A-87308 Bdr. Letnes, G.M. "I'll get you later" or words to that effect.

In the field
21 June 44

.....Lt.-Col.
(A.C. Hood)
Commanding 12 Bn. 2 C.B.R.Gp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Frankcom) Brig
Comd
2 Cdn Base Rft Gp

In the Field
23 Jun 44

JAG

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-31133	Gnr	A/L/Bdr	John Alfred	LEE	RCA, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 23 JUN 44 endorsed by me, (~~or by an offr of my command~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that said offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court nor a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr designated hereunder.~~

(RP 106(E). Delete, if one appointed.)

PRESIDENT.

Major	J D HANNAN	13 CBR Bn
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	to be detailed by OC 11 CBR Bn	11 CBR Bn
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	to be detailed by OC 13 CBR Bn	13 CBR Bn
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

G Francoeur Brigadier (Rank.)

(Signed personally. RP 105 fn 2.)

(G Francoeur)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Date 23 JUN 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA3) 40-P & S/1097 (4951)

(See overleaf for oaths and notes for use on trial.)

J.O.H.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined A31133.
(No.)

L/BDR. LEE. J.A. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
~~unfit~~

Station FIELD.

Date. 26 JUNE 1944

D S Noble Capt (Sgd)
Medical Officer
(unit) 1x CBMS

D 3 D3

Prosecution calls first witness:

1st. Witness:- Lieut. H.E.Harrison 11 Bn. #2 C.B.R.Group - sworn states-

Question by prosecution - Mr. Harrison will you give as briefly as you can all the points that happened on the night of June 18, 1944. as you were returning from Aldershot?

A. On the night of 18 June 44 while returning from Aldershot to 11 Bn. #2 C.B.R.G. at about 2315 hrs in the company of Lieut. Milne I noticed the accused, whom I now see before me and recognize, in the centre of the road. A car was passing at this particular time and had to slow down almost to a stop in order to get around the accused, after the vehicle did get by I ordered the accused to move over to the right side of the road; he did not do so; again I ordered him over to the right hand side of the road; at this point I ordered him to put on his hat which he did not do. I ordered him again to put on his hat, which he did not do. I ordered the accused to halt, which he did not do, so again I ordered the accused to halt, which he did not do. There is no doubt in my mind that the accused heard these orders distinctly as the orders were given in a loud voice and he was quite close and also he turned around and mumbled something the words of which I don't know. The accused in company with his companion - Gnr. Patterson - continued on up the left hand side and centre of the road. At approx-200 yds further up the road the accused crossed over to the right hand side of the road where I managed to contact him; after producing my identity, I asked him for his pay book and his name and where he was from; he refused to divulge any information about himself and at this point I was able to tell him that he was under arrest and for what reasons. At this point or just previous I asked Lieut. Milne to secure an N.C.O. and escort. The accused continued a short distance up the road and then moved off on a path leading off to the right hand side of the road, at this point Lieut. Milne and myself and the escort were approaching the accused; the accused picked up a piece of steel pipe and assumed a threatening stance or appearance, he was told by his companion Gnr. Patterson to put down this steel pipe and the accused replied," I will put it down when someone is big enough to make me." I had previously ordered the escort to march the accused back to the guard room at 12 Bn. #2 C.B.R.G. The accused was difficult for the escort to handle and during the march back to the guard room the accused on several different occasions, at least three times, grasped me by my Battle Dress blouse and made such remarks as," Who do you think you are, an infantry officer trying to arrest a gunner." "My uncle - or brother is a Lt. Col. and if I wanted to be I could be further ahead than I am now." "I have been in the army for 5 years, how long have you been in? 3 months?" " Say listen, what are you arresting me for?" I finally managed to get to the guard room at 12 Bn. and while in process of turning the accused over to the guard commander he continued to use threatening and insubordinate language and at this point was particularly threatening to Bdr. Letnes, who was N.C.O. i/c the escort. The accused removed his tunic as though preparing

(preparing)

for a fight, and also threatened Bdr. Letnas withthe words, " I will get you later." He was turned over to the guard commander, and that is all.

Q. When you first saw the accused where was he on the road with referrence to the white line?

A. Approximately the centre of the road.

Q. When you first ordered the accused to halt, how far away was he?

A. Three of four yards.

Q. At the time he is alleged to have refused to produce his identification do you remember what he said?

A. I refuse to show you my pay book.

Q. Can you demonstrate how he grasped your Battle Dress?

A. He grasped me with his left hand here. (demonstrating)

Q. Was the accused drunk?

The court advises that this is a dangerous question.

A. The accused several times stated that he was not drunk and was as sober as he ever had been. Undoubtedly he had had something to drink, but was definitely capable of obeying the orders I had given him.

Q. Can you answer the question YES or NO. In your own opinion?

A. No.

Question by the defending officer;

Q. You stated that you gave a command to Bdr. Lee. What was your position when you first ordered Bdr. Lee to halt?

A. I was on the right hand side of the road, a little further back on the road than the accused.

Q. I want to know exactly where you were.

A. On the right hand side of the road 3 or 4 yds further back, behind and to the right of the accused. (Draws Diagram)

Q. Were there any other people within 2 yds of you? Werethey officers?

A. Just behind us there were two private soldiers walking in the same direction we were going.

Q. When you asked Bdr. Lee to produce his pay book he was accompanied by Gnr. Patterson. Was HE asked to produce HIS pay book?

A. They were both ordered to do so.

(to do so)

Q. Did either of them produce his pay book?

A. Neither one produced his pay book.

Q. On your way back to the guard room you said that Bdr. Lee grasped your collar several times. What was your position in the order of march on the way back?

A. The accused, as I said before was very difficult for the escort to handle. I cannot say, my position changed continually.

Prosecution objects on the grounds that the question is not relevant.
Court allows the question to stand.

Q. Can you state where Mr. Milne was at this time or at any time when you were grasped by the accused?

A. Lieut. Milne was near by.

Q. Was he on the right of Bdr. Lee? Or left?

A. His position was likewise changing.

Q. When you went into the guard room and he is alleged to have said, "I will get you later." Were you in the guard room at that time or were you outside?

A. At the time the remark was made I was just entering the guard room.

Q. What was the condition with referrence to sobriety of Gnr. Patterson? Could you give an opinion?

A. In my opinion Gnr. Patterson had been drinking, but was the same as Bdr. Lee - quite capable of carrying out any orders given.

Q. During the time that Bdr. Lee was placed under arrest - from that time until you arrived at the guard room, was Mr. Mil ne with you at all times?

A. No.

Q. Where was he?

A. He had gone to secure an escort.

Q. But you had Lee under arrest from then on?

A. Yes.

Court asks - Was it a dark night?

A. No.

Q. Was there any possibility that the accused did not know that you were an officer?

A. No sir.

2nd Witness for the prosecution - Lieut G.G.Milne 11 Bn. #2C.B.R.C having been duly sworn states:

Q. Can you identify the accused?

A. The witness identifies the accused.

Pros. Will you tell us briefly what happened on the night of 18 June as you were returning from Aldershot?

A. I saw the accused who I now recognize walking on the left side and near the centre of the road proceeding to Crookham. There was traffic on the road at the time and a taxi had to slow down to pass the accused. Lieut. Harrison ordered the accused to move to the right hand side of the road the accused did not comply; Lieut Harrison again ordered the accused to move to the right hand side of the road and the accused did not comply. Lieut. Harrison also ordered the accused to put on his hat and again ordered the accused to do so, which he did not do. There is no doubt in my mind that the accused heard the order. Lieut. Harrison then asked me to order a Bdr. who was walking behind us to place the accused under arrest; the accused then came over to the right hand side of the road and stopped to speak to Lieut. Harrison. I saw Lieut. Harrison produce his identification from his wallet and ask the accused for his. I heard the accused refuse to produce his identification or tell what unit he belonged to. I then got Bdr. Letnas and told him to place the accused under arrest and also two men as escort. By this time the accused had again gone up the left side of the road; the Bdr. over took him, before Lieut. Harrison and I arrived; I saw the Bdr. speak to the accused who had stopped and before we had arrived there the accused had gone on eventually crossing the road and going over to a path and Lieut. Harrison ordered the accused to halt, which he had previously done, on neither occasion was the order complied with, the accused then picked up a piece of iron pipe and his companion told him to put it down. I heard the accused state "I will put down this pipe when someone is big enough to make me." We then overtook the accused who threw away the pipe, on several occasions he grasped Lieut. Harrison by the collar of his Battle Dress and said " Listen to me", and used an insubordinate tone. We then started to return to the guard room of 12 Bn. The escort were having considerable difficulty. The accused made such statements as, "I have been the army for 5 years, how long have you been in 3 months?" "I have a brother who is a Lt. Col. I could have got much further but I don't want to." We then arrived in the guard room and the accused removed his coat as if preparing for a fight and I heard him say to Bdr. Letnas, "Iwill get you later." The accused was then turned over to the Guard Commander.

Q. Can you state where the accused was, where you were, and approximately how far you were away from him when he was first spoken to?

Witness draws diagram.

Q. Can you demonstrate how he grasped Lieut. Harrison?

A. Yes, he grasped him there. (demonstrating)

Q. In your opinion was the accused drunk or not drunk?

A. He was not drunk and stated so himself.

Q. From the time that you arrived at the scene of this procedure until the accused was turned over to the guard commander were you with him at all times?

A. Yes. I was.

Defense questions the witness.

Q. Will you tell me Mr. Milne what your position was in the escort when Lee grasped Mr. Harrison?

A. I was standing in various positions at alltimes.

Q. You were within a yard or so at all times?

A. Yes at all times.

Q. Could you tell me about the remark by Lee, "I will get you later." Was it made in the grard room or outside the guard room?

A. Inside.

Q. Were both Lee and Patterson asked to produce pay books and both refused?

A. Both refused.

Q. Did you hear both refuse to produce pay books?

A. Yes, both refused.

P.Q. During this time did the accused swear?

A. Not that I can recall.

D.Q. Would you tell me had you and Mr. Harrison had anything to drink?

A. We had not.

3rd witness for the Prosecution - K10018 Bdr. Letnas G.M.
Sworn states:

Q. Tell us as briefly as you can what happened on the night of 18 June as you were returning from Aldershot. Do you recognize the accused?

A. I recognize the accused before me as Bdr. Lee.
Mr. Milne halted me on the road and ordered me to apprehend the accused. The accused was then about 75 yds ahead of us. I proceeded up the road and called to the accused and ordered him to halt there until the officer came up. Mr. Milne and Mr. Harrison then came up to us in the next five minutes. Mr. Milne then detailed two men to escort the accused to the guard room, we proceeded further up the road and eventually came to the guard room of the 12 Bn. The accused was then placed in the guard room.

Q. Was there anything unusual happened from the time you placed the accused under close arrest until you arrived at the guard room?

A. Yes, the accused did not seem to favour the idea of his being escorted but preferred to make his own way along the road. He had words with Lieut. Harrison and numerous times he grasped Lieut. Harrison by the collar of his Battle Dress.

Q. Did anything unusual happen after you got the man in the guard room?

A. When the accused was in the guard room and before the formalities of his being placed under close arrest were completed the accused did remove his tunic and seemed to be looking for a fight, the accused also threatened me with the words, "I' will get you later."

Q. In your own opinion can you state YES or NO - Was the accused drunk?

A. In my opinion the accused had been drinking, but was sober.

D.Q. Was Bdr. Lee under the influence of liquor when you became his escort?

A. Yes I still saw the effects of alcohol.

Q. When grasping the collar of Mr. Harrison was it done in a violent manner or to attract attention?

A. To attract attention.

Q. Can you tell me Mr. Milne's position with referrence to Mr. Harrison after Lee was in you charge?

A. On Mr. Harrison's right hand side, with him the whole time.

Q. This statement, "I will get you later." Was it said in the guard room or outside?

A. In the guard room.

Q. Court asks - At 2315 hrs on the night of 18 June 44 , was it a dark night?

A. No it was not a dark night.

4th witness for the prosecution A 87308 Cpl. Holt S.C. duly sworn states:

P.Q. Do you recognize the accused?

A. Yes I recognize the accused as Bdr. Lee.

Q. What happened on the ni ht of 18 June 44.?

A. I was guard commander of 12 Bn. guard on the night of 18 June 44. I was summoned to tent entrance by an officer whose name I don't know, he stated to me that he had two prisoners under close arrest. I immediately took over the two prosoners one of them being Bdr. Lee. I asked him for his name and number and also what Coy. he was with. I entered him in my report and explained to him that he was under close arrest and in my jurisdiction until he was called for. At the time the officer was writing out charges. He handed them to me and I turned them in to 56 Coy orderly room. I had no trouble whatsoever with the prisoners. When I brought them into the tent they were properly dressed except for their head gear and as far as I saw both had their faculties about them, they may have had a drink, but I cannot state that they were drunk. That is all I know.

D.Q. Were they under the influence at all?

A. I can't say. They looked like they had had a few drinks.

Court closed for lunch.

Court reopened at 1330 hrs.

The accused makes a statement under oath.

A 31133 A/L/Bdr. Lee J.A. 12 Bn. #2C.B.R.G. D6

On the night of 18 June Gnr. Patterson and I were coming home from Alder- shot and we passed a bunch of fellows on the road and as we passed these fellows I heard someone holler "Get off the road" and I hollered back, "If any of you fellows think you are big enough to but me off the road come and try it." At that time I did not know it was an officer that hollered. There was Gnr. Veillieux walking behind us and the officer hollered to him to put on his hat, when he hollered for him to put on his hat I put on mine, we were walking on the right centre and the right of the road andthere was no traffic whatsoever in sight so then I crossed the road to the left hand side and went off the road entirely; Gnr. Patterson and I, Then after coming off the road to the left side I cut across to the right hand side and took a little path which was a short cut to our camp, I seen that we had been followedso I climbed over a fence and back on to the road and I swear that the officer showed me no identification whatsoever and asked me for none. Then we came back on the road and were going up to camp and I did not hear the officer holler halt, ashe was a good 20 feet behing us, As we got up to the guard room he turned us over to the guard commander - Bdr. Holt, and Gnr. Patterson and I did not cause any disturbance what- soever as all we asked the Bdr. was if he was looking for another stripe.

Q.D. Had you been drinking?

A. We had been drinking a little.

Q. For how long?

A. About 3 hours.in the evening.

Q. Did you have any trouble going to the guard room with the Bdr?

A. No trouble at all.

Q. Where were Mr. Harrison and Mr. Milne when they accompanied you to the guard room?

A. They were quite a way behing us.

Q. At any time from the time you were put under the charge of Bdr. Letnas until you reached the guard room was Mr. Harrison near you.

A. No sir, he was behind us all the time.

Q. Did Mr. Harrison ask for a pay book from Gnr. Patterson?

A. Yes sir, but not from me.

Q. When you got to the guard room did you speak to Bdr. Letnas?

A. Weasked Him if he was looking for another stripe.

Q. You did not say "I will get you later."?

A. No sir.

P.Q.At what point in this procedure did you know you were under arrest?

A. Before we went on the path a Bdr. Came to us and told us that Mr. Milne had said to put us under arrest.

Q. When you were put under arrest were you escorted off the road?

A. No sir, we were taking a short cut home.

Q. When did you first know there was an officer mixed up in this.

A. When Bdr. Letnas came up and told us we were under arrest.

Q. You stated that you did not know it was an officer who hollered halt.

A. Not when he hollered "get off the road" I did not know it was an officer at all.

2nd witness for the defence - M10221 Gnr. Patterson H. Sworn states

D.Q.Tell the court what happened when you were coming home until you were put in the guard room.

A. We were coming back from Aldershot at approximately 2315 hrs June 18. We were walking down the road , we passed some of the boys and when we were about 30 feet past someone shouted, "Get off the road," but we thought someone was fooling and kept on going, L/Bdr. Lee said, "If anyone back there is big enough to put us off the road come up here and put us off," Not knowing these two were officers we kept on going and were told again to get off the road the 3rd time we were told we went off the road and crossed the road to the short cut, Lieut Harrison asked me to show my pay book which I refused to do, he asked me to produce my pay book which I refused to do and told Bdr. Lee to put his cap on, I refused to obey his command and he told Mr. Milne to get the Bdr. to put us under arrewt, we tried to reason with Lieut. Harrison Which we could not do; after a little bit of arguing we were both placed under close arrest and taken to the graud room, we were turned over to the guard commander, Bdr. Holt and placed under close arrest and the following charges placed against us.

Court does not wish to hear charges.

Q.D.Had Bdr. Lee been drinking?

A. We both had been drinking but knew what we were doing.

Q. Were you entirely sober?

A. No sir, not entirely sober.

Q. When you left the road and went to the guard room where were Mr. Harrison and Mr. Milne? Were they near you or within a yard or two of you?

A. Both Mr Harrison and Mr. Milne were very close to us.

Q. Was there any trouble going up?

A. There was a little argument, We tried to argue our way out of it.

Q. Did Mr. Harrison ask Bdr. Lee for his Pay book?

A. No sir.

Q. Where was Mr. Milne when Mr. Harrison asked you for your pay book?

A. Getting a Bdr. About 20 feet away.

Q. When you got to the guard tent what remarks did Bdr. Lee make to anyone in that tent?

A. We asked the Bdr. if he was looking for another hook.

P.Q. You did not hear Mr. Harrison ask Bdr. Lee for his bay book or any part of his identification or where he came from?

A. No sir.

Q. When you were ordered to get off the road or halt, was there any car there?

A. No sir.

Q. Was there one there a short time before or after?

A. I don't remember.

Q. Do you usually go on when you are ordered to halt?

A. I did not know it was an officer.

Q. Did you see the accused grasp ~~XX~~ Mr. Harrison by the collar?

A. No sir.

Q. At what time were you put under close arrest?

A. When we were on the short cut.

3rd witness for the Defence - H 103509 Gnr. Veilleux ~~XJ~~.C. A.
sworn states;

Q. Tell us in you own words what happened on the night of 18 June 44.

A. As I was walking home just near the Eng. camp, I was walking with two other soldiers, I had my hat off, the officer told me to put my hat on and hollered for Bdr. Lee And Gnr. Patterson to get off the road, when the officer told them to get off the road they got off the road altogether on the left hand side , then the officer asked to privates to follow them and take the Bdr. to the guard room. While the officer was talkin to the two privates Bdr. Lee and Gnr. Patterson went to take a short cut over the hill and the officer took the two fellows he had and followed them off the road and brought them back to the road, I followed them to the road again and followed them all the way to camp to the guard house. That is all I saw happen.

Q. After Bdr. Letnes had been put in charge of Bdr. Lee were Mr. Harrison and Mr. Milne near them.

A. Yes sir, they were quite near them.

Q. Was there any scuffling?

A. No sir. I saw none.

Q. At any time did you see Bdr. Lee Grasp Mr. Harrison?

A. No sir.

Q. When you were close behind them on the road did you hear either officer order Bdr. Lee to halt?

A. No sir.

Q. You were close to Bdr. Lee?

A. Yes sir, right behind them.

Q. Were the other soldiers round?

A. Yes sir.

W. In other words the road was was full of soldiers.

A. Yes sir.

P.Q. You say you were 20 feet behind Bdr. Lee, and Mr. Harrisonpassed you?

A. Yes sir.

Q. Where was Lee walking on the road?

A. In the centre towards the right side of the road.

Q. What did Mr. Harrison say to him?

A. "You two up there get off the roak.

Q. Where was Mr. Harrison when he ordered this?

A. Right behind them.

Q. After that did these two officers and Bdr. Lee get off the road?

A. Bdr. Lee and Gnr. Patterson got off the road but the officers stayed on.

Q. Did you see Bdr. Lee get over a fence?

A. Yes sir, Where they were going on the short cut.

Q. Did you hear any on the conversation?

A. No sir, I was just looking on.

Q. You did not hear much of the conversation?

A. No sir.

D.Q. Would you say Bdr. Lee had Been drinking?

A. Yes sir, but he was not drunk.

Q. You know him well, would you say he was a little high?

A. Yes sir, but he was capable of looking after himself.

Closing address by the defence.

InThe evidence given by Mr. Harrison he stated that he gave an order and that it was not complied with; the accused states that he was not ordered to produce his pay book. Gnr. Patterson stated that Mr. Harrison had not ordered Bdr. Lee to produce his pay book. Mr. Milne stated that he heard the accused refuse to produce his pay book for Mr. Harrison, but as Mr.

Milne was 20 feet away I feel that he could not have been certain to whom this order was adressed as neither he nor Mr. Harrison knew the accused as the accused was not in their formation. There is a question of doubt in the evidence to prove this charge and I do not think that Mr Milne's evidence is accurate therefore we have the accused and Gnr. Patterson stating that Bdr. Lee wasn't asked for his pay book and only the evidence of Mr. Harrison to say that he was, I feel that the defense has more evidence that the prosecution and therefore the charge should be dismissed.

Re charge two - refusal to obey an order in that he did not halt when ordered to do so by a superior officer, from the diagram presented to the court by Mr. Harrison he was behind the accused, this statement is corroborated by Mr. Milne and the evidence also shows that there was a number of soldiers on the road at the time the order to halt was given. As Bdr. Lee was not looking to the rear he would be unable to discern whether this order to halt was given by an officer or another rank, The statement by Gnr. Veilleux that the soldiers on the road were laughing and talking and any one of them might have shouted the order to halt, therefore the defence feels that there is unsufficient evidence to prove that Bdr. Lee knew the order had been given by an officer, moreover as he did not know Mr. Harrison prior to this night was further proof that Bdr. Lee would be unable to ascertain the rank or the person who shouted halt. The defence feels that from the evidence this charge should be dismissed.

The 3rd charge dealing with the grasping of the collar of Lieut Harrison It was stated by Mr. Milne and Mr. Harrison that the accused grasped Mr. Harrison by the tunic on the way to the guard room, this was denied by the accused, by Gnr. Patterson and was not seen by Gnr. Veilleux. There seems to be confused evidence in Mr. Harrison's statement in that he was unable to say where Mr. Milne was in relation to himself and the escorting party on the way to the guard room, as the evidence is confused there is a suggestion of doubt and the defence feels that this suggestion of doubt would have to be totally eliminated by the evidence , otherwise the court would be unable in their own minds to decide the guilt of the accused.

With referrence to using threatening language to Bdr. Letnas, the accused is alleged to have said "I will get you later." The accused states that he did not say the above, Gnr. Patterson states that the accused did not say it.

The guard commander does not mention it inhis evidence and states that they caused no trouble when they were turned over to him. In view of the above facts it would seem that Bdr. Lee was not bdhaving in a belligerent fashion, therefore again there is reason to doubt the evidence, also in the evidence presented to the court there is confusion as to where the statement was made. Mr. Harrison stated it was made on the way to the guard room. Mr. Milne state that it was made in the guard room and Bdr. Letnas states that it was made in the guard room, due to this conflicting evidence it appears that htere is some confusion as to where the statment was mad if it was made at all, as the evidence was given on oath I think there is reasonable doubt as to the accuracy of the statements made. The defence thinks that due to this doubt the charge should be dismissed because it has not proved conclusively that the statement was made or where it was made if made at all, consequently charge four should be disimssed. That is my closing address.

Closing address by the prosecution.

With referrence to these four charges I would first like to bring to your attention from page 18, chapt.3 Sec.12 of N.M.L. Which states that an officer should at all times see that proper discipline is maintained in his presence. I would like to brong to the attention of the court that the prosecution has produced 3 credible witnesses whose stories did not conflict. in any way. With referrence to the first charge Mr. Harrison stated that he asked the accused to produce his pay book and the accused failed to do so. Mr. Milne in his evidence corroborated the evidence of Mr. Harrison. He heard Mr. Harrison ask the accused for his pah book and his unit andhe also heard the accused refuse to give that evidence, the defence in his summing up said that it was pointed out that Mr. Milne was 20 feet away, but that was only in the evidence of one of the witnesses for defence, and Mr. Milne stated that he was quite close to the accused when this matter was brought up and that it was after this time that he left to get Bdr. Letnas to put the men under close arrest. With regard to 2nd charge, Mr. Harrison gave in his evidence that he ordered the accused to halt twice and he also stated that the accused failed to do so. Mr. Milne stated in his evidence

that he heard Mr. Harrison order the accused to halt twice and that the accused failed to do so. It was stated in one instance that they were 3 yards from the accused from the accused and in the other instance that they were 4 yards from the accused. Gnr. Veilleux stated that he was 20 feet behind the accused when Mr. Harrison and obviously an officer passed him and there is no evidence given by any one that after Mr. Harrison passed Gnr Veilleux that there was anyone between Mr1 Harrison and the accused. I would like to point out here that is the duty of any soldier to carry out an order and ask afterwards if the order is legitimate! The accused in his own evidence stated that he gave the very insubordinate answer that, "if anyone was big enough to put him off the road to come and do it." With referrence to charge number three it is also given in the evidence of Mr1 Harrison that the accused grasped him by the collar of his Battle Dress blouse, I asked Mr. Harrison to demonstrate , which he did, all this was corroborated by Mr. Milne The defence offers that this was not done at all, the accused gave in his evidence that he did not do this but it is hardly a likely thing that an officer who had not been grasped by his Battle Dress blouse would later say that he had been. It is a very uncomfortable feeling. To refer to the evidence of Mr1 Harrison - Mr. Milne - Bdr. Letnas and Gnr. Patterson, all stated that on the short cut - so called - quite an altercation took place and there was quite a good deal of evidence to show that Bdr. Lee did not go to the guard room quietly. Merely to sum up that the evidence of Mr Milne, Mr. Harrison and Bdr Letnas all stated that the accused used threatening language to Bdr. Letnas in that he said, " I will get you later." or words to that effect. All this took place in the guard room and there was no question put to the guard commander with regard to this charge -- in summing up the whole incident there is some conflicting evidence, but I would like to point out that the evidence for the prosecution was given in the main by two commissioned officers and one N.C.O. The evidence for the defence I would like to point out to was somewhat conflicting, Bdr. Lee stated that he did not know he was under arrest until they were on the road after coming off the short cut and on the way to the guard room. Gnr. Patterson stated that the two were placed under arrest while they were on the short cut and that an altercation took place when they treid to tald Lieut. Harrison out of it. Gnr. Veilleux also corroborates this, while he was not clear, stated there was an altercation when they got off the road on the right. In Gnr. Patterson's evidence he stated that they were talking to the officers concerned when they got off the road,and in Bdr. Lee's statement he does not remember talking to the officers at all. With ref. to the original thing that started this, it is given in the evidence of the prosecution that a car was approaching and the reason that the order to move off the road was given so that a car might pass, 3 witnesses gave evidence as to the presence of a car, but according to the evidence of the accused and Gnr. Patterson there was no car for some minutes before or after the order was given. It is therefore the request of the prosecution that the evidence brought before the court be weighed up and the accused dound guilty on the evidence given, it is the opinion of the prosecution that if the accused had not been so belligerent in his manner of dealing with officers that he would not be before this court at this time.

Statement in mitigation of punishment by Defence. E 3

As these two charges have been proven to the satisfaction of the court and the accused has been proven guilty of charges 3 and 4 this defence wishes to call to the attention of the court - note 2 of A.A. Sec. 8 - this deals with provocation. I feel that the accused was under some provocation, I also feel that there was a lack of understanding of man management on the part of the officer involved; had this incident been handled with more diplomacy the accused would not be before this court at all. The circumstances surrounding the occurrence point to the fact that the accused spent an evening in a Pub and was to some extent under the influence of alcohol and was therefore less amenable to discipline than he would be normally. It is seen from the man's M.F.M. 6 that he has very few offences against army discipline, he has been in the army almost 5 years, he has proved himself an efficient and valuable soldier who would be a great use in a field unit at this time, he has been waiting in this country a long time to see action, his one wish that now the opportunity presents itself he wishes to play his part to the full in the 2nd front. The defence pleads with the court to take the above facts into consideration and be as lenient as possible when determining the amont of punishment Bdr. Lee Will have to undergo.

SUMMARY OF EVIDENCE IN THE CASE OF
A-31133 A/L/BDR. JOHN ALFRED LEE, 12 BN 2 C.B.R.GP

The Commanding Officer directs that the evidence be taken on oath.

First witness for the Prosecution

Lieut. H.E. Harrison C.I.C.(EHLI) on strength of 11 Bn. 2 C.B.R. Gp, having been duly sworn, states:

On the night of Sunday, 18 June 44, at about 2315 hours, Lieut. Milne, R.C. and I were walking from Aldershop to 11 Bn. Along the road I noticed L/Bdr. Lee, whom I recognize, walking between the left hand side of the road and the centre. At that time there was a vehicle passing and he was disrupting the traffic. I ordered L/Bdr. Lee to move over to the right of the road so as to walk facing the traffic as per routine orders. He did not do so even when ordered again. During this time I ordered him to put on his hat twice. He did not do so. I then ordered him to halt but he continued to advance on the left hand side of the road. After some time he finally moved over to the right hand side of the road, where I was able to contact him. I voluntarily produced my MFM 183 and asked him for his paybook, identification and where he was from. He deliberately ignored my identification and he refused to produce any identification or give any information about himself.
During this time, I despatched Lieut. Milne to secure an NCO and escort which he did and we placed L/Bdr. Lee in custody of Bdr. Letnas RCA 12 Bn. with orders to place him under close arrest in Guard Room of 12 Bn. L/Bdr. Lee caused the escort a great deal of trouble by moving across country and making it difficult for the escort to keep him in hand. At one stage he picked up a piece of steel piping and with it made a threatening gesture toward Lieut. Milne and me. He was advised by his companion to put down the piping and his remarks to this were "I'll put it down when someone is big enough to make me." On several occasions about this time he grasped me by my battle dress tunic and in an insubordinate manner and in a threatening tone he addressed me with such remarks as "I've been in the army five years. How long have you been in? Three months?" "Who do you think you are? An infantry officer trying to arrest a gunner?" "My uncle is a Lt.-Col. I could be further ahead if I wanted to but I don't." "I've been hit by traffic before. Just the other night and if I don't care, who does."
We finally got L/Bdr. Lee to the guard room 12 Bn. and turned him over to the custody of the guard Cmdr. during which he was still carrying on in a threatening and an abusive manner, by such demonstration as attempting to remove his tunic in preparation for fighting. At this time he was particularly threatening to Bdr. Letnas and stated "I'll get you later" to Bdr. Letnas.

Cross-examined by the accused.

Q. Where did I pick up the pipe?

A. On a path leading off the right hand side of the road.

Q. Can you get the pipe?

A. I don' know, but it might be possible.

Q. Which direction was the car travelling?

A. Same direction as we were, that is from Aldershot to Crookham, and it had to come almost to a dead stop to pass you.

Q. What did I call back when you called "Get off the middle of the road".?

A. I don't know.

(H.B. Harrison) Lieut.
11 Bn. 2 C.B.R. Group

Second Witness for the Prosecution

Lieut. G.G. Milne, C.I.C. (Essex Scot) on strength of 11 Bn. 2 C.B.R. Group, having been duly sworn, states:

On Sunday, 18 June 44, I was returning from Aldershot in company with Lieut. Harrison to 11 Bn. 2 C.B.R.Gp. At about 2315 hrs Lieut. Harrison had occasion to order two men, whom we saw walking on the left hand side and centre of the road, proceeding towards Crookham, to move over to the right side of the road. He repeated this order twice and also ordered L/Bdr. Lee, whom I recognize, to put on his hat. Neither of these orders were complied with. Lieut. Harrison then ordered L/Bdr. Lee to halt, and after some time the accused stopped and Lieut. Harrison asked for identification. He also asked me to order a Cpl, who was coming along behind, to place the accused under arrest. Before I left to do this I saw Lieut. Harrison produce his identification and heard the accused refuse to produce his. I then got Bdr. Letnes, G.W. and ordered him to place the accused under arrest. I also detailed an escort of two men. In the meantime the accused had walked on again on the left of the road, and I sent the Cpl and escort after him. The Cpl overtook L/Bdr. Lee before Lieut. Harrison or myself and I saw him talking to the accused by the side of the road. Before we arrived, the accused again moved on. He moved across the road and on to a path leading at about 45 degrees from the road. We followed the accused and Lieut. Harrison ordered him to halt. He did not halt but picked up an iron bar and adopted a

threatening attitude. His companion told him to lay the piece of iron down and he said "I will lay it down when someone is big enough to make me." We then overtook the accused who, on several occasions, grasped Lieut. Harrison by the collar of his battle-dress tunic and spoke to him in a very insubordinate manner. We then brought the accused to the Guard Room of 12 C.B.R. Bn. and, on the way, made such remarks as "I have been in the army five years. How long have you been in? Three months?". On reaching the Guard Room, I heard the accused use threatening language to Bdr. Letnas, G.M. He said "I will get you later". The accused was then turned over to the guard Cmdr.

The accused declines to cross-examine this witness.

G.G. Milne .....Lieut.
(G.G. Milne)
11 Bn. 2 C.B.R. Group

Third Witness for the Prosecution

K-10018 Bdr. Letnas, G.M. RCA, on strength of 12 Bn 2 C.B.R. Group, having been duly sworn, states:

On the night of 18 June 44, I was returning from Aldershot along the main road with a chum. About half a mile from 12 Bn. I was stopped on the road by Lieut. Milne who ordered me to apprehend L/Bdr. Lee and his companion, and to hold them both until he came, as they had then gone up the road a piece past us. I overtook L/Bdr. Lee and his chum and informed them they were to wait until the officer came up. Lieut. Milne and Lieut. Harrison came up to us later (about five minutes) and Lieut. Milne had two men to act as escort so that L/Bdr. Lee and his chum could be escorted to the Guard Room. The party then proceeded up the road in the direction of 12 Bn. and after various detours, that is, they didn't stay on the road, we approached the Guard Room at about 2359 hrs. The two men were then placed in the Guard Room. Before I left the Guard Room, L/Bdr. Lee said to me "I'll get you later."

Cross-examined by the accused.

Q. Why did we cut across the road and go up the path?

A. I don't know.

Q. Where were the other two men who were with you? I did not see them.

A. The two men detailed as escort were with us all the time.

G.M. Letnas .....
(Bdr. Letnas, G.M.)

Fourth Witness for the Prosecution

A-87308 Cpl. Holt, S.G. CAC, on strength 12 Bn. 2 C.B.R. Group, having been duly sworn, states:

On 18 June 44, at about 2315 hrs, I was Guard Commander of 12 Bn. 2 C.B.R. Group. An Officer came into the Guard Room and stated that he had two men under close arrest. When I went outside I found a Bdr. with an escort and L/Bdr. Lee and Gnr. Patterson. I took over these men. The Officer wrote out a charge which he handed to me and I turned into 56 Coy. Orderly Room. L/Bdr. Lee gave me his name, rank and number and I explained that they were under close arrest. Both the men were apparently not drunk and were properly dressed.

The accused declines to cross-examine this witness.

S.G. Holt Cpl.
(Cpl. S.G. Holt)
12 Bn. 2 C.B.R. Group

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:

First Witness for the Defence.

The accused, A-31133 A/L/Bdr. Lee, J.A. RCA on strength 12 Bn. 2 C.B.R. Group, having been duly sworn, states:

On the night of 18 June 44, Gnr Patterson and I were coming back from to camp from Aldershot at about 2315 hrs. We were walking in the centre and right side of the road. I heard someone call "Get off the road". I hollered back "If you are big enough to make me, come and do it". At that time I didn't know who was hollering. Then Gnr Patterson and I got off the road entirely on the left hand side. I went into the bush to urinate. Patterson stayed on the side of the road. There was no motor traffic on the road at this time. Then we crossed the road and were going to take a short cut so we followed the path on the right side of the road. I did not pick up a bar. I will admit I did cross a fence to get back on the road after I saw that we had been followed. As we were on the road on the right side a car passed us. The Officer came up to us and asked us what Coy we were from and we did not tell him. He didn't show us any identification. Then he got the other officer to get a Bdr. to put us under close arrest. I then went up to the officer and asked him why he was placing us under close arrest. He said

he didn't want to do any talking here. He said we could do it Monday. While we were coming in camp Gnr. Patterson and I did not cause any disturbance at all. Then he put us in the Guard Room in charge of Bdr. Holt.

(A/) Bdr. J.A. Lee)
12 Bn. 2 C.B.R. Group

Second Witness for the Defence

M-102211 Gnr. Patterson, H. RCA on strength 12 Bn. 2 C.B.R. Group, having been duly sworn, states:

On 18 June 44 we were coming from Aldershot at about 2315 or 2330 hours on the right side of the road near the centre. We passed some men. Someone hollered "Get off the road". Bdr. Lee said "If anyone back there is big enough to put us off the road, let him try it". We did not know these were Officers as it was dark. We went off the side of the road, then crossed the road to take a short cut. The Office asked me to produce my paybook and what Coy I was from. I didn't hear him ask Bdr. Lee for his. He called a Bdr. to place us under close arrest. We both asked the Bdr. if he was looking for another stripe. We were escorted to the guard room under close arrest and turned over to the Guard Cmdr and charges placed against us.

H. Patterson
(Gnr. H. Patterson)
12 Bn. 2 C.B.R. Group

Third Witness for the Defence

H-103509 Gnr. Veilleux, J.G.A. RCA on strength 12 Bn. 2 C.B.R. Group, having been duly sworn, states:

On the 18 June 44 I was going down the road. I was on the right side of the road in company with two other soldiers. L/Bdr. Lee and Gnr. Patterson were also on the right side of the road ahead of me. An Officer came up behind me and told me to put on my hat and called to the others to get off the road. They went over to the left and off the road altogether. I then saw the Officer detail two men to take L/Bdr. Lee and Gnr. Patterson to the Guard Room. I saw the Officer follow Bdr. Lee and Gnr. Patterson along the short cut and back to the road. I followed the party into camp.

J.G.A. Veilleux
(Gnr. J.G.A. Veilleux)
12 Bn. 2 C.B.R. Group

I certify that the foregoing Summary of Evidence consisting of Six (6) pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

.....Capt.
(D.F. Storey)
12 Bn. 2 C.B.R. Group

Ex B

MFM 6
(AFB 122)
40/PAS/134 (5438)

No A31133 Name Lee, J.A. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 17-9-39 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Field		Gnr		(1) A.A. Sec 40 (2) A.A. Sec 8(2) offering violence to his superior officer		14 days F.P.	30-11-43		Forf 14 days pay FR&I 149 (1) (b)
Field		Gnr.		A.A. Sec 15 (1) WOAS AWL Absent 23 hrs 40 min.		3 days C.B.	4-1-43		Forf 1 day pay FR&I 149(1)(a)

Certified true copy made from MFM 4 in my possession 10 Jan 44 - Signed A.O. Hawkes Lieut.

CERTIFIED TRUE COPY OF RECORDS IN MY CUSTODY

.....Capt.
(L.B. Skinner)
Adj. 12 Bn. 2 C.B.R.Gp
Officer having custody of documents.

(PTO)

Ex A 1082

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial Only.)

Number	Rank	Name	Regiment (or as the case may be)
A-31133	Gnr.	Lee, J.A.	12 Bn. 2 C B.R. Group

* 1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court.-

For	A.A. Sec 40	One times
For	A.A. Sec 8(2)	One times
For	A.A. Sec 15(1)	One times
For		times

Date of first entry in Field Conduct Sheet 4 June 43

Date of last entry in Field Conduct Sheet 30 ~~XX~~ Nov. 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

†3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for ~~nil~~ days in military custody, i.e., nil days in open arrest, ~~nil~~ days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 26 yrs 7 mos 5 days

6. The date of his attestation is 17 Sept. 39

7. The service which the accused is allowed to reckon is 4 yrs 9 mos 4 d

8. The accused is in possession of ‡ C.V.S.M. & Class

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date:

	Date of promotion
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

* INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the Regimental books the paragraph must be struck through.

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

† Strike out if not applicable.

‡ State the military decorations (if any) held by accused.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Discription of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental book in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of June 44

J B Thomas Capt

9 S.

Pte. Lee, J. K. M.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here

95.

A

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this 7th day of October, 1942.

A.
Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of Corps Medium Artillery, First Canadian Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[xxx this xx xx xxx practicable xx xxxx, the trial xx xxxxxxx xx xxx xxxxxx xxxxxxx xxxxx.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[xxxxxxxxxxxxxxxx:—

*(xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.)

*(xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.)

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx]

* Omit if not applicable.

Proceedings Reviewed [illegible] Reviewing Officer (J.A.G.) C.M.H.Q. 26 Nov 42 (dated)

Major T.G. Norris, MC, KC, Judge Advocate.

Have no objection to organizing Scale as stated provided with existing components
A/Lieut-Colonel
A.D.J.A.
First Cdn Army.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D.W. Newlands	81 Cdn Arty Coy, RCASC

Members.

Rank.	Name.	Regiment.
Capt	D.J. MacRae, MC	S.D.&H. Highrs, HQ, First Cdn Army
Capt	F.E. Hetherington	First Cdn Army Sigs
Lieut	J.R. Hennessy	62 Cdn Gen Tpt Coy, RCASC

Waiting Member:

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.D. Donnelly MGC

A/Commanding Corps Medium Artillery

Commanding Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D123545, Pte LEE, J.R.M., 45 Cdn Bridge Coy, RCASC	First Charge: Army Act 40. CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.	GUILTY.	GUILTY.	I confirm finding and sentence RJL
	Second Charge: Army Act 15(1) ABSENT WITHOUT LEAVE	GUILTY.	GUILTY	
	Third Charge: Army Act 41. COMMITING A CIVIL OFFENCE THAT IS TO SAY, HOUSEBREAKING AND LARCENY CONTRARY TO SECION 26(1) OF THE LARCENY ACT 1916.	NOT GUILTY	GUILTY	
	(See Charge Sheet attached)		6 MONTHS DETENTION 15 October 1942. [signature]	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" NO

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W. A. Bunnsley LtCol (Signed) [signature]

Commanding Corps Medium Artillery [signature] Major Judge Advocate
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15 day of OCTOBER, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) SHORT HAND WRITER and JUDGE ADVOCATE
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 15 day of October 1942

[signature] by [signature] Major Judge Advocate
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 6th day of NOVEMBER 1942

[signature]
Confirming Officer.
(R.J. Leach) Brigadier,
Comd. 1 Cdn Arty Gp First Cdn Army.

Promulgated and extracts taken in the case of

(a) (Dated) 10-11-42 (Signed) [signature]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The Accused Pte. J.R.M. LeeD-123545 No. 85 Cdn. Bridge Coy, R.C.A.S.C., a soldier of the Canadian Army Overseas is charged with.

FIRST CHARGE.

Sec. 40

Army Act.

When on active service, " CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE."

in that he on 12 Sept.42 at 1730 hrs. when checked by the Cdn Provost Corps, at Waterloo Station, London, was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

SECOND CHARGE.

SEC. 15 (1)

Army Act.

When on Active service," ABSENTING HIMSELF WITHOUT LEAVE." in that he in the field did absent himself without leave from 1330 hrs. 7 Sept.42, until he was apprehended at 1730 hrs. 12 Sept. 42. (Absent 5 days. 4 hrs.)

C

THIRD CHARGE.

SEC. 41

ARMY ACT

When on active service, commiting a civil offence that is to say, Housebreaking and larceny contrary to section 26 (1) of the Larceny Act 1916.

in that he in the field on Aug. 27/42 did break into and enter the N.A.A.F.I. Canteen and did therein steal.,

One metal Safe	Value	£ 8-5-0
Cash in safe	"	£ 105-10-3
Cash from cash Box	"	£ 2-0-0
25 Packets (20) Top Score Cigs,	"	£ 1-17-6
40 " (5) Woodbine Cigs.	"	£ 0-10-5
100 Gillette razor blades	"	£ 1-5-0

Total Value of property stolen £ 119-8-2

All the property of the Navy, Army and Air Force institute.

C

Field.
1 Oct. 42.

President

Alex Gagnon, Major
Commanding No. 85 Cdn. Bridge Coy,
R.C.A.S.C.

To be tried by Field General Court Martial.

Wm A Fannerley Lieut Col
C/Commanding Corps Medium Artillery

Approved for the J.A.G.
[illegible] Major
D.J.A. 1 Cdn Army

In the Field
7 Oct 42

(COPY)

No. 85 Cdn. Bridge Coy, R.C.A.S.C.
Canadian Army Overseas

15 OCT 42

MEDICAL OFFICER'S CERTIFICATE

I certify that the u/m are this day fit to undergo trial by Court-Martial.

D-123545	Pte.	Lee	J.R.M.
C-53258	"	Hayes	W.A.
D-123417	"	Hoyt	H.

original medical certificate is included in F.G.C.M. proceedings D 123417 Pte Hoyt H. dated 15 Oct 42

Signed "J. Barron" Capt. RCAMC
Signature of Medical Officer.

PROCEEDINGS OF TRIAL BY FIELD GENERAL COURT MARTIAL OF D-123545 PTE. LEE, J. R. M., 85 CDN BRIDGE COY, R.C.A.S.C., AT H.Q., 85 CDN BRIDGE COY, R.C.A.S.C., ON 15 OCT 42.

Court - President - Major D. W. Newlands, 61 Arty Coy, RCASC.
Members - Capt. D. F. MacRae, MC, R.A., First Cdn Army.
Capt. F. B. Hetherington, First Cdn Army Signals.

Judge Advocate - Major F. G. Norris, MC, D.J.A., First Cdn Army.

The Order Convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by Rs.F. 22, 23 and 106.

The Court opens and the accused is brought before the Court.

Prosecutor - Lieut. C.B.Kirk, First Cdn Army Sigs.
Defending Officer - Lieut. G.C.Mersereau, 1 Cdn Med Regt, R.C.A.

J.A.

Q.1 - You are D-123545 Pte. Lee, John Robertson Montgomery, of 85 Cdn Bridge Coy, RCASC. That is your number, your name and your unit?
A.1 - Yes, sir.
Q.2 - You are arraigned on certain charges which you will hear later. Do you object to Tpr. Parks as Court stenographer?
A.2 - No, sir.

The Court Reporter, D-36570 Tpr. R.W.Parks, 1 C.A.T.B., is duly sworn.

The Convening Order is read, signed by the President, marked Exhibit A and attached to the Proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused and they severally answer to their names.

Court

Q.3 - Do you object to be tried by me as President, or by any of the officers whose names you have just heard read over?
A.3 - No, sir.

The Court as above is duly sworn. The Judge Advocate is duly sworn.

The Medical Certificate is produced by the Prosecutor, signed by the President, marked Exhibit B, and attached to the Proceedings.

At 1450 hours the trial commences.

The Charge Sheet is read, signed by the President, marked Exhibit C and attached to the Proceedings. The accused is arraigned on each charge in the aforementioned sheet.

J.A.

Q.4 - D-123545 Pte. Lee, J.R.M., 85 Cdn Bridge Coy, RCASC, that is your number, name and unit?
A.4 - Yes, sir.

Q.5 - You have heard the first charge. On that charge, how say you? Are you guilty or not guilty?
A.5 - Guilty, sir.
Q.6 - On the second charge, are you guilty or not guilty?
A.6 - Guilty, sir.
Q.7 - On these two charges on which you have pleaded guilty. A plea of guilty amounts to a judicial confession, the highest form of confession; that you admit every fact and every circumstance in these charges against you. You will not have the opportunity of presenting evidence and all that remains is for the Court to sentence you on these two charges. In view of this warning, do you still wish to maintain your pleas of guilty?
A.7 - Yes, sir.
Q.8 - On the third charge which you have heard read, how say you? Are you guilty or not guilty?
A.8 - Not guilty, sir.
Q.9 - On this charge to which you plead not guilty. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A.9 - No, sir.

J.A. to Prosecutor

Do you wish to make an opening address, Mr. Prosecutor?

Prosecutor

No, sir, the Prosecution will be substantially the same as in the case of Hayes.

In the opinion of the Court and of the Judge Advocate it is unnecessary to comply with the provisions of R.P. 83(3).

1st Witness for the Prosecution, Joseph Beard, Manager of the Navy, Army and Air Force Institute Canteen at Warden Park Camp, Caterham, being duly sworn, is examined by the Prosecutor.

Q.10 - Are you Joseph Beard, Manager of the NAAFI Canteen at Warden Park, Caterham?
A.10 - Yes, sir.
Q.11 - Will you tell the Court what you know about this breaking into the Canteen?
A.11 - On Thursday night, the 27th of August, I left the Canteen, left all doors and windows secure -.

J.A.

Q.12 - What time was this?
A.12 - 11 o'clock, sir, approximately. The next morning I went into the Canteen to do my usual duties. Went behind to my desk and found the safe was missing. Went in front and found a window broken. Went back behind the counter again, and found some cigarettes and razor blades missing.

Prosecutor

Q.13 - You found, to your recollection, an amount of money and articles missing?
A.13 - Yes, sir. An amount of money in the safe of £10-, approximately 500 to 1000 cigarettes, and 200 razor blades.
Q.14 - What type were these missing cigarettes?
A.14 - Toy Scores and Woodbines, sir.
Q.15 - How did you find out how many cigarettes were missing?
A.15 - By what were left after opening so many cartons on my night and checking my books to see what was sold.
Q.16 - Was the safe recovered?
A.16 - Yes, sir.

Q.17 - What condition was the safe in when it was found?
A.17 - It was badly mauled, sir.
Q.18 - Where was it found?
A.18 - At the top of a hill underneath some trees, sir.

The Witness is cross-examined by the Defending Officer.

Q.19 - Was there a keg of beer missing as well?
A.19 - Yes, sir, a keg of waste beer, ullage.
Q.20 - This waste beer is considered to have a heavy alcolholic content?
A.20 - Yes, sir.

J.A.

Q.21 - Describe this Canteen room?
A.21 - Inside, sir?
Q.22 - Well, where was the safe in relation to the broken window?
A.22 - The safe was in another end. The window fronted on the south side, at the other end of the Canteen.
Q.23 - Was the safe behind the counter or in front of it?
A.23 - Behind the counter, standing on a big Canteen box beside my desk.

2nd Witness for the Prosecution, Police Constable Harry Maurice Harding, No. 347, stationed at Caterham, Surrey, being duly sworn, is examined by the Prosecutor.

Q.24 - You are P.C. Harry Maurice Harding, No. 347?
A.24 - Yes, sir, that is correct.
Q.25 - Will you please tell the Court what you know about this case in relation to the accused?
A.25 - At 6:50 a.m. on Friday, the 28th of August, in consequence of information received, I visited the NAAFI Canteen at Marden Park Camp, where I found that a pane of glass near the catch of a casement window at the south west side of the Canteen had been broken. There being some loose Woodbine cigarettes on the ground outside and directly under the window. I then commenced inquiries and learned that a safe containing an amount of money, a sum of money from the Canteen cash box and a quantity of cigarettes and razor blades were missing from the Canteen premises. Later a search was made for the missing articles and the safe was found in a small copse about 400 yards from the Canteen in question. Upon examining the safe I found it appeared that an attempt had been made to open it. This attempt was found to have been unsuccessful. Upon being opened in the presence of the Police, the moneys were found to be intact. On Monday, the 7th of September, 1942, in consequence of further inquiries, with the aid of Sgt. Terry and the C.I.D., I later obtained, under caution from Pte. Hoyt and Pte. McAvoy. Ref STATEMENTS That is my evidence.
Q.26 - Will you give us some more information, please, about the size of the safe and the size of the window?
A.26 - Yes, the window I would say was about 4 feet six inches wide when opened, and about 3 feet six to 4 feet from the ground outside, sir. There was a heap of cinders on the ground.
Q.27 - How about the safe?
A.27 - The safe is about 2 feet six inches high and about 2 feet wide.
Q.28 - How was the window broken?
A.28 - There was a hole in the window near the catch about 4 or 5 inches across, big enough for an arm to go through to the catch and open it.
Q.29 - Could the safe have been taken through the window?
A.29 - Yes, sir.

The Defending Officer declines to cross-examine the witness.

Court

Q.30 - Did you discover any fragments of broken glass lying inside or outside the building next morning?
A.30 - Yes, sir, some inside. Mostly inside.
Q.31 - Was there any evidence of the glass being cut?
A.31 - No, sir.

3rd Witness for the Prosecution, Detective Sergeant Tom Harris, No. 33, Caterham Police, having been duly sworn, is examined by the Prosecutor.

Q.32 - You are Detective Sergeant Tom Harris, No. 33, Caterham Police?
A.32 - Yes, sir.
Q.33 - Will you tell the Court what you know of this case from your investigation in relation to the accused?
A.33 - On the 28th of August this year, I was called to the NAAFI Canteen at Marden Park Camp where I assisted in the investigation of breaking into the Canteen, and the theft of certain property. Later that day a search was conducted on the grounds at Marden Park and a safe was found. I examined this safe and found an attempt had been made to open it. It was damaged near the hinges. Moneys were found inside the safe intact. On the 13th of September this year I was - .
Q.34 - Before that, can you give me any further evidence of breaking and entering, and the location where the safe was found.
A.34 - Not from my own investigation. Only what I was informed. On the 13th of September, 1942, I saw the accused in London, together with Hayes. I told him who I was, that I was making inquiries into the matter of the offence at the Canteen in Marden Park, and asked him if he knew anything about it, and if he could help me. I mentioned to him the names of Pte. Hoyt, Pte. O'Gorman and Pte. McAvoy and told him I had taken statements from them. Later that day I conveyed him to Caterham Police Station. There was present at the time there besides the accused man Lee, Pte. Hayes, Sgt. Frost, Sgt. Terry and myself.
Q.35 - Were they all present when Lee was questioned?
A.35 - No, sir. Sgt. Frost was, but Sgt. Terry was in and out.
Q.36 - Was anyone else present?
A.36 - Not at that time. Lee and Hayes had some discussion together. I asked the accused to make a statement. He at first refused but I obtained a statement under caution from Pte. Hayes. I told him I had obtained this statement from Hayes. I asked him again to make a statement. I produced Hayes' statement and he asked me who wrote it. I told him and then he said, "All right, I'll make a bloody statement." I gave him permission to write the statement himself. He declined and asked me to write it down. I agreed to do so. I then cautioned him and explained the caution to him. The questioning and taking down the statement took approximately three-quarters of an hour. When the statement was finished the accused signed it. He had first been warned. I told him it was a matter for him to decide, whether he made any statement or not, and that he did not need to make any statement.
Q.37 - What was he detained for in London?
A.37 - I understand he was detained because he had been absent without leave.
Q.38 - And the statement was taken in somebody else's present.
A.38 - Those present were Pte. Hayes, Sgt. Frost and Sgt. Terry, as well as the accused and myself.
Q.39 - I show you this document. Can you identify it?
A.39 - This document is a statement obtained from the accused under caution and taken down by me in my own handwriting and signed by the accused and myself.

Defending Officer

I object to the production of this statement in evidence.

The Court directs that the document be marked for identification by the Court Reporter.

The Witness is cross-examined by the Defending Officer.

Q.40 - Did the accused ask you at the taking of the Summary of Evidence, "Did I ask if I was to be tried in a civilian or military Court and did I say that I was under the impression I was to be tried in a civilian Court when I made my statement?"?
A.40 - He asked me that question at a later date, not on the 30th of September.
Q.41 - He asked you this question before he signed the statement?

A.41 - No, sir. It was after the statement.
Q.42 - Do you remember the question?
A.42 - Yes, it was simply, was he going to be dealt with by a Military Court or Civil Court.
Q.43 - Did he say he was under the impression he was to be tried by a Civil Court?
A.43 - I don't recall.
Q.44 - Did he ask you the question before he signed the statement?
A.44 - No, after he signed the statement.
Q.45 - You had a conversation about it?
A.45 - Yes.
Q.46 - Who was present?
A.46 - Those I said were present when the statement was taken.
Q.47 - Was there any discussion about punishment which might be awarded?
A.47 - Punishment was discussed with this matter of Military and Civil Courts.
Q.48 - Was that before or after he made the statement?
A.48 - After he made the statement.
Q.49 - Was there any conversation about it before he made the statement?
A.49 - No.
Q.50 -

J.A.

Q.50 - After the statement from the accused were both he and Hayes together at this discussion?
A.50 - After the statement was made and signed, sir, then the discussion took place with both present.

Defending Officer

Q.51 - I suggest to you, Sgt. Harris, that once before you gave evidence it was before the statement was made.
A.51 - No, sir, definitely not.
Q.52 - Did the accused refuse to sign his statement?
A.52 - He did not exactly refuse, sir, he wanted to discuss if he should make it.
Q.53 - Were any threats made to the accused?
A.53 - No, sir. I have too great a responsibility for that.

J.A.

Q.54 - Hayes was present at this time?
A.54 - Hayes was sitting near, sir.
Q.55 - Also, who else?
A.55 - Sgt. Terry and Sgt. Frost, sir.

4th Witness for the Prosecution, R-21172, Sgt. J. R. Frost, Special Investigation Section of the Cdn Provost Corps, attached to H.Q., First Cdn Army, being duly sworn, is examined by the Prosecutor.

Q.56 - You are R-21172, Sgt. Frost, J.R., of the Special Investigation Section of the Cdn Provost Corps?
A.56 - Yes, sir.
Q.57 - Can you tell the Court what you know of this offence at the WAAFI Canteen in Marden Park in relation to this accused?
A.57 - At about 0800 hours on the 28th of August, 1942, I was informed by the Adjutant of the 85 Cdn Bridge Coy that the Canteen had been entered and some property removed.

J.A.

Q.58 - As a result of your investigation, what did you do?
A.58 - On the 13th of September, in company with Sgt. Harris, I proceeded to London and saw the accused at No. 6 Provost Coy where he had been detained on a charge of being an absentee. Sgt. Harris talked to him, then took him to Caterham Police Station. I was present when he was questioned.

Prosecutor

Q.59 - Were you present when the accused made his statement?
A.59 - I was.
Q.60 - Was the accused warned in your presence?
A.60 - Yes, in my presence.

J.A.

Q.61 - What was the warning?
A.61 - That he didn't need to say anything but that any statement he made would be taken in writing and may be used in evidence.

The Witness is cross-examined by the Defending Officer.

Q.62 - Was there a considerable lapse of time between the finish of the statement and the signing of it by the accused?
A.62 - Not, considerable. Probably about five minutes.
Q.63 - Do you recall a conversation with S-t. Harris before the statement was made about crime and punishment?
A.63 - Yes, sir.

Prosecutor

Mr. President and Members of the Court. I submit this statement from the accused in evidence. I would ask the Court to remember it was taken after caution and voluntarily signed in the presence of representatives of two different Police forces. The discussion did not affect the statement in any way. I produce the statement.

Defending Officer

I object to the submission of this statement in evidence.

The Court is closed to consider the objection of the Defence.

The Court is re-opened and the Accused is again brought before it.

The Court rules that the statement is admissible in evidence. The statement is produced by the Prosecutor, read by the Court, signed by the President, marked Exhibit "D" and attached to the Proceedings.

Prosecutor

As a result of the statement being admitted into evidence I think I should produce, sir, as exhibits the cigarettes and razor blades which the Police found.

J.A.
On this man?
Prosecutor.
No, sir, as the property alleged to have been stolen.

The packet of Top Score cigarettes and the packet of Razor Blades are produced by the Prosecutor, marked Exhibit E and E1, respectively, admitted in evidence and attached to the Proceedings.

The Court at this time complies with R.P. 40.

J.A. to accused

Q.64 - You may if you wish give evidence yourself under oath but if you do so you will be subject to cross-examination by the Prosecutor and by the Court. Or you may make a statement not under oath. Do you wish to give evidence?
A.64 - No, sir.
Q.65 - Do you intend to call witnesses?
A.65 - Yes, sir.
Q.66 - Are they witnesses as to character only?
A.66 - No, sir.
Q.67 - Do you wish to make any statement not under oath?
A.67 - No, sir.

The Defending Officer makes no opening address but proceeds to call witnesses.

1st Witness for the Defence, Charles Freeman Clark, Charge Hand at the NAAFI Canteen at Larden Park Camp, Caterham, being duly sworn, is examined by the Defending Officer.

Q.68 - You are Charles Freeman Clark, Charge Hand at the NAAFI Canteen at Warden Park Camp?
A.68 - Yes, sir.
Q.69 - Do you recall the night of the 27th of August?
A.69 - Yes, sir.
Q.70 - On that night did you see the accused?
A.70 - I did, sir.
Q.71 - Where was he?
A.71 - He was sitting at the first table along the side of the NAAFI Canteen at Warden Park.
Q.72 - Was he drinking?
A.72 - He was.
Q.73 - How much did he drink?
A.73 - That I couldn't say, sir. He was one of ten at the table.
Q.74 - Do you know what time he came into the Canteen that night?
A.74 - About a quarter past seven.
Q.75 - When did he leave?
A.75 - After half past nine.
Q.76 - Was he drunk by that time?
A.76 - Well, drunk, but capable of walking.
Q.77 - What was his condition when he left?
A.77 - He was intoxicated, sir.
Q.78 - Do you recall a keg of dregs?
A.78 - Yes, sir, ullage.
Q.79 - Where was it?
A.79 - Outside the Canteen door, sir.
Q.80 - How many gallons did it hold?
A.80 - About nine gallons, sir.
Q.81 - Did you see this keg later?
A.81 - Yes, sir, the next morning.
Q.82 - How much of this dregs or ullage was left?
A.82 - About three gallons, sir.
Q.83 - Does that ullage have a very high alcoholic content?
A.83 - Well you ask me that question, sir. It's like this. If a person drank that I would expect him to be in bed or in a hospital. It would give him bad gripes, hurt his digestion. That is unless he had a cast iron stomach.

The Witness is cross-examined by the Prosecutor.

Q.84 - Do you remember seeing other chaps at the Canteen at the table where the accused was?
A.84 - Yes, sir. I recognized the accused. I was cleaning and serving round the table.
Q.85 - You recognized Hayes also?
A.85 - I knew him. I didn't know the accused but I saw him do some dancing around the table.
Q.86 - You didn't know who he was then?
A.86 - No.
Q.87 - Did you know any of the others at the table?
A.87 - No, sir.

2nd Witness for the Defence, D-82919 Cpl. H.M. Dunsmeer, 85 Cdn Bridge Coy, RCASC, being duly sworn, is examined by the Defending Officer.

Q.88 - Will you tell the Court your number, name, rank and unit?
A.88 - Yes, sir. D-82919 Cpl. Dunsmeer, H.M., 85 Cdn Bridge Coy, RCASC.
Q.89 - Do you recall the night of the 27th of August?
A.89 - Yes, sir.
Q.90 - Did you see the accused on that night?
A.90 - Yes, sir.
Q.91 - Will you tell the Court where and when you saw him?
A.91 - I left my hut after 10:30 p.m. and saw Pte. Lee walking up the road towards his hut. When I got to his hut I found him sitting

on the ground outside. I got him up and put him to bed.
Q.92 - Was he drunk?
A.92 - Yes, sir, very drunk.
Q.93 - Could he walk?
A.93 - He seemed to be having quite a bit of difficulty.

The Witness is cross-examined by the Prosecutor.

Q.94 - What else did you notice about the condition of this man?
A.94 - As I said, sir, he was pretty drunk, he and the man with him.
Q.95 - They could walk, couldn't they?
A.95 - They were unable to walk, sir.
Q.96 - Did they put up any argument when you told them to go to bed?
A.96 - No, they were very quiet then, but I could smell the drink on them.
Q.97 - Did you ask them to go into their hut?
A.97 - I ordered them in, and assisted them.
Q.98 - They were able to understand the order?
A.98 - It took them a minute or two to get the general idea. As soon as they did know, they responded.
Q.99 - Could they have got up again half an hour later?
A.99 - In my estimation they couldn't have got up again that night.

Court

Q.100 - Did you make a bed check?
A.100 - Yes, sir. I like to look through the huts in my section at night, just to see if everything is all right.
Q.101 - You do that in addition to the Orderly Sergeant?
A.101 - Yes, sir.
Q.102 - What time is Tattoo taken?
A.102 - At 11 o'clock, sir.
Q.103 - No earlier?
A.103 - No, sir, not in the Army Service Corps.
Q.104 - Was Lee present at the check up?
A.104 - Yes, sir, he was in bed.
Q.105 - Was he able to get out of bed?
A.105 - He was not in very good condition to be up.
Q.106 - Was he able to go on parade?
A.106 - I understand he was, but I was not present on morning parade.
Q.107 - Was Tattoo taken after you got back to your hut?
A.107 - Yes, sir.
Q.108 - Shortly afterwards?
A.108 - That would be about 5 or ten minutes after, sir.
Q.109 - Are there any guards or pigquets on billet lines at night?
A.109 - No, sir.
Q.110 - Is there no check on men who get up after 11 and go out?
A.110 - No, sir. At that time there are vehicle guards on duty somewhere around Camp, but they guard vehicles.

D.A.

Q.111 - Will you tell the Court something about this man? How is he as a soldier?
A.111 - He is a good soldier, sir.
Q.112 - Is he a good worker?
A.112 - Yes, sir, very satisfactory?
Q.113 - Obedient?
A.113 - Yes, sir, there were never any complaints about him, being disobedient, that is.
Q.114 - How long have you known him?
A.114 - Ever since he came into my company.
Q.115 - How long was that?
A.115 - Just about a year, sir.
Q.116 - And has he been in your section all that time?
A.116 - Not all the time. About four months, sir.

The Defending Officer makes the following closing address.

May it please the Court. I think It has been proved to the Court that the condition of the accused that night was one of extreme intoxication. Evidence has been given by his Section Corporal as to his condition at 11 o'clock that night. My second point is that, first, he was drunk and incapable of knowing what he was doing and could not be reasonably said to be in a condition of sanenass, and secondly, his condition resembled insanity when this act was committed. The Judge Advocate will tell you this condition of drunkenness is like insanity and I ask the Court to consider seriously how drunk this man was that night. You have heard the worker at the NAAFI say a man must have a cast iron stomach to stand up under that ullage. I would ask you to find this man so drunk that he does not know what he is doing. That he could not distinguish right from wrong and therefore he is not guilty of this offence as charged. I submit he was too drunk to have had a hand in carrying that safe that night to the point where it was found. If the Court reaches a decision that he was extremely intoxicated and that he could not have carried that safe, then he had no part in the breaking and entry or theft.

The Prosecutor makes the following closing address.

Mr. President and Members of the Court. I think it has been sufficiently proved that there has been a breaking and entry of this Canteen and certain things have been taken out of it. The accused man, Lee, made a statement in which he admits he was at a party where he was invited to enter the Canteen. After some discussion it was agreed to enter the Canteen. He admits entry into the Canteen. He says he returned without anything. The safe was brought to the window while he was there. It was taken to the top of the hill. I think this is sufficient to implicate Lee with this whole crime, which I submit was not one of a minor nature. To return to Lee, he didn't say he helped. He does say he got up and took a walk. He says he was invited to have a drink. He doesn't say how much he drank. However much he consumed earlier he admits that at this time he was sober enough to form an intention to enter the Canteen. And he was sober enough to form that criminal intent. I think that is all I have to prove.

J.A. to Court

My duty here is to instruct you on the law. You are the sole judges as to the facts affecting the guilt of the accused. To find the accused guilty, you must be convinced by the evidence. The Defence has suggested that the accused was drunk to such an extent he did not know the nature or quality of the act alleged to have been done. This must be proved by the Defence. But the second thing you must remember is that the onus of proof always remains upon the Prosecution. This is an onus which the Prosecution must discharge. It is not for the accused to prove himself innocent but the Prosecution must prove him guilty. On the question of reasonable doubt, the doubt must be a common sense doubt. If such exists in the minds of the Court, then the Court should find for the accused. If no such doubt exists the Court will find the accused guilty. But in the case of doubt, the accused cannot be found not guilty on any fantastic doubt, conjured up in your minds. It must be a common sense doubt. Whether or not the accused is guilty of the acts as charged, and whether the acts as charged constitute an offence, the Court must decide.

The Court is closed to consider the findings.
The Court is re-opened and the accused is again brought before it.

J.A. to accused

Pte. Lee, I will read again the charges to which you have pleaded guilty.

The Charges are read again from the Charge Sheet and the Summary of Evidence, as it applies to thos charges, is read, signed by the President, marked Exhibit "F", and attached to the Proceedings.

J.A. to Prosecutor

Q.117 - Mr. Prosecutor, have you any evidence to submit as to the character and particulars of service of the accused?

A.117 -

The Prosecutor, Lieut. C. B. Kirk, First Cdn Army Signals, being duly sworn, is examined by the Court.

A.117 - Yes, sir, I have a Statement of Character and Particulars of Service, known as M.F.B. 355, of the accused, and the accused's Field Conduct Sheets, known as M.F.M.6. I produce them in evidence.

The documents are read by the Court.

Q.118 - Is the accused the person named in the statement which you have just heard read?
A.118 - To the best of my knowledge he is.
Q.119 - Have you compared the contents of the above statement with the Regimental Books?
A.119 - No, sir.
Q.120 - Are they true extracts from the Regimental Books, and is the statement of entries in the conduct sheet a fair and true summary of those entries?
A.120 - They are certified as such by the Adjutant, Sir.

J.A. to Defending Officer

Has the Defence any objections to the production of these statements in evidence?

Defending Officer

No objections, sir.

The M.F.B.355 is signed by the President, marked Exhibit G , and attached to the Proceedings.

The M.F.M.6 is signed by the President, marked Exhibit H , and attached to the Proceedings.

J.A. to Defending Officer

Do you wish to address the Court in mitigation of sentence?

Defending Officer

May it please the Court. All I ask is that the Court take into consideration that the accused has already spent 33 days awaiting trial. I would also ask the Court to take into consideration the fact that this man had been drinking very heavily that night. He was not responsible to any degree for his acts. I ask that these two things be considered by the Court before sentence is awarded.

The Court is closed to consider the sentence.

Certified to be a true transcript
of the shorthand notes taken by me
at the trial described in First page.

Robert V. Parks

D-36570 Tpr. R. V. Parks,
Court Reporter.
28 Oct 42.

For Identification (?) RVP

C

D

Surrey Constabulary

Station or Section Caterham.

Division Oxted

Date 13th September 1942

C.11623—7,000—1/7/41.

SUBJECT MATTER.

EXHIBIT "D"

Name JOHN ROBERTSON MONTGOMERY LEE
(In full—Block Letters)

Address Marden Park, Caterham

Age 22 years Occupation Private No. D123545

I have been cautioned that I need not make any statement unless I wish. The caution has been explained to me. I make this statement voluntarily.

J R M Lee

The night in question after leaving the canteen Bill and I returned to our huts and went to bed arising later to get some fresh air and while walking up the road near the canteen we heard noises in the woods directly behind the canteen, we decided to investigate and came upon several men one of which was Private Hoyt who questioned our presence.

During the conversation that followed we were invited to have a drink which was accepted. There was then some discussion to enter the canteen and it was agreed by all that we should enter it. I myself entered the canteen with another and returned with nothing, while I was outside the

Signature of Person making statement J R M Lee

Witness to the above Tom C. Harris 5/1833

Surrey Constabulary

Station or Section Esher

Division Esher

Date 13th September 1942

SUBJECT MATTER

Name JOHN ROBERTSON MONTGOMERY LEE
(In full—Block Letters)

Address Sheet 2.

Age Occupation

safe was brought to the premises and lowered to the ground, it was then carried to the top of the hill while the safe was being carried up the hill someone went for a jack.

The hinges were knocked off the safe and it was given up as a bad job.

I had approximately 13/- which was removed from the cash box.

J M Lee

Signature of Person making statement

Witness to the above

TRIAL OF D-123545 PTE. LEE, J.R.M.,

NO. 85 CDN BRIDGE COY, R.C.A.S.C.

EXHIBIT - "E" - Packets of Cigarettes

EXHIBIT - "E-1" - Packets of Razor Blades

SUMMARY OF EVIDENCE IN THE CASE OF D-123545 Pte. Lee J.R.M. No. 85 Cdn. Bridge Coy, R.C.A.S.C., Marden Park, Caterham, Surrey.

The Officer Commanding, Major, Alex Gagnon, No. 85 Cdn. Bridge Coy, R.C.A.S.C. Cdn. Army Overseas, directs that evidence be taken on oath.

CHARGES. (1) Possessing False Pass.
" (2) A.W.L.
" (3) Larceny and Storebreaking.

FIRST CHARGE.

First Witness:- Sgt. McDonough J. D-123539 Orderly Room Sgt. No. 85 Cdn. Bridge Coy, R.C.A.S.C., having been duly sworn states:-

" I am D-123539 Sgt. McDonough J. Orderly Room Sgt. of No. 85 Cdn. Bridge Coy, R.C.A.S.C., I produce the following documents relating to the accused which have been received at the orderly Room. Documents contained are a pass, certificate of apprehension and Charge Sheet (AFB 252) by Cdn. Provost Corps. and statements of evidence signed by C-12088 L/Cpl. Schrieves and L-55282 L/Cpl. Ashton R.T.

There is no Officer by the name of Neale on the strength of this unit.

The number on the pass relates to Pte. Lee J.R.M. "

The accused declines to cross examine the witness.

J McDonough
Sgt. J. McDonough,
Orderly Room Sgt,

Second Witness:-Statements of evidence of L/Cpl. Schrieves and L/Cpl. Ashton R.T. is read to the accused. (Exhibit 'B')

I certify that owing to exigencies of the service, including the expense and loss of time involved, the attendance of these witnesses cannot be readily procured.

C B Kirk
C.B. Kirk, Lieut.
First Cdn Army Signals
Cdn Army Overseas.

SECOND CHARGE.

First Witness:- D-121940 Cpl. Lauziere M. No. 85 Cdn. Bridge Coy, R.C.A.S.C. having been duly sworn states:-

" I am Cpl. Lauziere M. D-121940 No. 85 Cdn Bridge Coy, R.C.A.S.C. On. 9 Sept. 42, I took charge of "D" Section at 1330 hrs. I called the roll, Ptes. Lee and Hayes were absent. I left the section two days later and they were still A.W.L.

The accused declines to cross examine the witness.

M Lauziere
D-121940 Cpl Lauziere M

THIRD CHARGE.

First Witness:- Joseph Beard, Manager of N.A.A.F.I. Canteen, Marden Park, Camp, Caterham, Surrey, having been duly sworn states:-

" I am Joseph Beard, Manager of N.A.A.F.I. Canteen, Marden Park, Caterham Surrey. On the eve the robbery occured we closed the N.A.A.F.I., everything was locked and secured, and going into the canteen next morning we discovered that the safe had been taken and £2 cash float which remained in a box unlocked.

On further examination we found approximately 50 Top Score in packets of 20 and about 100 Woodbine in packets of 5 and a box containing 100 Gillette blades missing.

We found the safe on Friday afternoon; it was badly damaged but the cash was intact. (£ 105-0-0)
I went to the M.T. Office to Call(Sgt. Terry) the Provost Sgt.

N.A.A.F.I. had been entered by tapping the window from the outside and then opening the catch."

The accused declined to cross examine the witness.

Joseph Beard.
Joseph Beard, Manager
N.A.A.F.I.Canteen.

Second Witness:- P.C. Harry Maurice Harding, No. 347 stationed at Caterham, Surrey, having been duly sworn states:-

" I am P.C. Harry Maurice Harding, No. 347 Caterham Police. At 8.50 a.m. on Friday 28 Aug. 42. in consequence of information received, I visited the N.A.A.F.I. Canteen, Marden Park, Caterham, where I found that a pane of glass near the catch of a casement window at the south west side of the canteen had been broken, there being some loose Woodbine cigarettes on the ground outside directly underneath this window.

I then commenced inquiries and learned that a safe containing £ 105-10-3 was missing also £ 2 in loose change from a cash box which stood near the safe. 500 Top Score cigarettes in packets of 20, 200 Woodbine in packets of 5 and 100 Blue Gillette blades to the total value of £ 119-8-2. Later that day a search was made for the missing articles and the safe was found ina small copse about 400 yds. from the canteen. Upon examining it I found that an attempt had been made to open it but this had been unsuccesful, and upon being opened in the presence of the police it was found that the contents were intact. On Monday 7 Sept. 42 after making further inquiries with the aid of Sgt. Terry and the CID I obtained statements under caution from Ptes. Hoyt and McAvoy, and after cautioning them as Quote" You are not obliged to make a statement unless you wish to do so, any statement you make will be taken down in writing and may be given in evidence."

The accused declines to cross- examine the witness.

Harry Maurice Harding 347
P.C. Harding H.M. No. 347
Caterham, Police.

Third Witness:- Sgt. Tom Harris No. 33 Caterham Police, having been duly sworn states :-

" I am Sgt. Tom Harris, No. 33 Caterham Police; on the 28 Aug. 42 as a result of a complaint received, I made enquiries at Marden Park, Caterham. On the 7 Sept.42 I saw the accused men Ptes. Hoyt, O'Gorman and McAvoy at Caterham Police Station and I interrogated them. I cautioned each one of them as follows; " You are not obliged to say anything unless you wish and anything you say will be taken down in writing and may be used in evidence." I explained the caution to them.

I was present when statements were made by each man.

On the 13 Sept. 42 I saw Ptes Hayes and Lee at Caterham Police Station and after cautioning them in the same manner as above, each made a statement.

I identify all five of the accused men and statements which I now produce, refer to these men.

At 5.30 P.M. 13 Sept. 42, I was taken to a spot in Marden Park by Ptes. Hayes and I then discovered 7 packets of cigarettes and 42 razor blades all being similar to the property stolen."

Statements produced and marked as exhibits.

Accused cross examines the witness.

Question:- Did I ask if I was to be tried in a civilian or Military Court and did I say that I was under the impression I was to be tried in a civilian Court when I made my statement ?

Answer:- You said you wanted to be tried by a civilian court, but I explained to you it was not a matter for me to decide. There was no condition attached to the making of your statement.

The accused declines to cross examine further.

Tom H. Harris 7 33

No. 33 Sgt. Tom Harris
Caterham Police.

Fourth Witness:- B-21172 J.R.Frost,Sgt., Special Investigation Section C.M.H.Q. attached H.Q. First Cdn. Army, having been duly sworn states:-

" I am Sgt. J.R.Frost B-21172, Special Investigation Section C.M.H.Q. attached to First Cdn. Army H.Q. About 0800 hrs. 28 Aug. 42 , information was received from the Adjutant,No.85 Cdn. Bridge Coy, RCASC that the N.A.A.F.I. Canteen had been entered. I proceeded to the canteen where I was joined by Sgt. Harris, Caterham Police. We were informed by the Manager of the canteen that the safe and also a quantity of cigarettes and razor blades had been removed from the building the previous night.

About 1400 hrs. a search party set out to locate the safe, this was found about 300 yds. from the canteen with the contents intact. The Canteen had been entered by breaking a glass in the window, there were a few Woodbine cigarette packets in the vicinity.

I was present when statements from Ptes. Lee and Hayes were taken by Sgt. Harris after they had been duly cautioned."

Accused cross examines the witness.

Question:- Do you recall Sgt. Harris saying , after statements were made,"We might as well break the news to them now as they are going to be remanded to a Military Court."

Answer :- " Yes "

The accused declines to cross examine further.

J.R.Frost.
B-21172 Sgt. Frost J.R.
Special Investigation Section
C.M.H.Q. attached
First Cdn. Army.

Question to accused:- Do you wish to make any statement or give any evidence upon oath ?
You are not obliged to say anything or give any evidence unless you wish to do so, whatever you may say or evidence you may give will be taken down in writing and may be used in evidence.

Answered by Accused:- I understood that the statement made by me was to be used in a civilian court only.

The accused declines to make any further statement

The accused reserves his defence.

9(g)

I certify that R.P. 4 (c) (d) (e) (f) have been complied with and taken down by me in the presence of the accused at Marden Park, Caterham, Surrey, this 28th. day of Sept.42

The accused was present at all times during the taking of this Summary of Evidence

C B Kirk

C.B.Kirk, Lieut.
First Cdn. Army Signals
Cdn. Army Overseas.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No D-123545. Rank Pte.. Name ...Lee, J.R.....

Unit 85th. Cdn. Bdge. Coy. RCASC.... was arrested at .London....(Place)

at .1730..(Hour) on 12-Sept-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~xxxxxxxxxxxxxxx~~)' Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable)'

C. Bauer .....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

C.

C.

File No. ..14/80.....

Officer Commanding,
85th. Cdn. Bdge. Coy. RCASC

Re: D-123545 Pte. Lee, J.R.

1. Forwarded for your information and necessary action, please, and disposal under C. A. Routine Orders (o) No. 388 dated 29th Oct. 1940.

2. The m/n has no complaints

London
13-Sept-42

C. Bauer .....Lieut.
for Capt. M. E. Byers,
O. C. No. 6 Coy.,
Cdn. Provost Corps.

CHARGE

Army Form B 252
(See King's Regulations)

R.C.A.S.C. Regiment

85th. Cdn. Bdge. Coy. Battery / Squadron / Troop or Company

CHARGE against No. D-123545 Rank Pte.

Name Lee, J.R.

Place London Date of Offence 12-Sept-42

OFFENCE W.O.A.S. Being in possession of and using a document purporting to be a genuine leave pass knowing it not to be genuine when checked by the Canadian Provost Corps at Waterloo Stn at about 1730 hrs. on the 12-Sept-42.

[signature] Lieut.
O. i/c Detention Room
No. 6 Provost Company.

Names of Witnesses :—

L/Cpl. Shrieves, Canadian Provost Corps.

L/Cpl. Ashton, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

(over)

'B'

P.T.O

R4889 Wt.W21972/580 2,000,000 7/41 K.A.B., Ltd. G657/47

---

out of the whole Army Reserve is ordered every soldier on pass
on immediately to his unit without waiting for instructions.

No. [illegible] Regiment 85th Cdn. Bdge. Coy
R.C.A.S.C.
Army Form B256
(In pads of 1000)

PASS

No. D123545 (Rank) Pte (Name) Lee J.

has permission to be absent from his quarters, e.g., from

A.D. 5/9/42 to 12/9/42

for the purpose of proceeding to London

(Station) Field

(Date) 5/9/42

BRIDGE COMPANY R.C.A.S.C., C.A.

No.

[signature] Commanding
Coy

(P.T.O.)

CROWN COPYRIGHT RESERVED

'A'

Wt. 29424/900 [illegible] 51-7953

Statement of **EVIDENCE** in the case of
D-123545 Pte. Lee, J.R.
85th. Bdge. Coy. RCASC

Sir;

At London on the 12/Sept-42 at about 1730 hrs. I was on duty at Waterloo Stn. in company with L/Cpl. Ashton, where I saw the a/m soldier. I approached him and asked to see his pass. He produced one which showed him to be on leave from 8-Sept-42 to 12-Sept-42. On being questioned he admitted that he was A.W.L. and that the pass was of no use. I placed him under arrest and escorted him to No 6 Cdn. Prov. Coy. Hqrs. where I turned him over to the N.C.O.i/c of cells to be detained.

London 12-Sept-42 ....L/Cpl. ([illegible] Shrieves, I.D.)

Sir;

I have read over and corroborate the above statement.

London 12-Sept-42 ....L/Cpl. (L-55282 Ashton, R.T.)

REMARKS

M.F.B. 355
5M-10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-123548	Pte	Lee, J.R.H. No. 85 Can.Bridge Coy	RCASC

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron Daily Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A. A. Sec. 15(1)	5 times	times
For A.A. Sec. 40	2 times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

~~There are no entries in the above sheets of the accused~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the~~ day of

4. The accused has been in confinement awaiting trial on the present charges, ~~for days in civil custody, and~~ 33 days in military custody, making a total of 33 ~~days in custody, of which days were spent in hospital.~~

5. The present age of the accused according to his record of service is 21 yrs, 11 months 6 days ~~attestation paper is~~

6. The date of his ~~commission~~ attestation specified in his record of service is 20 Oct. 1941 ~~Attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~military~~ decoration, or ~~military~~ reward (or is in possession of or entitled to). State any ~~military~~ decoration or reward.

10. ~~If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (*In the case of an officer.*) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated ....., and in his regiment (or corps), the rank of

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of October 42 .....Lieut.

.....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked .....signed by the president, and annexed to the proceedings.

D-123545 No. LEE Name J.R.M. Sqn., Battery, or Company No. 85 Cdn. Bridge Coy, Corps R.C.A.S.C. Date of enlistment 20-10-41 G.C. " Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1319-26) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	4-10-41	Pte.		A.W.L. (2days 7hrs. 45m.) A.A. Sec. 15 (1)	Cpl.Hishon	14 days CB	6-11-41	O.C.	Forf. 7 days pay
Farnborough Hants	26/11/41	Pte.		Failing to appear at place of parade appointed by C.O. A.A. Sec. 15 (1)	Cpl Hishon Cpl.Derick S/Sgt.Aspinall	14 days CB	28-11-41	O.C.	
Farnborough Hants	2/12/41	Pte.		'Conduct to the prej.&c. A.A. Sec. 40	Cpl. White L/C Walsh	Reprimanded	3-12-41	O.C.	
Field	29/6/42	Pte.		AWL (31 hrs.) A.A. Sec. 15 (1)	Sgt.Hishon C.S.M. Birch	7 days F.P.	2-7-42	O.C.	
Field	11/7/42	Pte.		AWL & Conduct to the prej &c. A.A. Sec. 15 (1) & 40	Cpl. Asselin Sgt.Hishon Sgt.Terry	Summary forf. 7 days pay	13-7-42	O.C.	

(over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23/7/42	Pte.		AWL (3 hrs. 5 min.)	Sgt.Mortimer	27 days F.P.	24-7-42	O.C.	Forf 27 days pay

Certified true copy

(R.G. Davidson) Lieut. & Adjt.
No. 85 Cdn. Bridge Coy, R.C.E.S.C.

484.

Pte. Lee. L. J.

Correspondence to be PINNED here.

4/8 a

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of DECEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~I am unable to appoint:—~~

*~~(1.) Three Officers to form the Court;~~

*~~(2.) A Field Officer as President;~~

~~for the following reasons, namely:—~~

In my opinion, military exigencies, namely the dispersion of units, difficulties of communication, and other difficulties, render it inexpedient to comply with those rules inconsistent with Appendix "A" to 2 D.R.O. 772 on the trial of the soldier named in the annexed schedule.

Proceedings Reviewed

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and the units to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as ultimately detailed, will be recorded with the proceedings.

18

President.

Rank.	Name.	Regiment.
MAJOR	F. J. GILMOUR	R C A H Q 2 Cdn Div

Members.

Rank.	Name.	Regiment.
A CAPTAIN	To be detailed by C R C A S C 2 Cdn Div	R C A S C
A CAPTAIN OR A LIEUT	to be detailed by A D O S 2 Cdn Div	R C O C
A CAPTAIN OR A LIEUT	WAITING MEMBER to be detailed by A D M S 2 Cdn Div	R C A M C

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. H. Roberts (J. H. Roberts) Maj-Gen
Commanding 2 Canadian Division
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C60061 Pte Lawrence Joseph Lee, RCASC, attd 18 Cdn Fd Amb RCAMC	FIRST CHARGE Section 18(4) Army Act STEALING PUBLIC PROPERTY (See charge sheet attd) SECOND CHARGE (Alternative) Section 40 Army Act CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (See charge sheet attd)	Guilty Withdrawn by Prosecution	Guilty 6 Months Detention 15 Dec 1942 J H Fulmour Major	Confirmed. Jul.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (H.D.G. Roberts) Maj-Gen — (Signed) J H Fulmour Major.
Commanding 2 Canadian Division. — *Convening Officer* (*c*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ JHF
*~~(4. The officers under instruction)~~ JHF.

* Omit if not applicable.

were duly sworn.

Signed this 15th day of December 1942.

J H Fulmour Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ____ day of ____ 19 .

JHF
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.~~ Jul.

Signed this 15 day of Dec 1942.

J H Roberts Maj-Gen
Confirming Officer.

Promulgated and extracts taken in the case of C-60061 Pte Lee L.J.

(*a*) (Dated) 17 Dec 42 (Signed) [illegible] Adjt. 2 Cdn Div.

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47262(1937) 20 M. 5/40 K.P.(1938)2 Gp. 4/6.3

CHARGE SHEET

The accused, No. C-70061 Pte Lee, L.J. R.C.A.S.C. att' 18 Cdn Field Ambulance, a soldier of the Canadian Army Overseas, in charged with, when on active service:

1st Charge
Army Act
Section 18 (4)

STEALING PUBLIC PROPERTY

in that he

in the field on or about 16 June 1942 stole a S & W Revolver No.725653, public property.

2nd Charge
(Alternative)
Army Act
Section 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field in or about June 1942 was concerned in the improper disposal of public property, viz:- S & W Revolver No. 725653.

Letourneau Maj
.....
(C.U. Letourneau) Major
A/O.C. 18 Cdn Field Ambulance
R.C.A.M.C. C.A.O./S.

TO BE TRIED BY F.G.C.M.

(J.H. Roberts) Maj-Gen
Comd 2 Canadian Division

In the field
14 Dec 42

B2 H Gilmour
Major
Pres.

MEDICAL CERTIFICATE

I certify that I have examined this Morning No. C-70061
Pte Lee L.J. RCASC Attd 18 Cdn Field Ambulance, R.C.A.M.C. and found him free from disease and capable to undergo trial by Court Martial.

Date 15 Dec 42

Medical Officer
18 Cdn Field Ambulance.
R.C.A.M.C. C.A. C/S.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at Jos the Field on the 15th day of December 1942 by order of Maj Gen S.H. Roberts. Commanding 2nd Cdn Division, dated the 14th day of December, 1942.

President.

Major F.J. Gilmour, RCA. HQ 2nd Cdn Div.

Members.

Capt. R.W. Scott. 2nd Div RCASC.

Lieut. C.M. Barratt. 2nd Cdn Div. Ord W/S.

, Judge Advocate.

Trial of* L/70061 Pte. Lee. L.J. RCASC. att' 18th Cdn Fd Amb.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not~~ available ~~to serve owing to~~ ~~, waiting member takes his place as a member of the Court.~~

W/S

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Major F.A.W. Currie 18 Cdn Fd Amb RCAMC.

Counsel‡ or defending officer† Capt. E.G. Swift 2 Cdn Div Sup Coy.

At 1100 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. "No Sir"

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

F Gilmour Maj
Pres

Mil. Form B. 271
10M—4-40 (5715)
H.Q. 1772-39-224

B

The President, members ~~and judge advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to the accused.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Guilty

Answer.

Question.

Are you guilty or not guilty of the second charge against you, which you have heard read?

✓

Answer.

Question.

Are you guilty or not guilty of the third charge against you, which you have heard read?

✓

Answer.

Question.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

✓

Answer.

The accused having pleaded Guilty to First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

F Fulmour
Major
Pres

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused C-70061 Pte Lee L.J.

is found guilty of The First Charge

*The summary (or abstract) of evidence is read, marked "D",

signed by the President, and attached to the proceedings.

Question to the accused.

Do you wish to make any statement in mitigation of punishment?

No.

Answer.

The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Capt Swift the Defending Officer addresses the Court:- points out that record of accused is by no means bad & that the highest award he has ever had was 14 C.B. He has pleaded guilty & to this extent has assisted in clearing up the matter. His past record is good & ask the Court to be as lenient as possible.

Instruction.

*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

[signature]
Major
Pres

DD

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

Yes. *Answer.*

D 105540 Cpl. R. J. Prud'homme, 18th Amb. R.C.A.M.C. duly sworn states: *Evidence as to character.*

I have known the accused 4 months he has been attached & served under me that long. He is a good soldier & a willing worker & I never had any trouble with him.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused No. C-70061 Pte L.J. Lee R.C.A.S.C. att'd 18 Can Field Ambulance guilty of the first charge.

H J Kilmour
Major
Pres.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~ HJ

Maj'r G A W Carrie
18 Can Fd. Amb.
is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* A7B296 + Cert Copy of M.F.M. 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E&F, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No they are certified by the adjutant in whose custody the regimentals are kept.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* to the best of my belief

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. No sir

The Defending officer after consulting with the accused admits exhibits E&F

Question to the accused.

Do you wish to address the Court? *Answer.* No sir

The Court is closed for the consideration of the sentence.

H J Kilmour
Major
Pres

F

Sentence

The Court sentence the accused No. C-70061 Sentence.
Pte L.f. Lee R.C.A.S.C. attd
186th Field Ambulance to
undergo detention for six months.

J.F. Johnson
Maj
Pres

Summary of Evidence
in the case of

C-70061 Pte. Lee L.J., R.C.A.S.C.
attached to 18 Cdn. Fd. amb. Rcamc. C.M.O.

By direction of the Commanding Officer 18 Cdn. Fd. amb., the evidence is taken on oath.

1st Witness for Prosecution. E1527K/Sgt. Cote, G.N.H., 18 Cdn. Fd. ambulance, in the Field, England.

The witness having been duly sworn states:

According to the Unit's Weapon and Ammunition Register a revolver bearing no 725653 ~~Smith~~ & Wesson was issued to Pte Ethier G., of the 18th Fd. amb. on 23rd May 1942. He (Ethier) signed for the revolver.

[signature] L/Sgt.

The accused declines to cross-examine the witness.

2nd Witness for Prosecution. D-91850 Pte Ethier G. R.C.A.S.C. att. 18 Cdn. Fd. amb., in the Field, England.

The witness having been duly sworn states:

Pistol no 725653 was issued to me by the Unit's Quarter-master about the middle of the month of May 1942. I do not remember the exact date when it was issued to me. If I remember correctly my revolver disappeared on the 16th June '42, we were then billeted in Staplefield, Sussex. I had left it in my holster hanging at the head of my bed the afternoon previous to its disappearance. Pte Lee L. of the Service Corps attached to the 18th Field ambulance was at the time sleeping in the top part of my bunk. Everybody in the room I slept in ~~below~~ where my holster was always hung, my ammunition, when checked,

D-91850 Pte Ethier G. (continued):
was in my ammunition pouch.

G Ethier

The accused declines to cross-examine the witness.

3rd Witness for Prosecution: D-105533 Pte Waterson R., Corps Troop Petrol Coy, in the Field, England duly sworn states:
Pte Lee, L.J. here present, and Pte Sabourin A. of the Corps Troop Coy, a DR., came to me about five months ago and offered to sell me a revolver which was in Private Sabourin's possession. This was in Ifield. I bought the revolver and paid, there and then, £1-10-0 or £2-0-0 for it. I gave the money to Pte Sabourin. I sold the same revolver the next day to Pte Lanergne of Corps Troop. Coy. R Waterson D105533

The accused declines to cross-examine the witness.

4th Witness for Prosecution: A-9361 Dolan C.K., No 3 Coy Cdn Provost Corps: having been duly sworn states:
From information that I received on the 24th of Nov. 1942, I interviewed Pte R. Waterson, 1st Cdn Corps Troop Coy, regarding a revolver which he had purchased. This revolver I found in the armourer's shop of the Cdn Corps Troop Petrol Coy. This revolver Smith and Wesson 38 calibre, registration No: 725653 I found to be missing from 18 Cdn. Fd. amb. A statement was taken from Pte Waterson also a statement from Pte A. Sabourin, C-21184, 1st Cdn Corps Troop Petrol Coy. These statements were given voluntarily. On the 27th of Nov. 1942

A-9361 Dolan, C.K. continued.

I interviewed Pte Lee, L.J.L.G.-70061, R.C.A.S.C. attached 18 Cdn. Fd. Amb., here present, regarding the above-mentioned revolver. He denied all knowledge of the revolver and refused to give a statement. The R.S.M. of the 18th Cdn. Fd. Amb. was with me when Pte Lee refused to give a statement.

S.K. Dolan.

The accused declines to cross-examine the witness.

5th Witness for Prosecution: C-21184 Pte Sabourin A. 1st Cdn Corps Troop Coy. R.C.A.S.C.

I certify that in my opinion, the attendance of Pte Sabourin A. C-21184, 1st Cdn. Corps Troop Coy, R.C.A.S.C. is, owing to the fact that he is on leave, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as exhibit "A."

R. Thandry capt.
R.C.A.M.C.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) makes his defence.

Certified that Rule of Procedure 4 (C) (D) & (E) have been complied with.

Taken down by me in the presence and hearing of the accused this twenty-eighth day of November 1942 in the Field.

R. Thandry, Captain
R.C.A.M.C.
18 Cdn. Fd. Amb.

25-11-42

I give this statement voluntarily
About 5 months ago I was
attached to Rear Corps Hdqrs.
One night Pte Lee, L.J., RCASC
attch'd 18 Fld Amb. came to me and
asked me if I knew anyone who wanted
to buy a civilian revolver, he showed
me a S & W. 38 Cal. revolver. Pte.
McPherson G. RCASC. attch'd ~~[illegible]~~
to Hdqrs. also can verify this He
(Lee) was unable to sell the revolver
there (Balcombe) so he and I then
proceeded to 1 Cdn. C.T. Petrol Coy at
Ifield and we went to see Pte.
Waterson, R. he gave me a £1,10,0
and I handed him the revolver and
after we got outside I handed the
£1,10,0 to Pte. Lee. Lee and I
then went to the Gate Inn, Rusper
Rd, Ifield, we were there for about
2 hrs, and then we separated. I figure
I received about 1/2 of the £1,10,0. I
have never seen Lee since.

Signed.
C 21184.
Pte. A. Sabaurin
1 C.C.T. Pet. (Coy.)
R. C. A. S. C.

Witnesses
A9361, [illegible]
C12324 H B Palmer

Exhibit A.
[illegible]

R.O.

"G" part of summary.
H Gilmour
major
[illegible]

Cdn. Provost Cpl.

Herewith statement in regards to Smith & Wesson Revolver No.725653 being in possession of C.3058 Pte. Lavergne, F. At approx. 1300 hours on 20 Jun 42, Sgt. Lawrence, J.R. reported to H.Q. Orderly Room and stated he believed that the a/m Private had made off with one of the Sergeant's revolvers. He stated that Pte. Lavergne was on pass to London and would be getting the 1200 hours train to Victoria. I phoned No.6. Provost Coy and gave them a description of the a/m man and also an address in London to which he might go. No.6. Provost Coy apprehended Pte. Lavergne and returned him to Unit. On investigation Pte. Lavergne disclosed that he had bought the revolver from Pte. Waterson. Pte. Waterson had bought it from Pte. Sabourin, A. From there I believe it had been found during Exercise "TIGER".
No military action was taken in this regard.

Field
30 Nov 42
-/KP

E.S. Gordon
.....
B83974 S/Sgt. Gordon, E.S.
1 Cdn. C.T. Pet Coy (32 Coy)
R.C.A.S.C.

Cranleigh 343
N end of Bg pass
(1 field)

Additional Evidence of D-105533 Pte Waterson R-

The revolver labelled exhibit 'B' I think is the same weapon I bought from Pte Sabourin A. I know this because the first two numbers of the serial number of the weapon I bought were 72 and the last two 53. I noticed no W.D. markings on it, when it was in my possession

Additional Statement by Pte. Sabourin A. C-21184

The revolver that Pte. Waterson bought bore the serial number 72 - - 53. I did not notice what make of revolver it was, or whether it bore W.D. markings

9 Dec '42

Geo A W Cunin Major
18 Cdn. Fd Amb.

This evidence has been incorporated in the original evidence given by these men.

Geo

No. C-70061 Name Lee Lawrence Joseph | Sqn., Battery, or Company | Corps H.Q. C.F.C. | Date of enlistment 11-11-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 175M—7-41 (1215-503) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Blair Atholl	19-1-41	Pte.		A.A. Sec. 40 Conduct to the prejudice, etc.(creating a disturbance in men's cookhouse.	Pte. Armstrong	48 hrs Detention	20-1-41	Major Dawson	Forgeits 2 days' pay under F.R. &I
Field	13-3-42	Pte		A.A. Sec. 15 (1) A.W.L. from 2300 hrs 14-3-42 until 0950 hrs 15-3-42 Absent 10 hrs 50 minutes.	CSM Stevens CSM Routtenberg	1 day Forfeiture of pay Stoppage 1 day pay	16-3-42	Lt.Col L.V. Janes	
Field	22-3-42	Pte		A.A. Sec 15 (1) A.W.L. from 2359 hrs 22-3-42 until 0910 hrs 23-3-42 Absent 9 hrs 11 minutes.	CSM Routtenberg L/cpl Cook K.N.	1 day forfeiture of pay Stoppage 5 days pay	23-3-42	Lt.Col L.V. Janes	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-3-42	Pte		Sec.40 A.A. Turned over a W.D. vehicle to another driver without authority.	L/Sgt Feltham J.C. Pte Price C.H.	14 days CB	2-4-42	Lt.Col L.V. Janes	
Field	8-7-42	Pte		A.A.Sec 40 (1) Conduct to the prejudice of good order and military discipline.	Cpl Prud'homme	7 days CB	9-7-42	Capt J. de St-Victor	
Field	5-8-42	Pte		A.A. Sec 11 Neglect to obey a regt'l order no.43 dated 4-8-42	S/Sgt Proulx R. Cpl Cote G.	3 days CB	8-8-42	Capt J. de St-Victor	
Field	30-9-42	Pte		A.A. Sec 11 Neglect to obey a regt'l order No.86 dated 17-9-42 (Kit in bad order)	S/Sgt Proulx R. Sgt Martin R.	3 days CB	30-9-42	Capt Tellson A.	

certified true copy

Description of Court by which tried, or Status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~30th~~ 15 day of ~~November~~ December 1942.

[signature]

[signature] Lundy and adj.
18 Cdn. Fd. Amb.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

C-70061 Pte Lee, L.J. of the 18 Cdn Fd Ambulance. (RCASC att')

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. Sec 40	2	times	3	times.
For A.A. Sec 15 (1)	2	times	2	times.
For A.A. Sec 11 (I	2	times	2	times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct.~~

~~xx~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

~~xx~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 79 of the Army Act, are set out in the Schedule annexed to this statement.~~

Wt. 43648/664 50,000 2/40 W. S. Ltd. 52—6064

[signature] Major pres.

3. The accused is not under sentence at the present time, N.A.

or,

The accused at the present time is under sentence for N.A.

N.A. beginning on the N.A. day of N.A.

4. The accused has been in confinement, awaiting trial on the present charges

for N42 days in Civil Custody,

and 119 days in Military Custody.

Total 119 days.

Of which 2 17 days were spent in hospital. Pay Book 27

5. The present age of the accused according to his [illegible] is [illegible]

6. The date of his attestation 24 [illegible] specified in his [illegible] is 11 Nov 40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N.A.

8. The accused is entitled to deferred pay or gratuity in respect of N.A. years' service.

9. The accused is entitled to reckon N.A. years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

N.A.]

11. [*If the accused is a warrant officer.*] The accused before he was made a warrant officer last held the regimental rank of N.A.

12. [*In the case of an officer.*] The accused holds in the army the rank of N.A. , and in his regiment [*or* corps or department] the rank of N.A. , dated N.A. dated N.A.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date, N42

Date of Promotion.

In the rank of N41 years, N42

In the rank of years,

In the rank of years,

In the rank of years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name C 70061 Pte LEE, L.J. of the 18 Cdn Field Ambulance, (RCASC, Att'd).

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
NIL		NIL	NIL	

(Continued overleaf.

00-142
GNR LEE L.P

OO-142

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this twenty-fifth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, Second Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] PCT

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[~~I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~*

PCT

WMW Shaw capt

J W Wilson Major.

Capt WMW Shaw, HQ 2 Cdn Div is hereby appointed Judge Advocate

President.

Rank.	Name.	Regiment.
Major	J. W. Wilson	RCASC, 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt	F. T. Adams	HQ, 2 Cdn Div
Lieut	R. S. Douglas	3LAA Regt RCA

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding C.R.A., 2 CDN. DIV.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
3 Cpl. Gnr Sherwood Patrick 1 Fd. LAA Regt.	FIRST CHARGE AA Sec 15(1) (See Charge Sheet att)	guilty	guilty	
	SECOND CHARGE AA Sec 27 (See Charge Sheet att)	guilty	guilty	
	THIRD CHARGE AA Sec 15(1) (See Charge Sheet att)	guilty	guilty	
	FOURTH CHARGE AA Sec 24(2) (See Charge Sheet att)	guilty	guilty To undergo detention for 120 days and to be placed under stoppages of pay in the sum of £8-9-7 to make good costs of return and 75% value of lost kit. 27 Aug 43. J W Wilson Major	Confirmed P C Rees Brigadier C.R.A., 2 CDN. DIV.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) P C Rees Brig (Signed) J W Wilson Major
Commanding R.C.A. 2 Cdn Div Convening Officer (*d*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 27th day of Aug 1943.

Wm W Shaw Capt — J W Wilson Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 4 M M L 4/41

* ~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this 29th day of Aug 1943
P C Rees
Confirming Officer
Brigadier
C.R.A., 2 CDN. DIV.

Promulgated and extracts taken in the case of 4 13066 Gnr Lee L.P.

(*a*) (Dated) 3 Sep. 43 (Signed) T. Rees

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22779) Wt. 40113—825 ... P. St. G. Co.

CHARGE SHEET

The accused G13066 Gunner LAWRENCE PATRICK LEE, 3rd Canadian Light Anti-Aircraft Regiment, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he
While on Active Service in the Field, absented himself without leave from 12:00 hrs 11th July 1943 until he surrendered himself at his Battery Headquarters at 14:00 hrs 10th Agust 1943.

2nd Charge
AA Sec 22

WHEN IN CONFINEMENT ESCAPING

in that he
While on Active Service in the Field when in confinement at WORLEYS WOOD on 10th August 1943 escaped.

3rd Charge
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he
While on Active Service in the Field absented himself without leave from 23:30 hrs 10th August 1943 until he surrendered himself in plain clothes to the Glasgow Civil Police at 11:15 hrs 19th August 1943 and caused a cost of Three Pounds Ten Shillings One Penny (£3-10-1) in returning him to his Regiment.

4th Charge
AA Sec 24(2)

LOSING BY NEGLECT PUBLIC PROPERTY ISSUED TO HIM

in that he
While on Active Service in the Field on 20th August 1943 was deficient Kit and equipment which was issued to him to the extent of Six Pounds Twelve Shillings Nine Pence One Halfpenny (£6-12-9½)

(J.F. Plow) Lt-Col., R.C.A.,
Commanding, 3 Light Anti-Aircraft Regiment,

In the Field
25 August 1943

To be tried by Field General Court Martial.

(P.C.Tees) Brigadier,
Commanding Royal Canadian Artillery,
Second Canadian Division.

In the Field

B2

I desire to have the services of Lieut. J.R.C. Dowdell as defending Officer in the F.G.C.M.

L.P. Lee
.....
G13066 Gnr Lee, L.P.

MEDICAL CERTIFICATE

27 Aug 43

I have examined this morning G13066 Gnr Lee,L.P. and find him fit to undergo trial by F.G.C.M.

(A.G. Tellson) Capt., R.C.A.M.C.,
Medical Officer,
3 Canadian L.A.A.Regiment.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field Gen Court-Martial held at In the Field on the 27 day of Aug 1943 by order of Brig P C Tees

Commanding RCA 2 Cdn Div

dated the 25 day of Aug 1943

President.

Major J W Wilson, RCASC

Members.

Capt F. S. Adams, HQ 2 Cdn Div

Lt R. S. Douglas, 3 LAA, RCA.

Capt W M W Shaw, HQ, 2 Cdn Div

Judge Advocate.

Trial of* G 13066 Gnr Lawrence Patrick Lee, 3 LAA Regt, RCA.

The order convening the Court, the charge-sheet and the summary WMWS ~~(or abstract)~~ of evidence are laid before the Court.

WMWS ~~The Court satisfy themselves that~~ ~~is not available to serve owing to,~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt D. P. March, 3 LAA Regt, RCA.

WMWS ~~Counsel; or~~ defending officer† Lt J. P. Dowdell, 3 LAA Regt RCA (Barrister)

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn

The following officers under instruction are duly sworn.
Lt P.L. Malkin, 3 LAA Regt RCA
Capt J.M. Hockin, HQ 1 Cdn Corps.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Guilty *Answer.*

The accused having pleaded Guilty to all the charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea "Not Guilty" has been proceeded with.

WMWS *[~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~]

The accused G13066 Gnr Lawrence Patrick Lee is found guilty of all the charges

WMWS †The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. WMWS The accused in mitigation of punishment ~~says~~

WMWS ~~[illegible]~~ hands in a written statement, which is read, marked "H", signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No, Sir.

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

WMWS ~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence charac

WMWS ~~The Court being re-opened, the accused is again brought before it.~~

Prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* MFB 355 & MFM 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 1 & J, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* yes

[Instruction.—If he makes the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court ensues him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court may inquire into the nature and amount of that additional punishment.]

NOT Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer* yes thus my def offr (see over)

The Court is closed for the consideration of the sentence.

F

~~Sentence.~~

Sentence.

WMWS ~~The Court sentence the accused~~

Def. offr in mitigation :-

Written statement handed in by acsd is in mitigation. Unfortunate domestic circumstances & wishing to have her pay stopped he went absent - Do not condone behaviour but ask court to take into consideration the reason for going absent.

WMWShaw
capt
Judge Advocate

J W Wilson Major
President.

F

~~Sentence.~~

WMWS

~~The Court sentence the accused~~ Sentence.

Def. offr in mitigation :-
Written statement handed in by accsd is in mitigation. Unfortunate domestic circumstances & missing to have her pay stopped he went absent~~e~~ - Do not condone behaviour but ask court to take into consideration the reason for going absent.

WM Shaw
capt
Judge Advocate

J W Wilson Major
President.

SUMMARY OF EVIDENCE

In the case of:- G13066 Gnr. LEE, L. P.,
38TH CDN. LT. A. A. BATTERY,
Canadian Army, Overseas.

Lieut.-Col. J. F. Plow, C.O., 3rd Cdn. Lt. A. A. Regt., directs that the evidence be taken on oath.

FIRST WITNESS: K21002 B.S.M. Anderson, W. J., 38/3 Cdn. Lt. A. A. Regt. having been duly sworn states:-

G13066 Gnr. Lee, L. P. was reported absent at 1200 hrs, 11 July 43 while the battery was on operational sites in Bordon. I did not see Gnr. Lee again till he reported to me at approx. 1400 hrs, 10 Aug 43, when I placed him under arrest and arranged for him to be turned over to the Guard Commander.

The accused declines to cross-examine the witness.

SECOND WITNESS: G52842 Gnr. Gorey, A. P. P., 38/3 Cdn. Lt. A. A. Regt. having been duly sworn states:-

I was the sentry on duty outside the prisoners' tent from 2100 hrs till 2300 hrs, 10 Aug 43. About 2245 hrs I took Gnr. Crowshaw, another prisoner, to the latrine. The Guard Commander and other members of the guard were in the guard tent which was attached to the prisoners' tent. When I came back about 2255 hrs, Sgt. Hebburn, the Guard Commander, informed me that Gnr. Lee had escaped. I have not seen him since till now.

The accused declines to cross-examine the witness.

THIRD WITNESS: K20003 A/BQMS Bower, C. F., 38/3 Cdn. Lt. A. A. Regt., having been duly sworn states:-

Approximately 20 Aug 43 Gnr. Lee's kit was turned over to me from R.H.Q., it was placed in my stores and was unopened till in the presence of Gnr. Lee and Capt. D. P. March, on the 24th Aug 43. I personally checked it and found it to be deficient the articles as stated in Appendix "A".

The accused declines to cross-examine the witness.

FOURTH WITNESS: Constable Peter Tennant, No. 202 Constable, Reg. No. 0464, "A" Division, Central Police Station, Glasgow.

A written statement of this witness' evidence, purporting to be signed by him is included in this Summary (Attached as Exhibit "A").

The accused having been duly cautioned in accordance with R.P. 4(e) declines to make a statement.

CERTIFIED THAT R.P. 4 HAS BEEN COMPLIED WITH.

"G"

In-the-Field,
24 Aug 43.

D P March Capt
(D. P. MARCH) Capt., R. C. A.,
38/3 Cdn. Light A. A. Regiment.

J W Wilson Major

EXHIBIT "A"

CITY OF GLASGOW POLICE

"A" Division,
Central Police Station

19 August, 1943.

Subject: Surrender Absentee
C.13066 Gunner Lawrence Patrick Lee (24)
3rd L.A.A.Regt., 36th Batty., Canadian Army Overseas.

With reference to subject matter I beg to report that at 11.15 a.m. on this date the above-named Canadian Soldier called at this Office and surrendered himself to me as being absent without leave from the above Unit at Horsham, Surrey, since 10th August, 1943, and on this admission he was detained here pending the arrival of a Military escort.

He was in plain clothes.

sgnd Peter Tennant
No. 202 Constable,
Reg. No. G.464.

The Superintendent.

Forwarded for the information of The Officer Commanding,

sgnd George McLean
Lieutenant
for Superintendent

19th August, 1943

Certified true copy.
D. McNeil Capt

APPENDIX "A"

Kit Deficiencies of:- G13066 Gnr. Lee, L. P.
38/3 Cdn. Lt. A. A. Regiment.

No.	Article	£	s	d
1	Battle dress blouse	1	7	8
1	Cap, F.S.	0	3	8
1	Drawers, cellular, short	0	2	3/4
1	Gloves, knitted, drab	0	2	7½
2	Shirts Angola drab	0	18	4
1	Trousers battle dress	1	7	11
4 pr	Socks worsted	0	6	8
1 pr	Badges shoulder "Canada"	0	0	5½
1	Brush, hair	0	1	1
1	Brush, shaving	0	1	4
1	Brush, shoe, blacking	0	0	8
1	Brush, tooth	0	0	4½
1	Comb, hair	0	0	2
1 set	Discs, identity, with cord	0	0	5
1	Fork M.S. table	0	0	9
1	Holdall	0	0	9½
1	Knife table	0	1	10½
1	Razor safety with blade	0	0	4½
1	Spoon M.S. dessert	0	3	0
2	Vests cotton gym	0	1	11
2	Towels hand	0	10	5
1	Haversack	0	10	½
1	Helmets, steel	0	8	8
2	Straps shoulder haversack	0	3	1
1 set	Tins Mess Rect.	0	1	5½
1	Wallet A/G			
	Total:-	£ 6	12	9½

Defending Officer
in the case of Q13066 Gnr. LEE, L.P.

1. In accordance with R.P. 76, I intend to call as a witness at the F.G.C.M. H56875 L/Bdr. Thompson, J.S., 38/ 3 Cdn LAA Regiment. His evidence will be as attached statement

D P Marsh Capt

(D.P.Marsh)Capt, R.C.A.
Prosecutor.

R56873 L/Bdr. Thompson, J.S. 38/3 Cdn Lt. A. A. Regt. having been duly sworn states:

"I was No.1 of "G"5 detachment of which Gnr. Lee was a member. He was absent from 1200 hrs 11 Jul 43 and he has not been with the detachment since."

C52842 Gnr. Gorey, A.P.P. 38/3 Cdn Lt. A. A. Regt. having been duly sworn states:

"When I came back from the latrine with Gnr. Crowshaw, and was informed by the Guard Commander that Gnr. Lee had escaped, I went to the prisoners tent and looked for myself. He was not there about 20 minutes later. I was placed under arrest and confined in the same tent. I was there for the next three days and Gnr. Lee was not there during that time."

Gp 1

IMMEDIATE.

Army Form O.1817
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police ; e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 459/1940).

(20939) Wt.49432/452 35,000 2/41 A.& E.W.Ltd. Gp.698 Forms/O.1617/15.

I CERTIFY that the man whose personal description is given below surrendered himself to* Peter Tennant, 202nd Constable at Central Police Office Glasgow at (hour) 11.15a.m. on the 19th day of August 1943 as being No. G.13066 (Rank and Name) Gunner Lawrence Patrick Lee 3rd L.A.A.Regt., a deserter (or absentee without leave) from 36th Battery, Canadian Army Overseas. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24. Height 5 Feet 11 Inches

Complexion Fresh. Hair Dark.

Eyes Brown.

Marks Small tatoos on both forearms.

In uniform or plain clothes Plain clothes.

Probable Date and Place of Attestation	5/9/39. St. John, N.B.
Probable Date of Desertion or beginning of absence, and from what place	10th August, 1943, at Horsham, Surrey.

Signature of Officer of Police in charge of Central Police Station. Glasgow.

19th August, 1943. Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

Date of Signature.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (I) (J)

I, (Capt. Fern. W.) D.A.P.M. London Area. .....certify that

Reg. No. G 13066 Rank Gnr. Name Lee. L.P. .....

REGIMENT 3rd. L/A.A.Regt. 38th Bty. .....

UNIT R.C.A. .....

STATIONED AT .....

Surrendered himself to No. N 202 Rank P.C. Tennant.T. Name .....

of the Civil Police Central Civil Police Station. .....

on the 19th. day of August .....194 , at 1115 hrs hours .....

.....AS AN ABSENTEE WITHOUT LEAVE .....

at the time of his surrender he was wearing (~~[illegible]~~ (Civilian Clothes)'

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on surrender. (Strike out part inapplicable)'

London

R. J. Vanzoon CAPT.
Officer i/c Warrant Officer Room,
No. 6 Can. Provost Coy.

(W. FERN) D.A.P.M.
LONDON AREA

Ex 2

Expense Voucher Re—: Ref. K.R. & O. (Can) 539

Reg. No. 513066 Rank Gnr. Name Lee, L.P. Unit 3 LAA Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Edinburgh

Date	Particulars (1/7 portion)	Amount		
22 Aug 43	Escorts return fare from LONDON To Edinburgh	1	6	2
	Prisoners single fare to LONDON From Edinburgh	1	10	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (1/7 portion		5	11
	Total £	3	2	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

(W. [illegible] D.A.P.M. LONDON AREA.

C.M.H.Q. 1000:55
40(P & S/483(3287)

Ex 3

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. G 13066 Rank Gnr Name Lee, L. P. Unit 3 L.A.A. Regt., R.C.A.

The following expenses were incurred ~~in apprehending~~ and returning the M/N Soldier to his Unit From London

Date	Particulars ½ Portion	Amount		
22 Aug 43	Escorts return fare from LONDON To Pulborough		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pulborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. [illegible]
40/P & S/[illegible]

To the President of the Court

August 27/5/45

It was on Dec 25/1940 I landed in England I had a few crimes in Canada but I decided to start fresh and to do my best to be a good soldier I left a good record until 1942. but in the meantime I was receiving letters that my daughter was in the Hospital and that my wife was running around with other men and that she was being untrue to me I also rote and warned her that I would stop her money if she didn't start to go straight.

but she didnt pay any attention to me I then warned her several times again then I got word from my sister that my baby died and that my wife got more instead of letter she was out in the company of other men all the time I was discouraged and went absent for 14 days my first crime in this country for about 2½ years I then started to soldier again and I kept getting letters from my sister telling me that she was still running around with other men I then went to the 3rd L.A.A. Bty after being there

for about a week. I wrote a letter to the L.P.A. Board to have my wifes money stopped that was in April and I have heard nothing about it until yesterday the 26th of August and in the mean time I got a letter from my Mother saying that my wife had left home and went to stay at a girls house who I know to be no good and she also stole from my Mother Several articles before she left. so not hearing anything from the L.P.A. board I became discouraged and went absent to have her money stopped so after 30 days absent thinking that her money was stopped I came but the same day I came back I seen the Pay Master of the pay office and he told me that her money would start again now that I was back so I broke arrest and went absent again to keep her money stopped

J P Lee

"G" "H"

J W Wilson Major ...

M.F.B. 355
22M—5-41 (579-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G13066	Gunner	Lawrence Patrick Lee	3 Cdn L.A.A.Regt.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	Drunkenness	One times
For		times	AWL	two times
For		times	Conduct to the Prejudice	One times
For		times		times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for One days in civil custody, and Five days in military custody, making a total of Six days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 23 yrs 6 mos 5 dys

6. The date of his attestation specified in his record of service is 5 Sept 39

7.

8. The accused is entitled to reckon 3Yrs11Mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, military reward (or is in possession of or entitled to). military

10.

I

~~11. (In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force

unit

dated , and in his regiment (or corps), the rank of

dated .

~~12.~~ The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twenty ~~first~~ day of August 1945

Capt., RCA,
Adj 3 Cdn Z.A.A.Regt.
Cdn Army, Overseas.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. G13066 Name Lee, L.P. Sqn., Battery, or Company 38 Cdn LAA Bty Corps RCA Date of enlistment 5 Sept 39 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Days not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
RCATC Petewewa	6Aug40	Gnr		A.W.L.		19 days Det. 19 days Pay			
2 CAHU	18Feb41	Gnr	1	Drunkenness		Admonished			
	16May42	Gnr		A.A. Sec. 40		5 Days Pay		1 LAA Regt	
	15Aug42	Gnr		A.A. Sec. 15		14 Days F.P. 23 Days Pay		1 LAA Regt	

Certified True Copy

(Sgd) Laing Capt., R.C.A.,
Adjutant,
3 Canadian L.A.A.Regiment.

(P.T.O.)

54-83.

Gen. Lee, L. P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 13066 Gnr Lawrence Patrick Lee 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~As present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days.

(Sgd) ..... 28 April 45 (Sgd) [signature] President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

Date 23/Apr/45 (Sgd) [signature]
Commanding Officer. 1 Cdn Sec 1st Echelon

Confirming Officer. A.F.H.Q.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 13066 Gnr. LEE L.P. 2 Cdn NETD	28 Apr 45	[signature] OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 24 MAY 1945 JAG Liaison A.F.H.Q.

RECORDED AT FMHQ IN AB 160 5G-83

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA3) 40/P/R/1698 (2864)

Convened ~~Brigadier J. C. Stewart~~ ~~Col. S.A. LEE~~ DAG ~~A~~ Comd Cdn Sec 1 Ech dated ~~12~~ 10 Apr 45 AFHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G13066	PROCEEDINGS REVIEWED 14 May 45 [signature] Lieut. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.	Lawrence Patrick	LEE	2 Cdn NETD

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 20 ~~Mar~~ Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1425 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 50 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~no~~ interpreter? Ans ~~—~~

~~The interpreter is sworn.(1)~~ Do you object to ~~no shorthand writer~~ shorthand writer is sworn.(1) No

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member recites. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L.M. ORGE (Gen List)	Cdn Sec 1 Ech AFHQ
Member	Capt	D.L. WATTS (GIC)	~~2 Cdn NETD~~
Member	Capt	T.B. HARRISON (RCA)	2 Cdn NETD
~~Member~~ ~~Judge Advocate~~	Lieut	G. Clark (CIC)	2 Cdn NETD
Prosecutor	Lieut	D.M. Fridd (RCA)	2 Cdn NETD
Defending Offr	Capt	J. Wallace (RCA)	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 104, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~a~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the pleas.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. 0.100

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s).~~ ~~The accused is (are) so informed, and he (they) changed~~ his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 117.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.(3)
(*1. MFB 255 or MFB 29a. 2. MFW a. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No, my Defending Officer
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1223, MML p 60, 713-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Law

CHARGE SHEET

The accused, G.13066, Gunner Lawrence Patrick LEE, No 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 2200 hrs 24 Oct 44 absented himself without leave until about 2230 hrs 13 Nov 44.
(Total Absence: 20 days, 30 mins).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 2200 hrs 19 Feb 45 absented himself without leave until about 1030 hrs 15 Mar 45.
(Total Absence: 23 days, 12 hrs, 30 mins).

D J Burgoyne

(D.J.Burgoyne) Major
Commanding Officer
No 2 Cdn N.E.T.D.

In the Field
13 April 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Italy
20 Apr 45

J C Stewart

(J. C. STEWART) Brigadier
OIC Cdn Sec 1 Bch AFHQ

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G13066	Gnr		Lawrence Patrick	LEE	2 Cdn N E T D

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 20 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L M ORGE (Gen List)	Cdn Sec 1 Ech AFHQ

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D L WATTS (CIC)	2 Cdn NETD
Capt	T B HARRISON (RCA)	2 Cdn NETD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	G CLERK (CIC)	2 Cdn NETD

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)
(J. C. STEWART)

Brigadier (Rank.)

Date 20 Apr 45

~~xxxxxxxxxx~~ CIC Cdn Sec 1 Ech AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE.
(K.R.(CAN) 557)

I certify that I have this morning examined No. G.13066
Rank Gnr NAME LEE L P of No. 2 Cdn N.E.T.D.
1 C.B.R.Gp and in my opinion he is fit/~~unfit~~ to undergo trial
by Court Martial.

In the Field
DATE 20 Apr 45

[illegible]
(Medical Officer).

Due to the exigencies of the Service, Capt. D.L. WATTS, CIC, 2 Cdn NETD, was not available. The waiting member, Lt. G. CLERK, CIC, 2 Cdn NETD, was sworn in as a member of the Court.

[illegible]
Major
President of the Court.

APR 20 1945

C 13066 Gnr. LEE L P
FGCM
Plea in Mitigation

1. You will notice from the conduct sheet of the Accused that he joined up 5 Sep 39 and until the present has an absolutely clean record.

2. I realise that with a record like this I do NOT need to say a great deal in defence for the accused whose total absence is only some 40 odd days

3. However, there are two points about which I feel you would like to know.

4. You are continually receiving recitations of family troubles in defence of a continuous record of crimes. With a clean sheet, I should like you to know that Gnr LEE's only child died in Jul 42, and between the latter part of 42 and the present he has been corresponding with friends and relatives who have tried to persuade him to divorce his wife as unfaithful. He has taken NO action as he feels when gets back home he can straighten the whole matter out.

5. He is NOT a case of AWOL from the front line. LEE was a dvr of an amn lorry, the hazards of which are quite normal and had been accepted by LEE for a long time.

6. You will notice there is a period of over 100 days between termination of absence in the first charge and commencement of the second. The accused turned himself in to the Brit Pro at the end of the first period and was inadvertently sent to..... ..... in SICILY for disposal. It was NOT until the 15 Feb before he was returned to AVELLINO, when he was immediately sent back to his unit, 2 Cdn Med Ret. His total time spent awaiting CM amounts to.....
I trust this will be given full consideration.

7. I hope this information will assist you in arriving at a fair and just sentence on the first crime of a man who has given over ~~four~~ years of disciplined service to the Cdn Army.

Five.

SUMMARY OF EVIDENCE

In the case of G.13066 Gunner LEE, L.P., No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K. employed as clerk in the Legal Office, No.2 Cdn. N.E.T.D. and as such I have custody of regimental documents. I present a certified true extract from 2 Canadian Medium Regt. RCA Part II Order No. 91 dated 22 Dec 44 (Appended hereto as Exhibit "A") and a certified true extract from 2 Canadian Medium Regt. RCA Part II Order No. 19B/45 (Appended hereto as Exhibit "B") both these documents pertaining to G.13066 Gnr. LEE, L.P."

H.K. Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

R.D. Hutsell Capt.
(R. D. Hutsell)
Officer detailed to take
Summary of Evidence.

In the Field.
12 April 45.

PART II ORDER EXTRACT FORM

TO: Officer Commanding,
2 Cdn NETD,
Cdn Army, CMF.

99/20/

9 April 1945

EXTRACTS FROM: Unit 2 Canadian Medium Regiment R.C.A.

Part II Order No. 91 dated 22 Dec 44

Absent Without Leave

AWL from 2200 hrs 24 Oct 44. Ret from AWL 2230 hrs 13 Nov 44.
G.13066 Gnr LEE, L.P.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF
G.13066 GNR LEE L.P.

Capt.
(R. D. Hutsell)
Officer detailed to take Summary of Evidence.

[redacted]

Certified true extract
Date of certification: 10 Apr 45

(J B D Sword) Capt
Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

PART II ORDER EXTRACT FORM

TO: Officer Commanding,
2 Cdn NETD,
Cdn Army, CMF.

99/20/.....

9 April 1945

EXTRACTS FROM: Unit 2 Canadian Medium Regiment, R.C.A.

Part II Order No. 19B/45 dated .....

Absent Without Leave

AWL from 2200 hrs 19 Feb 45. App by CMP 1030 hrs 15 Mar 45.
G13066 Gnr LEE, L.P.

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF
G.13066 GNR. LEE L P

Capt.

(R. D. Hutsell)
Officer detailed to take Summary of Evidence.

[redacted]

Certified true extract. 10 Apr 45 (J B D Sword) Capt
Date of Certification: Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40-P & S/1276 (4032)

Ex "B" [illegible]

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G.13066	GUNNER	Lawrence Patrick LEE	# 2 Cdn N.E.T.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For NIL Gua	times	times.
For	times	times.
For	times	times.

~~Gua~~

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Gua~~

3. The accused is not under sentence at the present time, *or* ~~Gua~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 35 days in military custody, making a total of 35 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 25

6. The date of his ~~Gua~~ attestation specified in his record of service is 5 Sep 39.

7. ~~Gua~~

8. ~~Gua~~

9. ~~Gua~~

10. The accused ~~Gua~~ is in possession of or entitled to (*state any military decoration or reward*)). CVSM & CLASP.

11. ~~Gua~~

12. ~~Gua~~

(*22647) Wt.31705/1977 10,000 10/42 A. & E. W. Ltd. Gp.498
(*24431) Wt.13227/431 96,000 5/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G.13066 Rank Gunner Name Lawrence Patrick LEE of 2 Cdn NETD. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

Gua

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day of APRIL '45

Geo W Akehurst Capt & Adjt.
(G.W.Akehurst) Officer i/c
Regtl Books & Records, 2 Cdn NETD.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Gua

No G.13066 Name LEE, L.P. Sqn, Battery, or Company Corps RCA. Date of enlistment 5 Sep 39. GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (2458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature GC Company, etc | Character

Place	Date of offence	Ref	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	NO ENTRIES.								

" Certified to be a true copy from the Regtl Books in my Custody."
13 Apr 45.

Geo W Akehurst Capt & Adjt.
(G.W.Akehurst)
Officer i/c Regtl Books & Records.
No 2 Cdn N.E.T.D.

(PTO)

Ellis

I, G.13066, Gunner Lawrence Patrick LEE, request that my Commanding Officer appoint Capt. Wallace to defend me at my forthcoming trial by Field General Court Martial.

DATE 16 Apr 45 ..... L P Lee (L.P. Lee).

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, G.13066, Gunner Lawrence Patrick LEE, acknowledge receipt of a Copy of Summary of Evidence, and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 16 Apr 45 ..... L P Lee (L.P. Lee.).

Five

LIST OF WITNESSES.

In the case of C.13066, Gunner Lawrence Patrick LEE, No 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas:-

FOR THE PROSECUTION

1. A.104046 Cpl Wells, H.K. -- 2 Cdn N.E.T.D.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS.

1. Exhibit "A" -- Certified true extract from 2 Canadian Medium Regiment, RCA Part II Order No. 91 dated 22 Dec 44.

2. Exhibit "B" -- Certified true extract from 2 Canadian Medium Regiment, RCA Part II Order No. 19B/45.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

5A. Gunner M J H Lee (M 2174) 10. L. 253
8th Army fd regiments

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this fifteenth day of January, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Corps Royal Artillery, Home Forces, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[I am unable to appoint —~~

*~~(a — Three Officers to form the Court)~~

*~~(a — A Field Officer as President)~~

*~~(a — Three Officers having more than one year's service)~~

~~for the following reasons, namely —]~~

President.

Rank.	Name.	Regiment.
Major	P.R. BEARE	Cdn Corps Ammn Pk

Members.

Rank.	Name.	Regiment.
Captain	G.E.K. MacDonald	8 Cdn A Fd Regt
Lieut.	A.M. Douglas	1 Cdn Med Regt
Waiting member : Lieut.	R.E. Hogarth	1 Cdn Med Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.C. Stewart) Brigadier
Commanding Corps Royal Artillery Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M.2174 Gnr Lee, M.J.H. 5 A Fd Regt. R.C.A.	1st Charge Section 41 Army Act (see charge sheet annexed)	Not Guilty	Guilty. 60 Days Detention.	I confirm the finding and sentence but remit 40 days detention. fcs
	2nd Charge Section 19 Army Act (see charge sheet annexed)	Guilty	Guilty Fined. $16.00	Confirmed fcs

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.C. Stewart (Signed) F. H. Lars. Major.
(J.C. Stewart) Brigadier — Commanding Corps Royal Artillery — Convening Officer (*e*)
Cdn. Corps. Arm. Part. President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd. day of January 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) The Stenographer.
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 22nd. day of January 19 41.

F. H. Lars Major.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this 22nd. day of January 19 41.

F. H. Lars Major.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this fourth day of February 1941

J. C. STEWART, BRIG., C.C.R.A., Cdn. Corps.

Promulgated and extracts taken in the case of M.2174 Gnr Lee M.J.H.

(*a*) (Dated) 6 February 1941 (Signed) John F. Bingham Lt-Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 1941. [illegible] 100 M 45pp P. St. G. 520.

XXI

CHARGE SHEET

The accused, No.M2174 Gunner LEE Michael Joseph Hayes, 8th Army Field Regiment, Royal Canadian Artillery, a soldier of the Canadian Active Service Force, is charged with :-

1st Charge Army Act 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENSE, THAT IS TO SAY, STEALING,

in that he

at "Greystones", Eaton Park Road, Cobham, Surrey on 24 October 1940, stole :- One Clock, Two Note Books, Seven Cigars and other articles the property of Sir Arnold Thornely.

2nd Charge Army Act 19

WHEN ON ACTIVE SERVICE, DRUNKENNESS,

in that he

at Cobham, Surrey, on 24 October 1940, was drunk.

E. C. Plow

Lieut-Col.
(E. C. Plow) Commanding,
8th Army Field Regiment,
R.C.A. C.A.S.F. In The Field.

To be tried by Field General Court-Martial.

(J.C. Stewart) Brigadier
C.C.R.A. Cdn Corps

EVIDENCE in the cases of :-

No.L.144 Gunner SULLIVAN, James Louis,
No.L.18117 Gunner BREAN, Richard.
No.M.2174 Gunner LEE, Michael Joseph, Hayes.
8th. Army Field Regiment, Royal Canadian Artillery,
of the Canadian Active Service Force.

The accused were brought before the Court.

The Order convening the Court was read and the names of the President and the Members of the Court were read over in the presence of the accused, and they answered to their names.

Q.1. Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?

A.1. Gnr. Sullivan, No Sir.
Gnr. Brean No Sir.
Gnr. Lee No Sir.

The President and Members were duly sworn.

The Stenographer was duly sworn.

Q.2. Are you guilty or not guilty of the First charge against you, which you have heard read?

A.2. Gnr. Sullivan Not Guilty Sir,
Gnr. Brean Not Guilty Sir.
Gnr. Lee Not Guilty Sir.

Q.3. Are you guilty or not guilty of the Second charge against you which you have heard read?

A.3. Gnr. Sullivan Guilty
Gnr. Brean Guilty
Gnr. Lee Guilty.

Pros. Sir, We have Sir Arnold Thornely here, and as he is very anxious to get away as quickly as possible I would like to suggest, with the concurrence of the Court and the Defence, that his signed statement be accepted.

Defence: Sir, I see no useful purpose in cross-examining this witness, in a Civil Court of Law I would naturally subject him to a thorough examination, but I think we can accept his written statement, but I think he should identify these articles which are alleged to have been taken from his house.

After consideration the Court concurred in this.

1st. Witness, Sir Arnold Thornely, of "Greystones" Eaton Park Road, Cobham, Surrey, is duly sworn: and examined by the Prosecutor:

Pres. Sir Arnold, as you wish to get away I think we can have you first, so that the Prosecutor can ask you some questions as to these exhibits.

Q.4. Sir Arnold I would like to ask you to identify these articles that were found in the possession of the accused?

The cigars?

A.4. I identify the cigars so far as a man can identify them, they are the kind which I had. (Ex.P.1.)

Q.5. The Clock.?
A.5. Yes I identify the Clock. (Ex.P.2.)
Q.6. The Cigarette Case?
A.6. No that is not mine. (Ex.P.3.)
Q.7. Two Note Books?
A.7. Yes those are mine. (Ex.P.4.)
Q.8. Shaving Stick? (Brown)
A.8. No. (Ex.P.5.)
Q.9. Pipe?
A.9. I could not swear to that I have so many. (Ex.P.6.)
Q.10. Tin of Leather Soap?
A.10. No. (Ex.P.7.)
Q.11. Key Case?
A.11. Yes that is mine. (Ex.P.8.)
Q.12. Razor?
A.12. No I could not identify that. (Ex.P.9.)
Q.13. Shaving Stick, (Black)
A.13. No. (Ex.P.10.)
Q.14. Eraser. (Rubber)
A.14. Yes (Ex.P.11.)
Q.15. Steptic Pencil?
A.15. No. (Ex.P.12.)
Q.16. Fountain Pen?
A.16. No I cannot identify that. (Ex.P.13.)
Q.17. The Wine Bottle?
A.17. Yes that is mine. (Ex.P.14.)

Court. Q.18. Other members of your house, did they report losing anything?
A.18. No, these were actually all mine.

Def: Q.19. Sir Arnold, I suppose you will admit that there may be thousands of Key Cases like that?
A.19. Oh Yes.
Q.20. And the same can be said about the razor?
A.20. I did not identify the razor.
Q.21. And the prisoners could get these kind of things any place?
A.21. Oh Yes.
Q.22. And that may be the same about the wine?
A.22. Oh Yes, but I obtained that particular kind of wine from a friend, I have several bottles.
Q.23. It is a fairly strong wine?
A.23. It is not so strong.
Q.24. It is strong enough to make one intoxicated?
A.24. Oh Yes it would make one intoxicated.
Q.25. About the clock, I suppose one could purchase one like it?
A.25. Yes. I had one like it in the Bedroom. Its the same thing in the case of the other things.
Q.26. What about the note books?
A.26. I know those are mine, they were sent to me by a firm of Architects with whom I do business.
Q.27. And is it not true, that any of us could not identify thiese things unless we had our private mark on them?
A.27. Oh Yes! If I was asked I would say that these things were mine, but it could be possible for anyone to have a collection of things like them.

Def: There is a submission I would like to make at this point. I want to check on the articles supposed to have been found on Sullivan.

A Razor, Two sticks of Shaving Soap, One Pen, One pipe, and Key case.
I want to submit in the case of Sullivan, that there is nothing that he is supposed to have stolen that has been identified.

Pres. What is your submission?

Def: Well if these articles are not identified then I submit that Sullivan should be acquitted

All the exhibits were then checked over and Capt. MacDonald a Member of the Court suggested that the type of eraser could not be bought at any place, it was a particular kind.

Def: Well it looks very similar to erasers I have used.

Member: I have sold erasers and you cannot buy this kind any place.

Def: I suggest that the Pen is a very cheaf one, and that the cigars could be bought anywhere.

Pros: I submit that Gunners do not go around carrying these articles in their pockets.

Def: I suggest that our Gunners carry all kinds of things in their pockets that do not belong to their kit, and also carry a great deal more in their pockets than they are supposed to have.

Pres: The Blades by the way are not there.

Pros: I do not think the Court can acquit the accused on that.

Def: My argument applies to all these things.
I suggest that that is not a special kind of Wine

Member These Diaries cannot be bought, they are sent out by industrial firms.

Def: I think it is possible for anyone to receive note books of that kind.
I do make a very strong submission that all these articles have not been identified by Sir Arnold Thornely.

Member: Don't you think that in a house the size of Sir Arnold's there may be these articles?

Def: Oh Yes! but I suggest that there is a very strong doubt that these articles belonged to him and I suggest that there is no reason to believe that these articles are not Sullivan's.

Pres: I suppose that after hearing the evidence, may be something may turn up to clear this matter, and your submission will be in your Summing up?

Def: Oh Yes, Quite frankly, the charge should have set out what he did steal, and I suggest that in Civil Law it would have been done, and while I do not want to raise any technicality, what we want to get is justice.

Pres: It is very rarely that one can positively identify these articles.

Pros: I would like to have the accused in and ask him some questions.

Def: Well that is my submission and I think it can be dealt with now.

Court adjourned to consider the motion.

On re-opening:-

Pres: The motion is rejected.

2nd.Witness: No.M.2126 /L/Sgt. Styles R.L. 8th. Fd Reg. RCA having been duly sworn is examined by the Prosecutor:

Q.28. You are M.2126 L/Sgt. Styles R.L.
A.28. Yes Sir
Q.29. Will you tell the Court in your own words what you recall about the events of October 24th.
A.29. I was put in charge of a party of twelve men. The R.S.M. took us out there and told them what to so, There were some R.A.P. men there and he wanted them to help the R.A.P. party. At approximately I got the truck and went to dinner and the truck went over to "A" Lines and I did not see the men again until 1215 or 1230 hours and the Sergeant Major then instructed me to put these men under arrest for Drunkenness.
Q.30. What happened after that?
A.30 I was instructed to take them to the Guard Room.
Q.31. What was their condition at that time?
A.31. They were still drunk.

Cross-examined by the Defence:

Q.32. When they were taken to the Guard Room, that was after Noon?
A.32. Yes.
Q.33. And you say they were quite drunk?
A.33. Yes.
Q.34. Anything happen in the room?
A.34. Yes Sir they were raising a rumpus.
Q.35. Showing evidence of being intoxicated?
A.35. Yes.
Q.36. And were you close enough to know what they were doing?
A.36. They did not know what they were doing.
Q.37. Did you see any drinking?
A.37. No Sir.

Pres. Q38. Did you notice anything going on in the house out of the ordinary?
A.38. No Sir, the men in charge seemed to be satisfied with their work.

Def:

Def: Q.39. The A.R.P. men were they in Civilians?
A.39. Yes Sir in plain overalls.

Pres: Q.40. Were these men drinking when you took them back for dinner?
A.40. No Sir they seemed to be alright.
Q.41. And in the truck there was no racket?
A.41. No Sir.

Def: Q.42. You did not see them get into the truck?
A.42. No Sir.

Pros. Q.43. They had been busy all morning?
A.43. Yes Sir.

Member: Q.44. There was no possible chance of them getting any liquor at a Pub?
A.44. No Sir.

3rd. Witness No.K.5108 R.S.M. McMillan M.W. 61/107 Batty. 8th. Fd Reg. RCA. having been duly Sworn is examined by the prosecutor:

Q.45. That is your full Number rank and name?
A.45. Yes Sir.
Q.46. Will you tell the Court what you know about 24th. October last?
A.46. At approximately 1230 hours a complaint was made to me that some men were drunk and I ordered Sergeant Stiles to place them under arrest.
Q.47. Did you see them?
A.47. I did not go to see them.
Q.48. Is that all you had to do with them?
A.48. Yes Sir, that is all.

Defence: no questions.

4th.Witness, No.K.15004 Sergeant Woodhouse F. 8th. A. Fd. Reg. RCA, having been duly sworn is examined by the Prosecutor.

Q.49. Is that your full number rank and name?
A.49. Yes Sir.
Q.50. Will you give the Court your story?
A.50. At 1400 hours on October 24th. the accused was brought to the Guard Room under escort He was in an intoxicated condition. He was searched as is customery, and his belongings were taken away from him, and some of the articles I later took to Sir Arnold Thornely for identification.
Q.51. Did he identify them?
A.51. Yes.
Q.52. How was this man dressed?
A.52. Still in battle dress.
Q.53. And these articles were found in his pockets?
A.53. Yes Sir.

Pres:. Q.54. You say here, (Reading from S.of E." razor blades, the Blades are not here?
A.54. I can explain that, I turned them over to Gunner Sullivan.
Q.55. Did you get permission?
A.55. No Sir.I was only told to bring articles of a suspicious nature, and they were not the blades belonging to that razor.

Defence no questions.

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5th. Witness M.2150 Gunner Kerr W. 8th. A.Fd. Reg. R.C.A. having been duly sworn is examined by the Prosecutor:

Q.56. Is that your full Rank number Name and Unit?
A.56. Yes Sir.
Q.57. Will you give the Court your story of what happened on the 24th. of October last?
A.57. The accused was brought to the Guard Room on a charge of being drunk, and I assisted Sergeant Woodhouse to search him and we found a Key Case, Tin of Leather Soap, pen, razor, shaving sticks and pipe.

Cross-examined by the Defence

Q.58. You say that the accused was drunk when brought to you, what would you say, how drunk?
A.58 Yes Si , very drunk.

Court. Q.59. The accused was in Serge Battle Dress?
A.59. I do not remember Sir.
Q.60. Did he have overalls on?
A.60. I do not remember.
Q.61. You say you took these things away from him, where were they, they are bulky articles?
A.61. I do not remember.
Q.62 You cannot remember which pocket?
A.62. No Sir, I'm sorry.
Q.63. Do you remember where they were?
A.63. I do not remember Sir, it is three months ago
Q.64. Who took them out of the pockets?
A.64. I do not believe that any of us took them out. the prisoners put them out on the table.

Pros: That is the case for the Prosecution Sir.

D E F E N C E

1st. Witness, No.K.20053 Gunner Colling J.M. 8th. A.Fd. Regt. RCA having been duly sworn is examined by the Defence.

Q.65 Are you number K.20053 Gunner Colling J.M.?
A.65 Yes Sir.
Q.66. And you recall the 24th. October last?
A.66. Yes Sir.
Q.67. Will you tell the Court what happened on that day?
A.67. We were sent out to the home of Sir Arnold Thornely to work anf when we got there we had to work with some A.R.P. men. We started to take the stuff out of the house, and then we had to put it into the back room and a civilian came and asked us to have a drink, and shortly after that we went to dinner, and after lunch we went back. I think that is all.
A.68. You see on the table a bottle,(Ex.P.14) is that similar to the one you saw there?
A.68. Yes Sir.
Q.69. Out of which you had a drink?
A.69. Yes Sir.
Q.70 What kind of wine was it? Was it strong?
A.70. I don't know, but I know it made me sick!
Q.71. So you would not know?
A.71. I do not think it would take much to make a man intoxicated.
Q.72. You say that a civilian handed it around did you see him hand it around?
A.72. Yes Sir.
Q.73. [illegible]
A.73. I do not know.
Q.74. Was it one two three or four?
A.74. I cannot say.
Q.75. But there was plenty of it?
A.75. Yes Sir.

Prost. Q.76. Was it a civilian who gave you the bottle?
A.76. Yes Sir.
Def:. Q.77. Do you know his name?
A.77. No.

Prost. Q.78. You say there seemed to be plenty of liquor?
A.78. Yes Sir.
Q.79. Was it offered to more than one?
A.79. Yes Sir, and it was sitting on the window Ledge, he told us to help ourselves.
Def: Q.80. Did you look at the bottle and remember the name?
A.80. I do not know the name, it was just a wine bottle.
Q.81. Were there any other men drinking with you?
A.81. Yes Sir, two others I think, I just forget who it was. Sergeant Stiles was downstairs.
Q.82. How many drinks did you have?
A.82. About half a dozen.
Q.83. Out of the same bottle?
A.83. It could not be out of the same bottle.
Q.84. Did you have a drink with Sullivan?
A.84. No.
Q.85. What condition was he in at that time?
A.85. To me he seemed alright.
Q.86. Quite sober
A.86. Yes.

2nd. Witness, Number M.3527 Gunner Tibbetts W.L. 8th. Fld. Reg. RCA, having been duly sworn is examined by the Defence:

Q.87. You are No.M.3527 Gunner Tibbitts W.L.?
A.87. Yes Sir.
Q.88. Do you recall the 24th. of October last.?
A.88. Yes Sir.
Q.89. Will you tell the court what you know about it?
A.89. On October 24th. we were sent to Lord Thornely's House which had been bombed to help to do demolition work and started at the front of the house for half an hour, and then went inside the house to the South East corner to move furniture and then outside to move miscellaneous articles into the house and after that we went back to the Lines for dinner.
Q.90. Do you recall that during the morning any liquor or refreshments passed out?
A.90. Yes Sir I saw a civilian pass it out.
Q.91 Take a look at the bottle on the table.(Ex.F.14) does it look like the one that was passed out?
A.91. It might be.
Q.92. What sort of liquor was it?
A.92. Wine Sir.
Q.93. Was there more than one bottle?
A.93. I just saw the one Sir.
Q.94. Was it strong?
A.94. I would say it was strong.
Q.95. And a civilian passed it out?
A.95. Yes Sir.
Q.96. Do you know his name?
A.96. No Sir.
Q.97. Was he dressed in civilian clothes? Working clothes.
A.97. Yes Sir.
Q.98. Did he pass anything else?
A.98. Not in my presence.
Q.99. Did you see Gunner Sullivan have a drink?
A.99. I cannot say I saw him have a drink, we were not together, some were in one place and some in another.

Pres: Q.100 The Civilian who gave you the drink, did you think he was a member of the household?
A.100 I thought he was.
Q.101 You say that he was dressed in working clothes, what do you mean?
A.101. He was dressed in overalls, he seemed to have authority, and told people where to put this and where to put that.

Witness cross-examined by the Prosecution.

Q.102 Would you recognise this civilian?
A.102. I think so.
Q.103. Did Sullivan have a drink after he got to the Lines, after you got back to the Lines was there any more wine passed around?
A.103. I cannot say.
Q.104. You saw Sullivan get on the truck?
A.104. I cannot say I think he did.
Q.105. There was no drinking on the truck?
A.105. No Sir.

3rd. Witness, Number M.2073 Gunner Lacey, P.H. 8th. Fld. Reg. RCA. having been duly Sworn is examined by the Defence.

Q.106. I understand that you were present on October 24th. with the Working Party at the Residence of Sir Arnold Thornely?

A.106. Yes Sir.

Q.107. And you remember the late morning and early afternoon of that day?

A.107. Yes Sir.

Q.108. Will you tell the Court what you know about it?

A.108. On the morning in question I was put on the working party in charge of Sergeant Stiles and we went to the house of Sir Arnold Thornely and we were working generally moving things around, and there were some cigars, and a civilian was passing them around, I had one myself. At approximately 1200 hours the truck came along and when we got back the M.O. was called and [illegible] three men were examined.

Q.109. Did you see Sullivan when he got on the truck?

A.109. No Sir, I do not remember.

Q.110. These cigars, were they passed out singly or in bunches?

A.110. No Sir, the man that gave me one had two in his hand. He gave me one.

Q.111. Do you remember them?

A.111. Yes Just ordinary cigars.

Q.112. Did they look like those on the tablet (Ex.P.1.)

A.112. Yes Sir.

Pros: Q.113. This man that gave you the cigar, did he appear to be more or less looking after the house?

A.113. Yes Sir, there were three civilians, they seemed to know all about it, and one gave me the cigar.

Witness cross-examined by the Prosecution.

Q.114. How was this man dressed?

A.114. In Civilian Clothes.

Q.115. Did he have overalls on on?

A.115. No Sir.

Q.116. Did you have a drink?

A.116. No Sir.

Q.117. Did you see the M.O. when you got back?

A .117 Yes M.O. went to the truck and said we had been drinking.

Q.118. Were you with Sullivan?

A.118. Not at the time, I was at the lines.

At this point the Prosecutor presented to the Court the Medical Certificate of the M.O. of the men he examined that day. (Ex.P.15)

4th. Witness: No.L.161 Gunner Moore P.H. 8th. Fld. Reg. RCA having been duly sworn is examined by the Defence.

Q.119 You are No.161. Gunner Moore P.H.?

A.119 Yes Sir.

Q.120 Do you recall the 24th. October the late morning and early afternoon?

A.120 Yes Sir.

Q.121. I understand that you were on a Working Party at the Residence of Sir Arnold Thornely?

A.121. Yes Sir.

Q.122. Will you tell the Court just what you know about the events of that day?

A.122. We went to work about ten after eight and worked outside for a while and then inside and I discovered some wine, and I told the man in charge I had put it over there, and then he offered me a drink, and then worked until aboutilly and then we went back and we were examined by the M.O. and later we went back to work.

Q.123. Will you take a look at that bottle on the table, and look at the label, was the bottle like that?

A.123. Yes Sir.

Q.124. It had wine in it?

A.124. Yes Sir.

Q.125. Would you say, it was strong or weak?

A.125. I would say Medium wine.

Q.126. How many drinks did you have?

A.126. I had about 3 or 4 good drinks.

Q.127. All out of the same bottle?

A.127. No Sir.

Q.128. Was there more than one bottle?

A.128. X I only saw one bottle and one with the cork knocked off.

Q.129. Did you see Gunner Sullivan when you came back to camp?

A.129. No Sir.

Witness cross-examined by the Prosecution:

Q.130. Did you say the civilian passed you the bottle?

A.130. Yes Sir.

Q.131. Did you see any drinking when there was no civilian around?

A.131. No Sir.

Court: Q.132. Did you say that you first discovered the wine?

A.132. I discovered the wine, it had been knocked over, there were a number of broken ones and I told the man about them.

Q.133. The one you took, was that the one that was broken?

A.133. Yes Sir.

5th. Witness No. L.164 Gunner Sullivan J.J.
5th. Fld. Reg. RCA.

Court: Q.134. Do you wish to give evidence yourself as a witness?

A.134. Yes Sir.

The witness was duly sworn and examined by the Defence:

Q.135. You are the accused in this case?
A.135. Yes Sir.
Q.136. Do you recall the 24th. October last?
A.136. Yes Sir.

Q.137. Will you proceed to tell the Court everything that happened?

A.137. Well on the morning inquestion we were sent to work on the demolition Squad under Sergeant Stiles and we started tearing down bricks and clearing away, and after a while we were carrying books and other things and a civilian came and passed around a bottle and as far as I remember I got back to the lines but I must have passed out with drinking, but I do not remember.

Q.138. Do you know the civilian?

A.138. Yes Sir.

Q.139. Do you know his name?

A.139. No Sir.

Q.140. Do you know his appearance?

A.140. Fairly short but I think I could recognize him if I saw him.

Q.141. You saw the articles that you are accused of Stealing?

A.141. Yes Sir.

Q.142. And you heard what Sir Arnold Thornely had to say in your presence?

A.142. Yes Sir.

Q.143. What about these articles, are they yours?

A.143. Well I cannot say, I might have put these in my pocket.

Q.144. What about the Key Ring and the Razor?

A.144. They are not mine.

Q.145. They are articles that you picked up and put in your pocket?

A.145. Yes Sir.

Q.146. You say that every drink you got was given to you by a civilian?

A.146. Yes Sir.

Q.147. Did you have one on your own?

A.147. No Sir.

Q.148. How these articles, what about the razor?

A.148. I bought it.

Q.149. Were you not issued with one?

A.149. Yes Sir, but I lost it.

Q.150. Where did you buy it?

A.150. At Cobham.

Q.151. Does that apply to this? (Shaving Stick).

A.151. Yes Sir.

Q.152. What about this steptic pencil?

A.152. I bought that.

Q.153. What about the razor, do you always carry that?

A.153. I was on guard the night before.

Q.154. And the Fountain Pen?

A.154. That is mine I bought it, I bought it from one of the b ys of the 2nd. Field Coy.

Witness cross-examined by the Prosecutor.

Q.155. You say that you had you shaving kit because you were on Guard the night before, how was it you had two shaving sticks?

A.155. I usually buy more than one shaving stick at a time?

Q.156. You had a fountain pen, how long is it since you wrote a letter with it?

A.156. Quite some time.

Q.157. How long does it take you to use a shaving stick?

A.157. Not very long Sir.

Q.158. This was purchased down town?

A.158. Yes Sir.

Q.159. Have you used this long?

A.159. I have only used it once Sir.

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Q.160. This was your personal kit?
A.160. Yes Sir.
Q.161. What kind of razor do you use?
A.161 A Valet.
Q.162. The razor blades you gave to the Sergeant do not fit this razor?
A.162. I have two razors, a Gillette and a Valet.
Q.163. Why did you buy two razors?
A.163. I purchased one while I was in detention.
Q.164. But you cannot get out of detention?
A.164. Well we have to get out for a haircut Sir.
Q.165. The Shaving Stoks, where did you buy these?
A.165 At the Barber Shop in Cobham.
Q.166. You bought this Gibb's Shaving Stick at the Barber's in Cobham?
A.166. Yes Sir.
Q.167. And where did you get the Steptic Pencil?
A.167. At the same place sir.

Court adjourned for lunch at 1245 hours.

Court re-opened at 1400 hours.

The Accused Gunner Sullivan, re-called.
and further cross-examined by the Prosecutor.

Q.168. You understand that the evidence you give here is under oath?
A.168. Yes Sir.
Q.169. As I recollect you said that you bought the razor and shaving sticks at the Barber's in Cobham?
A.169. Yes Sir.
Q.170. You are sure of that?
A.170. Yes Sir.
Q.171. As a matter of fact we have been in there and he does not sell that type of razor and he does not sell any of this soap?
A.171. He had it then Sir.
Q.172. This Barber Shop, is it just across the Street from the Public Building?
A.172. Yes Sir. I believe if you went in this shop it has razors like this in there.

At this point the Prosecution called the Civilian Witness and the Barber. Evidence of which will be found on page 13 and attached to the evidence of the prosecution.

6th. Witness for the Prosecution, Ernest Christopher Davey, having been duly sworn is examined by the Prosecution.

This evidence was taken after the evidence for the Defence.

Q.173. What is you full name?
A.173. Ernest Christopher Davey.
Q.174. What is your occupation?
A.174. Chauffeur and Gardner. to Capt Peter Hope.
Q.175. Is that next door to Sir Arnold Thornely?
A.175. Not next door but close by.
Q.176. Do you recall October 24th. when some soldiers were working there?
A.176. Yes.
Q.177. Will you tell us what happened?
A.177. Well my Lady told me to give a hand and I went over there and there were quite a lot of soldiers there. We were getting things out and there was nothing out of the ordinary, and I was surprised when I heard some things had been stolen, and there were only some broken bottles and furniture lying about, but I know there were bottles, some broken and some with a little in and we passed the damaged bottle around and I told one of the men to look out because he might have cut his lip, and I did not know that anyone had taken anything away because I hadnot told them to take anything.
Q.178. Did you pass anything around?
A.178. Yes but just the broken bottle.
Q.179. Did you pass many around?
A.179. No, I just carried on moving books etc and then had a drink, but I did not see any of them take anything. I had one drink, I do not drink much myself, I did not take much because it was strong stuff. One cabinet was broken and the otherI locked because I thought it was a great temptation. One was all smashed to bits and the bottles were all smashed. When I was asked if I had given anything away I said that I had not seen them take anything. I did not see the chaps go.

Court. Q.180 The evidence brought out that some person who appeared to have authority was handing drinks around, was that you?
A.180 I might have handed them a drink.
Q.181 Did you not think it was a little out of the ordinary?
A.181 Well, I did'nt think of it.
Q.182. Did you offer any cigars?
A.182. I picked one up and gave it to one of the men, and one was already smoking.
Q.183. Had you or did you pull a cork from a bottle and offer a drink to anyone?
A.183. No Sir, the only thing I saw was a broken bottle with a jagged top, and I told him to be careful because he might cut his lips.
Q.184. When you had your drink of Port was it the same as you handed around?
A.184. Yes Sir.
Q.185. How many were there when you handed it around?
A.185. About seven or eight.
Q.186. Were you present when they were drinking the wine?
A.186. Well, they were drinking every time they passed through.
Q.187. Did you tell them to drink that wine? were you the first one to drink that wine?
A.187. No.

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Court Q.188 Were they drinking before you got there?
A.188. That I do not know. It was about 11.30 when I got there. I was ~~infwxmmd~~ surprised when I was informed that something had been stolen.

Pros. Q.189 In view of the fact that you had been sent over from your employer's house to help a friend, did you not think that it was up to you to see that nothing was taken?
A.189 Well I kept pretty well outside because I thought it was dangerous. I was not to be responsible, just to give a hand.
Q.190 Was Sir Arnold there all the time?
A.190 Yes Sir all the time, I was there and Mr. Ronald was there most of the time, and Lady Thornely.
Q.191 It was possible for them to see the boys drinking?
A.191. Yes Sir, they could not help it.

Court then adjourned at 1445 in order to get the Barber as a Witness.

Court re-opened at 1510 hours.

7th. Witness for the prosecution, Harry William Hawkins having been duly sworn is examined by the Prosecution:

Q.192. What is your full name?
A.192. Harry William Hawkins.
Q.193. You run the Barber shop across the road from the Public Building?
A.193. Yes Sir.
Q.194. Have you ever had any articles like these in your shop, Razor (Ex.P.8.) and Shaving Sticks?
A.194. No Sir.
Q.195. This Shaving Stick, (Ex.P.4.)
A.195. Yes.
Q.196. This Shaving Stick (Ex.P.10)
A.196. No.
Q.197. Steptic Pencil (ExP.12.)
A.197. No.
Q.198. Have you any Valet Razors in stock?
A.198. No Sir.
Q.199. Ever had them?
A.199. Oh Yes, but only the s2/6 sets, this is a s7/6 set.
Q.200 Do you recognise Gunner Sullivan?
A.200 Yes Sir I have seen him several times.
Q.201 Do you recall him purchasing any supplies during the last three months?
A.201. It is hard to say, I have served so many.
Q.202 Would you say that you did not sell that razor to him? (Ex P.9.)
A.202. No Sir.
Q.203. You did not sell that to him?
A.203 No Sir.
Q.204. And that Shaving Stick (Ex.P.10)
A.204. No.

Accused. I saw some in your shop last week.
Witness. You might have seen erasmic.

Prost. Q.205 You are sure that you did not sell these articles to the accused:
A.205 Yes.

Witness cross-examined by the Defence

Q.206 They are well known articles?
A.206 Oh Yes.
Q.207. Do the soldiers buy many articles from you?
A.207 Yes.
Q.208 But they would not buy expensive articles?
A.208. Oh Yes they have, and the Guards come to buy them for the prisoners.

Pros: Q.209. Everything I want to say is in Sir, except that I want to ask the accused regarding this Leather Soap, where he got it?
A.209. I bought it sir.

Address to the Court by the Defence:

Sir, I think that the evidence has been brought out in this case, and we all understand what has been said and the evidence has been very clear and has proved beyond a shaddow of a doubt that the accused was very drunk at the Residence of Sir Arnold Thornely. There is only two articles identified by Sir Arnold Thornely, and the accused says he picked them up and put them in his pocket, and my submission is that it is one mans' word against another. It is to be supposed that the eraser belonged to the same group of articles, and I suggest it has not been proven. I also submit that the family are partly responsible for what happened and I submit that the accused is entitled to the benefit of the doubt.

Address of the Prosecution:

I have very little to add to what has already been brought out except that it is admitted by the accused that the Key Ring and the eraser were picked up and put in his pocket and forgotten to be taken out. I suggest that his story about the razor cannot be accepted by the Court, I went down to the Barber's and we have had the Barber here and they are not sold there and I submit that the accused is guilty of the charge.

The Court is closed for consideration of the Finding.

The Court is re-opened:-

Court: Q.210. Have you any evidence to produce as to the character and particulars of Service of the accused?

Pros: A.210 I produce Statement as to Particulars of Service and Conduct Sheet of the Accused.

Court: Q.211 Do you wish to address the Court?
A.211 No Sir.

The Court is closed to consider the sentence.

Defence: Sir, During the interval I have had a talk to the other two accused and they are ready to accept the evidence that is already in, but wish to make a statement as to how the articles came into their possession, and they are willing to place themselves on the stand.

Pros: I have no objection Sir,

Defence: That is that they will accept the evidence already given up to the point where they themselves would give evidence.

Court: Then we will have the next accused, Breen.

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D E F E N C E

5th. Witness No.M.2174 Gunner Lee,Michael Joseph Hayes having been duly sworn is examined by the Defence.

Q.225. You are the accused M.2174 Gunner Lee M.J.H.?
A.225. Yes Sir.
Q.226. I understand that you will accept the evidence up to the point where you wish to make a statement yourself?
A.226. Yes Sir.
Q.227. And you recall the 24th. October, will you tell this Court what happened in the latter part of the morning and the early part of the efternoon?
A.227. I can tell you about the morning part but not the afternoon. We were salvaging clothes from the house and putting them into a tarpaulin and a civilian came up to me and told me to take them into the house and put them on the table in the room and on my last trip back I picked up the clock (Ex.P.2.)and put it in my pocket, and after my last trip I helped with the Settee and a civilian asked me to have a drink and I forgot to put the clock and books out of my pocket, I had been inocculated and was sick. That is all Sir except that I admitted to Sergeant Woodhouse that I picked up the Clock, and I was ashamed.

Q.228. Do you remember the Civilian who gave you the cigars?
A.228. Yes Sir.
Q.229. He gave you a bunch?
A.229. He offered me a tin.
Q.230. How many did you get?
A.230. He handed me three and I put them in my pocket.
Q.231. And the clock you put in your pocket?
A.231. Yes Sir, and I forgot them.
Q.232 And they were articles from the house?
A.232 Yes Sir, except the cigarette case.

Court. Q.233. When did you produce the clock?
A.233. In the Evening Sir after they called me ~~xx xxx~~ from the Guard Room.

Pros: Q.234. When did you pass out?
A.234. On the truck when we left Sir Arnold Thornely's House.
Q.235. Were you carried to the Detention Room?
A.235. They told me they put me in the truck, and and I walked into the Detention Room.
Q.236. Were you not wearing overalls at the time?
A.236. Yes Sir.
Q.237. How did you get these things into your pockets?
A.237. I had Denhams on Sir.

Court closed for consideration of the Finding?

Court is re-opened.

Pres. Q.238. Have you any evidence to produc e as to the character and particulars of service of the accused.
Pros: A.238. I produce A.F.B. 296 and conduct sheet of the accused.

Pres. Q.239. Do you wish to address the Court:

A.239. All I wish to say Sir is that I never stole anything in my life, and my job was with the City Police.

Q.240. How long were you with the City Police?
A.240 About three months, I tried to get on for over a year. My one failing is drink, Sir.

The Court is adjourned for consideration of the sentence.

APP. "I"

STATEMENT made by Sir Arnold Thornely, of "Greystones", Eaton Park Road, Cobham, Surrey, in the case of:- L144, Gnr. Sullivan, J.L., L18117, Gnr. Brean, R., and M2174, Gnr. Lee, M.J.H., all of the 8th Army Field Regiment, R.C.A., C.A.S.F. 28th October 1940.

"At about 7.45 P.M. on Tuesday 22nd October 1940, my residence "Greystones", Eaton Park Road, Cobham, received a direct hit from a bomb dropped by an enemy aeroplane.

"On Wednesday afternoon and during Thursday of the same week, parties of Canadian soldiers under the orders of a Sergeant attended at my residence to assist in the removal of my property from the debris and storing it in the undamaged portion of the house.

"During the morning of Friday 25th October 1940, a representative of the Canadians' Commanding Officer called to see me, producing several articles which he stated had been found on the person of some of the men who had worked on the demolition squads at my residence, among these I identified, a 'Smiths' clock value about 30/-, an empty "Lisbana" white wine bottle the contents of which are valued at 3/6d., two pocket books of no value, one india-rubber, value fourpence, one pigskin leather key case value 2/-, and seven cheroots of the type I smoke value 3½d each.

"I told the Officer who called on Wednesday 30th October 1940 wi with reference to the thefts, that I would be quite satisfied to leave it in the hands of the Military Authority.

"I do not think that there is any doubt that the wine, "Lisbana" brand is mine, for I got it from a friend in Liverpool who in turn obtai it from a friend in France". s

Arnold Thornely

XXI

STATEMENT OF SIR ARNOLD THORNLEY
owner of house damaged by
enemy air action.

On the night of 22 October 1940 I was on duty at the A.R.P. Wardens Post 4B6 which is situated on the Tilt. Remaining in the house were my wife, Lady Thornley, her son/in-law, Mr. W.M. Washborne, a gardener Mr. Easton, and his wife Mrs. Easton. The air raid alert had sounded some time before any action. Two bombs were dropped, one behind the opposite house and the other landing in the drive immediately in front of the house. So far as the occupants were concerned they were the only bombs they knew about.

The bomb which dropped in the driveway totally destroyed the kitchen wing of the house. Mr. Easton, the gardener, was killed. The garage (seperate from the house) was very seriously damaged. Other portions of the house were partially damaged, these included the bedroom and morning room from which the stolen articles were later discovered to have been stolen.

Arnold Thornley

881.

5th Witness
for the
prosecution.

Sir Arnold Thornely of Greystones,
Eaton Park Road, Cobham, Surrey.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.
(Attached as App. "A").
Having regard to the exigencies of the service, the expense involved, other grounds, the attendance of this witness cannot in my opinion be readily procured.

R D Telford Capt
ADJUTANT,
8th ARMY FIELD REGT. R.C.A. (C.A.S.F.)

The accused does not demand the attendance of this witness for cross-examination.

RVL

Summary of Evidence
in the case of M2174 Gnr. Lee M. J. H.
61/107 Battery, 8th Army Field Regiment,
R. C. A. C. A. S. F.

On demand of the accused the Summary of Evidence is taken on Oath

First Witness for the prosecution — No. K5108 T. B. S. M. McMillan M. W. 61/107 Battery 8th Army Field Regiment, R. C. A. C. A. S. F. having been duly sworn states

At 61/107 Battery Headquarters Mess at approximately 1230 hrs on Thursday 24th October 1940 somebody complained to me about some men being drunk. So I ordered Sgt. Stiles to place them under arrest. That is all, Sir.

Question 1 – Did he mention how many men?

Answer 1 – No.

The accused declines to cross-examine this witness further:

M. W. McMillan

2nd witness for the prosecution — No. M2126 L/Sgt. Stiles R. L., 61/107 Battery, 8th Army Field Regt. R. C. A. C. A. S. F. having been duly sworn states

At Cobham, Surrey on 24th October 1940 I started out with a party of twelve men, the R. S. M. was leading. We were taken out to ~~this~~ the SIR ARNOLD THORNELY'S house "Greystones". We were put to work under the supervision of the R. S. M. and the rescue party. To begin with the men were put to work outside the building helping to move away a lot of debris. Later some of the men were called inside to help move some furniture and from then on some of the men were working inside and some out. At approximately 1145 hrs. I told them to load up for dinner. Then we went home in the truck; I was riding in the cab.

To page two.

Page second, Summary of Evidence
in the case of M 2174 Gnr. Lee M. J. H.
61/107 Battery, 8th Army Field Regiment,
R. C. A. C. A. S. F.

continued 2nd witness for the prosecution

/in the cab. I got out at "A" Troop lines and the truck went on over to Headquarters. I did not see the accused again until approximately 1230 hrs. when I went to dinner. The accused at that time, when I saw him was drunk, and I was ordered by Sgt. Major McMillan to place him under arrest, which I did. Later on in the day I was put in charge, at approximately 1430 hrs., of an escort to take the accused to the Regimental Guard Room at which time he was still very drunk. That is all, Sir.

The accused declines to cross-examine this witness.

L/Sg. R. L. Stiles

3rd witness for the prosecution

No M 2160 Gnr. Kerr W., R H Q. 8th Army Field Regiment, R. C. A. C. A. S. F. having been duly sworn states:

At Regimental Police Office in Cobham, Surrey on the 24th October 1940 at approximately 1430 hrs. the accused was brought to the Guard Room charged with being drunk. In assisting Sgt. Woodhouse we found on the accused: seven cigars, one clock, one diary, one pocket note book, cigarette lighter and case combined. As regards the clock Gnr. Lee was very persistent that he should have it with him, and when asked why he said he had just bought it and wanted to take care of it. That is all, Sir.

The accused declines to cross-examine this witness.

Wm Kerr.

to next third

Page third, Summary of Evidence
in the case of M2174 Gnr. Lee M. J. H.
61/107 Battery, 8th Army Field Regiment,
R.C.A. C.A.S.F.

4th witness for the prosecution

No. K15004 Lgt. Woodhouse F., R.H.Q. 8th Army Field Regiment, R.C.A. C.A.S.F. having been duly sworn states:

At the Regimental Guard Room, Cobham, Surrey on 24th October 1940 at about 1400 hrs. the accused was brought under escort to be placed in detention. I had the accused brought into the Regimental Police Office. Gnr. Lee was able to stagger in under his own power. Gunner Lee was taken up to the detention room. I later had him brought down and made a search of the contents of his clothing. On his person I found several cigars, and in a pair of overalls which he was wearing when he first came in, and had taken off I found, in the pockets, one clock of a mantel type, one diary 1934, and one pocket book notebook, one combination lighter and case. When I took the clock from Gnr. Lee he asked if he could take it to the detention room with him. I said "No" and asked him what he wanted it up there for. He said he wanted to take it with him to take care of it, that he had just bought it. I told him that it would be taken care of in the office.

I then returned the accused to the detention room. Sometime later I received instructions from the R.S.M. to bring the contents

to page four

continued 4th Witness for the prosecution

/ to bring the contents of the accused's pockets to the Command Post., That is all, Sir.

The accused declines to cross-examine this witness

F. Woodhouse

4th Witness for the prosecution (Recalled)

No K/5004 Sgt. Woodhouse F. R.H.A. 8th Army Field Regiment, R.C.A. C.A.S.F. having been duly sworn states: At Cobham Surrey on 3rd December 1942 acting under instructions I took the articles taken from Gnr. Lee to Sir Arnold Thornely on Eaton, Park Road. some of which he identified as his property. i.e. clock, two note books, and seven cigars which I removed from the clothes of Gnr. Lee on the afternoon of 24th October 1942 in the Regimental Guard Room were identified this morning by Sir Arnold Thornely as his property.

The accused declines to cross-examine this witness.

F. Woodhouse

Page Fifth, Summary of Evidence
in the case of M2174 Gnr Lee M.J.H.
61/107 Battery, 8th Army Field
Regiment, R.C.A. C.A.S.F.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

1st witness for the defence No. K20053 Gnr. Colling J. M. 61/107 Battery, 8th Army Field Regiment, R.C.A. C.A.S.F. having been duly sworn states:

At Cobham, Surrey, at the home of Sir Arnold Thornely in the morning of 24th October 1940. We had been sent out there to help the A.R.P. clean up. There was myself and two other fellows who worked outside on the right hand side of the house at the front with two A.R.P. men most of the morning. Then when we had cleaned up as much as possible we went inside to work. We packed stuff from the front of the house around to the back to a back room under cover. While we were doing that there was a civilian came up to help. He was some friend of the people of the house. It was while we were packing this in that a bottle of wine was passed around, which I had a drink of. We finished packing the stuff from the front of the house then went to lunch. That is all, Sir.

The accused declines to cross-examine this witness.

Gnr. J.M. Colling

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Page sixth. Summary of Evidence
in the case of M 2174 Gnr. Lee M. J. H.
61/107 Battery, 8th Army Field Regiment,
R.C.A. : C.A.S.F.

2nd witness for the defence

No. K 19042 Gnr. Tisdale A W 61/107 Battery,
8th Army Field Regiment, R.C.A. C.A.S.F.
having been duly sworn states:
At Cobham, Surrey on the morning of 24th
October 1940 I was up at SIR ARNOLD THORNELY'S house helping
to clean up after a bomb had done
some damage. That is about all I can
say about it I saw nothing out of
the way going on. I was outside most of
the time. That is all, Sir. Cross-examined
by the accused.
Question 1 - How many drinks did you have
out of the bottle that was passed
around?
Answer 1 - I had a drink or two out of it
Question 2 - Were there many fellows around
you when you were drinking?
Answer 2 - There were three or four fellows
around there
The accused declines to further cross-examine
this witness.

A. W. Tisdale

3rd witness for the defence

No M3327 Gnr. Tibbetts W. L. 61/107 Battery
8th Army Field Regiment, R.C.A. C.A.S.F.
having been duly sworn states:
At Cobham, Surrey on the 24th October 1940
I was working at SIR ARNOLD THORNELY'S house that had been
bombed. I was working outside
for about twenty minutes then was
sent inside to move furniture by Sgt
Stiles. We were working over on the
left side of the house. We carried furniture
and stuff to the south-west room, and after

Page seventh, Summary of Evidence
in the case of M2174 Gm. Lee M. J. H.
61/107 Battery, 8th Army Field
Regiment, R.C.A. C.A.S.F.

continued 3rd witness for the defence

/ and after we had finished that part of the job we were sent to the front of the house and carried in a whole bunch of books, clothes and miscellaneous articles that were there. A civilian was passing a bottle around. There was nothing unusual that I could see at the time around there. That is all, Sir.

The accused declines to cross-examine this witness.

W. L. Tibbetts

4th witness for the defence

No. 2161 Gm. Moore P.H., 61/107 Battery, 8th Army Field Regiment, R.C.A. C.A.S.F. having been duly sworn states:

At 61/107 lines on 24th October 1940 I was detailed to go and work on a building under Sgt. Stiles. When I got there I was put to work outside. At about 1000 hrs. I was put inside. While I was working moving some furniture I discovered some wine. I notified the man of the house and he wanted to know where the rest of the wine was. I told him I couldn't tell as there were some broken bottles amongst it. I told him I had three bottles that weren't broken. I put them with a pile of other stuff, and told him where it was. Then I was carrying out part of a library into the next room when I met these men with the bottle of wine, and a civilian. We had a drink

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Page eighth, Summary of Evidence
in the case of M 2174 Gm. Lee M. J. H.
61/107 Battery, 8th Army Field
Regiment, R. C. A. C.A.S.F.

continued 4th witness for the defence.

We had a drink out of it. I then left there. From there I was put back outside by Sgt Stiles. I worked there until 1150 hrs. We went back to our lines then and had dinner. I fell in on parade after dinner. We were examined by the Medical Officer and he said we smelled of wine. We reported back to work at 1400 hrs. When we got down there they didn't need us so we came back. I was put on a different job by Sgt-Major Watt. That is all, Sir. Cross-examined by the accused.

Question 1 - Who did the M.O. say smelled of wine?

Answer 1 - I don't know.

Question 2 - Was there ten out of the twelve who smelled of liquor?

Answer 2 - I don't know.

The accused declines to further cross-examine this witness.

Moore Diff.

5th witness for the defence

No. M2073 Gm. Leacy B.B., 61/107 Battery, 8th Army Field Regiment, R.C.A. C.A.S.F., having been duly sworn states:

At Cobham, Surrey on 24th October 1940 I was on the working party under SEEST STILES that morning. There were twelve men on the party. During the course of the morning the owner of the house was there almost all morning. I was there when they were giving away cigars. I am not sure whether it was Sir Arnold Thorneley, but

5 page nine

Page ninth, Summary of Evidence
In the case of M2174 Gm. Lee M. J. H.
61/107 Battery, 8th Army Field Regiment,
R.C.A. C.A.S.F.

continued 5th witness for the defence

/Sir Arnold Thornely, but it was a civilian. I wasn't there when the wine was given away, but I overheard the A.F.S. talking about Mr. Thornely giving away the wine. When we started to leave there was a hurried rush for the truck. We got away in a hurry and there was no chance to put anything away. Everybody just dropped what they were doing. That is all Sir.

Cross-examined by the accused.

Question 1 - When I got on the truck did I say anything about taking this clock back to the house?

Answer 1 - I don't know.

The accused declines to further cross-examine this witness.

B.P. Leary M2073.

6th witness for the defence.

No. M2184 Gm. Smith J.H. 61/107 Battery, 8th Army Field Regiment; R.C.A. C.A.S.F. having been duly sworn states

At Cobham, Surrey on 24th October 1940 Sgt-Major Watt detailed a party under Sgt Stiles to go up to this place on a demolition squad. We worked there till 1200 hrs and all I saw was a civilian passing a bottle around amongst the boys, and also cigars. Cross-examined by the accused.

Question 1 - Would you describe that civilian?

Answer 1 - He was short and slight of build.

Question 2 - Did the civilian seem to be a personal friend of Sir Arnold's?

Answer 2 - He seemed to be a close friend or relation.

to page ten.

Page tenth, Summary of Evidence
in the case of M2174 Gm. Lee M. J. H.
61/101 Battery, 8th Army Field Regiment,
R.C.A. C.A.S.F.

continued 6th witness for the defence.

Question 3 - When the bunch were clamoring to get on the truck did I say anything about going back to the house?

Answer 3 - I don't know.

The accused declines to further cross-examine this witness.

J. H. Smith

Certified that Rule of Procedure 4(C)(D)(E) ~~and~~ (F) and (G) have been complied with

Taken down by me in the presence and hearing of the accused this thirteenth day of October, 1940 at Cobham, Surrey.

R. D. Telford

XXI.

List of Witnesses for the Prosecution
in the case of M-2174 Gnr. Lee M.J.H.
61/107th Battery 8th Army Field Regiment
R.C.A. C.A.S.F.

1st Witness - M-5108 T.B.S.M. McMillan M.W.
61/107th Battery 8th Army Field
Regiment R.C.A. C.A.S.F.

2nd Witness - M-2126 L/Sgt. Stiles R.L.
61/107th Battery 8th Army Field
Regiment , R.C.A. C.A.S.F.

3rd Witness - M-2160 Gnr. Kerr W.,
R.H.Q. 8th Army Field Regiment,
R.C.A. C.A.S.F.

4th Witness - K-15004 Sgt. Woodhouse F.
R.H.Q. 8th Army Field Regiment
R.C.A. C.A.S.F.

5th Witness - Sir Arnold Thornely.
Greystone, Eaton Park Road.
Cotham, Surrey

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List of Witnesses for the Defence in
the case of M2174 Gnr. Lee.M.J.H.,
61/107 Battery, 8th Army Field Regiment,
R.C.A. C.A.S.F.

1st Witness - K20053 Gnr. Colling J.M.,
61/107 Battery, 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

2nd Witness - K19042 Gnr. Tisdale A.W.,
61/107 Bty., 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

3rd Witness - M3327 Gnr. Tibbetts W.L.,
61/107 Bty., 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

4th Witness - L161 Gnr. Moore W.H.,
61/107 Bty., 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

5th Witness - M2073 Gnr. Leacy E.B.,
61/107 Bty., 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

6th Witness - M2184 Gnr. Smith J.H.,
61/107 Bty., 8th Army Fd. Regt.,
R.C.A. C.A.S.F.

GENERAL FIELD COURT --

23 Jun. 41

This is to certify that :-

WX174 Gnr. Lee M.J.W.

L 144 Gnr. Sullivan J.L.

L 18117 Gnr. Breen R.

are in a fit condition to undergo a trial by a General Field Court Martial.

Capt.

Medical Officer R.C.A.M.C.

No. M2174 Name Lee, M.J.H. Sqn., Battery, or Company 61st Fd Bty R.C.A. (Cas F) Corps Date of enlistment 9/11/39 G.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.B. 122
50654—8-39 (1703)
H.Q. 1772-48-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Copy | Sheet No. | Signature O.C. Company, etc. S.W. Hunter Capt. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	2 Sept 40	Gen		Absenting himself without leave from 1900 hrs. 2 Sept 40 until 0730 hrs 14 Sept 40	L.S.M. Watt J.A.	14 days CB. 1st days pay	23 Sept 40	Major Lt Fred	
In the field	1 Oct 40			Absenting himself without leave in that he in the field did absent himself from open arrest without leave until 1800 hrs 1 Oct. Sec 15(1) A.A.	L.S.M. Watt J.A.	160 hrs detention	2 Oct 40	Lt Col E.C. Plow	

(P.T.O.)

Army Form B296 881

Statement as to Character and Particulars of Service of the accused

M2174 Gunner LEE M.J.H. of the 61/107 Bty., 8th Army Field Regiment, R.C.A. C.A.S.F.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :-

	Within last 12 months	Since Enlistment
For Absent without leave	two times	two times.

2. The accused is not under sentence at the present time.

3. The accused has been in confinement, awaiting trial on the present charges for 68 days in Military Custody.

Total days ____.

of which _____ days were spent in hospital.

4. The age of the accused according to his attestation paper is thirty three years.

5. The date of his attestation specified in his attestation paper is 9 November 1939 .

6. The accused is in possession of, or entitled to, no military decoration or military reward.

MMM-53
PTE LEE M.L.

MMM-53.

Certified true Copy
Rindeau Capt

(R CORDEAU)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this First day of April, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] "T.G.G."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint :—~~

*(1. ~~Three Officers to form the Court;~~)

*(2. ~~A Field Officer as President~~) "T.G.G."

~~for the following reasons, namely :—~~]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R McDHorsey	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	W.H.P. David	West NSR
Lieut.	H.A. Record	Carlt & York R
Lieut.	D.I. Rice	West NSR

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G.18569 Pte Murray Leonard LEE. West NSR	First Charge Sec 15(1) AA	Guilty	GUILTY To undergo imprisonment with hard labour for a period of 18 months. 3 Apr 44 "R.McD. H"	Confirmed "T.G.G." 4 Apr 44

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "R. McD Horsey" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Third day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~3. The Interpreter~~)
*(~~4. The officers under instruction~~)

were duly sworn.

*Omit if not applicable.

Signed this third day of April 1944.

"R. McD Horsey" Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

"T.G.G."

Signed this 4 day of April 19 44.

"T.G. Gibson" Brig
Confirming Officer.

Promulgated and extracts taken in the case of G18569 Pte Murray Leonard Lee West Nova Scotia Regiment

(a) (Dated) 6 Apr 44 (Signed) "A.J. W. Dyer" Capt ~~and~~ Adjt West N.S.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused G 18569 Pte Murrary Leonard LEE, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, CMF, On Active Service, is charged with:-

1st Charge
Sec 15(1)
Army Act

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at approximately 0030 hrs. 25 Jan 44, did absent himself without leave and remained absent until apprehended by D3042 CSM Noseworthy, R, at 4 CBRBN, 1 CBRGp D.M.A., 1 Can Inf Div at approximately 1145 hrs on the 22 Feb 44.
Total time absent 28 days 7 hours 15 minutes.
"R.W."

In the Field
26 Mar 44

"R.Waterman"
(R.S.E. Waterman) Lt-col
Comd West NSR

To be tried by Field General Court Martial.

In the Field
1 Apr 44

"T.G. Gibson" Brig
.....
Comd 3 Cdn Inf Bde

B.2

"R. McD H"

MEDICAL OFFICERS CERTIFICATE

KR (CAN) PARA 557

I certify that I have this morning examined

No. G.18569 Pte LEE M L

of West N S R and in my opinion he is
fit
~~unfit~~ to undergo trial by Court Martial.

Station. Field

Date 3 Apr 44

H.J. ?? Major
.....
Medical Officer

R. MeD. HQ

A Army Form A 9.

**All general matters not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the Field on the third day of April 1944 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde

dated the first day of April 19 44

President.

Major R. McD Horsey C & Y

Members.

Captain W.H.P. David, W.N.S.R.

Lieut. H.A. Record, C & Y

~~Judge Advocate~~

Trial of* C.18569 Pte Murray Leonard LEE, W.N.S.R.

The order convening the Court, the charge-sheet and the summary ~~of evidence~~ of evidence are laid before the Court.

The Court satisfy themselves that N/A is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. D.A. Campbell W.N.S.R.

Counsel‡ or defending officer† Lieut. E.H. Halloway, W.N.S.R.

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer.

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge advocate~~ are duly sworn

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 16 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Guilty, Sir. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N.A. *Answer.*

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.
If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" has been proceeded with.

~~*The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~

The accused G18569 Pte Murray Leonard LEE is found guilty of the charge

†The summary (or abstract) of evidence is read, marked "C" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No Sir

Answer. The accused in mitigation of punishment says:—

N.A.

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

~~G18569 /Pte/Murray Leonard Lee, /W/M/S/R/ guilty/of the charge/~~ "R. McD H"

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~

Lieut. D.A. Campbell is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D & E, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Yes

[Instruction.—If by reason of the nature of the service of the accused in a departmental service, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor will call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused

Sentence.

See Schedule

SUMMARY OF EVIDENCE in the case of G18569 Pte Murray Leonard LEE, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, CMF, on active service

by Order of Lt col R.S.E. Waterman, Comd West N S R.

Evidence taken on oath.

First Witness for Prosecution

F43571 CSM Hamm, F.L. "D" Coy, West Nova Scotia Regiment having been duly worn states:-

I am F 43571 CSM Hamm F L, CSM of "D" Coy West NSR. At approx 0930 hrs 25 Jan 44 I was checking my company and found that the accused, Pte Lee was absent. He has not returned to his company since that time.

Signed: "F.L. Hamm" CSM

The accused declines to cross examine this witness.

Second Witness for Prosecution

Capt A J W Dyer, Adjutant, West Nova Scotia Regiment, having been duly sworn states:

I am Capt A J W Dyer, Adjutant of West Nova Scotia Regiment and officer in charge of regimental records. I produce as evidence certificate of apprehension under Sec 163 (1) (jj) Army Act relating to the accused G18569 Pte Lee M L, West N S R. Marked "X"

Signed:"A J W Dyer, Capt"

The accused declines to cross examine this witness.

The Accused having been cautioned as follows:

"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence on oath unless you wish to do so, but whatever you say or any evidence that you give will be taken down in writing and may be given in evidence", declines to make a statement or to give evidence upon oath.

Taken down by me, in the field, this 26th day of March 1944, in the presence and hearing of the accused.

In the Field
26 Mar 44

"D. McG Archibald"
(D McG Archibald) Major
Officer taking Summary.

"C"

"R.McD H"

PPP-134

PTE LEE ML

Correspondence to be PINNED here.

CERTIFIED TRUE COPY
(R. CORDEAU) CAPT

"I"
"Chs Bellevance" Maj.
PPD-134.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Seventh day of June, 19 44

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted] "PEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

*(1. [redacted] "PEB"

*(2. [redacted] "PEB"

[redacted]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C Bellevance	R. 22e R.

Members.

Rank.	Name.	Regiment.
Captain	C B C Cochran	West NSR
Lieut	E H Holleway	West NSR
Captain	FW Normandeau MC	Carlt & York R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "J.T.P.E Bernatchez" Brigadier
(J T P E Bernatchez), Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G18569 Pte Murray Leonard LEE, West NSR	First Charge Sec 15(1) AA	Guilty	Guilty To suffer Penal servitude for the term of 5 years. 16 Jun 44	I reserve the finding and sentence for confirmation by superior authority "PE Bernatchez" Brig

Signed in the field
This 10th day of June 1944

"Chs Bellevance Major"
President.

"I confirm the finding but I vary the Sentence to "To be imprisoned for 2 years" and I confirm the sentence as so varied".

London,
30 Jun 44.

(Sgd) "P.J.MONTAGUE" Maj-Gen,
Major-General i/c Administration,
Canadian Military Headquarter

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure ~~[illegible]~~ that you have not had sufficient opportunity for preparing your defence ?"
Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) "PE Bernatchez" (Signed) "Charles Bellevance" Major
(P.E. Bernatchez), Brigadier
Commanding 3 Can Inf Bde — *Convening Officer* (*e*) — Royal 22 Regt — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of June 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
*(3. ~~[illegible]~~ "CB"
*(4. ~~[illegible]~~ "CB"

were duly sworn.

Signed this 10th day of June 1944.

"Charles Bellevance Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

"CB"

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 30 day of June 1944.

London,
30 June 44.

(Sgd) "P.J.MONTAGUE" Maj-Gen,
Major-General i/c Administration,
Canadian Military Headquarters.
Confirming Officer.

Promulgated and extracts taken in the case of G-18569 Pte. LEE, M.L., West N.S.R.

(*a*) (Dated) 1 July 44. (Signed) S.A. Smith Capt
1 Bn, 1 CHRD.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23564) W1.30000/4/42 80,000 12/42 A.& E.W.Ltd. Gp.693

CECH/48/Ct Mart/9 (A8)

8 Aug 44.

Officer Commanding,
West Nova Scotia Regt,
Cdn Army, C.M.F.

REVIEW - FGCM
G-18569 - Pte LEE ML
West N.S.R.

1. Herewith certified true copy FGCM proceedings together with AF A3104 in respect to the marginally noted.

2. As these proceedings are now due for the 42 day review, it is requested that you attached your recommendations as to any remission or suspension of sentence and forward the proceedings to the Reviewing Officer, Officer i/c Cdn Sec GHQ 1 Ech AAI, for his perusal and subsequent return to this HQ.

(D.M. Owen) Lieut
for Officer i/c
Cdn Sec GHQ 2nd Ech A.A.I.

Encl:1
/JB

Time of Signature 1730 Hrs.

COPY

LRPT V LRIZ SRL 14

FROM: CANMILTRY 3Ø183ØB

TO: CDN 02E AAI

A 4476 BT

RESTRICTED (.) PARA (1) ONE (.) FGCM PROCEEDINGS G 18569 PTE LEE ML SERIAL 42/1 RECEIVED 27 JUN 44 ENDORSED BY M G A 30 JUN (.) QUOTE (.) I CONFIRM THE FINDING BUT I VARY THE SENTENCE TO READ QUOTE TO BE IMPRISONED FOR 2 YEARS UNQUOTE AND I CONFIRM THE SENTENCE AS SO VARIED (.) UNQUOTE (.) BRING TO ATTENTION OF COURT ILLEGALITY OF SENTENCE AWARDED (.) PAR A (2) TWO (.) FGCM PROCEEDINGS F50466 PTE MCDONALD JO SERIAL /289 E/1 RECEIVED 27 JUNE 44 ENDORSED BY M G A 30 JUN (.) QUOTE (.) I CONFIRM THE FINDINGS AND SENTENCE BUT I REMIT THE SENTENCE OF DISCHARGE WITH IGNOMINY AND COMMUTE THE SENTENCE OF PENAL SERVITUDE TO READ QUOTE TO UNDER DETENTION FOR ONE YEAR YEAR (.) UNQUOTE (.)

BT 011125 HJN AR

RD 011126 LS B5

FGCM - 10 JUN 44
G-18569 Pte LEE ML
WEST NOVA SCOTIA REGT

"The Deputy Judge-Advocate-General Canadian Military Headquarters having advised that the sentence in these proceedings is invalid, I being an authority who would have had the power to commute the punishment awarded by the sentence on these proceedings, if such sentence had been valid, hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consquences of such sentence and I do hereby sentence the accused, G18569 Pte MURRAY LEONARD LEE, West Nova Scotia Regiment, to be imprisoned without hard labour for two years less twenty-three days, such sentence to be effective as if awarded by the Court-Martial on 10 Jun 44".

LONDON

12 Oct 44

"P J Montague"
Major-General i/c Administration
CANADIAN MILITARY HEADQUARTERS

PROMULGATED AND EXTRACTS TAKEN IN THE CASE OF:

G-18569 Pte MURRAY LEONARD LEE, West Nova Scotia Regiment.

(Dated) 19 10 44 (Signed) D Smith Major

(COMMANDANT 32 MIL PRIS & DETN BKS

"C"Bellevance Maj"

MEDICAL OFFICERS CERTIFICATE
KR (CAN) PARA 557

I certify that I have this morning examined:

No..C126569.Pte.Lee.M.L.....West.Nova.Scotia.Regiment...

and in my opinion is fit ~~unfit~~ to undergo trial by Court Martial

Station .Field.....

Date 10 Jun 44

"H Mendelson Capt"...
Medical Officer

"Chs Bellevance Major"

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Court-Martial held at

on the 10th day of June 19 44 by order of

Brigadier J.P.E. Bernatchez D.S.O. O.B.E.

Commanding 3 Cdn Inf Bde

dated the 7 day of June 19 44

President.

Major Charles Bellevance R. 22 R.

Members.

Captain F.W. Normandeau M.C. Carlt & York Regt.

Lieut E.H. Holloway West N.S.R.

, Judge Advocate.

Trial of* G-18569 Pte Murray Leonard Lee
West N S R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that Capt Cochran is not available to serve owing to Officer taking the summary

Capt Normandeau a waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court. West N S Regt

Prosecutor,† Lieut C.H. Prat Carlton York Regt "CB"

~~Counsel~~† or defending officer† Lt H.E. Foster West N.S.R.

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked "I" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

[redacted] "CB"

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to the accused.

Guilty

Answer.

"CB" [redacted]

Question.

Answer.

"CB" [redacted]

Question.

Answer.

"CB" [redacted]

Question.

Answer.

The accused having pleaded Guilty to The charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

"Chs Bellevance Maj"

CHARGE SHEET

The accused, G18569 Pte Murray Leonard LEE, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas - AAI, Stationed in the Field, is charged with:-

1st Charge
Sec 15 (1)
Army Act

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, while under close arrest, did absent himself without leave from approx 2000 hrs 7 Apr 44, and remained absent until apprehended by the Military Police on the GILDONE-JELSI road at approx 1130 hrs 18 May 44. Total time absent - 40 days 15 hrs and 30 minutes.

"R Waterman"

In the Field
30 May 44

(R S E Waterman) Lt col.,
Comd West N S R.

To be tried by Field General Court Martial.

In the Field
8 June 44.

"E Bernatchez" Brigadier,
Commanding 3 Cdn Inf Bde.

"Chs Bellefance Major"

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" is read to him again.]~~

The accused G18569 Pte Murray Leonard Lee
is found guilty of the Charge

†The summary (or abstract) of evidence is read, marked "J" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

The accused declines to make a statement.

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No Sir.

Answer.

Evidence as to character.

"T"
"C Bellevance Maj"

SUMMARY OF EVIDENCE in the case of G18569 Pte Murray Leonard LEE, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas - AAI, stationed in the field

By Order of Lt col R S E Waterman, Officer Commanding, West Nova Scotia Regiment,

Evidence taken on Oath.

First Witness for Prosecution

Capt R V Inman, RCAPC, Having been duly sworn states:-

"I am Capt R V Inman, RCAPC, posted to West N S R. Acting in the capacity of officer in charge of regimental records West N S R, I produce in evidence against the accused, G18569 Pte Lee M L, certified true copy of Record of the Declaration of a Court of Inquiry held on 5 May 44, and Certificate of Apprehension under Army Act Sec 163 (1) (jj), both relating to the accused."

Signed: "R V Inman" Capt

The accused declines to cross-examine the witness.

The accused having been duly cautioned as follows:
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence upon oath, but xxxxxxxxxxxxxxxxxxxxxxxxxxxxx but anything you say will be taken down in writing and may be used in evidence" declines to make a statement.

Certified that RP 4 (c) (d) (e) (f) has been complied with.
Taken down by me in the presence and hearing of the accused this 30 th day of May , 1944.

"CB Cochran" Capt

(C B Cochran) Capt.,
Officer taking Summary

"CBellevance Maj"

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

"CB"

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut C. H. Prat W.N.S.R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes I produce M.F.M. 6 & M.F.B. 355

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes Sir

Cross-examined by the accused.

The accused declines to cross-examine

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused G.18569 Pte Murray Leonard Lee

Sentence
5 Years P.S.

To suffer Penal Servitude for the term of 5 years.

Signed in the Field this 10th day of June 1944.

"Charles Bellevance Major"
President

Information on this MFM 6 complied from MFM 4 - 2 Feb 43 due to loss of original - Sgd: J V Graydon Lt "L"

MFM 6 (AFB 122) 40/P&S/130 (2428)

No G18569 Name LEE M L | Sqn, Battery, or Company | Corps CIC | Date of enlistment 19 Jun 40 | GC Badges | Service or Proficiency Pay N/A | Character "C" Bellevance Maj

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot NS	18-7-40	Pte		WOAS AWL SEC 15(1) AA	--	Forf 4 days	22-7-40	--	AJW D
"	13-9-40	"		WOAS AWL Sec 15(1) AA	--	Pay " "	17-9-40		AJW D
Sussex NB	22-1-41	"		WOAS AWL Sec 15(1) AA	--	" " "	7-12-40		AJW D
Gander Nfld	5-3-41	"		Offence not on MFM 4 - tried by DCM.		Forf 1 days pay 84 days detn.	5-3-41		14 days remitted. AJW D
St John NB				WOAS AWL	--	Forf 2 days pay - Forf 4 days pay. 6 Months detn -			AJW D 1 mon remitte
Valcartier	4-3-42	"		Offence not on MFM 4 - Tried by DCM.					
Vernon BC	27-4-42	A/Cpl		AWL from 2200 hrs 24-4-42 to 2359 hrs 24-4-42. Sec 15(1) AA (2) Breaking ~~out~~ out of camp Sec 10 (4) AA		Reprimand	27-4-42	-	AJW D

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon BC	15-5-42	A/Cpl		WOAS AWL (1hr) 2200 hrs 14 May 42 to 2300 hrs 14 May 44.	-	Reverts to Pte.	15-5-42	-	AJW D
Field	16 Apr 43	Cpl		WOAS AWL from 2200 hrs 16 Apr 43 till 1700 hrs 22 Apr 43 (Total absence 5 days 19 hrs) AA Sec 15 (1).	Cpl Twedell Sjt Lawford	Reprimand	24 Apr 43		For 6 days pay FR' 149(1)(A)
Field	2 5-1-44	Pte		Sec 15 (1) AA AWL 28 days 2 hrs 20 mins.	Documentary	To undergo imprisonment for a period of 18 months	3 Apr 44	FGCM	AJW Dyer, Capt.

Certified true copy from the regimental records in my custody
10 Jun 44

Sgd: "RV Inman" Capt
Officer IC Regimental Records.
West N S R - 30 May 44.

4N- 82

Pte. Lee M.N.

4N-82

Pte. Lac Mich.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.73846 Pte Malcolm, Nicholas LEE - 1 CGRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(1) AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

- NOT -

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for Six(6) Months.

(Sgd) Judge Advocate, if any. 24 Jan 45 Date awarded. (Sgd) President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct~~ that the accused ~~be not~~ committed to prison or detention barracks ~~until further orders~~.(1)

(1. AA 57A. Delete if not used.)

Date 26 Jan 45 (Sgd) A.E. Connelly Brig

Commanding B Disp CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-73846-Pte Malcolm N LEE	27 Jan 45	

D.O. 26 of 31 Jan 45

D.O. 27 of 1 Feb 45.

Officer Commanding 1 Cdn. Con. Regt. Unit C.A.(S.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2 FEB 1945 HANOVER

RECORDED AT CMHQ IN AB 160 4N-82

CF A38 (In lieu of AFA81 as C/F As B/1698 (8/44)) 4/398

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.E. Connelly Comd "B" Gp CRU dated 22 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.73846	PROCEEDINGS REVIEWED	Pte	Malcolm, Nicholas	LEE	1 CGRU

3 Feb 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(1)) 24 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~Waiting Member, JAs if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROIs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1005 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(3), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to PC 16/ Sgt Richardson as shorthand writer? Ans No

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 125, 71, 18, MML p 742.)

A7. The President, Members, ~~JAs if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller ED KC	HQ CRU
Member	Capt	D.H. McCorkindale	1 C.S.Regt
Member	Lieut	J.D. Menzies	1 Cas Regt
~~Judge Advocate~~			
Prosecutor	Lieut	J. Ziton	1 CGRU
Defending Offr	Lieut	A.E. Penning	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Custv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) ~~of~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 133, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 4. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused ~~is~~ (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... .(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. ..... Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP* 115. 2. *RP* 40(*E*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 44, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (6). *RP* 45, 120(*A*). 2. *AA* 54(3). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. My evidence on oath
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 2 and Ex 3 respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. My record and what I've said is the truth.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* *RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B 73846, Private Malcolm Nicholas LEE, No 1 Canadian Parachute Battalion, on strength No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No 1 Canadian General Reinforcement Unit, absented himself without leave from 2359 hours on the 28th day of September 1944 until apprehended at Guildford, Surrey at 1430 hours on the 16th day of January 1945.

Total absence 109 days, 14 hours, 31 minutes

(B.R. Ker) Colonel
COMMANDER
No. 1 Canadian General Reinforcement Unit

Field
20 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units.

22 Jan 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.73846	Pte		Malcolm, Nicholas	LEE	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC	1 CSRU
Lieutenant	to be detailed by OC	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 22 Jan 45

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "B" Gp., Cdn Rft Units.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-75646 Pte LEE, M.N.
of No. 1 C.C.R.U. is in a fit & W. state of health,
and able to undergo Trial by Court martial.

Medical Officer (R.C.A.M.C.)
No. 1 Con Gen Rft Unit, C.A.(O.)

Station FIELD

Date 24 JAN 45

M. F. B. 246

E 1.

CASE OF

B.73846 Private LEE, M.N., No 1 Canadian Parachute Bn, on strength No. 1 C.G.R.U.

The accused sworn states:-

Sir, back with my unit, the 1st Canadian Parachute Bn, in Salisbury Camp, I was admitted to hospital on Feb 6, 1944, and while in hospital, I received a letter from Canada, stating my particular set up concerning my wife. I immediately wrote to the Knights of Columbus and asked for advice as it concerned a Colonel, a Captain and other officers, and also because my mother-in-law was connected with the Canadian Legion. They advised me to go to CMHQ, to the Legal Aid Offr. He told me that the investigation would be done in secret. I received a letter from my mother-in-law stating that the investigators had been at her house within a month and the investigation was not made secretly; in my opinion, I felt that it, involving a Colonel and senior officers of the Army, it should have been done secretly. I thought to myself that was why the investigation was carried out so sloppily, and I had that in my mind when I was at No. 1 C.G.R.U. After being in hospital, I came to No. 1 C.G.R.U., and I had no satisfaction there; as to my category, I could not go on any draft overseas, not even as a batman. I went to Manchester and into Crumpsalt Military Hospital, and I rested up there; I had tonsilitis. They gave mea warrant to go back to No. 1 C.G.R.U. and that iswhere I went AWL from as I was in no condition to think of Army Regulations, nor of what the Army did with me at all, Sir. That is all I have to say, Sir.

QUESTIONS BY THE COURT

Q. Have you any children?
A. No, Sir.

Q. What was the result of the investigation of the gossip you heard about your wife?
A. There was nothing done about it, Sir.

Q. Are you satisfied that the gossip that you heard about your wife was untrue?
A. Well, Sir, in my estimation I thought that it was true. I felt that way in my own mind, Sir.

Q. Have you heard from your wife since?
A. Yes, Sir.

Q. Do you write to her?
A. Yes, Sir.

Q. Everything is alright now?
A. No, Sir. I was not accusing anyone of anything.

Q. What was the report from CMHQ?
A. I have not had any. I went down there in Oct 44 while I was AWL and I was then told by SM Leckie, at CMHQ, that there was no report on my case yet.

Q. Have you made any other enquiries as to the report?
A. No, Sir. The only thing I got was a letter from my mother-in-law telling me she had a very unpleasant visit, the investigators had been there the very same day she wrote the letter; they showed her the application and the letter I turned in when asking for an investigation and the letter was shown her as evidence when I had been promised it would be done in secret.

My impression was that it was not a very good way to carry out an investigation which I had wanted done in secret. I don't know if it was intended to be done in such a way so as to cover up the people involved. My category is U-3 on account of breaking my shoulder on a parachute jump.

Q. Who said you could not go on draft?
A. The Reception Officer, whose name I don't know, at No. 1 C.G.R.U. said I could go on draft. I was told I was going on draft and a report came from the SPO saying I could not go on account of my category and I went to the MO, whose name I don't know, at No. 1 CGRU, a week later; he told me that I could not have a reboard and that the hospitals and MOs were busy with men coming back from D-Day. So I never tried anything. I was doing nothing but fatigues that were unnecessary and shining brass and blancoeing and doing things like that. On my return from AWL, I was coming back to No. 1 CGRU. I came through London and I was on my way back to camp and I got a train from Victoria Stn to East Croydon; and I hitch-hiked to Woking; from there I got to Guildford in a civil car. I saw two provosts. I about turned and they finally caught up with me.

Q. Did you ever applied for a reboard?
A. Yes, Sir.

Q. More than on the occasion you mentioned?
A. No, Sir.

PLEA IN MITIGATION OF SENTENCE

In my plea, I wish to bring a few points to the attention of the Court. The first one is the service of the accused; he joined active service in early 40 and came overseas in Oct 41. In 42, the Canadian Army was asking for volunteers for the paratroops which you must admit is one of the most dangerous jobs in the Army. He volunteered for the paratroops in Aug 42. He was considered good enough in this branch of the service to be taken as an instructor and to be sent to Fort Benning, Georgia, USA, to instruct there. He joined the 1st Paratroop Bn and came overseas in order to see action. While on a training scheme, he became injured and received category U-3 as a result. I want to emphasize another point which was also brought out in the accused's statement, with regard to the investigation which was carried out for him. Up to the present date he has still not received any satisfaction from this investigation. The investigation was not carried in secrecy and to my mind it was shamble: the accused feels the same way about it and quite rightly so as it involved senior army people in Canada. I further wish to say that when the accused was picked up by the Provost he was on his way back to No. 1 CGRU to give himself up. At the moment he is still category U-3 but feels certain that he is A-1. My plea to the Court is this, that I wish you to judge this with all leniency and also enable the accused to get a reboard in order that he may get into a theatre of operations as soon as possible as he has a strong desire to go into action.

TO THE MEMBERS OF THE COURT

Sirs-

As defending officer for B 73846 Pte LEE MN I wish to submit the following statement in mitigation of sentence.

The accused joined the Active Service Force on the 10 June 40 and came overseas in Oct 41 with the C.A.C. When the Canadian army asked for volunteers for the paratroops he applied and was accepted in their service in Aug 42. He underwent training in England and returned to Canada as an instructor. He later was employed as an instructor at Fort Benny, Georgia, U.S.A.

He did not wish to remain as an instructor and at the first opportunity joined a battalion and came overseas in order that he might see action. He received an injury on a training scheme in England and received a category U3 and was sent to No 1 CGRU in May 44. He tried to get further medical attention and wanted to go back to hospital as he was not well. After "D" day he tried to get on a draft for France and was willing to go as a batman, driver or in any other capacity but was not allowed to go. He was kept at No 1 CGRU doing all sorts of fatigue duties.

He later went to MANCHESTER and reported sick to a military hospital from which he was discharged 28 Sept 44.

During this time he was having domestic troubles at home. He received letters stating that his wife was unfaithful. He wrote to the Knights of Columbus for help but was referred to the Canadian Legion. Due to the fact that his mother-in-law was a member of the organization he was sent to the Legal Aid Officer, J A G's branch in LONDON as the result of which an investigation was carried out for him. I have read much of his correspondence, and although an investigation of a sort was made, I am sure that it was very badly handled and the accused received very little if any satisfaction from it. He was, and still is, not satisfied with the action taken, and his problem is not yet cleared up properly.

P Gunning Lieut

Summary of Evidence in the case of B.73846, Private Malcolm Nicholas LEE, No.1 Canadian Parachute Battalion, on strength No.1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas

BY DIRECTION OF THE COMMANDING OFFICER THIS SUMMARY OF EVIDENCE IS TAKEN ON OATH

First Witness for Prosecution

Lieut. J.H. Dennis, Assistant Adjutant, No.1 Canadian General Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am the Assistant Adjutant of No.1 Canadian General Reinforcement Unit. I produce a certified copy of the Declaration of a Court of Inquiry referring to B.73846, Pte. Lee, M.N. and concerns his absence without leave(admitted as evidence and marked as Exhibit "A") I also produce a Certificate of apprehension referring to the said Pte. Lee, signed by an officer of the Canadian Provost Corps. I do not know the accused.

The accused declines to cross-examine this witness.

J H Dennis

Second Witness for Prosecution

C.5573, L/Cpl. Ray, S.F., No.1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am employed by the Regimental Police. The accused has been in custody at No.1 Canadian General Reinforcement Unit for the last two days. From dealings with the accused in my capacity as a Regimental Police N.C.O., I recognize the accused as B.73846, Pte. Lee, M.N.

The accused declines to cross-examine this witness.

S. F. Ray

The accused was cautioned as follows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

After the above caution the accused declined to give evidence.

The accused does not call any witnesses for the Defence at this time.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the hearing and presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Field
18 Jan 45

Officer detailed to take down summary of evidence

Army Form B 115.

(5)

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 2[redacted] day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.73846, Pte. LEE, M.N. (General Coy)

DECLARATION.

The Court declare that B.73846, Pte. Lee, M.N. of General Company, No.1 Cdn Gen Rft Unit illegally absented himself without leave from No.1 Cdn Gen Rft Unit at 0001 hours on the 29th day of September, 1944 and is still so absent and that on the 21st day of November 1944 he was deficient, and that he is still deficient of articles of kit listed in Appendix "A" attached hereto.

Names of President and Members

PRESIDENT : Capt. G.F. McKinnon C.I.C.

MEMBER : Lieut J. Feston C.I.C.
MEMBER : Lieut J.I. Kennedy C.I.C.

Signature of Commanding Officer Colonel B.R. Ker

CERTIFIED TRUE COPY. W. Murray, Lt
A/Adjutant,
No. 1 Cdn. Gen. Rein. Unit. C.A. (Ad.)

Signature of Officer having custody of the Original Record.

(21200) Wt.10000/[illegible] [illegible] 4/42 A.& E.W.Ltd. Gp.698
(22490) Wt.[illegible] [illegible] 10/42 " " Forms B.115/58

SCHEDULE "F"

Certificate in Accordance with P.O. 2797 of 10 Apr.42.

I CERTIFY THAT NO. B.73846 Rank Pte. Name LEE, M.N.
Unit # 1 Cdn. Parachute Bn. was arrested at Guildford, Surrey (place)
at No. 1 C.G.R.U. 1430 hours on 16 Jan 45 (date) and that at the time of his arrest he was wearing (military uniform) XXXXXXXXXXXXXXXXXXXXXXXX.

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Cdn. Army, into whose custody the above named person was taken on arrest.

T. J. Quirk

(T. J. Quirk) Captain.

O.C. No. 9 Cdn. Provost Company
Canadian Provost Corps.

ORDERLY RE... JAN 17 1945 No. 9 PROVOST

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 73846	Pte	LEE M N	No 1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 40 A A	9	times.
For Sec 15 (2) A A	3	times.
For Sec 15 (1) A A	7	times.
For Sec 24 (4) A A	1	times.

Date of first entry in Field Conduct Sheet 19 Nov 40

Date of last entry in Field Conduct Sheet 20 Jul 44

2. [redacted]

*3. [redacted]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ~~7 days~~ 6 days in civil custody; and for 7 days days in military custody, *i.e.*, N/A days in open arrest, 7 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 24

6. The date of his attestation is 10 Jan 40

7. [redacted]

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

9. [redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 31,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of January 45

W Murray

(W Murray) Capt & Adj.
No 1 Cdn Gen Rft Unit(CAO)

No. B-73846 Name LEE, Malcolm Nicholas | Sqn, Battery, or Company | Last Conduct Sheet Destroyed 10-7-40 Corps 48th High of Can | Date of enlistment 10-1-40 | GC Badges No | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc (Signed) DJ Wilkins, Major | Character Fair

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Attached to 1 (R) T.C. From 48th Highlanders Depot Effective 6-2-40					
				Attached to 2 C.I.(R)T.C. From the Depot Effective 21-8-40					
Camp Borden	18-11-40	Pte		A.A. Sec 40 15(2) AWL from place of parade	Sjt Allison L/Cpl Brown	7 days C.B.	19Nov40	RL Dinsmore major	
Camp Borden	27-12-40	Pte		A.A. Sec 40 Leaving Parade without permission.	Sjt G.Wakeford Lt Moneur	10 days C.B.	27-12-40	RL Dinsmore Major	
Camp Borden	18-2-41	Pte		A.A. Sec 15(2) Failing to appear on a trg parade	Sjt Haycock A.G.	7 days C.B.	20-2-41	Lt JM Hallet	
Field	28Nov 41	Tpr		A.A. Sec 40 Failing to comply with an order.	L/Col Ralts Tpr Taylor	3 days CB	29-Nov 41	Capt. Wilkins	

(PTO)

No. 73846 Name Lee, M.N. | Sqn, Battery, or Company | 2nd Sheet Corps RCAME | Date of enlistment | Sheet No 2 | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5418) | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28June 44	Pte		(1). Sec 15(1)A.A. AWL from 2230 hrs 28 June 44 to 0115 hrs 29 June 44. Absent 2 hrs 45 mins	Documentary Pte Flowers Cpl Talbot	Forfeits 14 days pay FR&I 149 (2)	5 July 44	RW Frost Col	Forfeits 4 days pay FR&I 149(1)(a)
				(2) Sec 40 A.A. WOAS Conduct to the prejuice etc. in that he in the Field on 29 June 44, was improperly in possession of three blank pass forms					
				(3) Sec 24 (4) WOAS Willfuly injuring Public property in that he, at 0015 hrs 29 June 44 did damage blackouts in Unit Guard Room					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ft Benning Geo	20-1-43	Pte		AA Sec 40 non genuine leave pass AA Sec 40 improper conduct in Columbus, Geo	Documentary "	Summary Forf. 15 days pay	22Jan43	Lt Col GFP Bradbrooke	
" "	19-11-42			AA Sec 15(1) AWL 17 days 3 hrs 30 min	Lt TW Brier Cpl DL Harris	Summary Forf. 15 days pay	7 Dec 42		Auto forf. 18 days pay
Ft.Benning	24-1-43	Pte		AA Sec 15(1) AWL 10 hrs 5 min	Sjt Leether Cpl Bray	Admonished	25 Jan 43	DJ Wilkins Capt.	Forf. 1 day pay
Shilo Camp Man	3-5-43	Pte		AA Sec 15(2) failing to attend morn run	Sjt Morrison	7 days CB	3 May 43	DJ Wilkins Major	
" "	2-6-43	Pte		AA Sec 15(1) AWL 1 day 7 hours	Documentary	Summary forf 10 days pay	4 Jun 43	GFP Bradbrooke Lt Col	
" "	21-6-43	Pte		AA Sec 40 Boots not shined	Lt Baxter CSM Joseph	Admonished	22 Jun43	DJ Wilkins Major	
" "	1-7-43	Pte		AA Sec 40 Boots not shined		Summary forf 10 days pay	1 Jul 43	GFP Bradbrooke Lt Col	
Chosham Camp.	29-7-43	Pte		AA Sec 15 AWL 2 hrs	CSM Esling Sjt Rathwell	Summary forf 10 days Pay	2 Aug43	GFP Bradbrooke Lt Col	
Field	18-6-43	Pte		AA Sec 15(1) AWL 3 hrs 10 mins	Col Kennett	7 days CB	19 Jun 44	JR Barber Major	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field			(4)	Sec 15 (1)A.A. AWL from 0900 hrs 30 June 44 to 1015 hrs 3 July 44 Absent 3 days 1 hrs 15 min	CSM Skeats Cpl Greeno				
Field	28 Jun 44	Pte		A.A. Sec 40 Conduct to the prejulice etc. in that he at Beadly Village on 26 June 44 was concerned in creating a disturbance	Documentary	7 days det.	20 July	JN Medhurst Lt Col	

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT
IN MY POSSESSION
20 JAN 45
(W. Murray) Capt.,
A/Jt No. 1 Can Con Det Unit,
Canadian Army Overseas

XX-40
PTE LEE M.N.

XX-40

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Guilty.	
2nd	Not guilty	Not guilty	
3rd	Not guilty	Not guilty	
4th	Not guilty	Guilty.	
5th	Not guilty	Not guilty	
6th	Not guilty	Not guilty.	

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 88 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for 45 days

(Sgd) ..... Judge-Advocate, if any. 15 Nov 43. Date awarded. (Sgd) F D Inwood Lt Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Dated 4th Nov 43

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence but suspend the execution of the sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date ..... (Sgd) P Montague (P. J. Montague) Major-General Commanding Senior Officer Canadian Military Headquarters Confirming Officer.

22 NOV 1943

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B73846	27 Nov. 43	J. A. Rossiter Lieut.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P & S 1696 (2604)

Convened by Order of P J Montague Maj Gen. Comd S.O. CMHQ dated 3 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-73846	Pte	Malcolm Nicolas	Lee.	1st Cdn Para Bn C.A.

Proceedings Reviewed 21 Dec 43 J H Vaughan Capt Reviewing Offr (JAG) CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 15 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

The Interpreter is sworn.(1) Do you object to ~~him~~ as shorthand writer ? Ans ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt. Col.	F. D. Inwood	Gds & Irish Regt.
Member	Lieut	M Cote	H.Q.C. Bn. 1 Can Parachute Bn.
Member	"	G H MacDonald	1 Cdn Para Bn.
Judge-Advocate			
Prosecutor	Lieut	J. A. Rossiter	
Defending Offr	Maj.	D H Taylor	

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans .....(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~his~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court~~ is closed, and considers the submission.(3) The Court is re-opened, and the President ~~announces that~~ the submission is disallowed on the 1 to 7 charge(s), and allowed on the.....charge(s), and that, ~~accordingly~~, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).(4)~~
(1. Delete remainder of this para if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Give evidence as a witness. Do you intend to call witnesses on your behalf ? Ans. Yes. Are they witnesses as to character only ? Ans. No.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1 to 7 charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes. See previous charge.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to severance see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see letters on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

APPENDIX "F"

CHARGE SHEET

The accused B73846 Pte. LEE, M.N. 1st Cdn. Parachute Bn. C.A. a soldier of the Canadian Army, placed on Active Service is charged with:-

1st Charge Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at Amesbury, Wilts on the 19th August, 1943 at approximately 2230 hrs took part in a fight at the New Theatre Ballroom.

2nd Charge Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

At Bulford Military Camp on the 19th August, 1943 at approximately 2330 hrs did take part in a fight against an unknown person.

3rd Charge Sec 8(2) Army Act

WHEN ON ACTIVE SERVICE STRIKING A SUPERIOR OFFICER

in that he,

At Bulford Military Camp, on the night of the 19th August, 1943 at approximately 2345 hrs did strike 13004391 Sjt. McIntyre, W. 244 Coy. Pioneer Corps.

4th Charge (Alternative) Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he,

at Bulford Military Camp, on the night of 19th August, 1943 at approximately 2345 hrs did take part in fight against an unknown person. 13004391 Sjt McIntyre, W. 244 Coy Pioneer Corps.

5th Charge Sec 8(2) Army Act

WHEN ON ACTIVE SERVICE STRIKING A SUPERIOR OFFICER

in that he,

At Bulford Military Camp, on the night of 19th August, 1943 at approximately 2335 hrs did strike 13017616 Sjt. Wallace, H. 506 Coy. Personnel Corps.

6th Charge (Alternative) Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

At Bulford Military Camp, on the night of the 19th August, 1943 at approximately 2335 hrs did take part in a fight against 13017616 Sjt. Wallace, H. 506 Coy. Personnel Corps.

I.D.J. 15 Nov 43

(C.F.P. Bradbrooke) Lt./Col.
C.O. 1st Cdn. Parachute Bn. C.A.

21st October, 1943
Carter Bks. Wilts.

MEDICAL OFFICER'S CERTIFICATE

I certify that B73846 Pte Lee M.N.
(Number) (Rank) (Name)

is in good state of health and fit
to undergo trial by Court-Martial.

Station Belfast

Date 15 November 43

John McBrebner Capt
(C.N. Brebner), Capt., R.C.A.M.C.
Medical Officer
1 Cdn Para Bn.

15 Nov 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
30 NOV 1943

P.J. Montague

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

the Field
3 Nov 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB) 40/FA&N/1097 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-73846	Pte		Malcolm Nicholas	Lee	1st Cdn Para Bn, CA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on ~~(the)~~ this date endorsed by me, "~~(Order for trial by)~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to convene a General Court-Martial for the trial of the accused)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint (a) other Officer(s) for the said trial as President (or Members) and have~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~so to appoint a Judge Advocate for the trial of the accused hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-col (Rank.)	F.D. Tweedie (Must be named. RP 106.)	Carleton & York Regt (Unit.) HQ CRU

MEMBERS.

Lieut	M. Cote	1 Cdn Para Bn
Lieut (Rank.)	R.J. Mitchell (Named or detailed. RP 106.)	1 Cdn Para Bn (Unit.)

WAITING MEMBER.

Lieut (Rank.)	G.H. McDonald (Named or detailed, if any. RP 106.)	1 Cdn Para Bn (Unit.)

~~JUDGE ADVOCATE.~~

~~(Name)~~ ~~(Rank)~~ ~~(Unit)~~

On Active Service in the Fd

in England (Country.)

Date 3 Nov 43

(Signed personally. RP 105 fn 2.) P J Montague (Rank.)

(P.J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

F.D.T. 1 Nov 43

1
101

The defending officer states that it is necessary in the interest of the accused that charges 1, 2, 3 & 4, 5 & 6 be tried separately. The request is granted.

Evidence in Trial of Lange.

First Witness for Prosecution:

Sgt. A. Zehaee. Wiltshire Constabulary. sworn, states:

On the night of 19th Aug 43 I was on duty at the New Theatre Ball Room at Aylesbury, at about 1030 P.M. I was on duty outside the Ballroom. I saw a crowd of men come out of the Ballroom. A fight commenced between the accused (L) and a soldier belonging to an English airborne unit. I went across into the crowd and the fight was stopped. I warned the people concerned. I was then approached by a Can soldier and he pointed (L) out to me. I noticed that this soldier did not belong to the Can Airborne unit. At that time another fight broke out. The British Military Police arrived on the scene and the situation became normal. The accused and the soldier who had spoken to me went back into the dancehall. I then saw that the other soldier belonged to a Can Tank unit. I kept my eye on these four lads. The dance went on until 11 o'clock. They then walked out of the hall & went on their way back towards camp. There was enough light outside the dancehall

Lee 2

for me to identify Lee.

Cross Exam:

This was not really a first class fight. I saw blows exchanged. The land from the English unit was about 3 ft two small. There was light from the moon and from the door.

By the Court:

I saw blows being struck as the men came out the door, but I can't say who was striking. There was a crowd of men. Lee was in an aggressive mood when I arrived and was being restrained by his comrades. I can't say that I saw Lee striking blows. As I came across the street I saw blows being struck.

The evidence is read over to the witness.

Second Witness for Prosecution:

B 46808 Cpl. Armstrong A.L. 1st Can. Para Bn. sworn, states:

On the night of 19 Aug 43 at approximately 2100 hours I was at a dance in the Ivan Theatre Ball Room, Canterbury. Lee was there. Lee came in and walked down the side & stood there. An English soldier walked by Lee and Lee stuck out his arm. The soldier stopped. I heard Lee ask him where did he think he was going. The soldier said he was going to have a dance. They talked some

more but I didn't hear the rest. By that time Lee had his hand on the english soldier's shoulder. The english fellow went to step away. Lee held on to him and ripped his shirt. The English fellow hit Lee. Lee kind of half heartedly swung back at him. The English fellow walked away and so did Lee. Lee walked up towards the entrance of the dance hall. There were some other English soldiers there. One soldier was being held. He was trying to get at Lee. He said "You Canadian bastards think you can come over here and run this country, but I'll show you". I was following Lee out, & I told him (Lee) to forget about it. Lee said he won't forget about it & went out & at that time there was quite a few in the little alley there and the fracture was arguing with somebody too. They went inside and I followed them out. Lee had a hold of someone & they appeared to be wrestling. I turned around & walked back into the dance hall. It was after intermission. 2100 hours or a little after. I was about 12 feet from Lee when I saw him wrestling.

Cross Exam: Nil

By the Court: The wrestling was not with the fellow who had his shirt torn. It was not a bright night. I don't think there was a moon. There was a little light coming out of the door.

Lee. 4.

FDT

Third Witness for the Prosecution:

B 132688 Pte Tremblay J.M. 1st Cdn. Para. Bn. sworn, states:

On the night of 19 Aug 43 I was at a dance at New Theatre Ball Room, Amesbury. One of the boys told me something and I went outside. I couldn't see much at first. I saw a crowd of soldiers & I saw two boys, one had hold of one & they had hold of each other. I walked up to stop them. Lee was one of the participants. I grabbed hold of Lee. The other fellow walked away and the fight stopped. I didn't see Lee strike any blows. Lee had a hug hold on the other fellow.

Cross Exam:

The fight just lasted a few minutes. I didn't see any blows.

The evidence is read over to the witness.

Case for prosecution on first charge is closed.

(X) FDT President to accused: Statement as per D-5. CFA 96: Case as recorded.

First Witness for defence on the first charge

C-24083 Pte Miller, K.S. 1st Cdn Para Bn. sworn states:

I was at the dance hall at Amesbury on the night of 19 Aug 43, I was outside when I heard an englishman call Lee a Canadian bastard.

Cross Exam: I don't know why he said that.

L. 5.

787.

Witness for ~~Prosecution~~ Defense on the first charge:

D 738 46 Pte Lee, L. H. the accused, sworn, states:

On 19 Aug 43 I was in a dance at New Theatre Ball Room Amesbury. I had been in there for quite a while when I noticed a group of soldiers on the side of the room. They were having a discussion - arguing amongst themselves. I was not far away. An english chap came from the centre of the crowd with his tunic off. I stopped him and asked him what was going on & where he was going. He seemed surprised at me asking him that. I told him to stop him going any further. He took a swing at me & I took a swing at him & that was all there was to that. Not long after I approached the door to go out for air. I heard a remark passed by a chap with an English accent. He said "You Canadian bastards. You think you are going to come over here and run the country. He went outside & I continued on out. He was still boisterous as I went over to him and tried to inquire why he had called me by such a name. He got rather nasty so I grabbed hold of him & shook him. That is all.

L 6.

Cross Examination: I talked to the soldier I stopped in a friendly tone of voice. I didn't tear his shirt with intent. There were no blows struck outside the dance hall.

The evidence is read over to the witness.

Address by Defending Officer on First Charge Nil.

Address by Prosecutor on First Charge.
Reviews evidence.
There was a fight & the accused was in it.

The Court is closed to consider the finding on the first charge.

The finding of the Court is recorded in Part 1 of the Schedule.

The Court states to the accused that the finding being subject to confirmation will be promulgated later

The prosecutor makes no opening address on 2nd Charge.
First witness for the prosecution on the Second Charge.

No 66325 Cpl. Davidson R. 1st Cdn Para Bn sworn. states: On Aug 19 1943 at about 1130 P.M. I was coming through Bradford Camp with Pte Lee, the accused, Lanthier, Parkley and another soldier I don't know. They saw a soldier coming along the street. Lee said lets start a mock fight

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D.D.T.

and when the soldier tries to stop it we will beat him up. Lee and Lauthier started sparring around & Paisley stood by and shouted. An English soldier came up to them & Lee turned around & hit the English soldier. He knocked him down to the ground & he continued to beat him. The other three men just stood around. I saw there was nothing I could do to stop the fight & I went back to camp by myself. I saw Lee strike the soldier. I could not identify the English soldier.

Cross Exam:

I cant recall if there was a moon or not. It wasnt totally dark. I dont know whether the assaulted man was a Sgt. or not. I was about 20 feet away.

By the Court

I was a private on 19 Aug 820

The evidence is read over to the witness. Case for prosecution on 2nd charge is closed.

D.D.T. The accused is addressed by the President as per D-5 CFA96 Ans. as recorded.

8.
JDT.

First Witness for Defence on 2nd Charge.
The accused, states:

I was proceeding home to my barracks after the dance on 19 Aug 43. with Pte Parsley, & Lanthier. We got a lift home on an American truck. We got off at a road toward our camp. Ptes. Parsley & Lanthier were walking at the right side of the road & I was on the left. We were not involved in any fight whatsoever from the time we left the truck until we came in contact with an English soldier & an A.T.S. girl

Cross, Exam:

We got off the truck about a mile from camp. I didn't see Pte Davidson, the last witness, at all that night. I heard his evidence. Lanthier, Parsley & I were alone after the ATS girl Pte Miller came with us.

By the Court:- Davidsons evidence is not true. We did not get into any fracas from the time we left the dance hall, except the one which is the subject of the third charge.

The evidence is read over to the accused.

Second Witness for Defence on 2nd Charge.
K 62682 Pte Miller, D. W. sworn states:

On the night of 19 Aug 43 I returned from a dance at Amesbury. I came back in the last truck of an American

9
D.D.

convoy. I must have been 200 yards behind those in front of me. Between the time I left the truck to the A.T.S. barracks I didnt see or hear any disturbance. If there were a fight it would have had to be a very short one or I would have caught up to it.

Cross Exam:-

I dont know what truck Lee was in. Lee told me, they came home in the convoy. They were waiting for it. I didnt see Lee get in a truck. There were 6 or 8 trucks in the convoy. They were about 20 yards apart. I stopped only long enough to light a cigarette.

By the Court:

There are several ways to come to the camp. There were people in front of me.

The evidence is read over to the accused.

The defending officer makes no closing address.

The closing address of the Prosecutor:
Davidson's evidence should be accepted. If it is the accused is guilty.

The Court is closed to consider the finding. The finding is recorded in Part 1 of the Schedule.

The President announces the finding of 'Not Guilty' in the second charge.

~~H-17245 La Croix, S.R.~~ DDT.

DDT.
10

The accused is asked by the Pres: &
Do you object to Sgt. La Croix S R
as shorthand writer.
Ans No.

H-17245 Sgt La Croix S.R. 1st Cdn Para Bn
is sworn as a shorthand writer.

DDT.

FIRST WITNESS FOR PROSECUTION ON 3RD AND 4TH CHARGES.

W 24404 Pte. Stephens R.M., Wilts. Platoon, A.T.S., sworn, states:

"On the night of August 19th, 1943, I was standing outside Sandhurst Block with Sgt. MacIntyre at 1145 p.m. Four more Canadians came down the direction of the C.R.S. One of them pushed Sgt. MacIntyre. He demanded why he was being pushed. Next minute I knew he was on the ground. I ran in and booked in and came out again. Just after that the fight broke up. I got Sgt. MacIntyre going up the road. One came after him followed by the others. They got him down again. Two more Canadian soldiers came down the road. They then let Sgt. MacIntyre up. One of the Canadians looked after me, one looked after Sgt. MacIntyre. The other men proceeded toward Carter Bks. The two that helped us followed. Sgt. MacIntyre came down to Carter Bks and reported to the Orderly Officer. I saw Sgt. MacIntyre get struck. I was ten to twelve feet away from the fight. There was enough light for me to make out that blows were being struck. I am not certain but I think four or five people struck Sgt. MacIntyre."

Cross-Examination.

"I wasn't more than a foot from Sgt. MacIntyre when he was first pushed. His face was badly hit and his knee was hurt. The second fight did not last more than three or four minutes. It might have been three or four minutes. I could see ten feet that night. I think I could recognise a person at ten feet that night. I am not sure whether there were four or five. I was hysterical. I could not remember whether there were four or five. I could not say who the Canadian was that was in the second fight. I could not recognise him. I did not recognise any of them sir."

The evidence is read over to the witness.

SECOND WITNESS FOR THE PROSECUTION ON THE 3RD AND 4TH CHARGES.

F 28353 Pte. MacNeil J.F., 1 Cdn Para Bn., sworn, states:-

"On the night of 19th August 1943 at around midnight I was proceeding from Amesbury back to camp. I was accompanied by Pte. Tolmie. We were coming down by the A.T.S. barracks there. There was a group of Canadian soldiers and a British soldier and A.T.S. girl about the width of the street from us, about twenty-five feet. They seemed to have words together. One of the group broke away from the group of Canadians and went over to the side where the British soldier was and they got into a tussle together. One got knocked down and one was on top. I went over. It was Pte. Lee. I tried to part them . I could not do anything about it so I walked away a piece but they broke up and left then. I went over to where the A.T.S. girl was with my chum on the side of the road. The English soldier came over and we were talking there for a while and he was in pretty bad shape so then we left them and came back to barracks. I recognised Lee and Lanthier. I saw blows being struck but could not tell who was striking who. After the fight was over the English soldier came over to where Pte. Tolmie and the A.T.S. girl were and I saw three stripes on his sleeve.

Cross-Examination.

Until after the fight I did not know the English soldier was a Sgt. You could tell by his accent that he wasn't a Canadian. It could be possib e that the man on top of the British Sgt. was not hitting the British Sgt. I could not make much out of it while the fight was on.

By the Court.

Lee is in the same Bn as I am. We are in the same company but not in the same platoon. I have known him for about six months. I can

(P.T.O.)

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identify the A.T.S. girl. I saw her a few minutes ago going out of this room. As I came along I saw a man and girl whom I now know to have been the A.T.S. girl Stephens and Sgt. MacIntyre. They were walking down the road followed by four Canadians at a distance of about twenty-five feet. There was talk going on between Sgt. MacIntyre and the Canadians. I do not know what the conversation was. A saw a man from the group of Canadians break away from the group and go up to Sgt. MacIntyre. They got into a tussle together. I ran over to them. When I got there Lee was on top of the Sgt. The Sgt. was on the ground. There were no blows being struck at that time. I grabbed hold of Lee by the back, I shook him and told him to get up and leave him alone. I could not get him off. I went over to the A.T.S. girl where my chum was and Lee and Sgt. MacIntyre seemed to part then. The Sgt. Came over to where we were and we talked for a few minutes and proceeded to camp. Lee and the others went down the road toward the camp."

The evidence is read over to the witness. He makes the following correction:-

"Where the evidence says Sgt. MacIntyre and the A.T.S. girl were walking down the road they were standing still at the time."

THIRD WITNESS FOR THE PROSECUTION ON THE 3RD AND 4TH CHARGES

B 76766 Pte. Tolmie J.B., 1 Cdn Para Bn, sworn, states:-

"On 19th August 1943 bwtween the hours of 2330 and 2339 I was proceeding home from Amesbury to Carter Bks accompanied by Pte. MacNeil. As we drew opposite the A.T.S. barracks in Bulford Camp I came across two groups. One was a group of four soldiers and one was a group of a soldier and a girl. As I was directly opposite the group of four soldiers one of them broke away and ran back toward the soldier and the girl. At the same time the girl broke away from the soldier she was with and started to run down the road toward from whence the soldier had come. At the same time the girl broke away from the soldier she started to run down the road from whence the four soldiers came. She started to cry so I went on the road to meet her. I walked over the side of the road to her. At the same time the remaining soldier of the group of four proceeded to follow the first man. I turned around and there was a group of soldiers who were apparently fighting on the ground. This apparent fight broke up in a very few seconds. The four soldiers walked down toward our barracks. The remaining soldier which was in the centre of the road got the A.T.S. girl and left. Pte. MacNeil and I also left. That's all sir."

"I could not recognise any of the assailants. I wasn't any closer than fifteen feet to the person who was assaulted. After the fight I was within five feet of him and I did not see any stripes on his arm."

Cross-Examination

"From what I could see I could not definitely state there was a real fight. It lasted only a very few seconds. I was fifteen feet away and I could not recognise anybody. The moon was overclouded and we were on a street with fairly tall buildings on both sides. At no time during the fight did I know that the British soldier was a Sgt."

The evidence is read over to the witness.

The Prosecuting Officer informs the Court that Sgt. W MacIntyre, a witness whose evidence is contained in the Summary of Evidence, is not at the moment available as a witness, that he is informed and believes that Sgt. MacIntyre is in a hospital at Shaftesbury, about thirty-five miles from the Court, that he has been recently operated on for hernia and will not be available as witness for ten days. The Prosecuting Officer states that he requires the attendance of Sgt. MacIntyre to prove that he actually is a Sgt.

The Defending Officer states that in order to facilitate proceedings

he will admit that the person who is described in the evidence of Pte. Stephens as Sgt. MacIntyre is No. 13004391 Sgt. MacIntyre W. of the 244 Coy. Pioneer Corps.

The Court considers and decides to accept the admission and so announces.

The case for the prosecution on the 3rd and 4th charges is closed.

President to accused:-

"You will now proceed with your defence. You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being sworn, and you will not be subject to cross-examination. But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither."

President to accused:-

"Do you wish to give evidence yourself as a witness, make a statement, or do neither?"

Answer:-

"Give evidence as a witness."

President to accused:-

"Do you intend to call witnesses on your behalf?"

Answer:-

"Yes."

President to accused:-

"Are they witnesses as to character only?"

Answer:-

"No."

FIRST WITNESS FOR THE DEFENCE ON THE 3RD AND 4TH CHARGES

The accused, B 73846 Pte. Lee M.N. having been previous sworn states:-

"On 19th August 1943 at about 1130 p.m. I was walking down the road on the left hand side while Paisley and Lanthier were walking on the right hand side. We were walking in the direction from Amesbury to Carter Bks,when suddenly I heard some voices and I saw some shadows, the shadows of a couple of soldiers on the right hand side of the road, of which I presumed one of them was Lanthier, and I waited for a while for Lanthier to continue on down the road and they were still conversing together. The conversation of which I could not hear. I then decided to walk over and find out what the trouble was. I had just reached them when I was attacked from behind by someone I could not recognise or did not see, and he pulled me to the ground, at the same time trying to kick me. While we were on the ground he still continued to try to kick me. We were in a position facing each other, half lying and sitting on the ground. He was trying to kick me and I grabbed his feet and put a lock on him during which the toe cap of his shoe broke. I was pulled off by a couple of soldiers whom I recognised later as Lanthier and Paisley and as we were walking down the road the person whom I had the encounter with made the remark of getting me tomorrow. I then broke away and I grabbed him by the sleeves, and then I am not just sure of whether he fell or

lost his balance but he went down on the ground. I was pulled away again and we proceeded down the road towards camp. I then noticed Pte. Miller in our company and we checked into the Guard Room together. That's all sir."

Cross-Examination.

I think it is very funny if the A.T.S. girl says she was standing a foot from the person I am alleged to have assaulted and he was pushed by me. I do not know of any reason why Pte. Stephens should try to implicate me. I did not know the girl. I did not see her at all that evening."

The evidence is read over to the witness.

SECOND WITNESS FOR THE DEFENCE ON THE 3RD AND 4TH CHARGES.

K 62682 Pte. Miller V.W., having been previously sworn, states:-

"On the night of 19th August 1943 I returned from a dance in Amesbury in an American convoy of six or eight trucks. I saw the accused and Pte. Lanthier and Pte. Paisley waiting for the convoy. I believe they came back in the same convoy as I did. I got out of the truck and started up the road toward Carter Bks. About approximately across the street from the A.T.S. barracks there was a bunch of people coming out of a building there. Pte. Lanthier and a soldier were having an argument about Lanthier having been bumped. Lanthier and the soldier got to pushing one another around and I saw another soldier come from across the street and jump on Lee from behind. Both of them fell down on the street. They were each twisting the other fellow's legs. Lanthier and Paisley came up and picked Lee up and took him down the road aways. The Sgt. hollered something at Lee, I don't know exactly but it was something about get you tomorrow, and Lee broke away and Lanthier and Paisley came back and took him away. They took him home that time. I was about thirty feet away but I could see someone jump on Lee. When Paisley and Lanthier took Lee away I went up with them. I didn't see the A.T.S. girl only after they had taken Lee away at first. I didn't see any stripes on the man who jumped on Lee."

Cross-Examination.

"When we went back to take Lee away we went right back to him."

The evidence is read over to the witness.

Closing address for the defence on the 3rd and 4th charges.

The Defending Officer calls attention to note 3, A.A. 8(2) and points out the necessity for the prosecution to show in this case that the accused knew the person with respect to whom the offence is alleged to have committed to be a superior officer, which has not been done in this case. The evidence of Pte. Stephens should not be relied on. It was given in parrot-like fashion and there are discrepancies between her evidence now and in the summary.

Closing address by the Prosecutor on the 3rd and 4th charges.

The Prosecuting Officer reviews the evidence and contends that as McNeil saw the stripes on Sgt. MacIntyre's sleeve they must have been seen by the accused, particularly in the second instance.

The Court is closed to consider finding.

The findings of the Court are recorded in Part I of the Schedule.

The Court is re-opened.

The President announces the finding of Not Guilty on the 3rd charge and states to the accused that the finding of the Court on the 4th charge being subject to confirmation will be promulgated later.

(P.T.O.)

FIRST WITNESS FOR THE PROSECUTION ON THE 5TH AND 6TH CHARGES.

13017616 Sgt. Wallace H., 506 Coy. Pioneer Corps, sworn, states:-

"At approximately 2325 hours on the night of 19th August 1943 I was proceeding down the main road towards Ward Bks to Sandhurst Block when I was suddenly set upon by four men. I recognised the men's epaulettes as Airborne Canada. I never spoke to the men, they just set about me. I recognised the accused before the Court as being one of the men. I have stated at the first Summary of Evidence taken in this case that I could not identify the men. At that time I was in a dazed condition but when I came to this unit and saw the men suddenly it flashed back on me and I recognised them. At the time I made the statement on the first Summary I had not had an opportunity of identifying the men but I have now had that opportunity."

Cross-Examination

"The first I saw of the three men, one of whom is the accused, was when I was taken by the Adjutant of the unit into a room where they were and I recognised them then. I did not have an opportunity of picking them out on an identification parade of the unit. I was attacked by four men, but how many hit me I can't say. The fourth man if my memory serves me correctly was a witness in this case tonight. I do not know his name."

By the Court.

"The place where I was set upon on the night of 19th August 1943 was not on the road between Amesbury and Carter Camp. It is on the same road as the A.T.S. barracks. The four men were coming in an opposite direction to that to which I was going. We met. I received a blow on the right eye and knocked to the ground and also a blow over the heart. I fell to the ground. I was hit several times while I was on the ground. The men were not making any noise as they came along to me and I was not on my guard at all. I was alone. I was not knocked unconscious. The men left me, I do not know in which direction they went. I went home to my billets and went to bed and reported to the R.S.M. of the R.A.S.C. where I am working,in the morning. I did not fight back at all. I was out and useless to put up a show against that number of men. I did not hear any talk while they were beating me. It was approximately ten minutes from the time they first hit me until they left. They were beating me all the time. Perhaps my estimate of the time I was being beaten was too long as when you are being beaten it seems a hell of a time. It wasn't a clear moon-light night but I could discern the figures. It was as dark that night as it is tonight. It had been out in the dark about twenty minutes."

The evidence is read over to the witness.

The case for the prosecution on the 5th and 6th charges is closed.

President to the accused:-

"You will now proceed with your defence. You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being sworn, and you will not be subject to cross-examination. But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither."

President to the accused:-

"Do you wish to give evidence yourself as a witness, make a statement, or do neither?"

Answer:-
"Give evidence as a witness." (P.T.O.)

President to accused:-

"Do you intend to call witnesses on your behalf?"

Answer:-

"No."

FIRST WITNESS FOR THE DEFENCE ON THE 5TH AND 6TH CHARGES.

The accused having been previously sworn, states:-

"About 1130 p.m. 19th August 1943 I got off an American truck on the main road from Amesbury to Carter Bks. I was with Paisley and Lanthier and we proceeded down the first road past the Garrison Theatre towards camp. We kept on going down the road toward Carter Bks. and did not have any encounters or fracases except the little fracas with Sgt. MacIntyre and we did not change our direction en route to Carter Bks. That's all sir."

"I had never seen Sgt. Wallace previous to being paraded before him for identification a few days after the 19th. I did not change direction or get into any fracas after the encounter with Sgt. MacIntyre. I was drinking the night of 19th August. I was not drinking whiskey. I had some beers, I can't say how many but not enough to make me drunk. I had between five and seven pints of beer, somewhere around there."

By the Court.

"I could not say that feeling good at 1130 on the evening of the 19th August."

The evidence is read over to the witness.

The case for the defence is closed.

Closing address for the Prosecution:-

The Prosecutor reviews the evidence and submits that the evidence of Sgt. Wallace should be believed.

Closing address for the defence:-

The defending officer submits it would be impossible for a man on a night as dark as this to be hit on the eye and knocked down and to identify his assailants.

The Court is closed to consider the finding.

Address on mitigation of punishment:-

Attention is directed to Field Conduct Sheet and Statement of Character and Services which speak for themselves, also to the fact that the accused has been in custody eighty-eight days awaiting trial. During that time has performed fatigues seven days a week for eight to ten hours a day and that this should be sufficient punishment for the offences.

The Court is closed to consider sentence.

First Witness - Sgt A.Zebedde, Wiltshire Constabulary.

Owing to the expense and loss of time involved, this witness is not readily available and a statement purported to be signed by him is attached.

The accused, B73846 Pte LEE,M.N. does not require the attendance of this witness for cross-examination.
(R.P.4 (G))

J.M.Girvan Lieut
1st Cdn Para Bn, C.A.

21st October, 1943.

First Witness - Police Sergt. Zebedee. A. , Wiltshire Constabulary, having been duly sworn, states -

On the night of Thursday,19th August,1943, at 1030P.M., I was on duty outside the New Theatre Ballroom, Amesbury, where a dance was in progress. At that time, about 20 soldiers and airmen came out of the ballroom making a lot of noise and two of them started to fight. I got between them and saw that one of them was a Canadian Parachutist and the other was a member of the Airborne Div.,probably Royal Ulster Rifles, But I did not see his cap badge. They were both very aggressive and other troops were joining in. I told the two first mention that if they started to fight again, I should stop them in a way they might not appreciate. A Canadian soldier then approached me and said, "that is "Maxie,my brother. He won't fight. He is always like that but he doesn't mean any harm". During this time there was another fracas outside the Fairlawn Cafe but the Military Police came on the scene and this was stopped. The Canadian soldiers then went back into the dance hall and I saw the one referred to as "Maxie" with the one who claimed to be his brother standing in the centre of the floor together with two other Canadian Parachutists. I watched them as though they might be hatching some more trouble and I then noticed that the soldier who claimed to be "Maxies" brother wore the green and black flash of the Canadian Tank Regt. with a maroon square and a red line beneath. He also had a black beret under his shoulder strap. I could not make out these colors outside because it was too dark but I could see that they were different from those worn by the Canadian Parachutists. These four men left the dance hall together at about 11P.M. and walked towards Amesbury Station.

The accused, B73846 Pte. LEE, M.N. declines to cross-examine this witness

A. Zebedee, Sergt. 81

A. Zebedee, Sergt. 81

Second Witness - B46808 Cpl. Armstrong, A.L. 1st Cdn. Para. Bn., having been duly sworn, states -

On the night of the 19th of August, 1943., I was in the New Theatre Ballroom at Amesbury. Sometime after 2100 hrs I saw Pte. LEE about 10 feet away on the right hand side of the dance floor, An English soldier went to pass him and LEE struck out his arm and appeared to be asking him where he was going. This was followed by conversation which was not altogether a friendly one, LEE had his hand on his arm and when the Englishman went to step away, his shirt was ripped. The Englishman ~~xxxx~~ hit LEE and LEE hit him back. LEE then walked to the entrance of the hall where some other Englishman then made a particularily nasty remark. I warned LEE to pay no attention but he objected to being called by such a name and went out side in the company of LANTHIER Also, alarge number of others went out at the same time. I stepped out and saw Pte. LEE who had a hold of some person and appeared to be wrestling with him. I then turned and went back into the dance hall.

Question - How far were you from the fight?

Answer - About 12 feet.

The accused, B73846 Pte. LEE, M.N. declines to cross-examine the witness.

A.L. Armstrong
B46808 Cpl. Armstrong, A.L.
1st Cdn. Parachute Bn. C.A.

Cdn. Para. Bn., having

1943, I was at the
ight in which Ptes. LEE
annot tell you who they were
y and stop the fight but
one chap and I saw Lanthier
ght only lasted about half

AMBLEY?
went into the dance hall.
a crowd watching the fight?

soldiers.

questions to cross-examine this witness.

J 132688 Pte. Tremblay, J.M.
1st Cdn. Para. BN.

COUNTER NUMBER 70752

HOUR 14.00

OPERATOR'S INITIALS LS

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Lucille Schieman of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County ot Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated

DEC. 2 19 52

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

			JOB NO. 44	REEL NO. 52	
			BOOK NO. 1-3		
PRODUCTION DATA			44-52A	INDEXING DATA 44-52B	
	DATE	HOUR	BEGINS WITH	LAVOIE T.Z.	LEBLANC E.R.J.
STARTED			1	LAWRENCE R.A.	LEBANSKY A.
FINISHED			2	LEAKEY G.A.	LECERF H.G.
TOTAL NO. OF HOURS		9 1/3	3	LEBLANC A.	LEE H.J.H.
TOTAL NO. OF IMAGES		4689	ENDS WITH	LEBLANC E.L.	LEE M.N.

J.B.

END

SECOND

SIDE

REEL NO. 44 - 52